

1 **H. B. 4448**

2
3 (By Delegate Eldridge, R. Phillips, Marcum, Perry,
4 Moye, Hartman and Sponaugle)

5 [Introduced February 10, 2014; referred to the
6 Committee on Government Organization then Finance.]

7 **FISCAL**
8 **NOTE**

9
10 A BILL to repeal §29-5A-12 of the Code of West Virginia, 1931, as
11 amended; and to amend and reenact §29-5A-1, §29-5A-3, §29-5A-
12 3a, §29-5A-5, §29-5A-6, §29-5A-8, §29-5A-13, §29-5A-17, §29-
13 5A-20, §29-5A-21, §29-5A-22 and §29-5A-24 of said code, all
14 relating generally to the State Athletic Commission; changing
15 the composition of the commission; proposal of rules;
16 authorizing the appointment of an executive director; creating
17 the State Athletic Commission Revenue Fund and providing that
18 all revenues be deposited in and all reimbursed expenses shall
19 be paid from the account; increasing payments to referees,
20 judges and timekeepers; increasing certain licensing fees; and
21 increasing the fines for misdemeanor violations under this
22 article.

23 *Be it enacted by the Legislature of West Virginia:*

24 That §29-5A-12 of the Code of West Virginia, 1931, as amended,

1 be repealed; and that §29-5A-1, §29-5A-3, §29-5A-3a, §29-5A-5, §29-
 2 5A-6, §29-5A-8, §29-5A-13, §29-5A-17, §29-5A-20, §29-5A-21, §29-5A-
 3 22 and §29-5A-24 of said code be amended and reenacted, all to read
 4 as follows:

5 **ARTICLE 5A. STATE ATHLETIC COMMISSION.**

6 **§29-5A-1. Creation of commission; members; officers; seal and**
 7 **rules; appointment of executive director.**

8 The State Boxing Commission, heretofore created, is hereby
 9 continued and renamed the State Athletic Commission. The
 10 commission shall consist of five persons appointed by the Governor,
 11 by and with the consent of the Senate, no more than three of whom
 12 shall belong to the same political party and no two of whom shall
 13 be residents of the same county at the same time. One member shall
 14 have at least three years of experience in the sport of boxing.
 15 One member shall have at least three years of experience in the
 16 sport of mixed martial arts. One member shall have at least three
 17 years of experience in amateur athletics. One member shall be from
 18 the medical profession. One member shall be a private citizen.
 19 The members shall serve without pay. The ~~present members and terms~~
 20 ~~of the members~~ of the State Boxing Commission in office on July 1,
 21 2014, shall continue as the State Athletic Commission. At the
 22 expiration of the term of each member, his or her successor shall
 23 be appointed by the Governor for a term of four years. ~~In the~~
 24 ~~event of~~ If there is a vacancy in said the board, said the vacancy

1 shall likewise be filled by appointment by the Governor and the
2 Governor shall likewise have the power to remove any commissioner
3 at his or her pleasure. Any three members of the commission shall
4 constitute a quorum for the exercise of the power or authority
5 conferred upon it. The members of the commission shall at the
6 first meeting after their appointment elect one of their number
7 chairman of the commission, and another of their number secretary
8 of the commission, shall adopt a seal for the commission, and shall
9 make such rules for the administration of their office, not
10 inconsistent herewith, as they may deem expedient; and they may
11 hereafter amend or abrogate such rules. The concurrence of at
12 least three commissioners shall be necessary to render a choice or
13 decision of the commission. The commission may appoint an
14 executive director who shall serve for an indefinite term at the
15 pleasure of the commission. The director shall be appointed with
16 due regard to his or her fitness, by knowledge of and recent
17 experience in the sport of boxing, mixed martial arts and in
18 amateur athletics for the efficient dispatch of the powers and
19 duties vested in and imposed on the director by this article. The
20 director shall devote his or her time to the duties of his or her
21 office as required by and prescribed by this article and may not
22 have any pecuniary interest in any boxing, mixed martial arts or in
23 amateur athletics event or venture. The director shall receive
24 such compensation as the commission may determine, which said

