

Senate Bill No. 436

(By Senator Nohe)

[Introduced February 9, 2015; referred to the Committee on Government Organization; and then
to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to repeal §29-5A-12 of the Code of West Virginia, 1931, as amended; and 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, all relating generally to the
State Athletic Commission; changing composition of commission; providing that office of
the commission be located in office of Lottery Commission; proposing rules; requiring
commission to follow the unified rules of boxing adopted by the 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That §29-5A-12 of the Code of West Virginia, 1931, as amended, be repealed; and that
§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 be amended and reenacted, all to read as

1 follows:

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

3 **§29-5A-1. Creation of commission; members; officers; seal and rules.**

4 The State Boxing Commission, heretofore created, is hereby continued and renamed the State
5 Athletic Commission. The commission shall consist of five persons appointed by the Governor, by
6 and with the consent of the Senate, no more than three of whom shall belong to the same political
7 party and no two of whom shall be residents of the same county at the same time. One member shall
8 have at least three years of experience in the sport of boxing. One member shall have at least three
9 years of experience in the sport of mixed martial arts. One member shall have at least three years
10 of experience in amateur athletics and have at least three years experience in the health care industry
11 as a licensed physician, registered nurse, nurse practitioner or physicians assistant. The members
12 shall serve without pay. ~~The present members and terms of the members of the State Boxing~~
13 ~~Commission shall continue as the State Athletic Commission.~~ At the expiration of the term of each
14 member, his or her successor shall be appointed by the Governor for a term of four years. ~~In the~~
15 ~~event of~~ If there is a vacancy in ~~said~~ the board, ~~said~~ the vacancy shall likewise be filled by
16 appointment by the Governor and the Governor shall likewise have the power to remove any
17 commissioner at his or her pleasure. Any three members of the commission shall constitute a
18 quorum for the exercise of the power or authority conferred upon it. The members of the
19 commission shall at the first meeting after their appointment elect one of their number chairman of
20 the commission, and another of their number secretary of the commission, shall adopt a seal for the
21 commission, and shall make such rules for the administration of their office, not inconsistent

1 herewith, as they may ~~deem~~ consider expedient; and they may hereafter amend or abrogate ~~such~~ the
2 rules. The concurrence of at least three commissioners ~~shall be~~ is necessary to render a choice or
3 decision of the commission.

4 **§29-5A-2. Powers and duties of secretary; penalty for false swearing, etc.; biennial reports of**
5 **commission.**

6 The office of the commission ~~may be changed at pleasure by the said commission.~~ The
7 ~~commission may designate as its official headquarters the residence or place of business of any one~~
8 ~~of its members~~ shall be located in the office of the Lottery Commission. It shall be the duty of the
9 secretary to keep a full and true record of all proceedings of said commission, to preserve all its
10 books, documents and papers, to prepare for service such notices and other papers as may be
11 required of him or her by the commission, and to perform such other duties as the commission may
12 prescribe; and he or she may at the direction of the commission issue subpoenas for the attendance
13 of witnesses before the commission with the same effect as if they were issued in an action in any
14 circuit court of the state, and may administer oaths in all matters pertaining to the duties of his or her
15 office or connected with the administration of the affairs of the commission. The subpoenas shall
16 be on forms prescribed by the commission and served by the sheriff's department of the county in
17 which the individual being subpoenaed resides. Such subpoenas shall be signed by at least two
18 members. Disobedience of such subpoena and false swearing before such secretary shall be attended
19 by the same consequences and be subject to the same penalties as if such disobedience or false
20 swearing occurred in an action in any circuit court of the state. The commission shall make to the
21 Legislature biennial reports of their proceedings for the two years ending with the last day of the

1 preceding December, and may submit with such report, such recommendations pertaining to its
2 affairs, as to it shall seem advisable.

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

5 (a) The commission has sole direction, management and control of the jurisdiction over all
6 amateur, professional and semiprofessional boxing, sparring matches and exhibitions, or any form
7 thereof, to be conducted, held or given within the state by any club, individual, corporation or
8 association. As used in this article, the term "boxing" includes any fighting event that includes or
9 permits the striking of an opponent with a closed fist, even if wrestling moves, elements of martial
10 arts; or striking an opponent with the feet are also permitted. No boxing, sparring or exhibition may
11 be conducted, held or given within the state except pursuant to the commission's authority and held
12 in accordance with this article. The commission may ~~in its discretion,~~ issue and ~~at its pleasure,~~
13 revoke the license to conduct, hold or give boxing or sparring matches or exhibitions to any club,
14 corporation, association or individual. Every license is subject to rules the commission may
15 prescribe. Every application for a license shall be on a blank form provided by the commission. No
16 promoter's license may be granted to any club, corporation, association or individual, unless the
17 signer of the application is a bona fide resident of the State of West Virginia. Upon application of
18 the promoter's license, the promoter shall pay a state license fee of ~~\$125~~ \$150 for one year. The fee
19 shall be in the form of a certified check or money order and shall be issued to the Treasurer of the
20 State of West Virginia to be deposited in the General Fund. If the license is not granted, the
21 treasurer shall refund the full amount. Nonprofit chartered and charitable organizations are exempt

1 from this license fee for all amateur events. No municipal corporation may impose any license tax
2 on boxing, sparring or exhibition clubs, notwithstanding the provisions of any section of the code
3 respecting municipal taxes and licenses. The granting of a license to a club by the commission, or
4 the holding of a license by a club, individual, corporation or association, does not prevent the
5 commission from canceling or revoking the license to conduct an event, as provided in this section.

