

SHORT TITLE: Amusements and sports; creating the Oklahoma Boxing Licensing Act; codification; effective date; emergency.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 265

By: Douglass and Brown of the
Senate

and

Bryant of the House

AS INTRODUCEDAn Act relating to amusements and sports; creating the Oklahoma Boxing Licensing Act; providing short title; defining terms; granting certain powers and duties to the Department of Labor; creating the Oklahoma Boxing Advisory Committee; providing for sunset; providing for appointment, membership, term of office, qualifications and duties of the Committee; requiring Committee and Commissioner to submit certain findings and recommendations by certain dates; providing for reimbursement of members; prohibiting certain acts by members; providing for removal from office; providing for organization and certain rules of the Committee; requiring procedures be subject to Administrative Procedures Act; requiring compliance with open meeting requirements; authorizing Department to employ certain employees; specifying general duties; authorizing certain other expenditures; prohibiting certain acts by employees; exempting certain entities from Act; requiring certain licenses and permits related to boxing by a certain date; authorizing the Department to issue, withhold, suspend or revoke licenses and permits; authorizing other disciplinary actions; providing for fees; providing for certain considerations prior to issuance of licenses; authorizing Department to issue subpoenas, administer oaths, require suspension of certain persons, prescribe certain financial procedures, conduct investigations and delegate certain procedures; requiring notice and hearings by the Commissioner for certain violations; requiring the Attorney General

to bring actions against certain persons; providing for penalties; creating the Oklahoma Boxing Licensing Revolving Fund; stating purpose; providing for fees and taxes; requiring the Athletic Trainers Advisory Committee to assist the Committee for certain purposes; requiring Department approval prior to certain standards, fee schedules or lists becoming effective; requiring certain contests and exhibitions to be in conformity to Act by certain date; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500 of Title 3A, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Boxing Licensing Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 501 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. As used in the Oklahoma Boxing Licensing Act:

1. "Administrator" means the administrator of boxing licensing;
2. "Applicant" means any individual, club, association, corporation, partnership or trust which submits to the Commission an application for a license or permit pursuant to the Oklahoma Boxing Licensing Act;
3. "Booking agent" means an individual who acts as a booker, agent, agency, representative or manager who secures engagements and contracts for boxers;
4. "Boxing" means any form of competitive pugilism or unarmed combat in which a blow is usually struck which may reasonably be

expected to inflict injury, including, but not limited to, wrestling and kickboxing;

5. "Club" means an incorporated or unincorporated association or body of individuals voluntarily united and acting together for some common or special purpose;

6. "Committee" means the Oklahoma Boxing Advisory Committee;

7. "Commissioner" means the Commissioner of Labor;

8. "Contest" means a boxing match in which the participants strive earnestly in good faith to win;

9. "Corner person" means, but shall not be limited to, a trainer, a second or any other individual who attends the participant during a match;

10. "Department" means the Department of Labor;

11. "Exhibition" means a boxing match in which the participants show or display their skill without necessarily striving to win, such as sparring;

12. "Foreign co-promoter" means any individual, club or corporation who is not a resident of Oklahoma who produces or stages contests or exhibitions and shall include any officer, director, stockholder or employee thereof;

13. "Judge" means an individual other than a referee who shall have a vote in determining the winner of any contest;

14. "License" means a certificate issued by the Department which authorizes direct or indirect participation or connection with any boxing contest or sparring exhibition;

15. "Manager" means an individual who controls or administers the affairs of any boxer. "Manager" shall include the representative of a manager. No individual shall be a manager who has been convicted, or pled guilty, or entered a plea of nolo contendere or has received a deferred sentence, or has been found guilty by a judge or jury of a felony in any jurisdiction;

16. "Matchmaker" means an individual who brings together boxers or arranges boxing contests or sparring exhibitions;

17. "Participant" means a professional who takes part in a boxing contest or sparring exhibition;

18. "Permit" means a certificate issued by the Department which authorizes the conducting, sponsoring or holding of a boxing contest or sparring exhibition;

19. "Person" means any individual, partnership, club, association, corporation or trust;

20. "Physician" means an individual licensed under the laws of this state to engage in the general practice of medicine or osteopathic medicine;

21. "Professional boxer" means an individual who competes for money, prizes or purses, or who teaches, instructs or assists in the practice of boxing or sparring as a means of obtaining pecuniary gain;