1 compensation shall, however, conform in general to the compensation
2 received by persons occupying positions of similar importance and
3 responsibility with other agencies of this state. The director
4 shall be reimbursed for all traveling and other expenses incurred
5 by him or her in the discharge of his or her official duties in
6 accordance with state travel rules. The director is the executive
7 officer of the commission and under its supervision shall
8 administer the provisions of this article and the rules and orders
9 established thereunder and all other laws of the state relative to
10 the sport of boxing, mixed martial arts or amateur athletics. The
11 director shall attend, but not vote, at all meetings of the
12 commission. The director shall act as secretary of the commission
13 and shall be in charge of its offices and responsible to the
14 commission for the preparation of reports and the collection and
15 dissemination of data and other public information relating to the
16 sport of boxing, mixed martial arts or amateur athletics. At the
17 direction of the commission the director shall, together with the
18 chairman of the commission, execute all contracts entered into by
19 the commission which are legally authorized and for which funds are
20 provided in any appropriations act. The commission may, by written
21 order filed in its office, delegate to the director any of the
22 powers or duties vested or imposed upon it by this article. Such
23 delegated powers and duties may be exercised by such director in
24 the name of the commission.

1 §29-5A-3. Commission to have sole control of boxing, etc.,
2 matches; licenses; municipality not to tax boxing,
3 etc., club; creating revenue fund.

4 (a) The commission has sole direction, management and control
5 of the jurisdiction over all amateur, professional and
6 semiprofessional boxing, sparring matches and exhibitions, or any
7 form thereof, to be conducted, held or given within the state by
8 any club, individual, corporation or association. As used in this
9 article, the term "boxing" includes any fighting event that
10 includes or permits the striking of an opponent with a closed fist,
11 even if wrestling moves, elements of martial arts, or striking an
12 opponent with the feet are also permitted. No boxing, sparring or
13 exhibition may be conducted, held or given within the state except
14 pursuant to the commission's authority and held in accordance with
15 this article. The commission may, ~~in its discretion,~~ issue and, ~~at~~
16 ~~its pleasure,~~ revoke the license to conduct, hold or give boxing or
17 sparring matches or exhibitions to any club, corporation,
18 association or individual. Every license is subject to rules the
19 commission may prescribe. Every application for a license shall be
20 on a blank form provided by the commission. ~~No promoter's license~~
21 ~~may be granted to any club, corporation, association or individual,~~
22 ~~unless the signer of the application is a bona fide resident of the~~
23 ~~State of West Virginia.~~ Upon application of the promoter's
24 license, the promoter shall pay a state license fee of ~~\$125~~ \$200

1 for one year. The fee shall be in the form of a certified check or
2 money order and shall be issued to the Treasurer of the ~~State of~~
3 ~~West Virginia~~ State Athletic Commission to be deposited in the
4 ~~General Fund~~ Commission's Revenue Fund to support the commission's
5 regulatory activities, which fund is hereby authorized. The Joint
6 Committee on Government and Finance may require the Legislative
7 Auditor to examine the fund annually. If the license is not
8 granted, the treasurer shall refund the full amount. Nonprofit
9 chartered and charitable organizations are exempt from this license
10 fee for all amateur events. No municipal corporation may impose
11 any license tax on boxing, sparring or exhibition clubs,
12 notwithstanding the provisions of any section of the code
13 respecting municipal taxes and licenses. The granting of a license
14 to a club by the commission, or the holding of a license by a club,
15 individual, corporation or association, does not prevent the
16 commission from canceling or revoking the license to conduct an
17 event, as provided in this section.

