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SENATE BILL NO. 157

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws
on January 28, 1998)

(Patron Prior to Substitute—Senator Martin)

A BILL to amend the Code of Virginia by adding in Title 54.1 a chapter numbered 8.1, consisting of sections numbered 54.1-828 through 54.1-835, and to repeal Chapter 8 (§§ 54.1-800 through 54.1-827) of the Code of Virginia, relating to the regulation of professional boxers and wrestlers; penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 54.1 a chapter numbered 8.1, consisting of sections numbered 54.1-828 through 54.1-835, as follows:

CHAPTER 8.1.

BOXING AND WRESTLING EVENTS.

§ 54.1-828. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Boxer" means a person competing in the sport of boxing.

"Boxing" means the contact sport of attack or defense using fists, feet, or both, including professional kick boxing, boxing or any similar contest.

"Cable television system" means any facility consisting of a set of closed transmission paths and associated equipment designed to provide video programming to multiple subscribers when subscriber interaction is required to select a specific video program for an access fee established by the cable television system for that specific video program.

"Contractor" means any person which has been recognized by the Director, through a contract, as an appropriate responsible party to provide services to assist the Commonwealth in complying with the provisions of this chapter.

"Department" means the Department of Professional and Occupational Regulation or its successor.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Event" means any professional boxing or wrestling show which includes one or more contests or matches.

"License" means a method of regulation whereby any person arranging, conducting or participating in boxing or wrestling activities is required to obtain a prior authorization from the Department.

"Manager" means any person who receives compensation for service as a representative or agent of a boxer or wrestler to arrange for his participation in an event.

"Matchmaker" means any person who proposes, selects, arranges for, or in any manner procures specific individuals to be contestants in an event.

"Person" means a natural person, corporation, partnership, sole proprietorship, firm, enterprise, franchise, association or any other entity.

"Promote" or "promotion" means to organize, arrange, publicize, or conduct an event in the Commonwealth.

"Promoter" means any person who undertakes to promote an event.

"Trainer," "second" or "cut man" means an individual who undertakes to assure the well-being of a boxer by providing instruction or advice concerning techniques or strategies of boxing, and who may work in the corner with a boxer between the rounds of a match to assure his well-being and provide necessary equipment and advice concerning match participation.

"Wrestler" means any person competing or participating as an opponent in wrestling.

"Wrestling" means any contact sport or exhibition in which individuals attempt to subdue or unbalance an opponent.

§ 54.1-829. License required; bond; physical examination; ambulance; physician; and health insurance.

A. Unless exempted by § 54.1-830, no person shall promote or conduct a boxing or wrestling event in the Commonwealth without first having obtained a license for such event from the Department. No such license shall be granted except to a licensed promoter.

B. Unless exempted by § 54.1-830, no person shall act as a promoter, matchmaker, trainer, boxer or wrestler in the Commonwealth without first having obtained a license for such activity from the Department and such license remains in full force and effect.

C. No license to act as a promoter shall be granted unless the applicant executes and files with the Department a bond, in such penalty as the Department shall determine through regulation, conditioned on the payment of the fees and penalties imposed by this chapter and for the fulfillment of contracts

60 made with boxers and wrestlers in accordance with Department regulations.

61 D. Each boxer shall, and each wrestler may, be examined prior to entering the ring by a physician
62 who has been licensed to practice medicine in the Commonwealth for at least five years. The physician
63 shall be appointed by the Department and shall certify in writing that the contestant's physical condition
64 is such that he is physically able to engage in the contest.

65 E. No boxing event shall be conducted without the continuous presence at ringside of a physician
66 who has been licensed to practice medicine in the Commonwealth for at least five years, and unless an
67 ambulance is at the site of the boxing event.

68 F. No boxer shall participate in any event unless covered by a health insurance policy with minimum
69 coverage in an amount determined by Department regulation.

70 § 54.1-830. Exemptions.

71 Amateur exhibitions and the participants therein shall be exempt from the provisions of this chapter
72 provided the participants receive no money, compensation or reward other than a suitably inscribed
73 memento for their participation.

74 § 54.1-831. Powers and duties of the Department.

75 The Department shall administer and enforce the provisions of this chapter. In addition to the
76 powers and duties otherwise conferred by law, the Director shall have the powers and duties of a
77 regulatory board as contained in § 54.1-201, and shall have the power and duty to:

78 1. Promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.)
79 which implement the federal Professional Boxing Safety Act of 1996 and protect the public against
80 incompetent, unqualified, unscrupulous or unfit persons engaging in the activities regulated by this
81 chapter.

82 The regulations shall include requirements for (i) initial and renewal licensure, (ii) licensure and
83 conduct of events, (iii) standards of practice for persons arranging, promoting, conducting, supervising
84 and participating in events, (iv) grounds for disciplinary actions against licensees, (v) records to be kept
85 and maintained by licensees, (vi) manner in which fees are to be accounted for and submitted to the
86 Department, and (vii) minimum health coverage for injuries sustained in a boxing match. The
87 Department shall have direct oversight of events to assure the safety and well-being of boxers and
88 wrestlers.

