

Substitute for HOUSE BILL No. 2713

By Committee on Economic Development

2-25

10 AN ACT concerning athletic competitions; establishing an athletic com-
11 mission, boxing commissioner, athletic fee fund, powers and duties;
12 prohibitions and complaint procedure; amending K.S.A. 21-1801 and
13 repealing the existing section; also repealing K.S.A. 12-5101, 12-5102,
14 12-5103, 12-5104, 12-5105, 12-5106, 12-5107, 12-5108, 12-5109, 12-
15 5110, 12-5111, 12-5112, 12-5113, 12-5114, 12-5115, 12-5116, 12-5117,
16 12-5118, 12-5119, 12-5120, 12-5121, 12-5122, 12-5123, 12-5124, 12-
17 5125 and 12-5126.

18

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

20 New Section 1. (a) There is hereby established within and as part of
21 the department of commerce an athletic commission of the state of Kan-
22 sas composed of five members appointed by the governor. Members of
23 the commission shall serve at the pleasure of the governor. The initial
24 commission members shall be appointed within 60 days after the effective
25 date of this act and shall serve the following terms: One member shall be
26 appointed to serve for one year, one member shall be appointed to serve
27 for two years, two members shall be appointed to serve for three years
28 and one member shall be appointed to serve for four years. Of the com-
29 missioners one shall be a physician practicing in sports injuries; another
30 shall be a athletic director of a university; another shall be a chiropractor;
31 and two shall be appointed at the governor's discretion and serve at the
32 pleasure of the governor. Thereafter, members shall be appointed for
33 terms of four years and serve until their successors are appointed. When-
34 ever a vacancy occurs in the commission, the governor shall appoint a
35 successor for the remainder of the unexpired term. Upon the expiration
36 of the term of office of any member, a successor shall be appointed for
37 a term of four years.

38 (b) The athletic commission shall organize annually by electing one of
39 its members as chairperson and one as vice-chairperson. Meetings of the
40 commission shall be held upon call of the chairperson, or may be called
41 by a majority of the commission.

42 (c) The athletic commission shall have such powers and duties as are
43 provided by law. Members of the athletic commission attending meetings

1 of such commission, or attending a subcommittee meeting thereof au-
2 thorized by such commission, shall be paid amounts provided in subsec-
3 tion (e) of K.S.A. 75-3223, and amendments thereto. The commission
4 shall appoint a boxing commissioner who shall be in the unclassified serv-
5 ice under the Kansas civil service act and who shall devote full-time to
6 the duties prescribed by the commission, except that the boxing com-
7 missioner shall not perform duties as an inspector for the commission.
8 Before appointing a person as the boxing commissioner, the commission
9 shall request the Kansas bureau of investigation to conduct a criminal
10 history record check and background investigation of the person. The
11 boxing commissioner shall have no felony convictions under the laws of
12 any state or of the United States prior to appointment or during such
13 commissioner's employment with the commission. The boxing commis-
14 sioner shall receive an annual salary fixed by the commission and ap-
15 proved by the governor. In accordance with the provisions of the Kansas
16 civil service act, the commission may appoint such inspectors, agents and
17 clerical and administrative personnel as may be necessary to assist in per-
18 forming the powers, duties and functions of the commission and the box-
19 ing commissioner.

20 New Sec. 2. The athletic commission shall have general charge and
21 supervision of all regulated sports and professional wrestling perform-
22 ances held in the state, and shall:

23 (a) Adopt rules and regulations, in accordance with K.S.A. 77-415 et
24 seq., and amendments thereto, consistent with the provisions of this act
25 for the administration and enforcement regarding conduct of regulated
26 sports contests, including the ultimate fighting form of each professional
27 sport and professional wrestling performances, the time and place
28 thereof, and the prices charged for admission thereto and for the issuance
29 of a license under this section and to prescribe qualifications for such
30 licenses including (1) rules and regulations regarding all fees established
31 by the athletic commission determined in such amount as to produce
32 sufficient revenue to fund the necessary expenses and operating costs
33 incurred in the administration and enforcement of the provisions of this
34 act;

35 (2) rules and regulations regarding standards of conduct, officials re-
36 quired, ring size and construction, age restrictions for contestants, limi-
37 tations on the number of matches a contestant may participate in, clas-
38 sification of weight divisions, protective gear, selection of judges and other
39 particulars of regulated sports. Such rules and regulations shall include
40 requiring the promoter to purchase indemnity coverage and a surety bond
41 in amounts determined by the commission;