22. "Promoter" means any individual, club or corporation who produces or stages contests or exhibitions and shall include any officer, director, stockholder or employee thereof. No person shall be a promoter who has been convicted, or pled guilty, or entered a plea of nolo contendere or has received a deferred sentence, or has been found guilty by a judge or jury of a felony in any jurisdiction;

23. "Pugilism" means boxing or the skill or practice of fighting with the fists;

24. "Purse" means the financial guarantee or any other remuneration for which a professional boxer participates in a boxing contest or sparring exhibition and shall include the participant's share of any payment received for radio broadcasting, television and motion picture rights. "Purse" shall also include gate receipts and any other prizes;

25. "Ring official" means any individual who performs an official function during the progress of a boxing contest or sparring exhibition including, but not limited to, the timekeeper and the referee;

26. "Trainer" means an individual who assists, coaches, or instructs any boxer with respect to physical conditioning, strategy, techniques or preparation for competition, contests or exhibitions; and

27. "Vendor" means any individual, firm, organization, club or corporation who participates in the conduct of a professional boxing contest or exhibition by offering for sale food or merchandise including but not limited to wearing apparel, alcoholic and nonalcoholic beverages, souvenirs and programs.

B. The Department may define by rule any term which is not defined in the Oklahoma Boxing Licensing Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 502 of Title 3A, unless there is created a duplication in numbering, reads as follows:

The Department shall have the power and duty to promulgate, prescribe, amend and repeal rules necessary to implement the provisions of the Oklahoma Boxing Licensing Act including but not limited to defining qualifications, categories, limitations and fees for such licenses, permits and examinations and establishing bonding, contract and insurance requirements, according to the Administrative Procedures Act, Section 250 et seq. and Section 301 et seq. of Title 75 of the Oklahoma Statutes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 503 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created, until July 1, 1996, in accordance with the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, the Oklahoma Boxing Advisory Committee, which

shall be composed of seven (7) members appointed by the Commissioner of Labor by July 1, 1993. Each member shall be appointed for a term ending July 1, 1996.

B. The membership shall include one person with a background in professional boxing promotions; one person with a background in sports medicine; one person with a background in professional boxing organizations as an athlete, trainer or coach; one person with a background in professional athletics marketing; two lay members; and one member who shall be the administrator of boxing licensing of the Department. Each member shall be a citizen or a permanent resident of the United States and shall be a resident of this state.

C. The Committee shall:

1. Assist and advise the Department on all matters pertaining to the formation of rules necessary to carry out the purposes of the Oklahoma Boxing Licensing Act;

2. Assist and advise the Department on all matters relating to the licensing of professional boxers, trainers, managers, corner persons, matchmakers, promoters, foreign co-promoters, referees, judges, timekeepers, booking agents, clubs, corporations or any other individuals or entities associated with boxing, sparring, contests and exhibitions related thereto;

3. Assist and advise the Department in the formulation of license and permit fees pursuant to the requirements of the Oklahoma Boxing Licensing Act;

4. Conduct investigations into the qualifications of applicants for licensure and registration at the request of the Department;

5. Conduct investigations and proceedings, at the request of the Department, for alleged violations of the Oklahoma Boxing Licensing Act;

6. Develop and administer examinations for applicants for licenses and permits at the request of the Department; and

7. Assist and advise the Department in such other matters upon request of the Department.

D. The Committee shall also:

1. Study the feasibility and advisability of creating a boxing commission within an appropriate agency or department or as an agency for the purpose of fully regulating and licensing boxing in Oklahoma. In developing its recommendations, the Committee shall consider but not be limited to studying the authority, responsibilities and jurisdiction of such commission, the necessary cost and funding requirements of such commission and the potential revenue which may result from regulating and licensing boxing in Oklahoma;

2. Submit a report of its findings and recommendations to the Commissioner by July 1, 1995; and

3. The Commissioner shall report those findings along with his own recommendations to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives by October 1, 1995.

E. Members of the Committee shall be reimbursed for expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

F. No member of the Committee or any person related to a member within the third degree of consanguinity shall promote, sponsor or have any financial interest in the promotion or sponsorship of any boxing contest or sparring exhibition while a member of the Committee.

G. The Commissioner may remove any member of the Committee for incompetence, neglect of duty, or malfeasance in office. A vacancy on the Committee shall be filled for the unexpired term by appointment made by the Commissioner.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 504 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner shall hold an initial organizational meeting by August 1, 1993, and the members shall elect from their number a chairperson and a vice-chairperson to serve for one (1) year; thereafter, officers shall be elected annually. No member of the Committee shall serve more than two (2) successive terms as chairperson.