6 (b) In exercising its jurisdiction over professional and semiprofessional ~~and amateur~~ boxing,
7 sparring matches and exhibitions, the commission shall follow the current ~~United States boxing~~
8 ~~authority rules and requirements~~ unified rules of boxing adopted by the Association of Boxing
9 Commissions and requirements to enable the proper sanctioning of all participants, referees, judges
10 and matches or exhibitions conducted under the rules described in subdivision (1), subsection (c),
11 section twenty-four of this article and shall cooperate fully with the ~~boxing authority~~ Association of
12 Boxing Commissions in order that the sanctioning be extended to state boxers. The commission
13 shall supervise all amateur boxing conducted in this state and any such contest shall follow the
14 amateur rules for boxing as adopted by the United States amateur boxing authority, or USA Boxing.
15 For full contact boxing events and other boxing events that follow nontraditional rules, the
16 commission may impose any limitations or restrictions reasonably necessary to guarantee the safety
17 of the participants and the fair and honest conducting of the matches or exhibitions and may refuse
18 to license any event that poses an unreasonable degree of risk to the participants.

19 **§29-5A-3a. Power to regulate mixed martial arts.**

20 (a) The commission has sole power, direction, management and control over all professional
21 and amateur mixed martial arts contests, matches and exhibitions, or any form thereof, to be

1 promoted, conducted, held or given within the state.

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

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

10 (d) In exercising its jurisdiction over professional and amateur mixed martial arts contests
11 matches and exhibitions, the commission shall follow the current unified rules of mixed martial arts
12 as adopted by the Association of Boxing Commissions, to enable the proper equipment, fighting area
13 and weight classes to ensure the safety of contestants and ensure the licensing of all participants,
14 referees and judges, and the approval of contests, matches or exhibitions conducted under the
15 provisions of this section.

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

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

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

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

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

5 (2) Exemptions from licensure;

6 (3) Procedures for revoking licenses;

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

8 (5) A fee schedule;

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

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

11 and

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

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

20 **§29-5A-5. Expense of commission.**

21 On or before December thirty-one of each year, the secretary of the commission shall present

1 to the Governor projected expenses for the following year. ~~Such~~ These projections shall include all
2 revenues and expenses of the commission and its official headquarters. Necessary expenses incurred
3 by the commission shall be submitted on a standard expense form to the treasurer of the State of
4 West Virginia to be paid from the General Fund. ~~Such expenses shall not exceed 5,500 per year.~~

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

6 The deputy, inspector or other officials designated by the commission to be in charge of a
7 boxing event shall be paid by the promoter at a rate of \$75 for each weigh-in ceremony and \$75 for
8 each day of bouts. If a weigh-in occurs within three hours before the boxing bouts are scheduled to
9 begin, the deputy, inspector or other officials will be paid only \$75 once for that particular night or
10 day's events. Judges, timekeepers and inspectors shall be paid by the promoter at a rate of ~~\$50~~ \$75
11 per day. Referees shall be paid by the promoter at a rate of ~~\$75~~ \$100 per day. Payments to the
12 officials in charge, judges, timekeepers, inspectors or referees exceeding the amounts under this
13 section are prohibited without prior written consent of the promoter. The commission may not
14 revoke an event permit or license for refusal to pay a fee greater than the fees in this section.

15 **§29-5A-8. Issuance of license; qualification for licenses; application of other provisions of**
16 **chapter; hearings.**

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

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

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

2 (b) Is of good moral character;

3 (c) Is physically fit and mentally sound;

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

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

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

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

13 **§29-5A-17. Referee and judges; appointment by commission; powers, payment.**

14 (a) The chief official of the boxing match or exhibition shall be the referee. The referee and
15 judges shall be appointed by the commission, and shall receive from the commission a card
16 authorizing them to act as such, and no club ~~shall~~ may employ or permit anyone to act as referee
17 except one holding ~~such~~ a card of authorization from the commission. The referee ~~shall have~~ has
18 general supervision and control over the match or exhibition and shall be paid by the promoter ~~\$25~~
19 \$100 for each day or night's services. The referee ~~shall be~~ is limited to refereeing a maximum of
20 thirty rounds per day or night unless special consent is given by the commission.

21 (b) Under no circumstances may a member of the commission or any employee of the

1 commission serve as a referee or judge for a boxing or mixed martial arts contest conducted in this
 2 state.

3 **§29-5A-19. Weight of boxers.**

4 No boxer shall be permitted to contest against an opponent ten pounds heavier than himself
 5 or herself when the weight of either contestant is less than one hundred fifty pounds. Weight classes
 6 as adopted by the Association of Boxing Commissions shall be utilized for all boxing and mixed
 7 martial arts contests conducted in this state.

8 **§29-5A-20. Licenses for contestants, referees and managers.**

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

18 **§29-5A-24. Rules ~~and regulations~~ governing contestants and matches.**

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

21 (b) The commission shall ~~promulgate~~ propose such rules as ~~it determines to be necessary~~ to

1 regulate professional and semiprofessional boxers, professional or amateur mixed martial artists, and
2 professional and semiprofessional boxing matches and exhibitions and professional or amateur
3 mixed martial arts matches and exhibitions: *Provided*, That the commission rules shall comply with
4 the unified rules of boxing and unified rules of mixed martial arts as adopted by the Association of
5 Boxing Commissions. For full contact boxing and other boxing events that follow nontraditional
6 rules, rules guaranteeing the safety of the participants and the fair and honest conducting of the
7 matches or exhibitions are authorized.

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

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

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

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.