18 (b) In exercising its jurisdiction over professional,
19 semiprofessional and amateur boxing, sparring matches and
20 exhibitions, the commission shall follow the current ~~United States~~
21 ~~boxing authority rules and requirements~~ unified rules of boxing
22 adopted by the Association of Boxing Commissions to enable the
23 proper sanctioning of all participants, referees, judges and
24 matches or exhibitions conducted under the rules described in

1 subdivision (1), subsection (c), section twenty-four of this
2 article and shall cooperate fully with the boxing authority in
3 order that the sanctioning be extended to state boxers. ~~For full
4 contact boxing events and other boxing events that follow
5 nontraditional rules, the commission may impose any limitations or
6 restrictions reasonably necessary to guarantee the safety of the
7 participants and the fair and honest conducting of the matches or
8 exhibitions and may refuse to license any event that poses an
9 unreasonable degree of risk to the participants.~~

10 **§29-5A-3a. Power to regulate mixed martial arts.**

11 (a) The commission has sole power, direction, management and
12 control over all professional mixed martial arts contests, matches
13 and exhibitions, or any form thereof, to be promoted, conducted,
14 held or given within the state.

15 (b) As used in this article, the term "mixed martial arts"
16 means a combative sporting contest, the rules of which allow two
17 competitors to attempt to achieve dominance over one another by
18 utilizing a variety of techniques including, but not limited to,
19 striking, grappling and the application of submission holds.

20 (c) A mixed martial arts contest, match or exhibition
21 promoted, conducted, held or given within the state shall be under
22 the commission's authority and be in accordance with the provision
23 of this section. The provisions of this article that apply to
24 boxing shall also apply to mixed martial arts as appropriate.

1 (d) In exercising its jurisdiction over professional mixed
2 martial arts contests matches and exhibitions, the commission shall
3 follow the current unified rules of mixed martial arts as adopted
4 by the Association of Boxing Commissions, to enable the proper
5 licensing of all participants, referees and judges, and the
6 approval of contests, matches or exhibitions conducted under the
7 provisions of this section.

8 (e) The commission may issue and revoke a license to promote,
9 conduct, hold or give mixed martial arts contests, matches or
10 exhibitions and may issue and revoke a license to be a contestant.
11 Each license is subject to the provisions of this section and
12 article, and the rules of the commission.

13 (f) The commission shall propose rules for legislative
14 approval, in accordance with the provisions of article three,
15 chapter twenty-nine-a of this code, to implement the provisions of
16 this section, including:

17 (1) Procedures and requirements for the issuance and renewal
18 of licenses: *Provided*, That the procedures and requirements shall
19 not:

20 (A) Limit or prohibit mixed martial arts contests, matches or
21 exhibitions; nor

22 (B) Include a provision that a licensee be a West Virginia
23 resident;

24 (2) Exemptions from licensure;

- 1 (3) Procedures for revoking licenses;
- 2 (4) Adopting the unified rules of mixed martial arts;
- 3 (5) A fee schedule, including permit fees;
- 4 (6) Limitations or restrictions necessary to guarantee the
5 safety of the participants;
- 6 (7) The requirements for fair and honest conducting of the
7 contests, matches or exhibitions; and
- 8 (8) Any other rules necessary to effectuate the provisions of
9 this section.
- 10 (g) Notwithstanding the provisions of this code to the
11 contrary, a municipality may not impose a municipal license tax
12 under section four, article thirteen, chapter eight of this code on
13 mixed martial arts clubs. The granting of a license to a club by
14 the commission, or the holding of a license by a club, individual,
15 corporation or association, does not prevent the commission from
16 revoking the license to conduct an event, as provided in this
17 section: *Provided*, That nothing in this subsection limits the
18 authority of a municipality to impose any other taxes or fees on
19 mixed martial arts contests, matches or exhibitions, pursuant to
20 article thirteen, chapter eight of this code.

21 **§29-5A-5. Expense of commission.**

22 On or before December thirty-one of each year, the secretary
23 of the commission shall present to the Governor projected expenses
24 for the following year. Such projections shall include all

1 revenues and expenses of the commission and its official
2 headquarters. Necessary expenses incurred by the commission shall
3 be submitted on a standard expense form ~~to the treasurer of the~~
4 ~~State of West Virginia to be paid from the General Fund~~ and paid
5 from the Commission's Revenue Fund to be established under the
6 State Treasurer. ~~Such expenses shall not exceed 5,500 per year.~~

7 **§29-5A-6. Payment of official in charge.**

8 The deputy, inspector or other officials designated by the
9 commission to be in charge of a boxing event shall be paid by the
10 promoter at a rate of ~~\$75~~ \$100 for each weigh-in ceremony and ~~\$75~~
11 \$100 for each day of bouts. If a weigh-in occurs within three
12 hours before the boxing bouts are scheduled to begin, the deputy,
13 inspector or other officials will be paid only ~~\$75~~ \$100 once for
14 that particular night or day's events. Judges, timekeepers and
15 inspectors shall be paid by the promoter at a rate of ~~\$50~~ \$75 per
16 day. Referees shall be paid by the promoter at a rate of ~~\$75~~ \$100
17 per day.

