

CHAPTER 131

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 10-1245

BY REPRESENTATIVE(S) Liston, Balmer, Kerr J., King S., Labuda, Priola, Ryden, Schafer S., Todd, Gardner B., Gerou, Levy;
also SENATOR(S) Johnston, Penry.

AN ACT

CONCERNING THE CONTINUATION OF THE REGULATION OF BOXING BY THE BOXING COMMISSION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Repeal. 24-34-104 (41) (g), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (41) The following agencies, functions, or both, shall terminate on July 1, 2010:

(g) ~~The office of boxing, including the Colorado state boxing commission, created by article 10 of title 12, C.R.S.;~~

SECTION 2. 24-34-104 (48), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (48) The following agencies, functions, or both, shall terminate on July 1, 2017:

(i) THE OFFICE OF BOXING, INCLUDING THE COLORADO STATE BOXING COMMISSION, CREATED BY ARTICLE 10 OF TITLE 12, C.R.S.

SECTION 3. 12-10-111 (1), Colorado Revised Statutes, is amended to read:

12-10-111. Repeal of article. (1) This article is repealed, effective July 1, ~~2010~~ 2017.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 4. 12-10-102, Colorado Revised Statutes, is amended to read:

12-10-102. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that the federal "Professional Boxing Safety Act of 1996" requires the state of Colorado to establish a state boxing commission. Because there is no state boxing commission, any professional boxing ~~or kickboxing~~ match held in Colorado has to be supervised by another state's boxing commission, using safety guidelines and procedures implemented by that state.

(2) The general assembly further finds and declares that it is in the best interests of the residents of Colorado, professional boxing ~~and kickboxing~~ participants, and the future of the ~~sports~~ SPORT of boxing ~~and kickboxing~~ in Colorado that the conduct of ~~such sports~~ THE SPORT be subject to an effective and efficient system of strict control designed by the general assembly. Such system shall, at a minimum:

(a) Protect the safety of the participants; and

(b) Promote the public trust and confidence in the conduct of professional boxing. ~~and kickboxing.~~

(3) To further public confidence and trust, this article and rules promulgated pursuant to this article shall regulate all persons, practices, and associations that relate to the operation of live professional boxing ~~and professional kickboxing~~ events, performances, or contests held in Colorado.

SECTION 5. 12-10-103 (2), (7), (8), (10), (12), and (15), Colorado Revised Statutes, are amended, and the said 12-10-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-10-103. Definitions. As used in this article, unless the context otherwise requires:

(2) "Boxing" ~~includes~~ MEANS FIGHTING, STRIKING, FORCING AN OPPONENT TO SUBMIT, OR DISABLING AN OPPONENT, INCLUDING THE DISCIPLINES OF kickboxing AND MIXED MARTIAL ARTS.

(6.5) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS WITHIN THE DEPARTMENT.

(7) "Exhibition" means a match in which the participants display their boxing ~~or kickboxing~~ skills and techniques without striving earnestly to win.

(8) ~~"Kickboxer" means a participant in a kickboxing match.~~

(10) "Match" means a professional boxing ~~or professional kickboxing~~ contest or exhibition, the object of which is to win by a decision, knockout, or technical knockout, and includes an event, engagement, sparring or practice session, show, or program where the public is admitted and there is intended to be physical contact. "Match" does not include a training or practice session when no admission is charged.

(10.5) "MIXED MARTIAL ARTS" MEANS THE COMBINED TECHNIQUES OF BOXING AND MARTIAL ARTS DISCIPLINES SUCH AS GRAPPLING, KICKING, AND STRIKING, INCLUDING THE USE OF FULL, UNRESTRAINED PHYSICAL FORCE.

(12) "Participant" means a person who engages in a match as a boxing ~~or kickboxing~~ contestant.

