

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Kansen Chu, Chair

AB 1523 (Committee on Business and Professions) – As Introduced February 22, 2019

SUBJECT: State Athletic Commission.

SUMMARY: Extends the operation of the California State Athletic Commission until January 1, 2024.

EXISTING FEDERAL LAW: The Muhammad Ali Boxing Reform Act (Federal Boxing Act) prohibits events from taking place in a state without a regulatory commission unless the fight is regulated by either another state's commission or on sovereign tribal land.
(Title 15 U.S.C. § 6303)

EXISTING STATE LAW:

- 1) The Boxing Act, or State Athletic Commission Act (State Act), provides for the licensing and regulation of boxers, kickboxers, martial arts athletes and events held in California by the California State Athletic Commission (Commission) within the Department of Consumer Affairs (DCA) and makes the Commission inoperative and repealed on January 1, 2020. (Business and Professions Code (BPC) § 18600 *et seq.*)
- 2) Until January 1, 2020, establishes the Commission, comprised of seven members, five members appointed by the Governor and subject to confirmation by the Senate Committee on Rules confirmation, one member appointed by the Senate Committee on Rules and one member appointed by the Speaker of the Assembly. Specifies that efforts should be made to ensure at least four members have experience in either medicine as a licensed physician or surgeon specializing in neurology, neurosurgery, head trauma or sports medicine, financial management, public safety, and the sports regulated by the Commission. Renders the Commission subject to review by the appropriate policy committees of the Legislature. Authorizes the Commission to appoint a person exempt from civil service as Executive Officer (EO). (BPC §§ 18602 and 18613)
- 3) Provides the Commission with sole direction, management, control of, and jurisdiction over all professional and amateur boxing, professional and amateur kickboxing, all forms and combinations of forms of full contact martial arts contests, including mixed martial arts, and matches or exhibitions conducted, held, or given within this state. Provides that no event shall take place without the prior approval of the Commission and that no person shall engage in the promotion of, or participate in, a boxing or martial arts contest, match, or exhibition without a license, and except in accordance with the State Act. (BPC § 18640)

FISCAL EFFECT: Unknown. This measure has been keyed fiscal by the Legislative Council.

COMMENTS:

- 1) *Stated need for legislation.* According to the Author, this bill is necessary to extend the sunset date of the Commission in order to ensure the protection, health, welfare and safety of

the athletes and fighters licensed by the Commission who participate in sports and events the Commission oversees. Information provided to the committee demonstrates further need for extension of the Sunset date, as Federal Law, the Muhammad Ali Boxing Reform Act (Boxing Act) prohibits events from taking place in a state without a regulatory commission unless the fight is regulated by either another state's commission or on sovereign tribal land. Regulated events result in higher levels of protection for fighters than unauthorized or illegal events, in addition to added revenue for the state and a boon to the local economy where events take place.

2) *Background:*

- a) *California State Athletic Commission.* Concerned with athlete injuries and death, the public established the Commission by initiative in 1924. The Commission is responsible for protecting the health and safety of its licensees: boxers, kickboxers, and other martial arts athletes. The Commission, now comprised of seven members, is also responsible for implementation and enforcement of the Federal Muhammad Ali Boxing Reform Act (Federal Boxing Act) and the California Boxing Act or State Athletic Commission Act (State Act). It provides direction, management, and control for professional and amateur boxing, professional and amateur kickboxing, and all forms and combinations of full contact martial arts contests, including mixed martial arts (MMA) and matches or exhibitions conducted, held or given in California. The Commission has four main functions: licensing, enforcement, regulating events and administering the Professional Boxers' Pension Fund (Pension Fund).

Specifically, the Commission establishes requirements for licensure, issues and renews licenses, approves and regulates events, assigns ringside officials, investigates complaints received, and enforces applicable laws by issuing fines and suspending or revoking licenses.

