

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 666

By: Douglass of the Senate

and

Bryant of the House

(professional boxing - amending Sections 2, 6, 7, 8, 9, 10
and 17, Chapter 240 - regulation of professional boxing -
definitions - jurisdiction - * * * repealing Sections
18, 19 and 20, Chapter 240 - codification - effective
date)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

"(professional boxing - amending 10 sections in Title 3A -
Oklahoma Professional Boxing Licensing Act - repealing
3A O.S., Sections 608, 618 and 620 - Athletic Trainers
Advisory Committee - codification - emergency)

SECTION 1. AMENDATORY Section 2, Chapter 240, O.S.L.
1994 (3A O.S. Supp. 1994, Section 602), is amended to read as
follows:

Section 602. A. As used in the Oklahoma Professional Boxing
Licensing Act:

1. "Administrator" means the administrator of professional
boxing licensing within the Department of Labor;

2. "Amateur boxer" means a person who has never received or
competed for any purse or other article either for the expenses of

training therefor or for participating in any boxing contest or professional exhibition which exceeds in monies or other things of value a sum to be determined by the Commissioner upon recommendation of the Oklahoma Professional Boxing Advisory Committee. After July 1, 1997, any modification in such determination shall be made by the Commissioner of Labor;

3. "Applicant" means any individual, club, association, corporation, partnership or trust which submits to the ~~Commission~~ Commissioner of Labor an application for a license or permit pursuant to the Oklahoma Professional Boxing Licensing Act;

4. ~~"Booking agent" means an individual who acts as a booker, agent, agency, representative or manager who secures engagements and contracts for professional boxers;~~

~~5.~~ "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 boxing, wrestling and kickboxing, but shall not include the martial arts as defined by the provisions of this section;

~~6.~~ 5. "Broadcast" means any audio or visual transmission sent by any means of signal within, into or from this state, whether live, or taped or time delayed and includes any replays thereof;

6. "Cable system operator" means any person who makes available or provides its customers a closed circuit telecast which is pay-per-view;

7. "Closed-circuit telecast of professional boxing ~~contests and professional exhibitions events~~" means telecast rights, other than including television, cable television or pay-per-view telecasts, acquired by paying a licensing fee or by paying a contractual price by a business or individual including but not limited to arenas, entertainment or meeting centers, restaurants, bars, taverns, hotels, motels, clubs and organizations, which offers the viewing of ~~said~~ the event to the public or to private residences. Such events

shall include local and state professional boxing contests and professional exhibitions as defined in this section. For purposes of Sections 11 and 12 of this act, "closed-circuit telecast" means any such telecast of a professional boxing event as described herein which is not intended to be available for viewing without the payment of a fee, collected for or based upon each event viewed, for the privilege of viewing the telecast, and includes pay-per-view;

~~7.~~ 8. "Club" means an incorporated or unincorporated association or body of individuals voluntarily united and acting together for some common or special purpose;

~~8.~~ 9. "Committee" means the Oklahoma Professional Boxing Advisory Committee;

~~9.~~ 10. "Commissioner" means the Commissioner of Labor;

~~10.~~ 11. "Contest" means a boxing match in which it is reasonable to anticipate that the participants strive earnestly in good faith to win;

~~11.~~ 12. "Corner person" means, but shall not be limited to, a trainer, a second or any other individual who attends the participant during a match;

~~12.~~ 13. "Department" means the Department of Labor;

~~13.~~ 14. "Exhibition" means a boxing match in which the participants show or display their skill without necessarily striving to win, such as sparring;

~~14.~~ 15. "Judge" means an individual other than a referee who shall have a vote in determining the winner of any contest;

~~15.~~ 16. "Kickboxing" means any form of competitive pugilistic professional contest in which blows are delivered with the hand and any part of the foot. ~~No blows are permitted below the waist.~~ Such contests take place in a rope-enclosed ring and are fought in timed rounds;

~~16.~~ 17. "License" means a certificate issued by the Department ~~which authorizes direct or indirect participation or connection with~~

~~any professional boxing contest or professional exhibition to~~
participants of sanctioned professional boxing contests and
professional exhibitions and is a mandatory requirement for
participation in such events;

~~17.~~ 18. "Manager" means an individual who controls or administers the affairs of any professional boxer. "Manager" shall include the representative of a manager as defined by the Department;

