

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 436**

(By Senator Nohe)

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[Originating in the Committee on  
Government Organization;  
reported February 27, 2015.]

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A BILL to repeal §29-5A-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-5A-1, §29-5A-2, §29-5A-3, §29-5A-3a, §29-5A-5, §29-5A-6, §29-5A-8, §29-5A-17, §29-5A-19, §29-5A-20 and §29-5A-24 of said code; and to amend said code by adding thereto a new section, designated §29-5A-1a, all relating to the State Athletic Commission; changing composition of commission; providing that office of commission be located on the premises of Lottery Commission office; providing for Lottery Commission to provide administrative support and oversight; proposing rules; providing commission shall follow United States Amateur Boxing Authority rules for amateur boxing; requiring commission to follow the unified rules of boxing adopted by Association of Boxing Commissions and requirements; expenses of commission; increasing payments to referees, judges and timekeepers; weight of boxers; and increasing certain licensing fees.

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

That §29-5A-12 of the Code of West Virginia, 1931, as amended, be repealed; that §29-5A-1,

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§29-5A-2, §29-5A-3, §29-5A-3a, §29-5A-5, §29-5A-6, §29-5A-8, §29-5A-17, §29-5A-19, §29-5A-20 and §29-5A-24 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §29-5A-1a, all to read as follows:

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

**§29-5A-1. Creation of commission; members; officers; seal and rules.**

1           The State Boxing Commission, heretofore created, is hereby continued and renamed the State  
2 Athletic Commission. The commission shall consist of five persons appointed by the Governor, by  
3 and with the consent of the Senate, no more than three of whom shall belong to the same political  
4 party and no two of whom shall be residents of the same county at the same time. One member shall  
5 have at least three years of experience in the sport of boxing. One member shall have at least three  
6 years of experience in the sport of mixed martial arts. One member shall have at least three years  
7 of experience in the health care industry as a licensed physician, registered nurse, nurse practitioner  
8 or physicians assistant. Two members shall be citizen members who are not licensed under the  
9 provisions of this article and who do not perform any services related to the persons regulated under  
10 this article. The members shall serve without pay. ~~The present members and terms of the members~~  
11 ~~of the State Boxing Commission shall continue as the State Athletic Commission.~~ At the expiration  
12 of the term of each member, his or her successor shall be appointed by the Governor for a term of  
13 four years. ~~In the event of~~ If there is a vacancy in ~~said the~~ said the board, ~~said the~~ said the vacancy shall likewise be  
14 filled by appointment by the Governor and the Governor shall likewise have the power to remove  
15 any commissioner at his or her pleasure. Any three members of the commission shall constitute a  
16 quorum for the exercise of the power or authority conferred upon it. The members of the

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1 commission shall at the first meeting after their appointment elect one of their number chairman of  
2 the commission, and another of their number secretary of the commission, shall adopt a seal for the  
3 commission, and shall make such rules for the administration of their office, not inconsistent  
4 herewith, as they may ~~deem~~ consider expedient; and they may hereafter amend or abrogate such  
5 rules. The concurrence of at least three commissioners ~~shall be~~ is necessary to render a choice or  
6 decision of the commission.

7 **§29-5A-1a. Commission office; administrative support provided by Lottery Commission.**

8 The office of the commission shall be located on the same premises as the office of the  
9 Lottery Commission and the Lottery Commission shall provide the commission with any necessary  
10 administrative support or management, including but not limited to:

11 (1) Administrative recordkeeping;

12 (2) Maintaining an accurate and published registry of names, addresses and relative  
13 information of all licensees; and

14 (3) Management of finances and budgetary oversight.

15 **§29-5A-2. Powers and duties of secretary; penalty for false swearing, etc.; biennial reports of**  
16 **commission.**

17 ~~The office of the commission may be changed at pleasure by the said commission. The~~  
18 ~~commission may designate as its official headquarters the residence or place of business of any one~~  
19 ~~of its members.~~ It shall be the duty of the secretary to keep a full and true record of all proceedings  
20 of said commission, to preserve all its books, documents and papers, to prepare for service such  
21 notices and other papers as may be required of him or her by the commission, and to perform such