As a special fund entity, the Commission receives no General Fund (GF) support, relying solely on fees set in statute and collected from regulatory and license fees. For each event held in California that the Commission regulates, the Commission collects a "gate fee" from the event promoter, which is a 5% fee on gross ticket sales for that event, not to exceed \$100,000. The Commission also collects a "TV fee" from the event promoter if the event is broadcast on television, which is a 5% fee on the revenue a promoter collects from broadcasting rights, not to exceed \$35,000. The Commission receives over 70% of its revenue from these fees.

The Commission licenses a number of individuals related to the participation in, oversight for, and management of events in California. The Commission does not require any formal education requirements for licensure of fighters, promoters, managers, seconds, matchmakers, referees, judges and timekeepers. However, licensees must possess a minimum level of skill to enable them to safely compete against one another and demonstrate their ability to perform. Licensees who do not fall into the combatant category such as referees, judges, timekeepers and ringside physicians (who are approved by the Commission) must have adequate knowledge of laws and rules so as not to jeopardize the health and safety of athletes. Many of the Commission's licensees must also pass competency exams provided by the Commission unless they are licensed in other jurisdictions. Fighters must also pass medical examinations that determine whether

his or her health or safety may be compromised by licensure and participation in an event.

The Commission has direct disciplinary authority to issue immediate suspensions and fines to ensure violations by Commission licensees are handled and reported quickly. The Commission also has the ability to issue cease and desist orders for unauthorized, illegal events in addition to the suspensions and license revocations for violations of the State Act and accompanying Commission regulations and rules. The Commission partners with the Office of the Attorney General (AG) when license revocations, suspension or application denials are appealed. The Commission also conducts arbitrations for its licensees when disputes arise within either the boxer-manager or boxer-promoter agreements and has sole authority over these arbitration proceedings. The Commission's citation and fine option allows the Commission to penalize licensees rather than pursue formal discipline for less serious offenses, or offenses where probation or license revocation is not appropriate.

- 3) *Sunset Review*. On February 26, 2019, the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee and Arts, Entertainment, Sports, Tourism and Internet Media Committee (Committees) conducted a joint oversight hearing to review the California State Athletic Commission, as part of our regulatory oversight authority. The hearing Background Paper identified 14 different areas of concern for the Commission to address, some which require legislation to resolve, and others which were related to Commission actions and regulatory process. This bill is intended to implement legislative changes as recommended by staff of the Committees and which are reflected in that Background Paper. The following are some of the major issues pertaining to the Commission along with background information and the Commission response concerning the particular issue.

Issues Identified and Recommended Changes which would require legislation to implement.

- a) **ISSUE: Volatile Revenues.** What steps, if any, are available to ensure the Commission has consistent and predictable revenue streams?

Commission Response: Background: Licensing fees make up less than 15% of the Commission's overall revenues and licensing revenues are much less stable than other licensing boards as many fighters and promoters only get licensed in California if and when they intend to promote or compete here. Any increase in the already substantial cost of the license, we know from experience, will most likely cause a drop in the overall licensed population thereby decreasing revenues.

What we do recommend and are requesting is allowing the Commission to increase the events cap fee amounts. The increased amounts would only affect the largest of shows i.e. shows with revenues in the million-dollar plus range. The larger shows are better able and more likely accept reasonable fee increases. Consequently, we predict minimal disruption and opposition. Our recommendation is progressive and will not impact any of the small or medium promoters and most importantly will be able to generate additional revenue, should the Commission need it, without having to raise license fees.

- b) ISSUE: Chief Athletic Inspector. Should the Commission's Chief Athletic Inspector and Assistant CAI positions be reauthorized in statute?

Commission Response: Yes, it is the Commission's clear position that the Chief and Assistant Chief Athletic Inspector positions are essential to the sustainability, redundancy and operational reliability of the Commission---particularly as we continue to regulate more and more events. Consequently, we respectfully request that the positions be reauthorized in statute.

- c) ISSUE: Auditor Recommendation: Neurological Examination Ticket Assessments. Are there any options for accelerating the process for establishing the Commission's fee assessment on tickets for the Neurological Examination Account?

Commission Response: The Commission approved proposed changes regarding medical examinations procedures and a Neurological Examination Assessment. This rulemaking package was submitted to the Department of Consumer Affairs for review and approval on August 29, 2017. Per current procedures in place by DCA, the Commission must wait for the review and approval of DCA before it can publish the proposed regulation changes to the Office of Administrative Law (OAL). Considering that the process takes approximately 1 year after publication, the Commission expects final approval by OAL and implementation by December 1, 2019. Of course, this is all dependent on final approval by DCA, which as of this date the Commission has not received.

An option to accelerating the process for establishing the medical examinations procedures and a Neurological Examination Assessment would be if the Legislature made changes to include these provisions in statute and allow the Commission to make additional changes, if needed, through regulation in the future.

- d) ISSUE: Research Partnerships and Data Analysis. Does the Commission need additional authority to collect data and form partnerships with academic research programs?

Commission Response: The Commission plans to use various forms of the data it collects such as weight, concussion management data, win/loss, knock out ratio, boxing severity index data, and various other data points to conduct original research contributing to the health and safety of participants and through collaborative relationships by sharing it with interested academic research programs. The goal will be to provide additional preventive education to the athlete and to create updated algorithms that can better protect athletes and identify patterns and correlations that signal potential health and safety-related problems. The Commission requests that the Legislature clarify in statute that it can engage with academic research programs with the caveat that the medical privacy of the athletes is protected.

- e) ISSUE: Unsanctioned Events. What are the Commission's options for actively regulating "smokers," rather than passively waiting for complaints or hearing about them via social media or blogs?

Commission Response: The Commission focuses considerable resources to regulate smaller events as the numerous smaller events serve to allow athletes experience and development similar to the baseball "farm system" model and example being turning

successful club level fighters into next level or elite competitors fighting at larger events. California has a healthy combat sports market with many small, medium, and large combat sporting events. The primary way to regulate multiple and varied events is both directly and through our delegated entities.

The Commission plans to submit a budget change proposal for the next fiscal year and is hoping to gain more enforcement appropriation. The need for a Chief Athletic Inspector and Assistant Chief Athletic Inspector, specifically based in Southern California where many of the events take place, is critical when considering the issue of enforcement and education for unsanctioned events. The Commission has made considerable progress by delegating portions of this regulation to approved delegated entities, but the need for additional staff and specifically the Chief and Assistant Chief to properly address unsanctioned events is necessary to the Commission carrying out its enforcement responsibilities.

- f) ISSUE: Out-of-Competition Use of Prohibited Substance. If necessary, is there a way to strengthen the ability to deter and detect the use of prohibited substance use that may avoid detection or provide unfair advantages in the long-term?

Commission Response: One potential solution is that the Legislature could consider granting the Commission a continuous appropriation specifically for enforcement purposes only. This would allow the Commission flexibility to expand testing as needed depending on the number of fights in any given year.

- g) ISSUE: Technical Cleanup request.

Commission Response: The Commission already has the authority to assess a fee for internet and/or streaming media, but perhaps a technical cleanup, proposed below would clarify the authority and avoid any dispute or confusion.

(3) A fee of up to 5 %, to be established by the Commission, through regulations, to become operative on or before July 1, 2008, and updated periodically as needed, of the gross price, exclusive of any federal taxes paid thereon, for the sale, lease, or other exploitation of broadcasting, internet media, or television rights thereof, except that in no case shall the fee be less than one thousand dollars (\$1,000) or more than thirty-five thousand dollars (\$35,000). (The Committee suggests the addition of internet media, streaming and application-based content.)

Review of the Commission: Issues Identified and Recommended Changes which are regulatory or process matters.

- a) ISSUE: Outdated Technology Systems. What is the status of the Commission's upgrade to a new license tracking system?

Commission Response: According to the Department of Consumer Affairs, Business Modernization efforts, including license tracking, consists of three major areas: Business Activities, the Project Approval Lifecycle, and Project Execution. The proposed upgrade schedule for the Commission estimates completion 10/02/2023.

- b) ISSUE: Transgender Licensure. Does the Commission have plans for reducing stigma and lack of understanding as to transgender and other LGBTQ issues among the combat sports community and the public in general?

Commission Response: The Commission and Executive Officer are working on the following activities, including establishing a Gender Equality Subcommittee that is actively meeting and coordinating stakeholder input on several related issues with a report expected at the December 2019 Commission meeting, approving the first transgender athlete bout in December 2018; working closely with the national Association of Boxing Commissions (ABC) Medical Committee to host a discussion at the ABC's national convention this summer on eliminating bias against transgender athletes. "As CA goes, so goes the nation," and; convening a stakeholder meeting in the summer in Southern California to discuss this issue along with the gender equity gap in combat sports.

- c) ISSUE: Neurological Examinations. How is the new C3Logix system working so far, and what are the options for using the data collected now and in the long term?

Commission Response: The system is working very well. Data collection is efficient and has been well integrated into our processes and procedures. The Commission has performed, to date, over one thousand (1000) C3 Logix exams since the inception of the Program in December 2016.

- d) ISSUE: Pension Reform. What is the Commission's plan for reforming and expanding its boxing pension program?

Commission Response: The Commission's outreach efforts regarding the Pension Plan have significantly improved over the past several years. The Commission recently published, on its web site and through social media, a list of all potential claimants. In addition, the Commission is currently exploring options on including the Boxer Pension Plan information to its Professional Athlete Application. The Commission is also obtaining bids for services from companies that offer locater services to locate potential claimants.

- 4) *Double Referral*. Should this bill pass out this committee, it will be re-referred to the Assembly Committee on Business and Professions.

- 5) *Prior and related legislation*.

- a) SB 439 (Hill), Chapter 316, Statutes of 2015, extended the operation of the California State Athletic Commission (Commission) until January 1, 2020, and makes changes to the laws governing the Commission's operations and the Commission's oversight of professional and amateur combat sports, as specified, held or given in California.
- b) SB 309 (Lieu), Chapter 370, Statutes of 2013, extended the operation of the California State Athletic Commission until 2016.
- c) AB 1186 (Bonilla), Chapter 506, Statutes of 2013, clarified that the California State Athletic Commission is authorized to regulate all forms of full contact martial arts

contests involving participants 18 years of age or younger, including all forms and combinations of forms of full contact martial arts contests deemed by the Commission to be similar, and that an amateur contest includes a contest where full contact is used, even if unintentionally.

- d) AB 2100 (Alejo) of 2012, would have required that the Commission, in consultation with the Association of Boxing Commissions (ABC), to establish and enforce a professional code of conduct, as specified, and that persons seeking payment as promoters must make specified disclosures to the CSAC prior to being compensated. (Status: The bill was held in the Assembly Committee on Appropriations.)
- e) SB 543 (Price), Chapter 448, Statutes of 2011, extended the Commission sunset date for 2 years, from January 1, 2012 to January 1, 2014.
- f) SB 294 (Negrete McLeod), Chapter 695, Statutes of 2010, extended the Commission sunset date for one year, from January 1, 2011 to January 1, 2012.
- g) SB 963 (Ridley-Thomas), Statutes of 2008, extended the Commission sunset date from July 1, 2009 to January 1, 2011.
- h) SB 247 (Perata), Chapter 465, Statutes of 2006, reestablished the Commission on January 1, 2007, as an independent board through July 1, 2009.

REGISTERED SUPPORT / OPPOSITION:**Support**

There is no support on file.

Opposition

There is no opposition on file.

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