

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1640

By: Case of the House

and

Coffee of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to amusements and sports; amending 3A O.S. 2001, Sections 604.1, 617 and 622, which relate to the Oklahoma Professional Boxing Licensing Act; modifying number of Commission members; providing length of term; modifying collection of certain assessments and levies; modifying entity responsible for prescribing certain forms and reports; modifying entity responsible for the regulation of records; modifying qualification of those persons deemed to be a telecast promoter; requiring a cable system operator to withhold and remit certain proceeds; prohibiting certain liability; specifying penalty for not remitting certain assessment; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 3A O.S. 2001, Section 604.1, is amended to read as follows:

Section 604.1 A. There is hereby created, until July 1, 2005, in accordance with the Oklahoma Sunset Law, the Oklahoma Professional Boxing Commission, which shall be composed of ~~eight (8)~~ nine (9) members appointed by the Governor with the advice and consent of the Senate. ~~Members initially appointed to the Commission shall serve a term of office as follows: two members shall serve a term of one (1) year, three members shall serve a term of two (2) years, and three members shall serve a term of three (3) years, as designated by the Governor. Thereafter, members~~ The member of the Commission initially appointed pursuant to this act

shall serve a term of three (3) years that shall expire on June 30, 2006. Members appointed to the Commission shall serve for terms of three (3) years. Terms of office shall expire on June 30. All vacancies and unexpired terms shall be filled in the same manner as the original appointment and within sixty (60) days from the date of the vacancy. Members may be removed by the Governor for incompetence, willful neglect of duty, corruption in office, or malfeasance in office.

B. Members appointed to the Commission shall reside in this state and shall have the following qualifications:

1. Two members shall have experience as a professional boxer or in professional boxing promotions;

2. One member shall have experience as a professional wrestler or in professional wrestling promotions;

3. One member shall have experience in sports medicine;

4. One member shall have experience in the cable television business; and

5. ~~Three~~ Four members shall represent the public at large as lay members.

C. No member of the Commission 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 Commission.

D. The members of the Commission shall elect from their membership a chair and vice-chair to serve for one (1) year terms. A majority of the members shall constitute a quorum for the purpose of conducting the business of the Commission. The Commission shall meet at least quarterly, and special meetings may be called by the chair.

E. The Commission shall comply with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, and the Administrative Procedures Act.

F. All members of the Commission and such employees as determined by the Commission shall be bonded as required by Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

G. Members of the Commission shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act.

SECTION 2. AMENDATORY 3A O.S. 2001, Section 617, is amended to read as follows:

Section 617. A. 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 Oklahoma Professional Boxing Commission, 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 and vendor to the Oklahoma ~~Tax~~ Professional Boxing Commission; provided, however, if the promotion originates in Oklahoma, the promoter and vendor shall only be liable for assessments on the total gross receipts specified in subsections B and C of this section and shall not also be liable for the assessments specified in Section 622 of this title.

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 contests, events, or exhibitions 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. 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. For the purpose of this section, total gross receipts of every vendor shall include the gross price charged for the sale of food, alcoholic and nonalcoholic beverages, and merchandise including, but not limited to, wearing apparel, souvenirs, and programs, excluding that portion paid to any promoter.

D. 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~~ Professional Boxing Commission.

E. The first 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 further payments shall be due 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~~ Professional Boxing Commission.

F. 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~~ Professional Boxing Commission may require to enable it to compute correctly and collect the assessment levied pursuant to this section.

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

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

I. 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 Oklahoma Professional Boxing Commission.

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

K. 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~~ Professional Boxing 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~~ Professional Boxing Commission or by any of its authorized employees.

SECTION 3. AMENDATORY 3A O.S. 2001, Section 622, is amended to read as follows:

Section 622. 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 Oklahoma Professional Boxing Commission.~~ The Commission 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 Commission. 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 Commission.

B. In the case of closed-circuit telecasts other than pay-per-view, the telecast promoter shall notify the Commission 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 Commission 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. Delayed showing of a closed-circuit telecast also requires the authorization of the telecast promoter. Information received by the Commission 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 Commission 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 Commission 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 Commission 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 617 of this title, within thirty (30) days following receipt of the notice of the assessment from the Commission, file cause to be filed with the Commission an assessment payment equal to four percent (4%) of the total gross receipts excluding any federal, state, or local taxes.

2. The cable system operator shall withhold from the proceeds due to the telecast promoter the four-percent assessment payment

required pursuant to paragraph 1 of this subsection and remit the assessment to the Commission on behalf of the telecast promoter.

The cable system operator shall not be liable for the remittance of the assessment fee required in paragraph 1 of this subsection from any proceeds due to the cable system operator from their pay-per-view events.

3. The Commission 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 Commission deems appropriate.

~~3.~~ 4. Cable system operators shall not be liable to the Commission 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.~~ 5. The Commission 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 cause to pay be paid the assessment as prescribed, or who refuses to allow the Commission to examine the books, papers, and records of any promotion is guilty of a misdemeanor, punishable as provided by law. Any remitter who willfully fails, neglects, or refuses to remit the assessment as prescribed, is guilty of a misdemeanor, punishable as provided by law.

H. By rule, the Commission shall establish administrative penalties as specified in Section 601 et seq. of this title for the late payment of assessments, noncompliance with Section 601 et seq.

of this title, 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:

1. Prohibited from broadcasting any boxing event, whether or not the promoter or distributor is in compliance with the provisions of Section 601 et seq. of this title, for which it has a contract or other legal obligation to broadcast;

2. Required, as a result of any noncompliance with the provisions of this act by any promoter or distributor, to modify, delete, or cancel any programming which it has a contractual or legal obligation to air; and

3. This act shall not apply in any manner to any basic or premium channel programming broadcast on cable television systems within this state, 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 4. This act shall become effective July 1, 2003.

SECTION 5. 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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