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1 other duties as the commission may prescribe; and he or she may at the direction of the commission  
2 issue subpoenas for the attendance of witnesses before the commission with the same effect as if they  
3 were issued in an action in any circuit court of the state, and may administer oaths in all matters  
4 pertaining to the duties of his or her office or connected with the administration of the affairs of the  
5 commission. The subpoenas shall be on forms prescribed by the commission and served by the  
6 sheriff's department of the county in which the individual being subpoenaed resides. Such subpoenas  
7 shall be signed by at least two members. Disobedience of such subpoena and false swearing before  
8 such secretary shall be attended by the same consequences and be subject to the same penalties as  
9 if such disobedience or false swearing occurred in an action in any circuit court of the state. The  
10 commission shall make to the Legislature biennial reports of their proceedings for the two years  
11 ending with the last day of the preceding December, and may submit with such report such  
12 recommendations pertaining to its affairs, as to it shall seem advisable.

13 **§29-5A-3. Commission to have sole control of boxing, etc., matches; licenses; municipality not**  
14 **to tax boxing, etc., club.**

15 (a) The commission has sole direction, management and control of the jurisdiction over all  
16 amateur, professional and semiprofessional boxing, sparring matches and exhibitions, or any form  
17 thereof, to be conducted, held or given within the state by any club, individual, corporation or  
18 association. As used in this article, the term "boxing" includes any fighting event that includes or  
19 permits the striking of an opponent with a closed fist, even if wrestling moves, elements of martial  
20 arts or striking an opponent with the feet are also permitted. No boxing, sparring or exhibition may  
21 be conducted, held or given within the state except pursuant to the commission's authority and held

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1 in accordance with this article. The commission may ~~in its discretion~~, issue and ~~at its pleasure~~,  
2 revoke the license to conduct, hold or give boxing or sparring matches or exhibitions to any club,  
3 corporation, association or individual. Every license is subject to rules the commission may  
4 prescribe. Every application for a license shall be on a blank form provided by the commission. No  
5 promoter's license may be granted to any club, corporation, association or individual, unless the  
6 signer of the application is a bona fide resident of the State of West Virginia. Upon application of  
7 the promoter's license, the promoter shall pay a state license fee of ~~\$125~~ \$150 for one year. The fee  
8 shall be in the form of a certified check or money order and shall be issued to the Treasurer of the  
9 state of West Virginia to be deposited in the General Fund. If the license is not granted, the  
10 Treasurer shall refund the full amount. Nonprofit chartered and charitable organizations are exempt  
11 from this license fee for all amateur events. No municipal corporation may impose any license tax  
12 on boxing, sparring or exhibition clubs, notwithstanding the provisions of any section of the code  
13 respecting municipal taxes and licenses. The granting of a license to a club by the commission, or  
14 the holding of a license by a club, individual, corporation or association, does not prevent the  
15 commission from canceling or revoking the license to conduct an event as provided in this section.

16 (b) In exercising its jurisdiction over professional and semiprofessional ~~and amateur~~ boxing,  
17 sparring matches and exhibitions, the commission shall follow the current ~~United States boxing~~  
18 ~~authority rules and requirements~~ unified rules of boxing adopted by the Association of Boxing  
19 Commissions and requirements to enable the proper sanctioning of all participants, referees, judges  
20 and matches or exhibitions conducted under the rules described in subdivision (1), subsection ©,  
21 section twenty-four of this article and shall cooperate fully with the ~~boxing authority~~ Association of

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1 Boxing Commissions in order that the sanctioning be extended to state boxers. The commission  
2 shall supervise all amateur boxing conducted in this state and any such contest shall follow the  
3 amateur rules for boxing as adopted by the United States Amateur Boxing Authority. For full  
4 contact boxing events and other boxing events that follow nontraditional rules, the commission may  
5 impose any limitations or restrictions reasonably necessary to guarantee the safety of the participants  
6 and the fair and honest conducting of the matches or exhibitions and may refuse to license any event  
7 that poses an unreasonable degree of risk to the participants.

8 **§29-5A-3a. Power to regulate mixed martial arts.**

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

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

16 © A mixed martial arts contest, match or exhibition promoted, conducted, held or given  
17 within the state shall be under the commission's authority and be in accordance with the provision  
18 of this section. The provisions of this article that apply to boxing shall also apply to mixed martial  
19 arts as appropriate.