18 **§29-5A-8. Issuance of license; qualification for licenses;**
19 **application of other provisions of chapter;**
20 **hearings.**

21 The commission, at its discretion, may issue a license to
22 promote, conduct or hold professional boxing, sparring matches and
23 exhibitions to any person, corporation, association, club or

1 organization eligible for a license under this chapter.

2 Before being granted a license, or the renewal of such
3 license, the applicant must establish to the satisfaction of the
4 commission that he or she:

5 (a) Is skilled, or has knowledge, in the profession of boxing
6 or mixed martial arts;

7 (b) Is of good moral character;

8 (c) Is physically fit and mentally sound;

9 (d) Will conduct his or her business in the best interest and
10 welfare of the public, preserving the safety and health of
11 participants and the best interests of professional boxing
12 generally;

13 (e) Will adhere to and comply with all the rules and
14 regulations of the commission pertaining to such license.

15 In the case of a corporate applicant, these factors shall
16 pertain to its officers, directors, principal stockholders and
17 employees.

18 Every license and licensee shall be subject to such rules and
19 regulations, and amendments thereof, as the commission may
20 prescribe.

21 **§29-5A-13. Cancellation of license for fake boxing, etc.,**
22 **exhibition; penalty for participating in such**
23 **exhibition.**

1 Any club, corporation, association or individual which may
2 conduct, hold or give or participate in any sham or fake boxing,
3 sparring or exhibition shall thereby forfeit its license issued in
4 accordance with the provisions of this article, which shall
5 thereupon be, by the commission, canceled and declared void; and it
6 shall not be entitled to receive another such license or any
7 license pursuant to the provisions of this article, nor shall any
8 license thereafter be granted to any club, corporation, association
9 or individual, including among its members, directors, partners or
10 stockholders, any member, director, partner or stockholder of the
11 club, corporation, association or individual whose license has been
12 so forfeited. Any contestant who shall participate in any sham or
13 fake boxing, sparring or exhibition, and any other person
14 whatsoever who shall in any manner be connected with the arranging,
15 planning, holding, conducting or giving of any such sham or fake
16 boxing, sparring or exhibition shall be guilty of a misdemeanor,
17 and, shall upon conviction thereof, be fined not less than \$500
18 \$1,000, nor more than ~~\$1,000~~ \$5,000, or be confined in jail for a
19 period of not less than six months, nor more than one year or both;
20 and any contestant so participating shall be further totally
21 disqualified from further admission or participation in any boxing
22 or sparring held or given by any club, corporation, association or
23 individual duly licensed for said purpose.

24 **§29-5A-17. Referee and judges; appointment by commission; powers,**

1 **payment.**

2 (a) The chief official of the boxing match or exhibition shall
3 be the referee. The referee and judges shall be appointed by the
4 commission, and shall receive from the commission a card
5 authorizing them to act as such, and no club shall employ or permit
6 anyone to act as referee except one holding such card of
7 authorization from the commission. The referee shall have general
8 supervision and control over the match or exhibition and shall be
9 paid by the promoter \$25 \$100 for each day or night's services.
10 The referee shall be limited to refereeing a maximum of thirty
11 rounds per day or night unless special consent is given by the
12 commission.

13 (b) For all boxing and mixed martial arts contests, the
14 referee or referees, judges and timekeepers shall be designated by
15 the commission. Only the officials so designated by the commission
16 may perform their respective functions. Under no circumstances may
17 a member of the commission, the deputy, inspector or any employee
18 of the commission serve as a referee, judge or timekeeper of a
19 boxing or mixed martial arts contest or exhibition match.