(15) "Toughperson fighting" means a physical contest, match, tournament, exhibition, or bout, or any activity that involves physical contact between two or more individuals engaging in combative skills using the hands, feet, or body, whether or not prizes or purses are awarded at the event or promised in future events or spectator admission fees are charged or received, and the contest, match, tournament, exhibition, bout, or activity is not recognized by and not sanctioned by any state, regional, or national boxing ~~or kickboxing~~ sanctioning authority that is recognized by the executive director of the department of regulatory agencies. ~~unless the contest, match, tournament, exhibition, bout, or activity meets health and safety standards adopted by the department of regulatory agencies. The department shall adopt such standards within one hundred twenty days after May 21, 2004. Such standards shall be adopted within the department's existing appropriations.~~ "Toughperson fighting" does not mean activities occurring under a martial arts instructor at a place of training or other types of instructor-student or student-student contact occurring under the supervision of an instructor at a place of training. "Toughperson fighting" does not mean a sanctioned boxing ~~or kickboxing~~ event approved by the commission.

SECTION 6. 12-10-105 (2) (a) (IV) (B), (2) (c), and (3), Colorado Revised Statutes, are amended to read:

12-10-105. Colorado state boxing commission - creation. (2) (a) The commission shall consist of five voting members and two nonvoting advisory members. All members shall be residents of Colorado, be of good character and not have been convicted of any felony or match-related offense, notwithstanding the provisions of section 24-5-101, C.R.S., and be appointed as follows:

(IV) (B) The two nonvoting advisory members shall advise the commission on matters concerning the health and physical condition of boxers ~~and kickboxers~~ and health issues relating to the conduct of matches. The nonvoting members may prepare and submit to the commission for its consideration and approval any rules that in their judgment will safeguard the physical welfare of the participants engaged in boxing.

(c) The commission shall designate by majority vote which member is to serve as chair. Any member may be removed from office by the person making the appointment for misfeasance, malfeasance, willful neglect of duty, or other cause. ~~after notice and a public hearing, unless such notice and hearing have been expressly waived in writing.~~

(3) Meetings of the commission shall be held at least ~~quarterly~~ ANNUALLY and shall be called by the chair or by any two members of the commission and shall be open to the public. Any three voting members shall constitute a quorum at any meeting. Action may be taken and motions and resolutions may be adopted at any

meeting at which a quorum exists by the affirmative vote of a majority of the voting members present. Members may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all members participating may simultaneously hear one another at all times during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting.

SECTION 7. The introductory portion to 12-10-106 (1) and 12-10-106 (1) (b), (1) (e), (1) (g), (1) (j), (3), (4), and (5), Colorado Revised Statutes, are amended to read:

12-10-106. General powers and duties of the commission. (1) In addition to any other powers specifically granted to the commission in this article, the commission shall issue such rules as are necessary for the regulation of the conduct, promotion, and performance of live boxing ~~and kickboxing~~ matches in this state. Such rules shall be consistent with this article and applicable federal law and shall include:

(b) Regulation of ticket sales; ~~and the establishment and collection of fees and surcharges;~~

(e) Requirements for insurance COVERING PARTICIPANTS and bonding OF PROMOTERS;

(g) Guidelines for contracts and financial arrangements BETWEEN PROMOTERS AND PARTICIPANTS;

(j) Responsibilities of participants, including female boxers; ~~and kickboxers;~~ and

(3) ~~The commission shall enforce this article and shall investigate any allegation of an activity that may violate this article.~~

(4) ~~The commission may maintain membership in the association of boxing commissions and may send the director or the director's designee to the association's annual convention.~~

(5) ~~The commission may maintain a service subscription to the record-keeping database provider approved by the association of boxing commissions.~~

SECTION 8. Article 10 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

12-10-106.3. License required. NO PERSON SHALL PARTICIPATE, OFFICIATE, JUDGE, REFEREE, PROMOTE, OR SECOND A PROFESSIONAL BOXING ARTS CONTEST UNLESS THE PERSON IS LICENSED PURSUANT TO THIS ARTICLE.

SECTION 9. 12-10-107 (1) and (3) (d), Colorado Revised Statutes, are amended, and the said 12-10-107 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-10-107. Director - appointment - qualification - powers and duties.

