

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 776

By: Shurden

AS INTRODUCED

An Act relating to amusements and sports; enacting the Oklahoma Pari-mutuel Gamecock Boxing Act; providing short title; defining terms; authorizing the Oklahoma Horse Racing Commission to promulgate rules; requiring rules to provide for certain licenses; prohibiting certain persons from wagering on gamecock boxing matches; authorizing appointment of certain councils and task forces; clarifying legal status of certain activity; requiring organization license for certain activities; authorizing pari-mutuel system of wagering on certain activity; providing for distribution of money wagered on certain activity; requiring certain recordkeeping; imposing tax on certain activity; providing for apportionment of tax receipts; providing for appointment and employment of necessary personnel; providing for law enforcement division of gamecock boxing; requiring certain qualifications for certain position; authorizing certain persons to have power and authority of peace officers; requiring the Oklahoma State Bureau of Investigation to provide certain information; providing for security at certain facilities; limiting construction of subsection; requiring certain bond; providing for employment, duties and compensation of certain personnel; defining crimes and providing for penalties; providing for administration of drugs and medication to gamecocks; providing for county option; amending 3A O.S. 2001, Section 201, as last amended by Section 1, Chapter 204, O.S.L. 2003 (3A O.S. Supp. 2004, Section 201), which relates to the Oklahoma Horse Racing Commission; expanding membership; providing for codification; and providing an effective date.

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 800 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 Pari-mutuel Gamecock Boxing Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 801 of Title 3A, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Pari-mutuel Gamecock Boxing Act:

1. "Commission" means the Oklahoma Horse Racing Commission;
2. "Gamecock boxing" means a sporting activity wherein two gamecocks equipped with sparring muffs and equipment with electronic sensors engage in a sparring match for a preset length of time and the winner of the match is determined by the number of hits recorded by such electronic sensors;
3. "Organization licensee" means a person or entity receiving an organization license;
4. "Pari-mutuel system of wagering" means a form of wagering on the outcome of gamecock boxing in which those who wager purchase tickets of various denominations on a gamecock and all wagers are pooled and held by the organization licensee for distribution pursuant to the provisions of Section 5 of this Act;
5. "Person" means any individual, partnership, corporation, or other association or entity;
6. "Sparring" means a contest between two gamecocks heeled with sparring muffs; and
7. "Sparring muffs" means padded gloves placed over a gamecock's natural spurs to prevent injury.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 802 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Horse Racing Commission shall have jurisdiction over the sport of gamecock boxing and shall have the authority to promulgate rules for the purpose of administering the Oklahoma Pari-mutuel Gamecock Boxing Act. Such rules shall include provisions for licensing:

1. Owners of gamecocks which participate in licensed gamecock boxing matches;

2. Handlers of gamecocks which participate in licensed gamecock boxing matches; and

3. Entities which conduct, sponsor, organize or arrange gamecock boxing matches.

B. No member of the Commission or Commission employee shall place any wager on any gamecock boxing match over which the Commission has jurisdiction.

C. The Commission is hereby authorized to appoint such advisory councils and task forces as it deems necessary for counsel and advice concerning the formulation and administration of the rules of gamecock boxing and the administration of the Oklahoma Pari-mutuel Gamecock Boxing Act.

D. A gamecock boxing match conducted pursuant to the provisions of the Oklahoma Pari-mutuel Gamecock Boxing Act is a lawful activity and shall not be considered to be a "cockfight" for the purposes of Sections 1692.1 through 1692.9 of Title 21 of the Oklahoma Statutes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 803 of Title 3A, unless there is created a duplication in numbering, reads as follows:

No person shall conduct a gamecock boxing match where the public is charged an admission fee or is allowed to place wagers on the outcome of the match unless a valid organization license has been issued pursuant to the provisions of the Oklahoma Pari-mutuel Gamecock Boxing Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 804 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any organization licensee conducting a gamecock boxing match may provide places in the facility at which such match is conducted at which it may conduct and supervise the pari-mutuel system of

wagering on the gamecock boxing matches conducted by the organization licensee. No other place or method of betting, pool making, wagering, or gambling shall be used or permitted by the organization licensee. The pari-mutuel system of wagering shall be permitted only on gamecock boxing matches conducted at a facility where such pari-mutuel system of wagering is authorized pursuant to the provisions of the Oklahoma Pari-mutuel Gamecock Boxing Act.

B. Each organization licensee that holds a gamecock boxing match at which the pari-mutuel system of wagering is conducted shall retain an amount equal to eighteen percent (18%) of all money wagered, to be distributed as follows:

1. One-ninth ( $1/9$ ) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the day on which it was received by the organization licensee. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the State Treasury for the support of state government, to be paid out only pursuant to appropriation by the Legislature; and

2. Five-ninths ( $5/9$ ) of the eighteen percent (18%) shall be retained by the organization licensee; and

3. One-third ( $1/3$ ) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating gamecocks.

The remainder of the money wagered shall be paid to the winning bettors.