20 (d) In exercising its jurisdiction over professional and amateur mixed martial arts contests  
21 matches and exhibitions, the commission shall follow the current unified rules of mixed martial arts

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1 as adopted by the Association of Boxing Commissions, to enable the proper equipment, fighting area  
2 and weight classes to ensure the safety of contestants and ensure the licensing of all participants,  
3 referees and judges, and the approval of contests, matches or exhibitions conducted under the  
4 provisions of this section.

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

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

11 (1) Procedures and requirements for the issuance and renewal of licenses: *Provided*, That  
12 the procedures and requirements ~~shall~~ may not:

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

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

15 (2) Exemptions from licensure;

16 (3) Procedures for revoking licenses;

17 (4) Adopting the unified rules of mixed martial arts;

18 (5) A fee schedule;

19 (6) Limitations or restrictions necessary to guarantee the safety of the participants;

20 (7) The requirements for fair and honest conducting of the contests, matches or exhibitions;

21 and

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1 (8) Any other rules necessary to effectuate the provisions of this section.

2 (g) Notwithstanding the provisions of this code to the contrary, a municipality may not  
3 impose a municipal license tax under section four, article thirteen, chapter eight of this code on  
4 mixed martial arts clubs. The granting of a license to a club by the commission, or the holding of  
5 a license by a club, individual, corporation or association, does not prevent the commission from  
6 revoking the license to conduct an event, as provided in this section: *Provided*, That nothing in this  
7 subsection limits the authority of a municipality to impose any other taxes or fees on mixed martial  
8 arts contests, matches or exhibitions pursuant to article thirteen, chapter eight of this code.

9 **§29-5A-5. Expense of commission.**

10 On or before December 31 of each year, the secretary of the commission shall present to the  
11 Governor projected expenses for the following year. ~~Such~~ These projections shall include all  
12 revenues and expenses of the commission and its official headquarters. Necessary expenses incurred  
13 by the commission shall be submitted on a standard expense form to the Treasurer of the state of  
14 West Virginia to be paid from the General Fund. ~~Such expenses shall not exceed 5,500 per year.~~

15 **§29-5A-6. Payment of official in charge.**

16 The deputy, inspector or other officials designated by the commission to be in charge of a  
17 boxing event shall be paid by the promoter at a rate of ~~\$75~~ \$150 for each weigh-in ceremony and ~~\$75~~  
18 \$150 for each day of bouts. If a weigh-in occurs within three hours before the boxing bouts are  
19 scheduled to begin, the deputy, inspector or other officials will be paid only ~~\$75~~ \$150 once for that  
20 particular night or day's events. Judges, timekeepers and inspectors shall be paid by the promoter  
21 at a rate of ~~\$50~~ \$100 per day. Referees shall be paid by the promoter at a rate of ~~\$75~~ \$150 per day.



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1 Payments to the officials in charge, judges, timekeepers, inspectors or referees exceeding the  
2 amounts under this section are prohibited without prior written consent of the promoter. The  
3 commission may not revoke an event permit or license for refusal to pay a fee greater than the fees  
4 in this section, provided that approved officials are available, willing and able to work the event for  
5 the prescribed fees.

6 **§29-5A-8. Issuance of license; qualification for licenses; application of other provisions of**  
7 **chapter; hearings.**

8 The commission, ~~at its discretion,~~ may issue a license to promote, conduct or hold  
9 professional boxing, professional or amateur mixed martial arts sparring matches and exhibitions  
10 to any person, corporation, association, club or organization eligible for a license under this chapter.

11 Before being granted a license, or the renewal of ~~such~~ the license, the applicant must  
12 establish to the satisfaction of the commission that he or she:

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

14 (b) Is of good moral character;

15 © Is physically fit and mentally sound;

16 (d) Will conduct his or her business in the best interest and welfare of the public, preserving  
17 the safety and health of participants and the best interests of professional boxing or professional or  
18 amateur mixed martial arts generally;

19 (e) Will adhere to and comply with all the rules and regulations of the commission pertaining  
20 to ~~such~~ the license.

21 In the case of a corporate applicant, these factors shall pertain to its officers, directors,

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1 principal stockholders and employees.

2 Every license and licensee ~~shall be~~ is subject to such rules ~~and regulations~~, and amendments  
3 thereof, as the commission may prescribe.