42 (3) rules and regulations regarding professional wrestling similar to
43 those of regulated sports, except that professional wrestling shall be ex-

1 exempt from full regulation; however, (A) the promoter must provide a
2 physician or ambulance service at the show site;

3 (B) the promoter shall notify the commission regarding the venue,
4 date and time a show will take place;

5 (C) the promoter shall pay fees as determined by the commission;
6 and

7 (D) referees are exempt from licensing requirements in subsection
8 (b).”;

9 (b) Accept applications for and issue a license to any person, organ-
10 ization, corporation, partnership, limited liability company or association
11 holding a promoter’s license and permit desiring to promote regulated
12 sports contests, which organization has been in existence and has held
13 meetings at regular intervals during the entire year immediately preced-
14 ing the granting of the license and to accept applications and issue licenses
15 to referees, judges, physicians, managers, contestants, timekeepers, sec-
16 onds, promoters and matchmakers for regulated sports contests. The
17 commission shall collect at a minimum a fee of \$20 for a license issued
18 under this subsection. Unless revoked for cause, all licenses issued under
19 this subsection and all renewals thereof shall expire on June 30 of the
20 year succeeding the year in which they were issued commencing June 30,
21 2004, and shall be renewable from year to year upon the filing of a renewal
22 application prior to the expiration of each such license and payment of
23 the fee therefor.

24 (c) Set an amount of not less than 5% of the gross receipts of every
25 regulated sports ~~contests~~ **[contest]** held, and to fix and determine from
26 time to time by rules and regulations adopted by the commission the
27 exact percentage to be collected and the percentage so fixed and deter-
28 mined shall be based on the amount of revenue necessary, together with
29 all other revenues of the commission, in order to pay the cost of admin-
30 istering and enforcing the provisions of sections 1 through ~~12~~ **[11]** of this
31 act, and amendments thereto.

32 (d) Recommend a taxing and fee structure for all regulated sports
33 and report such recommendations to the legislature by January 1, 2005.

34 (e) Suspend or revoke any license issued by the commission under
35 this section for violations of the provisions of K.S.A. 21-1801, and amend-
36 ments thereto, or rules and regulations adopted under those statutes, and
37 to adopt rules and regulations prescribing procedures and conditions for
38 suspensions and revocations.

39 (f) Assist promoters in developing marketing strategies for sanctioned
40 ~~fight~~ **[contests]**.

41 New Sec. 3. (a) There is hereby established in the state treasury the
42 athletic fee fund to be administered by the chairperson of the athletic
43 commission or the chairperson’s designee. The boxing commissioner shall

1 remit all moneys received by or for the commission from fees, charges or
2 penalties to the state treasurer in accordance with the provisions of K.S.A.
3 75-4215, and amendments thereto. Upon receipt of each such remittance
4 the state treasurer shall deposit the entire amount thereof in the state
5 treasury and credit it in its entirety to the athletic fee fund until July 1,
6 2007. Thereafter, 20% of each such deposit shall be credited to the state
7 general fund and the balance shall be credited to the athletic fee fund.
8 All expenditures from such fund shall be made in accordance with ap-
9 propriation acts upon warrants of the director of accounts and reports
10 issued pursuant to vouchers approved by the boxing commissioner or by
11 a person or persons designated by the boxing commissioner. All moneys
12 credited to the athletic fee fund shall be expended for the administration
13 of the powers, duties, functions and operating expenses of the athletic
14 commission and the boxing commissioner.

15 (b) On or before the 10th of each month, the director of accounts
16 and reports shall transfer from the state general fund to the athletic fee
17 fund established in subsection (a) interest earnings based on:

18 (1) The average daily balance of money in the athletic fee fund for
19 the preceding month; and

20 (2) the net earnings rate of the pooled money investment fund port-
21 folio for the preceding month.

22 New Sec. 4. (a) The athletic commission and boxing commissioner
23 shall not issue any license to hold regulated sports contests in the state
24 of Kansas, except:

25 (1) Where such regulated sports contests are to be held under the
26 auspices of a promoter duly licensed by the athletic commission;

27 (2) where such regulated sports contests are to be held within the
28 limits of some incorporated city, whose city council or commission has
29 consented to the holding of such contest, or where such regulated sports
30 contests are to be held in any county outside the limits of an incorporated
31 city, whose board of county commissioners shall have consented to the
32 holding of such contests;

33 (3) where such regulated sports contests shall be of not more than
34 12 rounds of three minutes each duration; and

35 (4) where a fee has been paid for such permit in an amount set by
36 the athletic commission.

