STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 1364 By: Kirby

AS INTRODUCED

An Act relating to amusements and sports; allowing certain monies be withheld; providing circumstance under which monies may be withheld; requiring deposit of monies in certain fund; requiring hearing; providing procedure for disbursement of monies; 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 State Athletic Commission; modifying mission statement; amending 3A O.S. 2011, Section 611, as amended by Section 10, Chapter 359, O.S.L. 2012 (3A O.S. Supp. 2012, Section 611), which relates to issuance of licenses; clarifying scope of certain considerations; amending 3A O.S. 2011, Section 614, as amended by Section 13, Chapter 359, O.S.L. 2012 (3A O.S. Supp. 2012, Section 614), which relates to violations; clarifying application; amending 3A O.S. 2011, Section 617, as amended by Section 15, Chapter 359, O.S.L. 2012 (3A O.S. Supp. 2012, Section 617), which relates to the Oklahoma State Athletic Commission; modifying amount of assessment; limiting amount of assessment; providing minimum assessment amounts; modifying assessment payment deadline; limiting issue of complimentary tickets; requiring assessment on unapproved tickets in excess of limit; establishing value of tickets; requiring promoter be responsible for certain actions of box office; prohibiting certain exchange of complimentary tickets; amending 3A O.S. 2011, Section 624, which relates to testing fighters; removing ability to waive requirements; 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 604.3 of Title 3A, unless there is created a duplication in numbering, reads as follows:

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

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

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

B. Money ordered withheld pursuant to this section shall be deposited in the Oklahoma State Athletic Commission Revolving Fund Security Account. The Commission shall hold a hearing at its next regularly scheduled meeting to dispose of the matter. If it is determined that the practitioner or second is entitled to his or her share of the purse or other money, the funds shall be moved to the Oklahoma State Athletic Commission Revolving Fund and disbursed to the practitioner or second. If it is determined that the

practitioner or second is not entitled to his or her share of the purse or other money, the funds shall be moved to the Oklahoma State Athletic Commission Revolving Fund and disbursed to the promoter.

SECTION 2. AMENDATORY 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), is amended to read as follows:

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

B. The Commission shall have the power to:

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

2. Assume jurisdiction over all matters relating to the licensing of professional combative sports practitioners, amateur mixed martial artists, corner persons, booking agents, matchmakers, promoters, referees, judges, timekeepers, vendors, physicians, announcers, clubs, and corporations associated with a professional

combative sports event or amateur mixed martial arts event related thereto;

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

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

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

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

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

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

D. Any valid license, permit, certificate, or registration issued prior to July 1, 1999, by the Commissioner of Labor pursuant to the Oklahoma State Athletic Commission Act, or rules promulgated

pursuant thereto, shall remain valid and in effect until it expires pursuant to law or unless suspended or revoked by the Commission. Any application for a license, permit, certificate, or registration which is pending on June 30, 1999, is hereby transferred to the Commission.

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

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

Section 611. Before issuing any license or sanctioning permit, <u>or bringing any disciplinary action against a licensee,</u> the Oklahoma State Athletic Commission shall consider the following in order of importance:

1. The preservation of the safety and health of the participants;

2. The best interest and welfare of the public; and

3. The best interest of combative sports in general.

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

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

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

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

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

Section 617. A. Except as otherwise provided in the Oklahoma State Athletic Commission Act, in addition to the payment of any other fees and monies due pursuant to the Oklahoma State Athletic Commission Act and the rules promulgated by the Oklahoma State Athletic Commission, an assessment ~~as provided herein in an amount not to exceed~~ equal to five percent (5%) of the total gross receipts of any professional combative sports event or amateur mixed martial arts event conducted in this state, 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 State Athletic Commission.

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

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

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

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

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

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

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

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

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

1. The face value of all tickets sold; and

2. 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.

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

~~E.~~ G. 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.

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

~~G.~~ I. A promoter shall not issue complimentary tickets for more than ten percent (10%) of the seats for any event. The promoter shall be responsible to pay the five-percent assessment levied pursuant to subsection A of this section on total receipts as prescribed in this section for any complimentary tickets in excess of ten percent (10%). All complimentary tickets must clearly indicate on the ticket that it is a complimentary ticket and state the value of the complimentary ticket. The face value of the complimentary tickets in excess of the ten-percent limit shall be equal to like tickets sold in that particular section of the venue.

J. Complimentary tickets shall not be given to sponsor, person or any entity that gives the promoter of any event anything of value

including but not limited to money, in-kind goods or services, or advertising.

K. 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 State Athletic Commission.

~~H.~~ L. Except as otherwise provided in the Oklahoma State Athletic Commission Act, in addition to the payment of any other fees and monies due pursuant to the Oklahoma State Athletic Commission Act and the rules promulgated by the Oklahoma State Athletic Commission, an assessment in an amount of five percent (5%) of the total gross receipts of every telecast promoter shall be levied. Total gross receipts shall include the gross price charged 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 combative sports or amateur mixed martial arts contests, events, or exhibitions conducted within this state, without any deductions for commissions, brokerage fees, distribution fees, advertising, or other expenses or charges.

~~I.~~ M. 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 the assessment payment required under subsection ~~H~~ L of this section, excluding any federal, state or local taxes.

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.

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

2. The cable system operator shall withhold from the proceeds due to the telecast promoter the assessment payment required pursuant to subsection ~~H~~ L of this section 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 pursuant to subsection ~~H~~ L of this section from any proceeds due to the cable system operator from its 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.

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

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

~~K.~~ O. 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.

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

1. The name of the promoter;

2. The professional combative sports event or amateur mixed martial arts event 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 State Athletic Commission may require to enable it to compute correctly and collect the assessment levied pursuant to this section.

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

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

~~O.~~ S. 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 State Athletic Commission.

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

~~Q.~~ U. 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 State Athletic 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 State Athletic Commission or by any of its authorized employees.

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

Section 624. ~~A.~~ Except as otherwise provided in this section, prior to being issued a license pursuant to this act every participant applicant shall submit a certified copy of results from testing performed by a laboratory certified pursuant to 42 C.F.R. Part 493 verifying that the applicant is not infected with the human immunodeficiency virus (HIV), the hepatitis B virus or the hepatitis

C virus. The testing shall be performed no more than three hundred sixty-five (365) days before the application is submitted. A statement from a doctor of osteopathy or medical doctor indicating that the applicant has successfully completed a full course of vaccinations for hepatitis B may be submitted in lieu of the results of testing for hepatitis B. Except as otherwise provided in this section, an applicant who receives positive results from any of the tests required by this section shall be denied a license for the particular contest.

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

~~C. Notwithstanding the requirement for testing stated in subsection A of this section, the participant and opponent, ring official, and ringside physician may agree, in writing, to waive the denial of licensure for failure to timely submit the required certified test results, and by such signed written agreement, the participant and opponent shall be granted a license to participate in their particular contest.~~

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

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