20 **\$29-5A-20. Licenses for contestants, referees, and managers and**
21 **promoters.**

22 No professional contestant, trainer, inspector, referee or
23 professional manager is permitted to take part in any boxing
24 contest or exhibition unless holding a license from the state, said

1 license to be issued by the commission upon payment of ~~\$10 a year.~~
 2 \$25 a year for a contestant license; \$25 a year for a trainer
 3 license; \$35 a year for an inspector license; \$35 a year for a
 4 referee license; \$50 a year for a professional manager license; and
 5 \$200 a year for a promoter's license.

6 ~~Such~~ The fees shall accompany the application and shall be in
 7 the form of a certified check or money order and shall be issued to
 8 the ~~treasurer of the State of West Virginia~~ State Athletic
 9 Commission to be deposited in the Commission's General Fund.
 10 ~~Should such~~ If a license is not ~~be~~ granted, the ~~treasurer~~
 11 commission shall refund the full amount.

12 **§29-5A-21. Penalty for engaging in unlawful contest.**

13 Any person who ~~shall~~ engages in a boxing contest with another
 14 person for money or other such things of value, or for any
 15 championship, when an admission fee is charged, either directly or
 16 indirectly in this state, except when such contest is held in
 17 compliance with this article, ~~shall be deemed~~ is guilty of a
 18 misdemeanor, and, upon conviction thereof, shall be fined not less
 19 than ~~\$50~~ \$250, and not more than ~~\$500~~ \$1,000.

20 **§29-5A-22. Penalty for violation not expressly provided for.**

21 If any person ~~shall~~ violates any provision of this article,
 22 for which violation a penalty is not here expressly provided, he or
 23 she ~~shall be~~ is guilty of a misdemeanor, and, upon conviction
 24 thereof, shall be fined not less than ~~\$50~~ \$250, nor more than ~~\$500~~

1 \$1,000.

2 **§29-5A-24. Rules ~~and regulations~~ governing contestants and**
3 **matches.**

4 (a) The commission shall ~~promulgate its rules in compliance~~
5 propose rules for legislative approval in accordance with the
6 provisions of article three of chapter twenty-nine-a of this code.

7 (b) The commission shall ~~promulgate~~ propose such rules as it
8 determines to be necessary to regulate professional and
9 semiprofessional boxers, and professional and semiprofessional
10 boxing matches and exhibitions. ~~For full contact boxing and other~~
11 ~~boxing events that follow nontraditional rules, rules guaranteeing~~
12 ~~the safety of the participants and the fair and honest conducting~~
13 ~~of the matches or exhibitions are authorized.~~

14 (c) The commission shall ~~promulgate~~ propose separate rules for
15 amateur boxers and amateur boxing, sparring matches and exhibitions
16 as follows:

17 (1) Rules which comply with the requirements of the rules of
18 the current United States amateur boxing authority to the extent
19 that any boxer complying with them will be eligible to participate
20 in any state, national or international boxing match sanctioned by
21 the current United States amateur boxing authority or the
22 International Amateur Boxing Association.

23 (2) Rules which may differ from the rules of the current
24 United States Amateur Boxing Authority but which adequately

1 guarantee the safety of the participants and the fair and honest
2 conducting of the matches or exhibitions. As a part of these
3 rules, the commission shall include a requirement that all boxers
4 participating in matches or exhibitions conducted under these rules
5 be informed prior to such participation that such participation
6 will disqualify them from participating in state, national or
7 international matches and exhibitions sanctioned by the current
8 United States Amateur Boxing Authority or the International Amateur
9 Boxing Association.

NOTE: The purpose of this bill is to change the composition of the State Athletic Commission; create the State Athletic Commission Revenue Fund and provide that all revenues be deposited in and all reimbursed expenses shall be paid from the account; authorize the appointment of an executive director; increase payments to referees, judges and timekeepers; increase certain licensing fees; increase the fines for misdemeanor violations under this article; and make other changes generally related to this article.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§29-5A-12 is repealed. The subject of this section is covered under the Unified Rules of Boxing and Unified Rules of Mixed Martial Arts.