C. Organization licensees shall keep accurate books and records of all moneys wagered on each day of a gamecock boxing match and of the taxes paid pursuant to the provisions of this section. The Oklahoma Tax Commission or an authorized representative shall have access at all reasonable times to such records for the purpose of examining and checking the records and ascertaining whether the

proper amount of taxes is being paid. The Tax Commission shall require verified reports and a statement of the total of all moneys wagered daily at a gamecock boxing match and may prescribe forms upon which such reports and statement shall be made. The organization licensee shall provide the Tax Commission with such space and accommodations as may be necessary for the Tax Commission to implement its duties pursuant to the provisions of the Oklahoma Pari-mutuel Gamecock Boxing Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 805 of Title 3A, unless there is created a duplication in numbering, reads as follows:

Each organization licensee shall collect a tax of ten percent (10%) of the amount received by the organization licensee for tickets for admission to the facility where gamecock boxing is conducted. If an organization licensee offers a reduced price for admission to the facility based upon the purchase of a season ticket or pass, the amount of tax collected by the licensee for admission to the facility as a result of the purchase of such ticket or pass by any person shall be equal to the amount of tax that would have been collected by the licensee for admission to the facility if such person did not hold a season ticket or pass. On the first business day after the close of the day on which the tax was collected, the organization licensee shall remit to the Oklahoma Tax Commission the proceeds from the tax. The proceeds of the tax shall be distributed as follows:

1. For the first two (2) years of operation, forty-five percent (45%) shall be apportioned monthly to the municipality in which the facility is located. Fifty percent (50%) shall be apportioned monthly to the county in which the facility is located. Five percent (5%) shall be apportioned monthly to the General Revenue Fund of the State Treasury.

2. For the third and all following years, fifty percent (50%) shall be apportioned monthly to the municipality in which the facility is located and fifty percent (50%) shall be apportioned monthly to the county in which the facility is located.

If the facility is not located in a municipality or is located in a municipality with a population of less than one thousand (1,000) according to the most recent Federal Decennial Census, one hundred percent (100%) of the proceeds shall be distributed to the county in which the facility is located.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 806 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Commission shall appoint a director of gamecock boxing who shall have the same qualifications as a member of the Commission. The qualification regarding the residency requirement for Commission members shall not apply to the director. The Commission shall determine the duties and compensation of the director.

B. The director shall recommend to the Commission the administrative organization and the number and qualifications of employees necessary without regard to race, color, gender, creed or national origin, to implement the provisions of the Oklahoma Pari-mutuel Gamecock Boxing Act. A written equal opportunity plan will be developed for the Commission, by the director who may employ such persons as are deemed necessary to implement the provisions of the Oklahoma Pari-mutuel Gamecock Boxing Act.

C. 1. The Commission shall provide for a law enforcement division of gamecock boxing which shall have the responsibility for conducting investigations relating to the proper conduct of gamecock boxing and the pari-mutuel system of wagering including but not limited to barring undesirables from gamecock boxing, undercover investigations, fingerprinting persons licensed by the Commission,

and reviewing license applications. The person in charge of the law enforcement division shall be a professional law enforcement officer with a minimum of five (5) years of experience in the field of law enforcement and a graduate of a four-year college with a degree in law enforcement administration, law, criminology or a related science, or in lieu thereof a minimum of ten (10) years of experience in the field of law enforcement.

2. The officers and agents of the law enforcement division of gamecock boxing, and such other employees as the person in charge of the division shall designate to perform duties in the investigation and prevention of crime and the enforcement of the criminal laws of the state, shall have and exercise all the powers and authority of peace officers, including the right and power of search and seizure.

3. The Oklahoma State Bureau of Investigation shall provide such information within its possession as is requested by the law enforcement division of gamecock boxing for the purpose of reviewing license applications.

4. If upon investigation by the Commission there is substantial evidence indicating that the security at any facility where gamecock boxing is conducted is not satisfactory, the Commission may order the organization licensee to remedy the deficiency. If after ten (10) days following the order the organization licensee has not remedied the deficiency, the Commission may institute its own security personnel program until the deficiency in security is remedied, and may charge the organization licensee the actual costs incurred for such security. The organization licensee may petition the Commission for a hearing at any time to review the necessity of the Commission further maintaining its own security personnel.

5. The provisions of this subsection shall not be construed to restrict or prohibit any federal, state, or local law enforcement officer from performing any duties imposed upon the law enforcement officer by law.

D. The director of gamecock boxing shall obtain a surety bond in the amount of One Hundred Thousand Dollars (\$100,000.00) before entering into the duties of the office. The surety bond shall be conditioned upon the faithful performance of the duties of the director and the proper accounting of all moneys and property received by the director by virtue of the office. The cost of the surety bond shall be paid by the Commission.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 807 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. At each gamecock boxing match held pursuant to the provisions of the Oklahoma Pari-mutuel Gamecock Boxing Act the Oklahoma Horse Racing Commission shall employ an individual to be the referee. The compensation of referees, including but not limited to salaries, benefits and other reimbursable expenses as determined by the Commission, shall be paid by the Commission.