(1) The director shall be appointed by the ~~executive~~ director of the ~~department~~ DIVISION and shall be under the ~~immediate~~ supervision of the ~~executive~~ director OF THE DIVISION.

(3) In addition to the duties imposed upon the director elsewhere in this article, the director shall:

~~(d) Confer with the commission as necessary or desirable, but not less than once each month, with regard to the operation of the commission;~~

(1) ENFORCE THIS ARTICLE AND INVESTIGATE ALLEGATIONS OF ACTIVITY THAT MAY VIOLATE THIS ARTICLE.

SECTION 10. The introductory portion to 12-10-107.1 (1) and 12-10-107.1 (1) (b), (1) (d), (1) (e), (2) (b), (2) (c), (2) (d), (2) (e), and (3) (b), Colorado Revised Statutes, are amended, and the said 12-10-107.1 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-10-107.1. Grounds for discipline. (1) The director may deny, suspend, revoke, place on probation, or issue a letter of admonition against ~~the license of an applicant or licensee~~ A LICENSE OR AN APPLICATION FOR A LICENSE if the applicant or licensee:

(b) Fails to meet the requirements of this article or the rules of the commission ~~or uses fraud, misrepresentation, or deceit in applying for or attempting to apply for licensure;~~

(d) Is addicted to or dependent upon alcohol or any controlled substance, within the meaning of part 3 of article 22 of this title, or is a habitual user of said controlled substance, if the use, addiction, or dependency is a danger to ~~clients or prospective clients~~ OTHER PARTICIPANTS OR OFFICIALS;

(e) Has incurred disciplinary action related to professional boxing in another jurisdiction. Evidence of such disciplinary action shall be prima facie evidence for denial of a license or other disciplinary action if the violation would be grounds for such disciplinary action in this state; OR

(f) USES FRAUD, MISREPRESENTATION, OR DECEIT IN APPLYING FOR OR ATTEMPTING TO APPLY FOR LICENSURE.

(2) (b) ~~When a complaint or investigation discloses an instance of misconduct that, in the opinion of the director, does not warrant formal action by the director but that should not be dismissed as being without merit, a letter of admonition may be issued and sent, by certified mail, to the licensee.~~ UPON COMPLETING AN INVESTIGATION, THE DIRECTOR SHALL MAKE ONE OF THE FOLLOWING FINDINGS:

(I) THE COMPLAINT IS WITHOUT MERIT AND NO FURTHER ACTION NEED BE TAKEN.

(II) THERE IS NO REASONABLE CAUSE TO WARRANT FURTHER ACTION.

(III) THE INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT THAT DOES NOT

WARRANT FORMAL ACTION AND SHOULD BE DISMISSED, BUT THE DIRECTOR NOTICES INDICATIONS OF POSSIBLE ERRANT CONDUCT THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED. IF THIS FINDING IS MADE, THE DIRECTOR SHALL SEND A CONFIDENTIAL LETTER OF CONCERN TO THE LICENSEE.

(IV) THE INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BUT SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT. IF THIS FINDING IS MADE, THE DIRECTOR MAY SEND A LETTER OF ADMONITION TO THE LICENSEE BY CERTIFIED MAIL.

(V) THE INVESTIGATION DISCLOSES FACTS THAT WARRANT FURTHER PROCEEDINGS BY FORMAL COMPLAINT. IF THIS FINDING IS MADE, THE DIRECTOR SHALL REFER THE COMPLAINT TO THE ATTORNEY GENERAL FOR PREPARATION AND FILING OF A FORMAL COMPLAINT.

(c) (I) When a letter of admonition is sent ~~by the director~~, by certified mail to a licensee, ~~such licensee shall be advised~~ THE DIRECTOR SHALL INCLUDE IN THE LETTER A NOTICE that ~~he or she~~ THE LICENSEE has the right to request in writing, within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based.

