

HOUSE BILL No. 4447

March 3, 2005, Introduced by Reps. Robertson, Baxter, Garfield, Gosselin, Taub, LaJoy, Marleau, Shaffer, Gleason, Sak, Nitz, Ball, Stahl and Lemmons, III and referred to the Committee on Regulatory Reform.

A bill to amend 2004 PA 403, entitled
"Michigan boxing regulatory act,"
by amending sections 11, 31, 33, 34, 47, 48, and 54 (MCL 338.3611,
338.3631, 338.3633, 338.3634, 338.3647, 338.3648, and 338.3654).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. As used in this act:

2 (a) "Physician" means that term as defined in section 17001 or
3 17501 of the public health code, 1978 PA 368, MCL 333.17001 and
4 333.17501.

5 (b) "Professional" means a person who is competing or has
6 competed in boxing for a money prize.

7 (c) "Promoter" means any person who produces or stages any

1 professional contest or exhibition of boxing, **BUT DOES NOT INCLUDE**
 2 **THE VENUE WHERE THE EXHIBITION OR CONTEST IS BEING HELD UNLESS THE**
 3 **VENUE CONTRACTS WITH THE INDIVIDUAL PROMOTER TO BE A CO-PROMOTER.**

4 (d) "Purse" means the financial guarantee or any other
 5 remuneration for which professionals are participating in a contest
 6 or exhibition and includes the professional's share of any payment
 7 received for radio, television, or motion picture rights.

8 (e) "Respondent" means a person against whom a complaint has
 9 been filed who may be a person who is or is required to be licensed
 10 under this act.

11 (f) "Rule" means a rule promulgated under the administrative
 12 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

13 (g) "School", "college", or "university" does not include an
 14 institution formed or operated principally to provide instruction
 15 in boxing and other sports.

16 Sec. 31. ~~—(1) An~~ **BY FILING AN** application for a license, ~~is a~~
 17 ~~request for a determination of the applicant's~~ **AN APPLICANT DOES**
 18 **BOTH OF THE FOLLOWING:**

19 (A) **CERTIFIES HIS OR HER** general suitability, character,
 20 integrity, and ability to participate, engage in, or be associated
 21 with boxing contests or exhibitions. The burden of proof is on the
 22 applicant to establish to the satisfaction of the commission and
 23 the department that the applicant is qualified to receive a
 24 license.

25 (B) ~~—(2) By filing an application, the applicant accepts~~
 26 **ACCEPTS** the risk of adverse public notice, embarrassment,
 27 criticism, financial loss, or other action with respect to his or

1 her application and expressly waives any claim for damages as a
2 result of any adverse public notice, embarrassment, criticism,
3 financial loss, or other action. Any written or oral statement made
4 by any member of the commission or any witness testifying under
5 oath that is relevant to the application and investigation of the
6 applicant is immune from civil liability for libel, slander, or any
7 other tort.

8 ~~—— (3) An applicant must demonstrate good moral character. If the~~
9 ~~applicant for a license is denied a license due to lack of good~~
10 ~~moral character, the applicant may request an administrative~~
11 ~~hearing before a hearing officer designated by the commission. The~~
12 ~~commission, after the conduct of a hearing and upon receipt of the~~
13 ~~written findings and proposal for decision, may approve or~~
14 ~~recommend and the department may issue a license to him or her if~~
15 ~~the commission determines that the applicant's background does not~~
16 ~~reasonably relate to the activity or occupation for which he or she~~
17 ~~seeks licensure and that the applicant has the ability at the~~
18 ~~current time, and is likely, to serve the public in a fair, honest,~~
19 ~~and open manner.~~

20 Sec. 33. (1) An application for a promoter's license must be
21 in writing and correctly show and define the applicant.

22 (2) AN APPLICANT FOR A PROMOTER'S LICENSE MUST DEMONSTRATE
23 GOOD MORAL CHARACTER. IF AN APPLICANT FOR A PROMOTER'S LICENSE IS
24 DENIED A LICENSE DUE TO LACK OF GOOD MORAL CHARACTER, THE APPLICANT
25 MAY PETITION THE COMMISSION FOR A REVIEW OF THE DECISION UNDER
26 SECTION 46.