~~18.~~ 19. "Martial arts" means any form of karate, kung fu, tae kwon-do or any other forms of ~~full contact or light contact~~ martial arts or self-defense. ~~"Full contact" means the use of full unrestrained physical force in a martial arts contest. "Light contact" means the use of controlled martial arts techniques whereby contact to the body is permitted in a restrained manner;~~

~~19.~~ 20. "Matchmaker" means an individual who brings together professional boxers or arranges professional boxing contests or professional exhibitions;

~~20.~~ 21. "Participant" means a professional who takes part in a professional boxing contest or professional exhibition;

~~21.~~ 22. "Pay-per-view telecasts of professional boxing ~~contests and professional exhibitions~~ events" means telecasts offered by cable television companies to subscribers at a cost in addition to the ~~basic~~ monthly cable television subscription rate. Such events shall include local and state professional boxing contests and professional exhibitions as defined in this section;

~~22.~~ 23. "Person" means any individual, partnership, limited liability company, club, association, corporation or trust;

~~23.~~ 24. "Physician" means an individual licensed under the laws of this state to engage in the general practice of medicine or osteopathic medicine;

~~24.~~ 25. "Professional boxer" means an individual eighteen (18) years of age or older 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;

~~25.~~ 26. "Professional boxing contest and professional exhibition" means a boxing match conducted within this state in which the participants are persons who must be licensed pursuant to the provisions of the Oklahoma Professional Boxing Licensing Act;

~~26.~~ 27. "Promoter" means any individual, a resident or nonresident of Oklahoma, club or corporation, which is domesticated or not domesticated in Oklahoma, who produces or stages professional contests or professional exhibitions conducted within this state and shall include any officer, director or employees as defined by the Department;

~~27.~~ ~~"Provisional license" means a certificate issued by the Department to participants of sanctioned professional boxing contests and professional exhibitions and is a mandatory requirement for participation in such events;~~

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

29. "Purse" means the financial guarantee or any other remuneration or thing of value for which a professional boxer participates in a professional boxing contest or professional exhibition and shall include the participant's share of any payment received for radio broadcasting, television, including cable television, pay-per-view television and closed circuit television, and motion picture rights. "Purse" shall also include gate receipts and any other prizes;

30. "Ring official" means any individual who performs an official function during the progress of a professional boxing contest or professional exhibition including but not limited to timekeepers, judges, referees and attending physicians;

31. "Sanctioning permit" means a permit issued by:

- ~~a. the Department to promoters who make application for official approval of professional boxing contests and professional exhibitions,~~
- ~~b. another state boxing commission to promoters, upon contracting with the promoter if such state boxing commission is approved by the Commissioner of Labor and the promoter has made application for official approval of professional boxing contests and professional exhibitions with such state boxing commission, or~~
- ~~c. an association of state boxing commissions to promoters, upon contracting with the promoter if such association of state boxing commissions is approved by the Commissioner of Labor and the promoter has made application for official approval of professional boxing contests and professional exhibitions with such association of state boxing commissions and issuance of the permit by such association is authorized by federal law;~~

32. "Sparring" means to engage in a form of boxing with jabbing or feinting movements, and the exchange of few heavy blows, such as occurs in a practice or exhibition boxing match;

33. "Telecast promoter", for purposes of Sections 11 and 12 of this act, means any promoter who shows or causes to be shown in this state a closed-circuit telecast of any professional boxing event, whether or not the telecast or event originates in this state. "Telecast promoter" shall not include a cable system operator;

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

~~34.~~ 35. "Vendor" means any individual, firm, organization, club or corporation who participates in the conduct of a professional boxing contest or professional 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 any term which is not defined in the Oklahoma Professional Boxing Licensing Act ~~and may redefine any term defined in said act.~~

SECTION 2. AMENDATORY Section 4, Chapter 240, O.S.L. 1994 (3A O.S. Supp. 1994, Section 604), is amended to read as follows:

Section 604. A. There is hereby created, until July 1, 1997, the Oklahoma Professional Boxing Advisory Committee, which shall be composed of ~~seven (7)~~ nine (9) members appointed by the Commissioner of Labor ~~by October 1, 1994.~~ Each member shall be appointed for a term ending July 1, 1997.

