

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1364

By: Kirby

5  
6  
7  
8 COMMITTEE SUBSTITUTE

9 An Act relating to amusements and sports; allowing  
10 certain monies be withheld; providing circumstance  
of monies in certain fund; requiring hearing;  
11 providing procedure for disbursement of monies;  
12 amending 3A O.S. 2011, Section 604.2, as amended by  
Section 4, Chapter 359, O.S.L. 2012 (3A O.S. Supp.  
2012, Section 604.2), which relates to the Oklahoma  
13 State Athletic Commission; modifying mission  
statement; amending 3A O.S. 2011, Section 611, as  
14 amended by Section 10, Chapter 359, O.S.L. 2012 (3A  
O.S. Supp. 2012, Section 611), which relates to  
15 issuance of licenses; clarifying scope of certain  
considerations; amending 3A O.S. 2011, Section 614,  
16 as amended by Section 13, Chapter 359, O.S.L. 2012  
(3A O.S. Supp. 2012, Section 614), which relates to  
17 violations; clarifying application; amending 3A O.S.  
2011, Section 617, as amended by Section 15, Chapter  
18 359, O.S.L. 2012 (3A O.S. Supp. 2012, Section 617),  
which relates to the Oklahoma State Athletic  
19 Commission; modifying amount of assessment; limiting  
amount of assessment; providing minimum assessment  
20 amounts; modifying assessment payment deadline;  
limiting issue of complimentary tickets; requiring  
21 assessment on unapproved tickets in excess of limit;  
establishing value of tickets; requiring promoter be  
22 responsible for certain actions of box office;  
prohibiting certain exchange of complimentary  
23 tickets; amending 3A O.S. 2011, Section 624, which  
relates to testing fighters; removing ability to  
24

1 waive requirements; providing for codification; and  
2 providing an effective date.

3  
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 604.3 of Title 3A, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. The Oklahoma State Athletic Commission, its administrator or  
9 any other employee authorized by the Commission may order the  
10 promoter to withhold any part of a purse or other money belonging or  
11 payable to any combative sports practitioner or second if, in the  
12 judgment of the Commission, administrator or employee:

13 1. The practitioner is not competing honestly or to the best of  
14 the practitioner's skill and ability, or the practitioner otherwise  
15 violates any rules or regulations adopted by the Commission or any  
16 provisions of the Oklahoma Athletic Commission Act; and

17 2. The second violates any rules or regulations adopted by the  
18 Commission or any provisions of the Oklahoma Athletic Commission  
19 Act.

20 B. Money ordered withheld pursuant to this section shall be  
21 deposited in the Oklahoma State Athletic Commission Revolving Fund  
22 Security Account. The Commission shall hold a hearing at its next  
23 regularly scheduled meeting to dispose of the matter. If it is  
24 determined that the practitioner or second is entitled to his or her

1 share of the purse or other money, the funds shall be moved to the  
2 Oklahoma State Athletic Commission Revolving Fund and disbursed to  
3 the practitioner or second. If it is determined that the  
4 practitioner or second is not entitled to his or her share of the  
5 purse or other money, the funds shall be moved to the Oklahoma State  
6 Athletic Commission Revolving Fund and disbursed to the promoter.

7 SECTION 2. AMENDATORY 3A O.S. 2011, Section 604.2, as  
8 amended by Section 4, Chapter 359, O.S.L. 2012 (3A O.S. Supp. 2012,  
9 Section 604.2), is amended to read as follows:

10 Section 604.2 A. The mission of the Oklahoma State Athletic  
11 Commission shall be to ~~expand and promote~~ preserve and protect the  
12 health, safety and welfare of combative sports event participants  
13 and the general public through the effective regulation of combative  
14 sports in the State of Oklahoma, while fostering an environment that  
15 expands existing combative ~~sporting~~ sports events ~~in Oklahoma~~ and ~~to~~  
16 ~~actively work to bring~~ brings new ~~combative sporting~~ events into  
17 ~~Oklahoma~~ the state.