27 (3) ~~—(2)— Before any license~~ AN APPROVAL for a boxing

1 contest or exhibition is granted, ~~the applicant for a promoter's~~
2 ~~license~~ **A PROMOTER** must file a bond with the department in an
3 amount fixed by the department but not less than \$20,000.00,
4 executed by the applicant as principal and by a corporation
5 qualified under the laws of this state as surety, payable to the
6 state of Michigan, and conditioned upon the faithful performance by
7 the applicant of the provisions of this act. The department shall
8 annually adjust the amount of the bond based upon the Detroit
9 consumer price index. The bond must be purchased not less than 5
10 days before the contest or exhibition and may be used to satisfy
11 payment for the professionals, costs to the department for ring
12 officials and physicians, and drug tests.

13 (4) ~~—(3)—~~ A promoter must apply for and obtain an annual
14 license from the department in order to present a program of boxing
15 contests or exhibitions. The annual license fee is \$250.00. The
16 department shall request, and the applicant shall provide, such
17 information as it determines necessary to ascertain the financial
18 stability of the applicant.

19 (5) ~~—(4)—~~ The promoter must pay an event fee of \$125.00.

20 (6) ~~—(5)—~~ There is imposed a regulatory and enforcement fee
21 upon the promoter to assure the integrity of the sport, the public
22 interest, and the welfare and safety of the professionals in the
23 amount of 3% of the total gross receipts from the sale, lease, or
24 other exploitation of broadcasting, television, and motion picture
25 rights, but not to exceed \$25,000.00 per contract, for events to
26 which the following apply:

27 (a) The event is located in a venue with a seating capacity of

1 over 5,000.

2 (b) The promoter proposes to televise or broadcast the event
3 over any medium for viewing by spectators not present in the venue.

4 (c) The event is designed to promote professional contests in
5 this state.

6 (7) ~~—(6)—~~ At least 10 days before the event, the promoter
7 shall submit the contract subject to the regulatory and enforcement
8 fee to the department, stating the amount of the probable total
9 gross receipts from the sale, lease, or other exploitation of
10 broadcasting, television, and motion picture rights.

11 (8) ~~—(7)—~~ The money derived from the regulatory and
12 enforcement fee shall be deposited into the Michigan boxing fund
13 created in section 22 and used for the purposes described in that
14 section.

15 (9) ~~—(8)—~~ A promoter shall, within 5 business days before a
16 boxing contest or exhibition, convey to the department an executed
17 copy of the contract relative to the boxing contest or exhibition.
18 The copy of the contract is exempt from disclosure under the
19 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246,
20 except that the department may disclose statistical information on
21 the number, types, and amounts of contracts so long as information
22 regarding identifiable individuals or categories is not revealed.

23 (10) BEGINNING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
24 ADDED THIS SUBSECTION, A PROMOTER'S LICENSE IS SUBJECT TO
25 REVOCATION UNLESS AT LEAST 10% OF THE PURSE IN A CONTEST OR
26 EXHIBITION IS WITHHELD OR ESCROWED UNTIL SUCH TIME AS THE RESULTS
27 OF THE POSTCONTEST DRUG TEST, AS REQUIRED BY THIS ACT, ARE

1 AVAILABLE TO THE DEPARTMENT. IF THE DRUG TEST RESULTS CONFIRM OR
2 DEMONSTRATE COMPLIANCE WITH THIS ACT, THE DEPARTMENT SHALL ISSUE AN
3 ORDER ALLOWING THE PROMOTER TO FORWARD TO THE PROFESSIONAL THE
4 AMOUNT WITHHELD OR ESCROWED. IF THE RESULTS DO NOT CONFIRM OR
5 DEMONSTRATE COMPLIANCE WITH THIS ACT, THE DEPARTMENT SHALL SERVE A
6 FORMAL COMPLAINT ON THE PROFESSIONAL UNDER SECTION 44(2), AND THE
7 DEPARTMENT SHALL ISSUE AN ORDER TO THE PROMOTER REQUIRING THE
8 PROMOTER TO FORWARD THE AMOUNT WITHHELD OR ESCROWED TO THE
9 DEPARTMENT. UPON RECEIPT, THE DEPARTMENT SHALL DEPOSIT THE MONEY
10 INTO THE FUND. IF AFTER A HEARING THE PROFESSIONAL IS FOUND IN
11 VIOLATION OF THE ACT, THE PROFESSIONAL SHALL FORFEIT THE AMOUNT
12 WITHHELD FROM THE PURSE AND THE PROFESSIONAL IS SUBJECT TO THE
13 PENALTIES PRESCRIBED IN SECTION 48. HOWEVER, IF THE FORMAL
14 COMPLAINT IS DISMISSED OR ANY FINAL ORDER ISSUED AS THE RESULT OF
15 THE COMPLAINT IS OVERTURNED, THE DEPARTMENT SHALL ISSUE A REFUND TO
16 THE PROFESSIONAL FOR THE AMOUNT WITHHELD.