B. The membership shall include ~~one~~:

1. One person with experience in professional boxing promotions; ~~one~~

2. One person who is a cable system operator;

3. One person who is a member of the Athletic Trainers Advisory Committee of the State Board of Medical Licensure and Supervision;

4. One person with experience in sports medicine; ~~one~~

5. One person with experience in professional boxing organizations as an athlete, trainer or coach; ~~one~~

6. One person with experience in professional athletics marketing; ~~two~~

7. Two lay members; and ~~one~~

8. One member who shall be the administrator of professional 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. No member of the Committee or any person related to a member within the third degree by consanguinity or affinity shall promote, sponsor or have any financial interest in the promotion or sponsorship of any professional boxing contest or professional exhibition while a member of the Committee.

D. The Commissioner may remove any member of the Committee for incompetence, wilful neglect of duty, corruption in office, or malfeasance in office. A vacancy on the Committee for an unexpired term shall be filled by appointment made by the Commissioner within thirty (30) days of such vacancy.

E. The Commissioner shall hold an initial organizational meeting of the Committee by November 1, 1994, and the members of the Committee shall elect from their membership 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.

F. A majority of the appointed membership shall constitute a quorum for the purpose of conducting the business of the Committee.

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

H. Regular meetings shall be held at the established offices of the Department. Provided however, the Commissioner may authorize that meetings, hearings or proceedings may be held at any other designated place within this state.

I. 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.

J. Except as otherwise provided by law, 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.~~

K. 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.~~

L. The Committee shall:

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

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

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

8. By July 1, ~~1995~~ of each year until July 1, 1997, the Committee shall propose revisions to such rules to the Commissioner necessary to carry out the purpose of ~~this act~~ the Oklahoma Professional Boxing Licensing Act.

M. 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 professional 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 professional boxing in Oklahoma;

2. Submit a report of its findings and recommendations to the Commissioner by July 1, ~~1996~~ 1997; and

3. The Commissioner shall report the findings and recommendations of the Committee along with his own recommendations to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives by November 1, ~~1996~~ 1997.

SECTION 3. AMENDATORY Section 5, Chapter 240, O.S.L. 1994 (3A O.S. Supp. 1994, Section 605), is amended to read as follows:

Section 605. A. The Commissioner may employ an administrator of professional boxing licensing to carry out the provisions of the Oklahoma Professional Boxing Licensing Act, to oversee the organization and activities of the Committee and to ensure compliance with rules promulgated by the Commissioner on matters relating to professional boxing. The administrator shall perform such other duties as the Commissioner may prescribe. The salary of the administrator shall ~~not exceed Thirty Thousand Six Hundred Dollars (\$30,600.00) per annum~~ be set by law. The administrator of professional boxing licensing shall be an unclassified position.

B. The Commissioner may employ a secretary to keep records of all Department and Committee proceedings relating to professional 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. The salary of the Secretary shall ~~not~~ ~~exceed Seventeen Thousand Two Hundred Dollars (\$17,200.00) per annum~~ be set by law.

C. The Department may incur expenses necessary for administering the provisions of the Oklahoma Professional Boxing Licensing Act including but not limited to office equipment, furniture, stationery, printing and postage.

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~~ the Oklahoma Professional Boxing Licensing Act or any persons related to said Department employees within the third degree by either consanguinity or affinity shall be prohibited from promoting, sponsoring or having any pecuniary interest in any professional boxing contest or professional exhibition regulated by the Department with the exception of medical personnel.

SECTION 4. AMENDATORY Section 6, Chapter 240, O.S.L. 1994 (3A O.S. Supp. 1994, Section 606), is amended to read as follows:

Section 606. A. The Department is hereby vested with jurisdiction to issue sanctioning permits for all professional boxing contests and professional exhibitions held or given within this state, ~~except for the sanctioning permit specified in paragraph 31 of subsection A of Section 2 of this act and except for those events and persons specifically exempt by the provisions of the Oklahoma Professional Boxing Licensing Act~~ and licenses for participants of sanctioned contests and exhibitions.

B. Specifically exempt from the provisions of the Oklahoma Professional 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" shall 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; and

3. Amateur boxing matches which are sanctioned by a nationally recognized amateur sanctioning body approved by the Department of Labor.