B. Other personnel shall be employed for gamecock boxing matches as the Commission deems necessary. All other personnel required by the Commission may be employed by the Commission or by the organization licensee as determined by rules of the Commission. The compensation of personnel employed by the Commission, including but not limited to salaries, benefits and reimbursable expenses, shall be paid by the Commission.

C. The referees and other officials at gamecock boxing matches shall enforce the rules of the Commission and the provisions of the Oklahoma Pari-mutuel Gamecock Boxing Act in the manner provided by law and shall render written reports of the activities and conduct of the gamecock boxing matches to the Commission. In enforcing the rules of the Commission and officiating at gamecock boxing matches, the referees shall not be required to comply with provisions of the Oklahoma Open Meeting Act but shall be required to comply with applicable provisions of the Administrative Procedures Act.

D. The organization licensee shall reimburse the Commission for all costs of the Commission attributable to personnel employed by the Commission for duties performed by such personnel at the facility of the organization licensee.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 808 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any person holding a gamecock boxing match at which pari-mutuel wagering is conducted without a valid organization license issued pursuant to the provisions of the Oklahoma Pari-mutuel Gamecock Boxing 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 a period of not more than ten (10) years or by both such fine and imprisonment.

B. No organization licensee shall knowingly permit any minor to be a patron of the pari-mutuel system of wagering conducted by the organization licensee. Any person convicted of violating any provision of this subsection shall be guilty of a misdemeanor.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 809 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to directly or indirectly engage or to conspire with or aid, assist, or abet any other person in the commission of any corrupt act or practice, including but not limited to:

1. The giving, offering, promising, accepting, soliciting or receiving, directly or indirectly, any gratuity or bribe in any form to any person having duties in relation to any gamecock boxing match or to any person having charge of, or access to, any gamecock; or

2. The passing or attempting to pass or the cashing or attempting to cash any altered or fraudulent pari-mutuel ticket; or

3. The unauthorized sale or the attempt to make an unauthorized sale of any gamecock boxing admission ticket.

B. Any person who is convicted of violating the provisions of subsection A of this section shall be guilty of a felony and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or by both such fine and imprisonment.

C. If any person who is convicted of violating the provisions of subsection A of this section is licensed pursuant to the provisions of the Oklahoma Pari-mutuel Gamecock Boxing Act, the Commission shall suspend or revoke the license of the person in addition to the penalty and fine imposed in subsection B of this section.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 810 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, the Oklahoma Horse Racing Commission is hereby authorized to determine by rule which drugs and medications, if any, may be administered to a gamecock prior to or during a gamecock boxing match and to determine by rule the conditions under which such drugs and medications may be used or administered.

B. The administration of any drug or medication to a gamecock prior to or during a gamecock boxing match which is not permitted by rule of the Commission is prohibited.

D. Any person who violates the provisions of this section or who knowingly enters into a gamecock boxing match a gamecock to which any drug or medication has been administered in violation of this section shall be guilty, upon conviction, of a felony and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years, or by both

such fine and imprisonment. The Commission shall suspend or revoke the license of any such guilty party.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 811 of Title 3A, unless there is created a duplication in numbering, reads as follows:

No facility for pari-mutuel gamecock boxing shall be licensed in any county unless the majority of the voters of such county, voting at an election held for that purpose, approve the conducting of pari-mutuel gamecock boxing in the county. An election shall be called by resolution approved by the board of county commissioners or upon the filing of a petition with the county election board containing not less than ten percent (10%) of the qualified voters within any such county.

SECTION 13. AMENDATORY 3A O.S. 2001, Section 201, as last amended by Section 1, Chapter 204, O.S.L. 2003 (3A O.S. Supp. 2004, Section 201), is amended to read as follows:

Section 201. A. There is hereby created the Oklahoma Horse Racing Commission, which shall consist of ~~seven (7)~~ nine (9) members appointed by the Governor with the advice and consent of the Senate. One member shall be appointed from each congressional district, and at least one of the remaining members shall be experienced in the horse industry and shall be appointed from the state at large. ~~However, when~~ Two members shall be game fowl breeders. When congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member.

~~No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district.~~

B. To be eligible for appointment to the Commission, a person shall:

1. Be a citizen of the United States; and

2. Have been a resident of this state for five (5) years immediately preceding the appointment; and

3. Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state, or the laws of the United States as established by a national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

C. The initial terms of office of:

1. Three members shall expire on June 30, 1985; and

2. Two members shall expire on June 30, 1987; and

3. Two members shall expire on June 30, 1989.

Thereafter, the term of office of a member of the Commission shall be for six (6) years and until a successor is appointed and qualified. The initial term of office of one of the members who is a game fowl breeder shall expire on June 30, 2009, and the initial term of office of one of the members who is a game fowl breeder shall expire on June 30, 2011. Thereafter, the term of office for each of these positions shall be for six (6) years and until a successor is appointed and qualified.

D. The Governor may remove any member of the Commission for incompetence, neglect of duty, or malfeasance in office upon first giving the member a copy of the charges and an opportunity to be heard. A vacancy on the Commission shall be filled for the unexpired term by appointment made by the Governor.

SECTION 14. This act shall become effective November 1, 2005.