17 (11) SUBSECTION (10) DOES NOT PROHIBIT A LICENSED PROMOTER
18 FROM INCLUDING A PROVISION IN A CONTRACT WITH A PROFESSIONAL THAT
19 REQUIRES THE PROMOTER TO WITHHOLD 10% OF THE PURSE IN A CONTEST OR
20 EXHIBITION UNTIL SUCH TIME AS THE POSTCONTEST DRUG TEST RESULTS ARE
21 AVAILABLE TO THE DEPARTMENT.

22 Sec. 34. (1) The director, in consultation with the
23 commission, may promulgate rules for the application and approval
24 process for promoters. Until the rules are promulgated, the
25 applicant shall comply with the standards described in subsection
26 (2).

27 (2) The rules regarding the application process shall include

1 at least the following:

2 (a) An initial application processing fee sufficient to cover
3 the costs of processing, but not less than \$250.00.

4 (b) A requirement that background information be disclosed by
5 the applicant who is an individual or by the principal officers or
6 members and individuals having at least a 10% ownership interest in
7 the case of any other legal entity, with emphasis on the
8 applicant's business experience. ~~This information must include at
9 least 2 years of federal income tax returns of principal officers
10 or members and individuals having at least a 10% ownership interest
11 in the applicant and any financial information necessary to
12 ascertain the financial stability of those persons. The department
13 shall utilize the information described in this subdivision to
14 ascertain the financial stability of the applicant.~~

15 (c) Information from the applicant concerning past and present
16 civil lawsuits, judgments, and filings under the bankruptcy code
17 that are not more than 7 years old.

18 (d) Any other relevant and material information considered
19 necessary by the director upon consultation with the commission.

20 (3) The department may consult with the commission on issues
21 related to the determination of an applicant's financial stability
22 and shall refer the application to the commission if clear and
23 convincing grounds for approval of the financial stability aspect
24 of the application do not exist.

25 (4) As part of the approval process for promoters, the
26 commission may require the applicant or his or her representative
27 to be present at a commission meeting in which the application is

1 considered.

2 Sec. 47. (1) The department shall initiate an action under
3 this chapter against an applicant or take any other allowable
4 action against the license of any contestant, promoter, or other
5 participant who the department determines has done any of the
6 following:

7 (a) Enters into a contract for a boxing contest or exhibition
8 in bad faith.

9 (b) Participates in any sham or fake boxing contest or
10 exhibition.

11 (c) Participates in a boxing contest or exhibition pursuant to
12 a collusive understanding or agreement in which the contestant
13 competes or terminates the boxing contest or exhibition in a manner
14 that is not based upon honest competition or the honest exhibition
15 of the skill of the contestant.

16 (d) Is determined to have failed to give his or her best
17 efforts, failed to compete honestly, or failed to give an honest
18 exhibition of his or her skills in a boxing contest or exhibition.

19 (e) Is determined to have performed an act or engaged in
20 conduct that is detrimental to a boxing contest or exhibition
21 including, but not limited to, any foul or unsportsmanlike conduct
22 in connection with a boxing contest or exhibition.

23 (f) Gambles on the outcome of a boxing contest or exhibition
24 in which he or she is a contestant, promoter, matchmaker, ring
25 official, or second.

26 (g) Assaults another licensee, commission member, or
27 department employee while not involved in or while outside the

1 normal course of a boxing contest or exhibition.

2 **(H) PRACTICES FRAUD OR DECEIT IN OBTAINING A LICENSE.**

3 (2) The department, in consultation with the commission, shall
4 promulgate rules to provide for both of the following:

5 (a) The timing of drug tests for contestants.

6 (b) Specific summary suspension procedures for boxing
7 contestants and participants who test positive for drugs or fail to
8 submit to a drug test, under section 48(4). The rules shall include
9 the following:

10 (i) A procedure to allow the department to place the licensee
11 upon the national suspension list.

12 (ii) An expedited appeal process for the summary suspension.

13 (iii) A relicensing procedure following summary suspension.

14 (3) An employee of the department must be present at all
15 weigh-ins, medical examinations, contests, exhibitions, and matches
16 to ensure that this act and rules are strictly enforced.