B. A majority of the membership shall constitute a quorum for the purpose of conducting the business of the Committee. In the event of any tie vote, the vote of the chairperson shall prevail.

C. The Committee shall meet at least monthly, and special meetings may be called by the chairperson or the Commissioner.

D. Regular meetings shall be held at the established offices of the Department; provided however, when the convenience of the public or parties involved can be promoted or expense prevented, meetings, hearings or proceedings may be held at any other designated place within this state as may be authorized by the Commissioner.

E. By October 1, 1993, the Committee shall propose such rules to the Department necessary to carry out the purposes of this act.

F. The proceedings of all meetings of the Committee shall comply with the provisions of the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes.

G. Except as otherwise provided, all proceedings by the Committee shall be subject to the provisions of the Administrative Procedures Act, Section 250 et seq. and Section 301 et seq. of Title 75 of the Oklahoma Statutes.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 505 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner may employ an administrator of boxing licensing to carry out the provisions of the Oklahoma Boxing Licensing Act, to oversee the organization and activities of the Committee and to ensure compliance with rules promulgated by the Department on matters relating to boxing. The administrator shall perform such other duties as the Commissioner may prescribe.

B. The Commissioner may employ a secretary to keep records of all Department and Committee proceedings relating to boxing and to preserve all books, documents and papers belonging to the Committee. The secretary shall perform such other duties as the Commissioner may prescribe.

C. The Department may incur expenses for office equipment, furniture, stationery, printing, postage, incidental and other necessary expenses needed for administering the provisions of the Oklahoma Boxing Licensing Act.

D. The administrator, the secretary and any other employees of the Department employed or assigned by the Commissioner to carry out the provisions of this act or any persons related to said Department employees within the third degree of consanguinity shall be prohibited from promoting, sponsoring or having any pecuniary interest in any amateur or professional boxing contest or exhibition regulated by the Department with the exception of medical personnel.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 506 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Department is hereby vested with jurisdiction to issue permits for all professional contests and exhibitions held or given within this state, except those events specifically exempt by the provisions of the Oklahoma Boxing Licensing Act.

B. Specifically exempt from the provisions of the Oklahoma Boxing Licensing Act are the contests or exhibitions conducted or sponsored by:

1. Any school, college or university where the participants are students regularly enrolled in such institutions and the instructors, coaches and trainers are employees of such institutions. The term "school, college or university" does not include a school or other institution whose principal purpose is to furnish instruction in boxing or sparring; and

2. Any military installation or branch of the Armed Forces where the participants are employed by the military installation or are members of the branch of the Armed Forces sponsoring the contest or exhibition.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 507 of Title 3A, unless there is created a duplication in numbering, reads as follows:

Beginning January 1, 1994, each professional boxer, trainer, manager, corner person, matchmaker, promoter, foreign co-promoter, referee, judge, timekeeper, booking agent, club or corporation or any other individuals or entities associated with boxing, sparring, contests and exhibitions shall procure a license from the Department before acting directly or indirectly in any capacity in connection with boxing and sparring and the contests and exhibitions related thereto.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 508 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Beginning January 1, 1994, a permit shall be required in order to conduct, sponsor, hold or participate in professional contests or exhibitions.

B. No permit shall be issued for conducting or holding any contest or exhibition within any political subdivision of this state where a local ordinance or resolution prohibits such contests or exhibitions within the limits of the political subdivision.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 509 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Department may issue, withhold, suspend or revoke any and all licenses and permits required by the provisions of the Oklahoma Boxing Licensing Act or the rules adopted by the Department. The Department may also censure or reprimand any licensee or permit holder.