18 B. The Commission shall have the power to:

19 1. Promulgate rules and issue orders necessary to carry out the  
20 purposes of the Oklahoma State Athletic Commission Act, and enforce  
21 the provisions of said act and the rules promulgated pursuant  
22 thereto;

23 2. Assume jurisdiction over all matters relating to the  
24 licensing of professional combative sports practitioners, amateur

1 mixed martial artists, corner persons, booking agents, matchmakers,  
2 promoters, referees, judges, timekeepers, vendors, physicians,  
3 announcers, clubs, and corporations associated with a professional  
4 combative sports event or amateur mixed martial arts event related  
5 thereto;

6 3. Set license and permit fees pursuant to the requirements of  
7 the Oklahoma State Athletic Commission Act;

8 4. Conduct investigations into the qualifications of applicants  
9 for licensure and registration;

10 5. Conduct investigations and proceedings for alleged  
11 violations of the Oklahoma State Athletic Commission Act and order  
12 or subpoena the attendance of witnesses, the inspection of records  
13 and premises, and the production of relevant books and papers  
14 necessary to such investigations and proceedings;

15 6. Develop and administer examinations for applicants for  
16 licenses and permits; and

17 7. Make such expenditures as may be necessary in the  
18 performance of its duties.

19 C. Any rule promulgated, order made, or action taken prior to  
20 July 1, 1999, by the Commissioner of Labor or the Department of  
21 Labor pursuant to the provisions of, or rules issued pursuant to,  
22 the Oklahoma State Athletic Commission Act shall be considered valid  
23 and in effect unless amended, repealed, or rescinded by the  
24 Commission.

1 D. Any valid license, permit, certificate, or registration  
2 issued prior to July 1, 1999, by the Commissioner of Labor pursuant  
3 to the Oklahoma State Athletic Commission Act, or rules promulgated  
4 pursuant thereto, shall remain valid and in effect until it expires  
5 pursuant to law or unless suspended or revoked by the Commission.  
6 Any application for a license, permit, certificate, or registration  
7 which is pending on June 30, 1999, is hereby transferred to the  
8 Commission.

9 E. All personnel, powers, duties, responsibilities, fund  
10 balances, encumbrances, obligations, and property, which shall  
11 include records, furniture, and equipment of the Department of Labor  
12 relating to the regulation of combative sports, are hereby  
13 transferred to the Oklahoma State Athletic Commission.

14 SECTION 3. AMENDATORY 3A O.S. 2011, Section 611, as  
15 amended by Section 10, Chapter 359, O.S.L. 2012 (3A O.S. Supp. 2012,  
16 Section 611), is amended to read as follows:

17 Section 611. Before issuing any license or sanctioning permit,  
18 or taking any disciplinary action against a licensee, the Oklahoma  
19 State Athletic Commission shall consider the following in order of  
20 importance:

- 21 1. The preservation of the safety and health of the  
22 participants;
- 23 2. The best interest and welfare of the public; and
- 24 3. The best interest of combative sports in general.

1 SECTION 4. AMENDATORY 3A O.S. 2011, Section 614, as  
2 amended by Section 13, Chapter 359, O.S.L. 2012 (3A O.S. Supp. 2012,  
3 Section 614), is amended to read as follows:

4 Section 614. A. If upon inspection or investigation, or  
5 whenever the Oklahoma State Athletic Commission determines that a  
6 ~~violation of~~ licensee has violated the Oklahoma State Athletic  
7 Commission Act or of any order, standard, or rule promulgated  
8 pursuant to the provisions of the Oklahoma State Athletic Commission  
9 Act has occurred, the Commission shall give written notice to the  
10 alleged violator specifying the cause of the determination. Such  
11 notice shall require that the violations be corrected and specify  
12 the terms of such correction or require that the alleged violator  
13 appear before the Commission at a time and place specified in the  
14 notice and answer the charges.

15 B. The Commission shall afford the alleged violator an  
16 opportunity for a hearing conducted in conformity with, and records  
17 made thereof as provided by the provisions of, the Administrative  
18 Procedures Act. On the basis of the evidence produced at the  
19 hearing, the Commission shall make findings of fact and conclusions  
20 of law and enter an order thereon. The Commission shall provide  
21 written notice of such order to the alleged violator and to such  
22 other persons as shall have appeared at the hearing and made written  
23 request for notice of the order.