89 2. Charge each applicant for licensure and for renewals of licensure a nonrefundable fee subject to
90 the provisions of § 54.1-113 and subdivision 4 of § 54.1-201.

91 3. Conduct investigations to determine the suitability of applicants for licensure and to determine the
92 licensee's compliance with applicable statutes and regulations.

93 4. Conduct investigations as to whether monopolies, combinations or other circumstances exist to
94 restrain matches or exhibitions of professional boxing or wrestling anywhere in the Commonwealth. The
95 Attorney General may assist investigations at the request of the Department.

96 5. Exercise jurisdiction over all wrestling and boxing conducted within the Commonwealth by any
97 person, except where otherwise exempted.

98 § 54.1-832. Director authorized to contract for certain services; award of contract; authority when
99 no contract is in effect.

100 A. The Director may contract with a private person, firm, corporation or association to provide any
101 or all of the following services on behalf of the Department: examining and recommending licensure,
102 investigating and ensuring that events are conducted in compliance with statutes and regulations,
103 performing clerical duties, collecting fees, maintaining records, developing proposed regulations in
104 accordance with Article 2 (§ 9-6.14:6 et seq.) of the Administrative Process Act, and recommending
105 enforcement actions in accordance with Article 3 (§ 9-6.14:10 et. seq.) of the Administrative Process
106 Act.

107 B. The Director shall procure any or all of such services in accordance with the provisions of the
108 Virginia Public Procurement Act (§ 11-35 et seq.). Prior to the award of such contract, a proposer shall
109 demonstrate, to the satisfaction of the Director:

110 1. Personnel and financial resources necessary to carry out the provisions of the contract:

111 2. Adequate indemnification to protect the Commonwealth and its agencies and instrumentalities from
112 all claims and losses incurred as a result of the contract:

113 3. Compliance with all applicable federal, state, and local laws:

114 4. Ability to develop, implement, and maintain the internal operations necessary to carry out the
115 provisions of the contract; and

116 5. Ability to meet any other qualifications the Director deems appropriate in the procurement
117 process.

118 C. Any contract awarded in accordance with this section shall not exceed a three-year term, but may
119 be renewed annually upon the approval of the Director. The Director shall be the signatory to the
120 contract on behalf of the Commonwealth.

121 D. Nothing herein is intended to deprive the contractor or the Commonwealth of the benefits of any

law limiting exposure to liability or setting a limit on damages.

E. Nothing herein is intended to deprive the Director of his authority to carry out the requirements of this chapter when no contract is in effect.

§ 54.1-833. Reports; closed-circuit telecasts; cable television systems; fee on receipts.

A. Each promoter shall furnish to the Department, within twenty-four hours after the completion of each event, a written and verified report on the form provided by the Department showing the number of tickets sold, unsold and given away and the amount of gross proceeds thereof for such events originating in the Commonwealth, and its total gross receipts from the sale of rights to distribute in any manner such event by any video, telephonic or other communication method involving the control of electrons or other charge carriers for such live events originating in the Commonwealth. Within the twenty-four-hour period, the promoter shall pay to the Department a fee of (i) five percent of the first \$100,000 of its total gross receipts; and (ii) two and one-half percent of the remainder of its total gross receipts. Records of the promoter shall be subject to audit by the Department.

B. Each cable television system shall report to the Department in writing the name and address of each person from whom it obtains the rights to provide a live event originating in the Commonwealth.

C. The Department shall hold all license fees in a special fund of the State treasury subject to appropriation of the General Assembly. Payments from this fund shall be made to the contractors for their services on behalf of the Commonwealth. No payment shall exceed the balance of the fund. The Department shall draw from the fund to cover any expenses associated with the provisions of this chapter.

§ 54.1-834. Prohibited activities; penalties.

A. No person licensed to conduct an event shall permit betting or wagering before, during or after the event in the building where the event is held.

B. No boxer, promoter or trainer shall participate in a sham or fake boxing contest. The Department shall have the authority to order, without a hearing, the person controlling the purse to hold the distribution to contestants, promoters and trainers pending a public hearing by the Department. The Department shall, simultaneously with the issuance of such order to retain the share or purse, institute proceedings for a hearing to determine whether a sham or fake boxing contest has occurred.

C. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

§ 54.1-835. Other penalties.

A. It shall be a Class 1 misdemeanor for any person required to possess a license under subsection A of § 54.1-829 to engage in the promotion, arrangement or conduct of or participate in a boxing or wrestling event without first obtaining the appropriate license from the Department.

B. It shall be a Class 1 misdemeanor for any person to employ or otherwise arrange for an individual to compete in a boxing or wrestling event who is not licensed as required by subsection B of § 54.1-829.

C. It shall be a Class 1 misdemeanor for any person conducting a boxing or wrestling event to permit any betting or wagering at the event before, during or after the event, in the building where the contest is held.

D. It shall be a Class 1 misdemeanor for any person to violate any statute or regulation governing a profession regulated pursuant to this chapter.

E. The third or any subsequent conviction for violating any provision of this section during a thirty-six-month period shall constitute a Class 6 felony.

2. That Chapter 8 (§§ 54.1-800 through 54.1-827) of Title 54.1 of the Code of Virginia is repealed.

3. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0.