

Act No. 49
Public Acts of 2005
Approved by the Governor
June 23, 2005
Filed with the Secretary of State
June 23, 2005
EFFECTIVE DATE: June 23, 2005

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005**

**Introduced by Reps. Robertson, Baxter, Garfield, Gosselin, Taub, LaJoy, Marleau, Shaffer, Gleason,
Sak, Nitz, Ball, Stahl and Lemmons, III**

ENROLLED HOUSE BILL No. 4447

AN ACT to amend 2004 PA 403, entitled "An act to regulate certain forms of boxing; to create certain commissions and to provide certain powers and duties for certain state agencies and departments; to license and regulate certain persons engaged in boxing, certain persons connected to the business of boxing, and certain persons conducting certain contests and exhibitions; to confer immunity under certain circumstances; to provide for the conducting of certain tests; to assess certain fees; to create certain funds; to promulgate rules; to provide for penalties and remedies; and to repeal acts and parts of acts," 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:

Sec. 11. As used in this act:

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

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

(c) "Promoter" means any person who produces or stages any professional contest or exhibition of boxing, but does not include the venue where the exhibition or contest is being held unless the venue contracts with the individual promoter to be a co-promoter.

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

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

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

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

Sec. 31. By filing an application for a license, an applicant does both of the following:

(a) Certifies his or her general suitability, character, integrity, and ability to participate, engage in, or be associated with boxing contests or exhibitions. The burden of proof is on the applicant to establish to the satisfaction of the commission and the department that the applicant is qualified to receive a license.

(b) Accepts the risk of adverse public notice, embarrassment, criticism, financial loss, or other action with respect to his or her application and expressly waives any claim for damages as a result of any adverse public notice, embarrassment, criticism, financial loss, or other action. Any written or oral statement made by any member of the commission or any witness testifying under oath that is relevant to the application and investigation of the applicant is immune from civil liability for libel, slander, or any other tort.

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

(2) An applicant for a promoter's license must demonstrate good moral character. If an applicant for a promoter's license is denied a license due to lack of good moral character, the applicant may petition the commission for a review of the decision under section 46.

(3) Before an approval for a boxing contest or exhibition is granted, a promoter must file a bond with the department in an amount fixed by the department but not less than \$20,000.00, executed by the applicant as principal and by a corporation qualified under the laws of this state as surety, payable to the state of Michigan, and conditioned upon the faithful performance by the applicant of the provisions of this act. The department shall annually adjust the amount of the bond based upon the Detroit consumer price index. The bond must be purchased not less than 5 days before the contest or exhibition and may be used to satisfy payment for the professionals, costs to the department for ring officials and physicians, and drug tests.

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

(5) The promoter must pay an event fee of \$125.00.

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

(a) The event is located in a venue with a seating capacity of over 5,000.

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

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

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

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

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

(10) Beginning the effective date of the amendatory act that added this subsection, a promoter's license is subject to revocation unless at least 10% of the purse in a contest or exhibition is withheld or escrowed until such time as the results of the postcontest drug test, as required by this act, are available to the department. If the drug test results confirm or demonstrate compliance with this act, the department shall issue an order allowing the promoter to forward to the professional the amount withheld or escrowed. If the results do not confirm or demonstrate compliance with this act, the department shall serve a formal complaint on the professional under section 44(2), and the department shall issue an order to the promoter requiring the promoter to forward the amount withheld or escrowed to the department. Upon receipt, the department shall deposit the money into the fund. If after a hearing the professional is found in violation of the act, the professional shall forfeit the amount withheld from the purse and the professional is subject to the penalties prescribed in section 48. However, if the formal complaint is dismissed or any final order issued as the result of the complaint is overturned, the department shall issue a refund to the professional for the amount withheld.

(11) Subsection (10) does not prohibit a licensed promoter from including a provision in a contract with a professional that requires the promoter to withhold 10% of the purse in a contest or exhibition until such time as the postcontest drug test results are available to the department.

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

(2) The rules regarding the application process shall include at least the following:

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

(b) A requirement that background information be disclosed by the applicant who is an individual or by the principal officers or members and individuals having at least a 10% ownership interest in the case of any other legal entity, with emphasis on the applicant's business experience.

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

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

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

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

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

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

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

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

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

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

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

(g) Assaults another licensee, commission member, or department employee while not involved in or while outside the normal course of a boxing contest or exhibition.

(h) Practices fraud or deceit in obtaining a license.

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

(a) The timing of drug tests for contestants.

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

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

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

(iii) A relicensing procedure following summary suspension.

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

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

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

Sec. 48. (1) Upon receipt of an application for reinstatement and the payment of an administrative fine prescribed by the commission, the commission may reinstate a revoked license or lift a suspension. If disciplinary action is taken against a person under this act that does not relate to a boxing contest or exhibition, the commission may, in lieu of suspending or revoking a license, prescribe an administrative fine not to exceed \$10,000.00. If disciplinary action is

taken against a person under this act that relates to the preparation for a boxing contest or an exhibition, the occurrence of a boxing contest or an exhibition, or any other action taken in conjunction with a boxing contest or an exhibition, the commission may prescribe an administrative fine in an amount not to exceed 100% of the share of the purse to which the holder of the license is entitled for the contest or exhibition or an administrative fine not to exceed \$100,000.00 in the case of any other person. This administrative fine may be imposed in addition to, or in lieu of, any other disciplinary action that is taken against the person by the commission.

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

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

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

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

(6) Either of the following is grounds for summary suspension of the individual's license in the manner provided for in section 42:

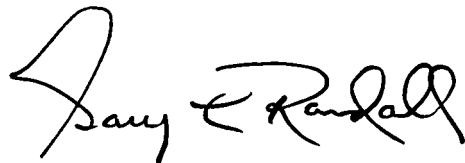
(a) A test resulting in a finding of the presence of controlled substances, enhancers, or other prohibited substances as determined by rule of the commission.

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

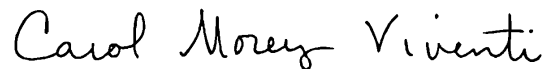
Sec. 54. (1) In addition to the requirements of section 53, a person seeking a license as a professional judge shall score, unofficially, not fewer than 200 rounds of professional boxing. In order to fulfill the requirements of this subsection, an applicant shall only unofficially judge contests that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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

.....
Governor