(II) IF THE REQUEST FOR ADJUDICATION IS TIMELY MADE, THE LETTER OF ADMONITION IS VACATED AND THE DIRECTOR SHALL PROCEED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

(d) ~~If the request for adjudication is timely made, the letter of admonition shall be deemed vacated and the matter shall be processed by means of formal disciplinary proceedings.~~

(e) ~~When a complaint or investigation discloses an instance of conduct that does not warrant formal action by the director and, in the opinion of the director, the complaint should be dismissed, but the director has noticed indications of possible errant conduct by the licensee that could lead to serious consequences if not corrected, a confidential letter of concern may be issued and sent to the licensee.~~ THE DIRECTOR SHALL CONDUCT ALL PROCEEDINGS PURSUANT TO THIS SUBSECTION (2) EXPEDITIOUSLY AND INFORMALLY SO THAT NO LICENSEE IS SUBJECTED TO UNFAIR AND UNJUST CHARGES AND THAT NO COMPLAINANT IS DEPRIVED OF THE RIGHT TO A TIMELY, FAIR, AND PROPER INVESTIGATION OF A COMPLAINT.

(3) (b) Upon failure of any witness to comply with such subpoena or process, the district court of the county in which the subpoenaed person or licensee resides or conducts business, upon application by the ~~board or~~ director with notice to the subpoenaed person or licensee, may issue to the person or licensee an order requiring that person or licensee to appear before the ~~board or~~ director; to produce the relevant papers, books, records, documentary evidence, or materials if so ordered; or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

SECTION 11. 12-10-109, Colorado Revised Statutes, is amended to read:

12-10-109. Fees - boxing cash fund - created. (1) The ~~commission~~ DIRECTOR OF THE DIVISION shall establish and collect nonrefundable license fees and may establish and collect surcharges and other moneys as the ~~commission~~ DIRECTOR OF THE DIVISION deems necessary; except that such fees and surcharges shall not exceed the amount necessary to ~~carry out the provisions of~~ IMPLEMENT this article.

(2) ~~All~~ Moneys collected under this article OTHER THAN CIVIL PENALTIES shall be transmitted to the state treasurer, who shall credit the same to the division of registrations cash fund created in section 24-34-105, C.R.S., and the general assembly shall make annual appropriations pursuant to said section for expenditures of the ~~board~~ OFFICE incurred in the performance of its duties under this article. Such expenditures shall be made from such appropriations upon vouchers and warrants drawn pursuant to law. CIVIL PENALTIES COLLECTED UNDER THIS ARTICLE SHALL BE TRANSFERRED TO THE STATE TREASURER AND CREDITED TO THE GENERAL FUND.

SECTION 12. 12-10-110 (1), (2), (3), and (5), Colorado Revised Statutes, are amended to read:

12-10-110. Violations. (1) **Civil penalties.** The ~~commission~~ DIRECTOR may issue an order against any person who willfully violates this article, after providing prior notice and an opportunity for a hearing pursuant to section 24-4-105, C.R.S. The ~~commission~~ DIRECTOR may impose a civil penalty in an amount up to five thousand dollars for a single violation or twenty-five thousand dollars for multiple violations in a proceeding or a series of related proceedings.

(2) **Criminal penalties.** Any person who engages in or offers or attempts to engage in the conduct, promotion, or performance of live boxing ~~or kickboxing~~ matches without an active license or permit issued under this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and, for the second or any subsequent offense, the person commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

(3) **Injunction.** Whenever it appears to the ~~commission~~ DIRECTOR that a person has engaged or is about to engage in an act or practice that violates this article or a rule or order issued under this article, the ~~commission~~ DIRECTOR may bring an action ~~in any court of competent jurisdiction~~ to enjoin ~~such~~ THE acts or practices and to enforce compliance with this article or any ~~such~~ rule or order.

(5) **Judicial review.** Final ~~commission~~ DIRECTOR actions and orders appropriate for judicial review may be judicially reviewed in the court of appeals in accordance with section 24-4-106 (11), C.R.S.

SECTION 13. Specified effective date. This act shall take effect July 1, 2010.

SECTION 14. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 15, 2010