C. The following persons are specifically exempt from the provisions of the Oklahoma Professional Boxing Licensing Act:

1. ~~Amateur boxers as defined in Section 2 of this act;~~

~~2. Practitioners and instructors of the martial arts as defined by in Section 2 602 of this act title; and~~

~~3. 2. Instructors of amateur boxers if such instructors are not required to be licensed pursuant to other provisions of this act the Oklahoma Professional Boxing Licensing Act.~~

SECTION 5. AMENDATORY Section 7, Chapter 240, O.S.L. 1994 (3A O.S. Supp. 1994, Section 607), is amended to read as follows:

Section 607. A. The Commissioner of Labor shall promulgate rules necessary to implement a process for issuing sanctioning permits for professional boxing contests and professional exhibitions held or given in this state and ~~provisional~~ licenses for participants of sanctioned contests and exhibitions, except those events and persons specifically exempt by the provisions of ~~this act~~ the Oklahoma Professional Boxing Licensing Act.

B. ~~Beginning October 1, 1994, any promoter may voluntarily make application to the Department for a sanctioning permit for any professional boxing contest or professional exhibition sanctioned by~~

~~the Department, another state boxing commission or an association of state boxing commissions such promoter may conduct, sponsor or hold within this state.~~

~~C. Beginning October 1, 1994, all~~ All persons or entities who participate in any professional boxing contest or professional exhibition sanctioned by the Department, ~~another state boxing commission or an association of state boxing commissions~~ including but not limited to professional boxers, trainers, managers, corner persons, matchmakers, promoters, referees, judges, timekeepers, ~~booking agents~~ vendors, physicians, announcers, clubs and corporations associated with a professional boxing contest or professional exhibition sanctioned by the Department, ~~another state boxing commission or an association of state boxing commissions,~~ shall be required to make application to the Department for a ~~provisional~~ license to participate in this state in any professional boxing contest or professional exhibition sanctioned by the Department, ~~another state boxing commission or an association of state boxing commissions.~~

~~D. C.~~ C. An application for a sanctioning permit or a ~~provisional~~ license shall be on such form and require such information as shall be prescribed by the Department.

~~E. D.~~ D. The Department shall determine reasonable cost and fees associated with issuing sanctioning permits and ~~provisional~~ licenses. All costs and fees for sanctioning an event shall be payable by the promoter making application for a sanctioning permit. Cost and fees for a ~~provisional~~ license may be paid by the participant making application or by the promoter of an event sanctioned by the Department, ~~another state boxing commission or an association of state boxing commissions.~~

~~F. E.~~ E. A sanctioning permit shall be in effect upon the date issued by the Department, ~~another state boxing commission or an association of state boxing commissions~~ and shall expire upon the

conclusion of ~~said~~ the event, unless ~~said~~ the sanctioning permit is suspended or revoked for just cause by the Department, ~~another state boxing commission or an association of state boxing commissions~~. A ~~provisional license~~ Licenses shall be in effect upon the date issued by the Department and all licenses shall expire June ~~30, 1995~~ 30th, unless ~~said provisional~~ the license is suspended or revoked for just cause by the Department. Any license issued pursuant to the Oklahoma Professional Boxing Licensing Act prior to June 30, 1995, shall not expire until June 30, 1996.

G. F. Only promoters whose professional boxing contests and professional exhibitions have been sanctioned by the Department, ~~another state boxing commission or an association of state boxing commissions~~ are authorized to place a notice of sanction on printed and promotional materials associated with the sanctioned event, which shall include but not be limited to advertising, tickets, programs, posters, souvenirs, wearing apparel, billboards, marquees and promotional signs inside and outside the venue where the event is to be held, and broadcasting including but not limited to radio, television, including cable television, pay-per-view television and closed circuit television and motion pictures of ~~said~~ the event. The notice of sanction shall substantially state the following:

"Pursuant to the provisions of ~~Title 3A O.S. Supp. 1994, Section 500 et seq.~~ Section 601 et seq. of Title 3A of the Oklahoma Statutes and the rules of the Department of Labor, THIS EVENT IS SANCTIONED BY _____ THE DEPARTMENT OF LABOR. Sanctioning Permit No. _____."