24

1 C. Upon the request of the Commission, the Attorney General  
2 shall bring an action against any person violating any of the  
3 provisions of the Oklahoma State Athletic Commission Act or  
4 violating any order or determination of the Commission.

5 SECTION 5. AMENDATORY 3A O.S. 2011, Section 617, as  
6 amended by Section 15, Chapter 359, O.S.L. 2012 (3A O.S. Supp. 2012,  
7 Section 617), is amended to read as follows:

8 Section 617. A. Except as otherwise provided in the Oklahoma  
9 State Athletic Commission Act, in addition to the payment of any  
10 other fees and monies due pursuant to the Oklahoma State Athletic  
11 Commission Act and the rules promulgated by the Oklahoma State  
12 Athletic Commission, an assessment ~~as provided herein in an amount~~  
13 ~~not to exceed~~ equal to five percent (5%) of the total gross receipts  
14 of any professional combative sports event or amateur mixed martial  
15 arts event conducted in this state, exclusive of any federal tax or  
16 tax imposed by any political subdivision of this state, shall be  
17 hereby levied and shall be remitted by every promoter and vendor to  
18 the Oklahoma State Athletic Commission.

19 B. The assessment established in subsection A of this section  
20 shall ~~be calculated as follows:~~

21 ~~1. Five percent (5%) for an event for which the total gross~~  
22 ~~receipts do not exceed One Hundred Thousand Dollars (\$100,000.00);~~

23  
24

1       ~~2. Four percent (4%) for an event for which the total gross~~  
2 ~~receipts are between One Hundred Thousand One Dollars (\$100,001.00)~~  
3 ~~and Two Hundred Thousand Dollars (\$200,000.00);~~

4       ~~3. Three percent (3%) for an event for which the total gross~~  
5 ~~receipts are between Two Hundred Thousand One Dollars (\$200,001.00)~~  
6 ~~and Three Hundred Fifty Thousand Dollars (\$350,000.00);~~

7       ~~4. Two percent (2%) for an event for which the total gross~~  
8 ~~receipts are between Three Hundred Fifty Thousand One Dollars~~  
9 ~~(\$350,001.00) and Five Hundred Thousand Dollars (\$500,000.00); and~~

10       ~~5. One and one-half percent (1.5%) for an event for which the~~  
11 ~~total gross receipts are more than Five Hundred Thousand One Dollars~~  
12 ~~(\$500,001.00) not exceed Thirty-five Thousand Dollars (\$35,000.00).~~

13       C. Promoters of professional boxing, professional mixed martial  
14 arts and amateur mixed martial arts events shall pay the greater of  
15 the five-percent assessment levied pursuant to subsection A of this  
16 section or Four Hundred Fifty Dollars (\$450.00) to the Commission.

17       D. Promoters of professional wrestling events shall pay the  
18 greater of the five-percent assessment levied pursuant to subsection  
19 A of this section or Eighty Dollars (\$80.00) to the Commission.

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

- 22       1. The face value of all tickets sold; and
- 23       2. Proceeds from a vendor, or the promoter's gross price
- 24 charged for the sale of food, alcoholic and nonalcoholic beverages,

1 or merchandise, including, but not limited to, wearing apparel,  
2 souvenirs and programs.

3 ~~D.~~ F. For professional combative sports events or amateur mixed  
4 martial arts events at which admission tickets are not sold, the  
5 promoter shall remit an assessment equal to five percent (5%) of the  
6 revenues received by the promoter for the event.

7 ~~E.~~ G. For the purpose of this section, total gross receipts of  
8 every vendor shall include the gross price charged for the sale of  
9 food, alcoholic and nonalcoholic beverages, and merchandise  
10 including, but not limited to, wearing apparel, souvenirs, and  
11 programs, excluding that portion paid to any promoter.