4 **§29-5A-17. Referee and judges; appointment by commission; powers, payment.**

5 (a) The chief official of the boxing match or exhibition shall be the referee. The referee and  
6 judges shall be appointed by the commission and shall receive from the commission a card  
7 authorizing them to act as such, and no club ~~shall~~ may employ or permit anyone to act as referee  
8 except one holding ~~such~~ a card of authorization from the commission. The referee ~~shall have~~ has  
9 general supervision and control over the match or exhibition and shall be paid by the promoter \$25  
10 \$150 for each day or night's services. The referee ~~shall be~~ is limited to refereeing a maximum of  
11 thirty rounds per day or night unless special consent is given by the commission.

12 (b) Once appointed by the commission, the promoter bears the responsibility for ensuring the  
13 attendance of referee and judges at events. The commission shall provide promoters with advance  
14 notice of the person(s) appointed as referee and judges. A promoter, at his or her own expense, may  
15 request alternate referee and judges be appointed by the commission to serve in the event a first  
16 appointed referee or judge is unable to satisfy the role. Under no circumstances may a member of  
17 the commission or any employee of the commission serve as a referee or judge for a boxing or mixed  
18 martial arts contest conducted in this state.

19 **§29-5A-19. Weight of boxers.**

20 No boxer shall be permitted to contest against an opponent ten pounds heavier than himself  
21 or herself when the weight of either contestant is less than one hundred fifty pounds. Weight classes

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1 as adopted by the Association of Boxing Commissions shall be utilized for all boxing and mixed  
2 martial arts contests conducted in this state.

3 **§29-5A-20. Licenses for contestants, referees and managers.**

4 No professional contestant, trainer, inspector, referee or professional manager ~~is permitted~~  
5 ~~to~~ may take part in any boxing contest or exhibition unless holding a license from the state ~~said~~  
6 ~~license to be~~ that is issued by the commission upon payment ~~of \$10 a year~~ of the following annual  
7 license fee schedule: Professional contestant \$25; Trainer \$20; Inspector \$30; Referee \$30 and  
8 Professional Manager \$50. Semiprofessional contestants shall pay a license fee of \$10 for each  
9 event. Such fees shall accompany the application and shall be in the form of a certified check or  
10 money order and shall be issued to the Treasurer of the state of West Virginia to be deposited in the  
11 General Fund. ~~Should such~~ If a license is not be granted, the Treasurer shall refund the full amount.

12 **§29-5A-24. Rules ~~and regulations~~ governing contestants and matches.**

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

15 (b) The commission shall ~~promulgate~~ propose such rules as it ~~determines to be necessary~~ to  
16 regulate professional and semiprofessional boxers, professional or amateur mixed martial artists, and  
17 professional and semiprofessional boxing matches and exhibitions and professional or amateur  
18 mixed martial arts matches and exhibitions: *Provided*, That the commission rules shall comply with  
19 the unified rules of boxing and unified rules of mixed martial arts as adopted by the Association of  
20 Boxing Commissions. For full contact boxing and other boxing events that follow nontraditional  
21 rules, rules guaranteeing the safety of the participants and the fair and honest conducting of the

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1 matches or exhibitions are authorized.

2 © The commission shall ~~promulgate~~ propose separate rules for amateur boxers and amateur  
3 boxing, sparring matches and exhibitions as follows:

4 (1) Rules which comply with the requirements of the rules of the current United States  
5 Amateur Boxing Authority to the extent that any boxer complying with them will be eligible to  
6 participate in any state, national or international boxing match sanctioned by the current United  
7 States Amateur Boxing Authority or the International Amateur Boxing Association.

8 ~~(2) Rules which may differ from the rules of the current United States Amateur Boxing~~  
9 ~~Authority but which adequately guarantee the safety of the participants and the fair and honest~~  
10 ~~conducting of the matches or exhibitions. As a part of these rules, the commission shall include a~~  
11 ~~requirement that all boxers participating in matches or exhibitions conducted under these rules be~~  
12 ~~informed prior to such participation that such participation will disqualify them from participating~~  
13 ~~in state, national or international matches and exhibitions sanctioned by the current United States~~  
14 ~~Amateur Boxing Authority or the International Amateur Boxing Association.~~

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(NOTE: The purpose of this bill is to change the composition of the State Athletic Commission; increase payments to referees, judges and timekeepers; increase certain licensing fees; 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.)