H. G. ~~Any promoter of a professional boxing contest or professional exhibition not sanctioned by the Department, another state boxing commission or an association of state boxing commissions shall place a notice that the event is not sanctioned on printed and promotional materials associated with the event, which shall include but not be limited to advertising, tickets, programs,~~

~~posters, billboards, marquees and promotional signs inside and outside the venue where the event is to be held, and broadcasting including but not limited to radio, television, including cable television, pay-per-view television and closed circuit television and motion pictures of said event. The notice shall substantially state the following:~~

~~"Pursuant to the provisions of Title 3A O.S. Supp. 1994, Section 500 et seq. and the rules of the Department of Labor, THIS EVENT IS NOT SANCTIONED BY THE STATE OF OKLAHOMA."~~

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

J. All fees and other monies resulting from sanctioning professional boxing contests and professional exhibitions and ~~provisional~~ licenses shall be placed to the credit of the Oklahoma Professional Boxing Licensing Revolving Fund.

SECTION 6. AMENDATORY Section 9, Chapter 240, O.S.L. 1994 (3A O.S. Supp. 1994, Section 609), is amended to read as follows:

Section 609. A. ~~Beginning January 1, 1995, a~~ A sanctioning permit issued by the Department of Labor shall be required in order to conduct, sponsor, hold or participate in professional boxing contests or professional exhibitions.

B. No sanctioning permit shall be issued for conducting or holding any professional boxing contest or professional 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 7. AMENDATORY Section 10, Chapter 240, O.S.L. 1994 (3A O.S. Supp. 1994, Section 610), is amended to read as follows:

Section 610. A. The Department of Labor may issue, withhold, suspend or revoke any and all licenses and sanctioning permits required by the provisions of the Oklahoma Professional Boxing Licensing Act or the rules promulgated by the Commissioner of Labor. The Department may also censure or reprimand any licensee or sanctioning permit holder. ~~The Department, another state boxing commission or an association of state boxing commissions may issue, withhold, suspend or revoke any sanctioning permit required by the provisions of the Oklahoma Professional Boxing Licensing Act, if such entity is authorized pursuant to paragraph 31 of subsection A of Section 2 of this act or by the rules promulgated by the Commissioner.~~

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

SECTION 8. AMENDATORY Section 15, Chapter 240, O.S.L. 1994 (3A O.S. Supp. 1994, Section 615), is amended to read as follows:

Section 615. A. Any person who violates the provisions of the Oklahoma Professional Boxing Licensing Act, upon conviction, shall be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or by incarceration in the county jail for not more than thirty (30) days or by both such fine and incarceration. The Department shall suspend or revoke the license of any person convicted of violating the provisions of the Oklahoma Professional Boxing Licensing Act.

B. In addition to other penalties provided by law, if after a hearing in accordance with the provisions of this act, the Commissioner shall find any person to be in violation of any of the provisions of this act, such person may be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00) or not more than one percent (1%) of gross revenues received pursuant to this act, for each violation. Each day a person is in violation of this act may constitute a separate violation. ~~The maximum fine shall not exceed One Thousand Dollars (\$1,000.00).~~ All administrative fines collected pursuant to the provisions of this subsection shall be placed to the credit of the Oklahoma Professional Boxing Licensing Revolving Fund created pursuant to this act. Administrative fines imposed pursuant to this subsection shall be enforceable in the district courts of this state.

C. Upon the request of the Commissioner, the Attorney General may make application to the appropriate court for an order enjoining the acts or practices prohibited by this act, and upon a showing that the person has engaged in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

SECTION 9. AMENDATORY Section 16, Chapter 240, O.S.L. 1994 (3A O.S. Supp. 1994, Section 616), is amended to read as follows:

Section 616. A. There is hereby created in the State Treasury a revolving fund for the Department to be designated the "Oklahoma Professional 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, administrative fines, reimbursements, bond proceeds, and sale of materials, and shall include grants and gifts, pursuant to the Oklahoma Professional 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 Professional Boxing Licensing Act. Provided that any monies accruing to the credit of said fund in excess of Two Hundred Thousand Dollars (\$200,000.00) during any fiscal year shall be deposited to the credit of the General Revenue Fund of the State Treasury. Each year that such monies are deposited in the General Revenue Fund of the State Treasury, the Commissioner shall review the rules promulgated relating to fees, and may modify such rules to decrease the amount received from fees pursuant to the Oklahoma Professional Boxing Licensing Act to the extent that the amount in the revolving fund exceeds the Two Hundred Thousand Dollars (\$200,000.00) accrued. 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.

B. During the fiscal year ending June 30, 1995, the Department may use monies which have accrued in this fund to replace appropriated monies expended from the Department's budget for implementing the provisions of ~~this act~~ the Oklahoma Professional Boxing Licensing Act.