B. The Department shall fix a uniform scale of fees for all licenses, permits and examinations. Said fees shall be set at reasonable cost and shall not exceed the actual expense of issuing licenses and permits and administering examinations.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 510 of Title 3A, unless there is created a duplication in numbering, reads as follows:

Before issuing any license or permit, the Department shall consider the best interest and welfare of the public, the preservation of the safety and health of the participants and the best interest of boxing in general.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 511 of Title 3A, unless there is created a duplication in numbering, reads as follows:

The Department may:

1. Subpoena witnesses and compel the production of any and all books, memoranda, documents, papers and records showing the receipts and disbursements of any individual, club or corporation licensed under the provisions of the Oklahoma Boxing Licensing Act;
2. Administer oaths or affirmations to witnesses;
3. Require, at any time, the suspension for just cause of any employee or official employed by any licensee or permittee pursuant to the Oklahoma Boxing Licensing Act;

4. Prescribe the manner that books and financial or other statements of any licensee or permittee shall be kept;

5. Visit, investigate, audit and place expert accountants and such other persons as it may deem necessary in the offices or places of business related to boxing of any licensee or permittee for the purpose of satisfying itself that the rules of the Department are complied with; and

6. Authorize the Committee to carry out any of the procedures proscribed in this section.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 512 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. If upon inspection or investigation, or whenever the Commissioner determines that a violation of the Oklahoma Boxing Licensing Act or of any order, standard, rule or regulation promulgated pursuant to the provisions of the Oklahoma Boxing Licensing Act has occurred, the Commissioner shall give written notice to the alleged violator specifying the cause of the determination. Such notice shall require that the violations be corrected and specify the terms of such correction or that the alleged violator appear before the Commissioner at a time and place specified in the notice and answer the charges.

B. The Commissioner or his designee shall afford the alleged violator an opportunity for a fair hearing. Such hearing shall be conducted in conformity with and records made thereof as provided by the provisions of the Oklahoma Administrative Procedures Act, Section 301 et seq. of Title 75 of the Oklahoma Statutes. On the basis of the evidence produced at the hearing, the Commissioner shall make findings of fact and conclusions of law and enter an order thereon. The Commissioner shall give written notice of such order to the alleged violator and to such other persons as shall

have appeared at the hearing and made written request for notice of the order.

C. The Attorney General, on the request of the Commissioner, shall bring an action against any person violating any of the provisions of the Oklahoma Boxing Licensing Act or violating any order or determination of the Commissioner.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 513 of Title 3A, unless there is created a duplication in numbering, reads as follows:

Any person who violates the provisions of the Oklahoma Boxing Licensing Act, upon conviction, shall be guilty of a felony and shall be punished by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than ten (10) years or by both such fine and imprisonment. The Department shall suspend or revoke the license of any person convicted of violating the provisions of the Oklahoma Boxing Licensing Act.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 514 of Title 3A, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Department to be designated the "Oklahoma Boxing Licensing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received from fees, fines, reimbursements, and sale of materials, and shall include grants or gifts, pursuant to the Oklahoma Boxing Licensing Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of implementing the provisions of the Oklahoma Boxing Licensing Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 515 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. After January 1, 1994, in addition to the payment of any other fees and monies due pursuant to the Oklahoma Boxing Licensing Act and the rules promulgated by the Department, every promoter shall pay to the Department three percent (3%) of the total gross receipts of any contest or exhibition, exclusive of any federal tax or tax imposed by any political subdivision of this state.

B. For the purpose of this section, total gross receipts of every promoter shall include:

1. The gross price charged for the sale, lease or other use of broadcasting, television, including cable television, pay-for-view television and closed circuit television, or motion picture rights of such event, without any deductions for commissions, brokerage fees, distribution fees, advertising or other expenses or charges; and

2. The face value of all tickets sold.

C. Payment of tax on gross receipts, excepting for motion picture rights, shall be made within forty-eight (48) hours after the holding of the contest or exhibition and shall be accompanied by a report in such form as shall be prescribed by the Department.

D. The payment of tax on gross income received from the sale of motion picture rights shall be made at the end of the month after the date of the sale of the motion picture rights and continue every thirty (30) days thereafter, during the presentation of the picture, and shall be accompanied by a report in such form as shall be prescribed by the Department.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 516 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Athletic Trainers Advisory Committee of the State Board of Medical Licensure and Supervision shall assist the Committee in developing:

1. Standards for the physical and mental examination of boxers, which shall be safeguards to their health;
2. A reasonable fee schedule for such examinations; and
3. A list of physicians who are qualified to examine boxers.

B. No standard, fee schedule or list shall become effective until approved by the Department.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 517 of Title 3A, unless there is created a duplication in numbering, reads as follows:

After January 1, 1994, professional contests or exhibitions are allowed to be held in this state only in accordance with the provisions of the Oklahoma Boxing Licensing Act and the rules promulgated by the Department.

SECTION 19. This act shall become effective July 1, 1993.

SECTION 20. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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