17 (4) Each promoter shall furnish each member of the commission
18 present at a boxing contest or exhibition a seat in the area
19 immediately adjacent to the boxing contest or exhibition. An
20 additional seat shall be provided in the venue.

21 (5) The commission chair, a commission member assigned by the
22 chair, or a department official designated by the commission chair
23 shall have final authority involving any conflict at a contest,
24 exhibition, or match and shall advise the chief inspector in charge
25 accordingly. In the absence of the chair, an assigned member, or a
26 department official designated by the commission chair, the chief
27 inspector in charge shall be the final decision-making authority.

1 Sec. 48. (1) Upon receipt of an application for reinstatement
2 and the payment of an administrative fine prescribed by the
3 commission, the commission may reinstate a revoked license or lift
4 a suspension. If disciplinary action is taken against a person
5 under this act that does not relate to a boxing contest or
6 exhibition, the commission may, in lieu of suspending or revoking a
7 license, prescribe an administrative fine not to exceed \$10,000.00.
8 If disciplinary action is taken against a person under this act
9 that relates to the preparation for a boxing contest or an
10 exhibition, the occurrence of a boxing contest or an exhibition, or
11 any other action taken in conjunction with a boxing contest or an
12 exhibition, the commission may prescribe an administrative fine in
13 an amount not to exceed 100% of the share of the purse to which the
14 holder of the license is entitled for the contest or exhibition or
15 an administrative fine not to exceed \$100,000.00 in the case of any
16 other person. This administrative fine may be imposed in addition
17 to, or in lieu of, any other disciplinary action that is taken
18 against the person by the commission.

19 (2) If an administrative fine is imposed under this section,
20 the commission may recover the costs of the proceeding, including
21 investigative costs and attorney fees. The department or the
22 attorney general may bring an action in a court of competent
23 jurisdiction to recover any administrative fines, investigative and
24 other allowable costs, and attorney fees. The filing of an action
25 to recover fines and costs does not bar the imposition of other
26 sanctions under this act.

27 (3) An employee of the department, in consultation with any

1 commission member present, may issue an order to withhold the purse
2 for 3 business days due to a violation of this act or a rule
3 promulgated under this act. During that 72-hour time period, the
4 commission may convene a special meeting to determine if the action
5 of the employee of the department was warranted. If the commission
6 determines that the action was warranted, the department shall
7 offer to hold an administrative hearing as soon as practicable but
8 within at least 7 calendar days.

9 (4) A professional or participant in a professional boxing
10 contest or exhibition shall submit to a postexhibition test of body
11 fluids to determine the presence of controlled substances,
12 prohibited substances, or enhancers. The department shall
13 promulgate rules to set requirements regarding preexhibition tests
14 of body fluids to determine the presence of controlled substances,
15 prohibited substances, or enhancers.

16 (5) The promoter is responsible for the cost of the testing
17 performed under this section.

18 ~~—— (6) The director shall withhold 10% of the purse in a contest~~
19 ~~or exhibition until the postcontest drug tests are available to the~~
20 ~~department. If the results do not confirm or demonstrate compliance~~
21 ~~with this act, the money withheld shall be deposited into the fund.~~

22 (6) ~~—(7)—~~ Either of the following is grounds for summary
23 suspension of the individual's license in the manner provided for
24 in section 42:

25 (a) A test resulting in a finding of the presence of
26 controlled substances, enhancers, or other prohibited substances as
27 determined by rule of the commission.

1 (b) The refusal or failure of a contestant to submit to the
2 drug testing ordered by an authorized person.

3 Sec. 54. (1) In addition to the requirements of section 53, a
4 person seeking a license as a professional judge shall score,
5 unofficially, not fewer than 200 rounds of ~~amateur~~ **PROFESSIONAL**
6 boxing. In order to fulfill the requirements of this subsection, an
7 applicant shall only unofficially judge contests that are approved
8 by the commission for that purpose. An applicant shall not receive
9 compensation for judging boxing contests or exhibitions under this
10 subsection. Scorecards shall be transmitted to the department and
11 the commission for review and evaluation.

12 (2) An employee authorized by the department or the commission
13 shall complete a standardized evaluation sheet for each boxing
14 contest or exhibition judged by a licensee. The commission shall
15 annually review the evaluation sheets. A commission member
16 attending a boxing contest or exhibition may also submit to the
17 department a standardized evaluation sheet.