12 ~~F.~~ H. Payment of the assessment on gross receipts, unless  
13 otherwise specified, shall be due within ~~seventy-two (72) hours~~ five  
14 (5) business days after the holding of the professional combative  
15 sports event or amateur mixed martial arts event and shall be  
16 accompanied by a report in such form as shall be prescribed by the  
17 Oklahoma State Athletic Commission.

18 ~~G.~~ I. A promoter shall not issue complimentary tickets for more  
19 than ten percent (10%) of the seats for any event. The promoter  
20 shall be responsible to pay the five-percent assessment levied  
21 pursuant to subsection A of this section on total receipts as  
22 prescribed in this section for any complimentary tickets in excess  
23 of ten percent (10%). All complimentary tickets must clearly  
24 indicate on the ticket that it is a complimentary ticket and state

1 the value of the complimentary ticket. The face value of a  
2 complimentary ticket shall be equal to like tickets sold in that  
3 particular section of the venue. The complimentary tickets that are  
4 exempt from the five-percent assessment levied pursuant to  
5 subsection A of this section shall be those tickets with the lowest  
6 face value.

7 J. Complimentary tickets shall not be given to a sponsor,  
8 person or any entity that gives the promoter of any event anything  
9 of value including but not limited to money, in-kind goods or  
10 services, or advertising.

11 K. The first payment of the assessment on gross income received  
12 from the sale of motion picture rights shall be due at the end of  
13 the month after the date of the sale of the motion picture rights,  
14 and further payments shall be due every thirty (30) days thereafter,  
15 during the presentation of the picture, and shall be accompanied by  
16 a gross receipts report in such form as shall be prescribed by the  
17 Oklahoma State Athletic Commission.

18 ~~H.~~ L. Except as otherwise provided in the Oklahoma State  
19 Athletic Commission Act, in addition to the payment of any other  
20 fees and monies due pursuant to the Oklahoma State Athletic  
21 Commission Act and the rules promulgated by the Oklahoma State  
22 Athletic Commission, an assessment in an amount of five percent (5%)  
23 of the total gross receipts of every telecast promoter shall be  
24 levied. Total gross receipts shall include the gross price charged

1 for the sale, lease, or other use of broadcasting, including, but  
2 not limited to, radio, television, including cable television, pay-  
3 per-view television, and closed-circuit television, or motion  
4 picture rights of combative sports or amateur mixed martial arts  
5 contests, events, or exhibitions conducted within this state,  
6 without any deductions for commissions, brokerage fees, distribution  
7 fees, advertising, or other expenses or charges.

8 ~~F.~~ M. 1. In the case of facilities at or through which the  
9 closed-circuit telecast is shown other than a cable system  
10 operator's pay-per-view facilities, the telecast promoter shall,  
11 within eight (8) days after the telecast, inclusive of mailing time,  
12 file with the Commission a written report detailing the name,  
13 address, telephone number, contact person's name, and the details of  
14 the payment arrangement for the right to receive the telecast for  
15 each facility to which the broadcast was transmitted.

16 2. The report shall be accompanied by the assessment payment  
17 required under subsection ~~H~~ L of this section, excluding any  
18 federal, state or local taxes.

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

1        ~~J.~~ N. 1. In the case of a cable system operator's pay-per-view  
2 facilities at or through which a closed-circuit telecast was shown  
3 within the state, the telecast promoter shall, within thirty (30)  
4 days following receipt of the notice of the assessment from the  
5 Commission, cause to be filed with the Commission the assessment  
6 required pursuant to subsection # L of this section, excluding any  
7 federal, state, or local taxes.

8        2. The cable system operator shall withhold from the proceeds  
9 due to the telecast promoter the assessment payment required  
10 pursuant to subsection # L of this section and remit the assessment  
11 to the Commission on behalf of the telecast promoter. The cable  
12 system operator shall not be liable for the remittance of the  
13 assessment fee required pursuant to subsection # L of this section  
14 from any proceeds due to the cable system operator from its pay-per-  
15 view events.

16        3. The Commission shall require the cable system operator to  
17 file reports containing information regarding the number of orders  
18 sold and the price charged for orders and any other information the  
19 Commission deems appropriate.