SECTION 10. AMENDATORY Section 17, Chapter 240, O.S.L. 1994 (3A O.S. Supp. 1994, Section 617), is amended to read as follows:

Section 617. A. ~~Beginning January 1, 1995, in~~ In addition to the payment of any other fees and monies due pursuant to the Oklahoma Professional Boxing Licensing Act and the rules promulgated by the Commissioner of Labor, an assessment in an amount equal to five percent (5%) of the total gross receipts of any professional boxing contest or professional exhibition, exclusive of any federal tax or tax imposed by any political subdivision of this state, shall be hereby levied and shall be remitted by every promoter to the Oklahoma Tax Commission. Provided, however, if the promotion

originates in Oklahoma, the promoter shall only be liable for assessments on the total gross receipts specified in subsection B of this section and shall not also be liable for the assessments specified in Section 12 of this act.

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

1. The gross price charged by the promoter for the sale, lease or other use of broadcasting including but not limited to radio, television, including cable television, pay-per-view television and closed circuit television, or motion picture rights of boxing contest, event or exhibition conducted within this state, without any deductions for commissions, brokerage fees, distribution fees, advertising or other expenses or charges;

2. The face value of all tickets sold; and

3. ~~The promoter's proceeds~~ Proceeds from a vendor, or the promoter's gross price charged for the sale of food, alcoholic and nonalcoholic beverages, or merchandise including but not limited to wearing apparel, souvenirs and programs.

C. Payment of the assessment on gross receipts, excepting for motion picture rights, shall be due within seventy-two (72) hours after the holding of the professional boxing contest or professional exhibition and shall be accompanied by a report in such form as shall be prescribed by the Oklahoma Tax Commission.

D. The payment of the assessment on gross income received from the sale of motion picture rights shall be due 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 gross receipts report in such form as shall be prescribed by the Oklahoma Tax Commission.

E. Gross receipts reports signed under oath shall also include:

1. The name of the promoter;

2. The boxing contest or professional exhibition sanctioning permit number;

3. The promoter's business address and any license or permit number required of such promoter by law;

4. Gross receipts as specified by this section, during the period specified by this section; and

5. Such further information as the Oklahoma Tax Commission may require to enable it to compute correctly and collect the assessment levied pursuant to this section.

F. In addition to the information required on reports, the Oklahoma Tax Commission may request and the promoter shall furnish any information deemed necessary for a correct computation of the assessment levied pursuant to this section.

G. All levies pursuant to this section shall be collected by the Oklahoma Tax Commission and shall be placed to the credit of the Oklahoma Professional Boxing Licensing Revolving Fund.

H. The monies collected from the assessment levied pursuant to the provisions of this section shall be in addition to all other revenues and funds received by the Department of Labor.

I. ~~Such~~ The promoter shall compute and pay to the Oklahoma Tax Commission the required assessment due. If the payment of ~~such~~ the assessment is not postmarked or delivered to the Oklahoma Tax Commission as specified in subsection C or D of this section, whichever is appropriate, the assessment shall be delinquent from such date.

J. It shall be the duty of every promoter required to make a gross receipts report and pay any assessment pursuant to the provisions of this section to keep and preserve suitable records and documents which may be necessary to determine the amount of assessment due as will substantiate and prove the accuracy of such reports. All such records shall be preserved for a period of three (3) years, unless the Oklahoma Tax Commission, in writing, has

authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the Oklahoma Tax Commission or by any of its authorized employees.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 621 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Prior to showing a closed-circuit telecast of a professional boxing event in this state a telecast promoter must first apply for a permit to be issued upon the approval of the Department of Labor. The application for a permit shall be on forms provided by the Department and shall contain:

1. The date of the broadcast;
2. The origination address of the broadcast;
3. A statement that the applicant acknowledges responsibility for the payment of an assessment to the Department;
4. The time frame by which the postevent assessment reports must be filed;
5. The portion of the closed-circuit rights for which the applicant is acknowledging responsibility; and
6. Such other information as the Department may deem necessary to carry out the provisions of this act.