37 (b) The use of grease, ointments, strong smelling liniment, nauseous
38 or noxious drugs, liquids or powders or illegal substances is prohibited
39 during a regulated sports contest. **[The athletic commission may re-**
40 **fuse to issue a license for future regulated sports contests or may**
41 **revoke or suspend a license previously issued if prohibited conduct**
42 **occurs.]**

43 (c) Good order shall be maintained at all regulated sports contests.

1 Disruptive conduct including insulting or abusive remarks are prohibited.
2 The athletic commission may refuse to issue a license for future regulated
3 sports contests or may revoke or suspend a license previously issued until
4 assured that **[good]** order will be maintained.

5 New Sec. 5. For the purposes of this act:

6 (a) “Bout” means one match involving ~~either professional boxing,~~
7 ~~sparring, professional kickboxing or professional full-contact karate~~ **[a**
8 **regulated sport]**;

9 (b) “contest” means a bout or a group of bouts involving licensed
10 contestants competing in ~~professional boxing, sparring, professional kick-~~
11 ~~boxing or professional full-contact karate~~ **[a regulated sport]**;

12 (c) “contestant” means a person who competes in any activity covered
13 by sections 1 through ~~12~~ **[11]**, and amendments thereto;

14 (d) “fund” means the athletic fee fund;

15 (e) “mandatory count of eight” means a required count of eight that
16 is given by a referee to a contestant who has been knocked down;

17 (f) “noncompetitive boxing” means boxing or sparring where a deci-
18 sion is not rendered;

19 (g) “professional boxing” means the sport of attack and defense which
20 uses the fist and where contestants compete for valuable consideration;

21 (h) “professional full-contact karate” means any form of full-contact
22 martial arts including but not limited to full-contact kung fu, full-contact
23 taekwon-do, or any form of martial arts ~~of~~ **[or]** self-defense conducted
24 on a full-contact basis in a bout or contest with or without weapons and
25 where contestants compete for valuable consideration. Such contests take
26 place in a rope-enclosed ring and are fought in timed rounds;

27 (i) “professional kickboxing” means any form of boxing in which
28 blows are delivered with any part of the arm below the shoulder, including
29 the hand, and any part of the leg below the hip, including the foot, and
30 where contestants compete for valuable consideration. Such contests take
31 place in a rope-enclosed ring and are fought in timed rounds;

32 **[(j) “professional mixed martial arts” means any form of mar-**
33 **tial arts or self-defense conducted on a full-contact basis in a bout**
34 **or contest with or without weapons and where contestants com-**
35 **pete for valuable consideration. Such contests take place in an en-**
36 **closed ring and are fought in timed rounds]**

37 ~~(j)~~ **[(k)]** “professional wrestling” means any performance of wrestling
38 skills and techniques by two or more professional wrestlers, to which any
39 admission is charged. Participating wrestlers may not be required to use
40 their best efforts in order to win, the winner may have been selected
41 before the performance commences and contestants compete for valua-
42 ble consideration. Such contests take place in a rope-enclosed ring and
43 are fought in timed rounds;

1 ~~(l)~~ [(l)] “regulated sports” means professional boxing, sparring, pro-
2 fessional kickboxing, **[professional]** mixed martial arts and professional
3 full-contact karate;

4 ~~(m)~~ [(m)] “sparring” means boxing for practice or as an exhibition.

5 New Sec. 6. The decision in a regulated sports contest shall be ren-
6 dered by three judges licensed by the athletic commission.

7 New Sec. 7. The boxing commissioner or such boxing commis-
8 sioner’s designee shall have general charge and supervision of all regu-
9 lated sports contests held in the state of Kansas, and shall:

10 (1) Accept applications for and issue licenses to contestants in regu-
11 lated sports contests held in the state of Kansas and referees, judges,
12 matchmakers, managers, promoters, seconds, announcers, timekeepers
13 and physicians involved in regulated sports contests held in the state of
14 Kansas;

15 (2) charge and collect fees for every license issued and collect the
16 amount specified by the athletic commission of the gross receipts of any
17 person, organization, corporation, partnership, limited liability company
18 or association holding a promoter’s license. Such percentage shall be de-
19 rived from admission charges connected with or as an incident to the
20 holding of any regulated sports contest in this state. Such funds shall be
21 paid to the boxing commissioner who shall pay such funds into the state
22 treasury to be credited to the athletic fee fund as provided for in subsec-
23 tion (a) of section 3, and amendments thereto.