20        4. Cable system operators shall not be liable to the Commission  
21 for the assessment payment required under subsection # L of this  
22 section. Nothing in this section shall be deemed to prevent a cable  
23 system operator from billing its customer for the assessment  
24 payment.

1           5. The Commission shall, upon request, provide the telecast  
2 promoter with a report detailing the number of orders and the  
3 assessment payment due.

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

8           ~~L.~~ P. Gross receipts reports signed under oath shall also  
9 include:

10           1. The name of the promoter;

11           2. The professional combative sports event or amateur mixed  
12 martial arts event sanctioning permit number;

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

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

17           5. Such further information as the Oklahoma State Athletic  
18 Commission may require to enable it to compute correctly and collect  
19 the assessment levied pursuant to this section.

20           ~~M.~~ Q. In addition to the information required on reports, the  
21 Oklahoma State Athletic Commission may request, and the promoter  
22 shall furnish, any information deemed necessary for a correct  
23 computation of the assessment levied pursuant to this section.

1       ~~N.~~ R. All levies pursuant to this section shall be collected by  
2 the Commission and shall be placed to the credit of the Oklahoma  
3 State Athletic Commission Revolving Fund.

4       ~~O.~~ S. The monies collected from the assessment levied pursuant  
5 to the provisions of this section shall be in addition to all other  
6 revenues and funds received by the Oklahoma State Athletic  
7 Commission.

8       ~~P.~~ T. The promoter shall compute and pay to the Oklahoma State  
9 Athletic Commission the required assessment due. If the payment of  
10 the assessment is not postmarked or delivered to the Oklahoma State  
11 Athletic Commission as specified in subsections ~~F~~ H through ~~H~~ L of  
12 this section, whichever is appropriate, the assessment shall be  
13 delinquent from such date.

14       ~~Q.~~ U. It shall be the duty of every promoter required to make a  
15 gross receipts report and pay any assessment pursuant to the  
16 provisions of this section to keep and preserve suitable records and  
17 documents which may be necessary to determine the amount of  
18 assessment due as will substantiate and prove the accuracy of such  
19 reports. All such records shall be preserved for a period of three  
20 (3) years, unless the Oklahoma State Athletic Commission, in  
21 writing, has authorized their destruction or disposal at an earlier  
22 date, and shall be open to examination at any time by the Oklahoma  
23 State Athletic Commission or by any of its authorized employees.

24

1 SECTION 6. AMENDATORY 3A O.S. 2011, Section 624, is  
2 amended to read as follows:

3 Section 624. ~~A.~~ Except as otherwise provided in this section,  
4 prior to being issued a license pursuant to this act every  
5 participant applicant shall submit a certified copy of results from  
6 testing performed by a laboratory certified pursuant to 42 C.F.R.  
7 Part 493 verifying that the applicant is not infected with the human  
8 immunodeficiency virus (HIV), the hepatitis B virus or the hepatitis  
9 C virus. The testing shall be performed no more than three hundred  
10 sixty-five (365) days before the application is submitted. A  
11 statement from a doctor of osteopathy or medical doctor indicating  
12 that the applicant has successfully completed a full course of  
13 vaccinations for hepatitis B may be submitted in lieu of the results  
14 of testing for hepatitis B. Except as otherwise provided in this  
15 section, an applicant who receives positive results from any of the  
16 tests required by this section shall be denied a license for the  
17 particular contest.

18 ~~B. If a participant must be replaced within twenty-four (24)~~  
19 ~~hours of an event, a promoter may replace the participant that has~~  
20 ~~been pulled with a new participant that has complied with the~~  
21 ~~testing requirements found in subsection A of this section.~~

22 ~~C. Notwithstanding the requirement for testing stated in~~  
23 ~~subsection A of this section, the participant and opponent, ring~~  
24 ~~official, and ringside physician may agree, in writing, to waive the~~

1 ~~denial of licensure for failure to timely submit the required~~  
2 ~~certified test results, and by such signed written agreement, the~~  
3 ~~participant and opponent shall be granted a license to participate~~  
4 ~~in their particular contest.~~

5 SECTION 7. This act shall become effective November 1, 2013.

6

7 54-1-6852 KB 02/07/13

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24