B. 1. There shall be no fee for a permit issued for a closed-circuit telecast.

2. The permit must be filed a minimum of thirty (30) days prior to the date of the broadcast.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 622 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Where the Oklahoma distribution rights for a closed-circuit telecast to be viewed in this state are in whole owned by, sold to, acquired by or held by any person who intends to or subsequently sells or, in some other manner, extends such rights in part to

another, then such person is deemed to be a telecast promoter and must, prior to the telecast, be licensed as a telecast promoter by the Department of Labor. The Department may provide, by rule, for additional licensed telecast promoters to participate in the distribution rights and share in the liability for assessments to be paid to the Department. Closed-circuit telecasts of a boxing event shall not be telecast from, in or into this state except under the auspices of a telecast promoter licensed in this state. The telecast promoter shall be responsible for filing the appropriate reports with and paying assessments to the Department.

B. In the case of closed-circuit telecasts other than pay-per-view, the telecast promoter shall notify the Department of the names and addresses of all facilities to or through which the closed-circuit telecast will be shown fourteen (14) days prior to the date of the closed-circuit event and shall provide daily updates to the Department of any additions and deletions of facilities.

C. Any person or facility owner or operator intending to show the closed-circuit telecast, whether or not an admission fee will be charged, must receive authorization to show the telecast from the telecast promoter prior to the telecast. The showing of a closed-circuit telecast, whether or not an admission fee is charged, without the authorization of the licensed telecast promoter is prohibited. This includes the delayed showing of a closed-circuit telecast when the showing requires the authorization of the telecast promoter. Information received by the Department of the names of persons showing a closed-circuit telecast in violation of this section shall be furnished to the appropriate district attorney's office for prosecution.

D. 1. In the case of facilities at or through which the closed-circuit telecast is shown other than a cable system operator's pay-per-view facilities, the telecast promoter shall, within eight (8) days after the telecast inclusive of mailing time,

file with the Department a written report detailing the name, address, telephone number, contact person's name and the details of the payment arrangement for the right to receive the telecast for each facility to which the broadcast was transmitted.

2. The report shall be accompanied by an assessment payment equal to four percent (4%) of the total amount paid to the telecast promoter for the right to broadcast the telecast.

3. The Department may require the owner or operator of the facility where the telecast is being shown to file a report containing information regarding the amount paid to the telecast promoter for the right to broadcast the telecast, the quality of the audio and video signal, and any other information the Department deems appropriate.

E. 1. In the case of a cable system operator's pay-per-view facilities at or through which a closed-circuit telecast was shown, the telecast promoter shall, except as provided for in subsection A of Section 10 of this act, within seventy-five (75) days following receipt of the notice of the assessment from the Department, file with the Department an assessment payment equal to four percent (4%) of the total gross receipts excluding any federal, state or local taxes.

2. The Department shall require the cable system operator to file reports containing information regarding the number of orders sold and the price charged for orders and any other information the Department deems appropriate.

3. Cable system operators shall not be liable to the Department for the assessment payment. Nothing in this section shall be deemed to prevent a cable system operator from billing its customer for the assessment payment.

4. The Department shall provide the telecast promoter with a report detailing the number of orders and the assessment payment due.

F. Any promoter who willfully makes a false and fraudulent report under this section is guilty of perjury and, upon conviction, is subject to punishment as provided by law. This penalty shall be in addition to any other penalties imposed in this section.

G. Any telecast promoter who willfully fails, neglects, or refuses to make a report or to pay the assessment as prescribed or who refuses to allow the Department to examine the books, papers, and records of any promotion is guilty of a misdemeanor, punishable as provided by law.

H. By rule, the Department shall establish administrative penalties as specified in this act for the late payment of assessments, noncompliance with this act, and the late filing of reports and shall prescribe conditions, if any, under which a fine may be waived.

I. No cable system operator shall be prohibited from:

1. Broadcasting any boxing event for which it has a contract or other legal obligation to broadcast any event with any promoter or distributor irrespective of whether or not the promoter or distributor is in compliance with the provisions of this act;

2. No cable system operator shall be required to modify, delete or cancel any programming for which it has a contractual or legal obligation to air such programming as a result of any noncompliance with the provisions of this act by any promoter or distributor; and

3. This act shall not apply in any manner to any basic or premium channel programming broadcast on cable television systems within the State of Oklahoma, but shall apply only to "pay-per-view" broadcasts of boxing events for which a separate one time fee is charged the cable subscriber.

SECTION 13. REPEALER Sections 8, 18 and 20, Chapter 240, O.S.L. 1994 (3A O.S. Supp. 1994, Sections 608, 618 and 620), are hereby repealed.

SECTION 14. 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."

Passed the House of Representatives the 18th day of April, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate