

HOUSE BILL No. 2125

AN ACT concerning the Kansas professional regulated sports act; pertaining to violations; pertaining to civil penalties; pertaining to fees; pertaining to rules and regulations; amending K.S.A. 2010 Supp. 74-50,181, 74-50,182, 74-50,185, 74-50,186, 74-50,187, 74-50,189, 74-50,193 and 74-50,194 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Any person who violates any provision of this act or any rule and regulation adopted hereunder may incur, in addition to any other penalty provided by law, a civil penalty in an amount fixed by the commission not to exceed \$10,000 for each violation. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation. In determining the amount of the civil penalty, the commission shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs and any corrective actions taken.

(b) All civil penalties assessed under this section shall be due and payable at the time of the violation. All payment of civil penalties assessed shall be held in an escrow fund by the boxing commissioner for 30 days after service on the person upon whom the penalty is being imposed. If a person upon whom a civil penalty has been imposed appeals the assessment, such assessment shall be held in the escrow fund until the commission affirms, reverses or modifies imposing the civil penalty. Once the assessment of the civil penalty becomes a final order, the commission shall deposit the amount of such assessment in the athletic fee fund. If the person who has been assessed a civil penalty does not appeal such assessment as provided in this section, the amount of the civil penalty assessed shall be deposited in the athletic fee fund.

(c) No civil penalty shall be imposed under this section except upon the written order of the commissioner to the person upon whom the penalty is to be imposed, stating the nature of the violation, the penalty imposed and the right of the person upon whom the penalty is imposed to appeal to the commission. Within 15 days after service of the order imposing the civil penalty, the person upon whom the civil penalty has been imposed may make written request to the commission for a hearing or informal conference hearing in accordance with the provisions of the Kansas administrative procedure act. The commission shall affirm, reverse or modify the order and shall specify the reasons therefor. The decision of the commission shall be final unless review is sought under subsection (d).

(d) Any person aggrieved by an order of the commission made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

(e) Any civil penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the athletic fee fund.

(f) This section shall be a part of and supplemental to the Kansas professional regulated sports act.

Sec. 2. K.S.A. 2010 Supp. 74-50,181 is hereby amended to read as follows: 74-50,181. K.S.A. 2010 Supp. 74-50,181 through 74-50,196 and section 1, and amendments thereto, shall be known and may be cited as the Kansas professional regulated sports act.

Sec. 3. K.S.A. 2010 Supp. 74-50,182 is hereby amended to read as follows: 74-50,182. As used in the Kansas professional regulated sports act:

(a) *Amateur mixed martial arts* means any form of martial arts or self-defense conducted on a full-contact basis in a contest without weapons and in which the contestants compete without valuable consideration.

~~(b)~~ (b) "Bout" means one match involving a regulated sport.

~~(c)~~ (c) "Commission" means the athletic commission or the commission's designee.

~~(d)~~ (d) "Contest" means a bout or a group of bouts involving licensed contestants competing in a regulated sport.

~~(e)~~ (e) "Contestant" means a person who ~~competes~~ is licensed by the commission to compete in a regulated sport.

~~(f)~~ (f) "Fund" means the athletic fee fund.

~~(g)~~ (g) ~~"Mandatory count of eight" means a required count of eight that is given by a referee to a contestant who has been knocked down.~~ *Grappling arts* means any form of grappling including, but not limited to, Brazilian jujitsu, catch wrestling, judo, luta livre esportiva, sambo,

shoot wrestling, shooto and shuai Jiao conducted on a full-contact basis in a bout or contest without weapons or striking and where contestants may compete for valuable consideration.

~~(g)~~ (h) “Noncompetitive ~~boxing sparring~~” means boxing, ~~or sparring~~ kickboxing or mixed martial arts where a decision is not rendered.

(i) “Pankration” means a martial art system which includes elements of karate, tae-kwon-do, jujitsu, kempo, kung-fu, wrestling, and submission grappling.

~~(h)~~ (j) “Professional boxing” means the sport of attack and defense which uses the fists and where contestants compete for valuable consideration.

~~(i)~~ (k) “Professional full-contact karate” means any form of full-contact martial arts including but not limited to full-contact kung fu, full-contact tae-kwon-do or any form of martial arts or self-defense conducted on a full-contact basis in a bout or contest ~~with or~~ without weapons and where contestants *may* compete for valuable consideration. ~~Such contests take place in a rope enclosed ring and are fought in timed rounds.~~

~~(j)~~ (l) “Professional kickboxing” means any form of ~~boxing~~ kickboxing in which blows are delivered with any part of the arm below the shoulder, including the hand, and any part of the leg below the hip, including the foot, and where contestants compete for valuable consideration. ~~Such contests take place in a rope enclosed ring and are fought in timed rounds.~~

~~(k)~~ (m) “Professional mixed martial arts” means any form of martial arts or self-defense conducted on a full-contact basis in a bout or contest ~~with or~~ without weapons and where contestants compete for valuable consideration. ~~Such contests take place in an enclosed ring and are fought in timed rounds.~~

~~(l)~~ (n) “Professional wrestling” means any performance of wrestling skills and techniques by two or more professional wrestlers, to which any admission is charged. Participating wrestlers may not be required to use their best efforts in order to win. The winner may have been selected before the performance commences and contestants compete for valuable consideration. ~~Such contests take place in a rope enclosed ring and are fought in timed rounds.~~

~~(m)~~ (o) “Regulated sports” means professional boxing, sparring, professional kickboxing, professional *and amateur* mixed martial arts, *grappling arts, pankration, professional wrestling* and professional full-contact karate.

~~(n)~~ (p) “Sparring” means boxing, kickboxing, professional *and amateur* mixed martial arts, *grappling arts, pankration, or full-contact karate* for practice or as an exhibition.

Sec. 4. K.S.A. 2010 Supp. 74-50,185 is hereby amended to read as follows: 74-50,185. (a) In accordance with the provisions of the Kansas civil service act, the commission may appoint such *chief inspectors, inspectors, agents, clerical and administrative personnel* as may be necessary to assist in performing the powers, duties and functions of the commission and the boxing commissioner. ~~The boxing commissioner shall not perform duties of an inspector.~~

(b) *The boxing commissioner may contract with inspectors and such other persons as in the commissioner’s judgment may be necessary to properly administer the provisions of this act. Such persons shall be under the direct supervision of the boxing commissioner. The boxing commissioner shall not perform duties of an inspector.*

(c) *The commission shall have the authority to adopt rules and regulations for the certification and payment of inspectors. The commission shall adopt such rules and regulations on or before July 1, 2012.*

Sec. 5. K.S.A. 2010 Supp. 74-50,186 is hereby amended to read as follows: 74-50,186. (a) The commission shall have general charge and supervision of all regulated sports ~~and professional wrestling performances~~ held in the state. The commission may enter into agreements with the federal bureau of investigation, the federal internal revenue service, the Kansas attorney general or any state, federal or local agency as necessary to carry out the duties of the commission under this act.

(b) The commission shall accept applications for and may issue licenses to any person, organization, corporation, partnership, limited liability company or association desiring to promote regulated sports contests if such person holds a promoter’s license from an organization which has been in

existence and has held meetings at regular intervals during the entire year immediately preceding the granting of the license. The commission shall accept applications and may issue licenses to referees, judges, physicians, managers, contestants, timekeepers, seconds, promoters, *announcers* and matchmakers for regulated sports contests. A license fee of not less than \$20 shall accompany any application for licensure. Unless revoked for cause, all licenses issued under this subsection and all renewals thereof shall expire on June 30 of the year succeeding the year in which they were issued. Licenses shall be renewable from year to year upon the filing of a renewal application prior to the expiration of each such license and payment of the fee therefor.

(c) The commission shall fix and collect a ~~tax imposed~~ *fee assessed* against the gross receipts of every regulated sports contest held. The ~~tax~~ *fee* shall be fixed in an amount which, together with all other revenues of the commission, is sufficient to pay the cost of administering and enforcing the provisions of this act, but not to exceed 5%.

(d) ~~The commission shall recommend a taxing and fee structure for all regulated sports and submit such recommendations to the legislature on or before January 1, 2005. The commission shall fix and collect a fee assessed upon the gross revenues received by a promoter and by any media network that televises a regulated sports contest held including, but not limited to, pay-per-view or internet broadcast. The fee shall be fixed in an amount which, together with all other revenues of the commission, is sufficient to pay the cost of administering and enforcing the provisions of this act, but not to exceed 2%.~~

(e) The commission shall suspend or revoke any license issued by the commission for violations of this act or K.S.A. 21-1801, and amendments thereto, or rules and regulations adopted pursuant thereto.

(f) The commission shall assist promoters in developing marketing strategies for contests.

(g) For the purpose of ascertaining compliance with any of the provisions of this act or any rules and regulations adopted pursuant thereto, the commission may request a court to issue subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any licensee or officer, member, employee or agent of any licensee, or to compel the appearance of any licensee or officer, member, employee or agent of any licensee, or of any person subject to the provisions of this act. Subpoenas issued pursuant to this subsection may be served upon individuals and corporations in the same manner provided in K.S.A. 60-304, and amendments thereto, for the service of process by any officer authorized to serve subpoenas in civil actions or by the commission or an agent or representative designated by the commission. In the case of the refusal of any person to comply with any such subpoena, the commission may make application to the district court of any county where such books, papers, records, memoranda or person is located for an order to comply.

Sec. 6. K.S.A. 2010 Supp. 74-50,187 is hereby amended to read as follows: 74-50,187. (a) The commission shall adopt any rules and regulations necessary to implement the provisions of this act *on or before July 1, 2012*. Such rules and regulations shall include, but not be limited to, provisions concerning:

(1) The conduct of regulated sports contests, the time and place of such contests and the prices charged for admission thereto.

(2) The issuance of a license under this section and to prescribe qualifications for licensees.

(3) Fees necessary to fund the expenses and operating costs incurred in the administration and enforcement of the provisions of this act.

(4) Standards of conduct, officials required, ring size and construction, age restrictions for contestants, limitations on the number of matches in which a contestant may participate, classification of weight divisions, protective gear, selection of judges and other matter concerning regulated sports deemed necessary by the commission.

(5) The acquisition of liability insurance, indemnity coverage and surety bonds in amounts determined by the commission.

(6) Procedures and conditions for limitation, suspension and revocation of licenses.

(7) *Procedures and requirements for testing for drugs and communicable diseases.*

(8) *The amount of any fees to be assessed upon the gross revenues received by any promoter, broadcaster, media network or distributor who electronically distributes or televises a regulated sports contest including, but not limited to, pay-per-view or internet broadcast.*

(9) *The requirements for full disclosure between any promoter, broadcaster, media network or distributor who electronically distributes or televises a regulated sports contest including, but not limited to, pay-per-view or internet broadcast.*

(10) *Any other rules and regulations deemed necessary by the commission for the administration of the televising, broadcasting or distributing of a regulated sports contest including, but not limited to, pay-per-view or internet broadcast.*

~~(7)~~ (11) Any other matter deemed necessary by the commission to implement and enforce the provisions of this act.

(b) The commission may adopt rules and regulations concerning professional wrestling ~~to the extent authorized by this subsection. Nothing in this subsection shall be construed as subjecting professional wrestling to full regulation by the commission.~~ Rules and regulations concerning professional wrestling shall *may* be limited to the following:

(1) Requirements that a physician or other emergency medical provider be present at the performance.

(2) Requirements that the promoter notify the commission regarding the location, date and time of a performance.

(3) The payment of fees.

(4) *The acquisition of liability insurance, indemnity coverage and surety bonds in amounts determined by the commission.*

(5) *Any other matter deemed necessary by the commission to implement and enforce the provisions of this act.*

Sec. 7. K.S.A. 2010 Supp. 74-50,189 is hereby amended to read as follows: 74-50,189. The commission shall not issue any license to hold regulated sports contests in the state of Kansas, unless:

(a) Such regulated sports contests are sponsored by a promoter licensed by the commission;

(b) ~~the governing body of the city in which such contests are to be held has adopted a resolution approving the holding of such contest; or if such contests are to be held in the unincorporated area of a county, the board of county commissioners of such county has adopted a resolution approving the holding of such contests~~ *If required by the governing body of the city, the promoter shall obtain a resolution from the governing body to hold such contest; or if such contests are to be held in the unincorporated area of a county, if required the promoter shall obtain a resolution from the board of county commissioners of such county;*

(c) such contests shall be of not more than 12 rounds of three minutes each duration *for professional boxing, professional kickboxing and professional full-contact karate and not more than five rounds of five minutes each duration for professional mixed martial arts and not more than five rounds of four minutes each duration for amateur mixed martial arts;* and

(d) a license fee, in an amount set by the commission, has been paid by the promoter.

Sec. 8. K.S.A. 2010 Supp. 74-50,193 is hereby amended to read as follows: 74-50,193. (a) Any person wishing to make a complaint against a licensee under this act, shall file the written complaint with the commission setting forth supporting details on a form provided by the commission. If the commission determines that the complaint warrants a hearing to ascertain whether the licensee shall be disciplined, the commission shall file a complaint as provided in the Kansas administrative procedure act. Any person holding more than one license issued by the commission and disciplined under one license will be automatically disciplined under all licenses.

(b) The commission may refuse to issue any license for one or any combination of reasons specified by this section. The commission shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of such applicant's right to file a complaint or an appeal for administrative hearing as provided in the Kansas administrative procedure act.

~~(e) The commission may file a complaint as provided in the Kansas administrative procedure act, against any holder of any license issued pursuant to this chapter, or against any person who has failed to renew or has surrendered their license for any of the following:~~

~~(1) Use of an alcoholic beverage or any controlled substance before or during a bout.~~

~~(2) The person has been found guilty or has entered a plea of guilty or nolo contendere in a criminal prosecution under any state or federal law for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this act, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not a sentence is imposed.~~

~~(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to this act.~~

~~(4) Providing false information on applications or medical forms.~~

~~(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performing of the functions or duties of any profession licensed or regulated by this act.~~

~~(6) Violating or enabling any person to violate any provision of this act or any rule and regulation adopted pursuant to this act.~~

~~(7) Impersonating any license holder or allowing any person to use the licensee's license.~~

~~(8) Failing to put forth the best effort during a bout.~~

~~(9) Disciplinary action against a holder of a license or other right to practice any profession regulated by this act and issued by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state.~~

~~(10) Adjudged mentally incompetent by a court of competent jurisdiction.~~

~~(11) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation primarily is directed.~~

~~(12) Disruptive conduct at regulated sports contests, including the use of foul or abusive language or mannerisms or threats of physical harm by any person associated with any bout or contest licensed pursuant to this act.~~

~~(13) Issuance of a license based upon a mistake of fact.~~

~~(14) Use of grease, ointments, strong-smelling liniment, drugs which cause nausea or harmful reactions, liquids or powders or illegal substances is prohibited during a regulated sports contest.~~

~~(d) After the complaint is filed, the proceeding shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If the administrative law judge finds that a person has violated one or more of the grounds specified in this section, such judge may limit and condition the license for a period not to exceed five years, suspend the person's license for a period not to exceed three years or may revoke the person's license.~~

~~(e) The commission may refuse to issue a license to any person who has violated any of the grounds specified in this section:~~

~~(c) The commission may deny, suspend, revoke or refuse renewal of any license issued under this act if the commission finds that the applicant or license holder has:~~

~~(1) Provided incorrect, misleading, incomplete or untrue information in the license application.~~

~~(2) Violated:~~

~~(A) Any provision of this act or any rule and regulation adopted thereunder; or~~

~~(B) any subpoena or order of the commission.~~

~~(3) Used any alcoholic beverage or any controlled substance before or during a bout.~~

~~(4) Has been found guilty or has entered a plea of guilty or nolo contendere in a criminal prosecution under any state or federal law for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this act, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not a sentence is imposed.~~

~~(5) Used fraud, deception, misrepresentation or bribery in securing any license issued pursuant to this act.~~

~~(6) Provided false information on applications or medical forms.~~

(7) *Been incompetent or engaged in any misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performing of the functions or duties of any profession licensed or regulated by this act.*

(8) *Violated or enabled any person to violate any provision of this act or any rule and regulation adopted thereunder.*

(9) *Impersonated any license holder or allowed any person to use the licensee's license.*

(10) *Failed to put forth the best effort during a bout.*

(11) *Been disciplined by another state, territory, federal agency or country for any action against a holder of a license or other right to practice any profession regulated by this act upon grounds for which revocation or suspension is authorized in this state.*

(12) *Been adjudged mentally incompetent by a court of competent jurisdiction.*

(13) *Used any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation primarily is directed.*

(14) *Used disruptive conduct at regulated sports contests, including the use of foul or abusive language or mannerisms or threats of physical harm by any person associated with any bout or contest licensed pursuant to this act.*

(15) *Been issued a license based upon a mistake of fact.*

(16) *Used any grease, ointment, strong smelling liniment, drug which causes nausea or harmful reactions, liquid or powder or illegal substance during a regulated sports contest.*

(d) *Any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedures act.*

(e) *None of the following actions shall deprive the commission of any jurisdiction or right to institute or proceed with any disciplinary proceeding against such license, to render a decision suspending, revoking or refusing to renew such license, or to establish and make a record of the facts of any violation of law for any lawful purpose:*

(1) *The imposition of a civil penalty under this act;*

(2) *the lapse or suspension of any license issued under this act by operation of law;*

(3) *the licensee's failure to renew any license issued under this act; or*

(4) *the licensee's voluntary surrender of any license issued under this act. No such disciplinary proceeding shall be instituted against any licensee after the expiration of two years from the termination of the license.*

Sec. 9. K.S.A. 2010 Supp. 74-50,194 is hereby amended to read as follows: 74-50,194. A regulated sports contestant may participate in a contest in Kansas after obtaining a license from the commission. If a contestant ~~participate~~ *participates* in more than one profession covered by this act, such contestant shall obtain a license for each profession in which such contestant participates.

Sec. 10. K.S.A. 2010 Supp. 74-50,181, 74-50,182, 74-50,185, 74-50,186, 74-50,187, 74-50,189, 74-50,193 and 74-50,194 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.