24 New Sec. 8. (a) In order to protect the health and welfare of the
25 contestants, there shall be a mandatory medical suspension[, **not to ex-**
26 **ceed 180 days,**] of any contestant, ~~not to exceed 180 days,~~ who loses
27 consciousness or who has been injured as a result of blows received to
28 the head or body during a regulated sports contest, bout or semi-profes-
29 sional elimination contest. The determination of consciousness is to be
30 made only by a physician licensed by the board of healing arts and the
31 boxing commissioner or such commissioner’s designee. The commission,
32 boxing commissioner or such boxing commissioner’s designee may re-
33 quire a contestant on medical suspension to undergo any medical test
34 necessary to prove such contestant is medically fit to lift the suspension.
35 Medical suspensions issued in accordance with this section shall not be
36 reviewable by any court or tribunal.

37 (b) No license shall be issued to any person who has been injured in
38 such a manner that they may not continue regulated sports in the future.
39 Such a person shall be deemed medically retired. A person with a status
40 of medically retired shall not compete in any events governed by this act.
41 Medical retirements issued in accordance with this section shall not be
42 reviewable by any court or tribunal.

43 New Sec. 9. (a) Upon proper application by the boxing commissioner

1 or such commissioner's designee, a court of competent jurisdiction may
2 grant an injunction, restraining order or any other order as may be ap-
3 propriate to enjoin a person, partnership, organization, corporation, lim-
4 ited liability company or association from:

5 (1) Promoting or offering to promote any unlicensed regulated sports
6 contests in Kansas;

7 (2) advertising or offering to advertise any unlicensed regulated
8 sports contests in Kansas;

9 (3) conducting or offering to conduct any unlicensed regulated sports
10 contests in Kansas; or

11 (4) competing or offering to compete in any unlicensed regulated
12 sports contests in Kansas.

13 (b) Any such actions shall be commenced either in the county in
14 which such conduct occurred or in the county in which the defendant
15 resides.

16 (c) Any action brought under this section shall be in addition to, and
17 not in lieu of, any penalty provided by law and may be brought concu-
18 rrently with other actions to enforce this act.

19 New Sec. 10. (a) Any person wishing to make a complaint against a
20 licensee under this act, shall file the written complaint with the boxing
21 commissioner setting forth supporting details. If the boxing commissioner
22 determines that the charges warrant a hearing to ascertain whether the
23 licensee shall be disciplined, the boxing commissioner shall file a com-
24 plaint as provided in the Kansas administrative procedure act. Any person
25 holding more than one license issued by the athletic commission and
26 boxing commissioner and disciplined under one license will automatically
27 be disciplined under all licenses.

28 (b) (1) The athletic commission and boxing commissioner may refuse
29 to issue any permit or license for one or any combination of reasons stated
30 in paragraphs (A) through (M) of this subsection. The athletic commission
31 or boxing commissioner shall notify the applicant in writing of the reasons
32 for the refusal and shall advise the applicant of such applicant's right to
33 file a complaint or an appeal for administrative hearing as provided in the
34 Kansas administrative procedure act.

35 (2) The athletic commission or boxing commissioner may file a com-
36 plaint as provided in the Kansas administrative procedure act, against any
37 holder of any permit or license issued pursuant to this chapter, or against
38 any person who has failed to renew or has surrendered their permit or
39 license, for any one or more of the following reasons:

40 (A) Use of an alcoholic beverage or any controlled substance before
41 or during a bout;

42 (B) the person has been found guilty or has entered a plea of guilty
43 or nolo contendere in a criminal prosecution under any state or federal

1 law for any offense reasonably related to the qualifications, functions or
2 duties of any profession licensed or regulated under this act, for any of-
3 fense an essential element of which is fraud, dishonesty or an act of vio-
4 lence, or for any offense involving moral turpitude, whether or not a
5 sentence is imposed;

6 (C) use of fraud, deception, misrepresentation or bribery in securing
7 any permit or license issued pursuant to this act;

8 (D) providing false information on applications or medical forms;

9 (E) incompetency, misconduct, gross negligence, fraud, misrepresen-
10 tation or dishonesty in the performing of the functions or duties of any
11 profession licensed or regulated by this act;

12 (F) violating or enabling any person to violate any provision of this
13 act or any rule and regulation adopted pursuant to this act;

14 (G) impersonating any permit or license holder or allowing any per-
15 son to use their permit or license;

16 (H) contestants failing to put forth their best effort during a bout;

17 (I) disciplinary action against the permit or license holder of a license
18 or other right to practice any profession regulated by this act and issued
19 by another state, territory, federal agency or country upon grounds for
20 which revocation or suspension is authorized in this state;

21 (J) a person adjudged mentally incompetent by a court of competent
22 jurisdiction;

23 (K) use of any advertisement or solicitation which is false, misleading
24 or deceptive to the general public or persons to whom the advertisement
25 or solicitation is primarily directed;

26 (L) use of foul or abusive language or mannerisms or threats of phys-
27 ical harm by any person associated with any bout or contest licensed
28 pursuant to this act; or

29 (M) issuance of a permit or license based upon a mistake of fact.

30 (3) After the complaint is filed, the proceeding shall be conducted in
31 accordance with the provisions of the Kansas administrative procedure
32 act. If the administrative law judge finds that a person has violated one
33 or more of the grounds as provided in paragraphs (A) through (M) of
34 subsection (2) of this section, the law judge may censure or place the
35 person named in the complaint on probation on appropriate terms and
36 conditions for a period not to exceed five years, may suspend the person's
37 license for a period not to exceed three years or may revoke the person's
38 license.

39 New Sec. 11. Any ~~professional boxer, professional kickboxer or pro-~~
40 ~~professional full-contact karate~~ **[regulated sport]** contestant may participate
41 in a contest in Kansas after obtaining a license from the athletic commis-
42 sion, boxing commissioner or the boxing commissioner's designee. The
43 athletic commissioner shall set a fee for such license according to whether

1 such contestant is obtaining a license to participate in one event or for
2 any event that occurs during a year. Should a contestant participate in
3 more than one profession covered by this act, such contestant shall obtain
4 a license for each profession such contestant participates in.

5 Sec. 12. K.S.A. 21-1801 is hereby amended to read as follows: 21-
6 1801. (a) Except as provided in subsection (b), no person shall send or
7 cause to be sent, publish or otherwise make known any challenge to fight
8 what is commonly known as a prize fight, or engage in any public boxing,
9 sparring or wrestling match, exhibition or contest with or without gloves
10 of any kind, for any prize, reward or compensation, or at which any ad-
11 mission fee is charged or received, either directly or indirectly, or go into
12 training preparatory to such fight, exhibition, match or contest, or act as
13 trainer for any person or persons contemplating participation in such
14 fight, exhibition or contest, or act as aider, abettor, backer, umpire,
15 trainer, second, surgeon, assistant, reporter or attendant at such fight,
16 exhibition, match or contest, or in any preparation for the same, nor shall
17 any owner or lessee of any grounds, lots, building, hall or structure of any
18 kind permit the same to be used for such fight, exhibition, match or
19 contest.

20 (b) The provisions of subsection (a) shall not apply to any fight, ~~ex-~~
21 ~~hibition,~~ match or contest conducted under a license issued by a ~~govern-~~
22 ~~ing body as provided in K.S.A. 12-5101 to 12-5126, inclusive, the athletic~~
23 ~~commission or boxing commissioner pursuant to sections 1 through 11,~~
24 and amendments thereto, sanctioned by the national association of inter-
25 collegiate athletics, national collegiate athletic association, amateur ath-
26 letic union of the United States, golden gloves association of America or
27 national junior college athletic association or conducted under the control
28 of the Kansas state high school activities association.

29 (c) Any violation of the provisions of this section is a class A nonper-
30 son misdemeanor.

31 Sec. 13. K.S.A. 12-5101, 12-5102, 12-5103, 12-5104, 12-5105, 12-
32 5106, 12-5107, 12-5108, 12-5109, 12-5110, 12-5111, 12-5112, 12-5113,
33 12-5114, 12-5115, 12-5116, 12-5117, 12-5118, 12-5119, 12-5120, 12-
34 5121, 12-5122, 12-5123, 12-5124, 12-5125, 12-5126 and K.S.A. 21-1801
35 are hereby repealed.

36 Sec. 14. This act shall take effect and be in force from and after its
37 publication in the statute book.