

As Amended by House Committee

Session of 2008

HOUSE BILL No. 2843

By Committee on Appropriations

2-12

10 AN ACT concerning the Kansas professional regulated sports act; per-
11 taining to violations; pertaining to civil penalties; pertaining to fees;
12 pertaining to rules and regulations; amending K.S.A. 2007 Supp. 74-
13 50,181, 74-50,182, 74-50,186, 74-50,187, 74-50,188, 74-50,189, 74-
14 50,193 and 74-50,194 and repealing the existing sections.
15

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

17 New Section 1. (a) Any person who violates any provision of this act
18 or any rule and regulation adopted hereunder shall incur, in addition to
19 any other penalty provided by law, a civil penalty in an amount fixed by
20 rules and regulations not to exceed \$500 for each violation. In the case
21 of a continuing violation, every day such violation continues shall be
22 deemed a separate violation. In determining the amount of the civil pen-
23 alty, the commission shall take into consideration all relevant circum-
24 stances, including, but not limited to, the extent of harm caused by the
25 violation, the nature and persistence of the violation, the length of time
26 over which the violation occurs and any corrective actions taken.

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

39 (c) No civil penalty shall be imposed under this section except upon
40 the written order of the commissioner to the person upon whom the
41 penalty is to be imposed, stating the nature of the violation, the penalty
42 imposed and the right of the person upon whom the penalty is imposed
43 to appeal to the commission. Within 15 days after service of the order

1 imposing the civil penalty, the person upon whom the civil penalty has
 2 been imposed may make written request to the commission for a hearing
 3 or informal conference hearing in accordance with the provisions of the
 4 Kansas administrative procedure act. The commission shall affirm, re-
 5 verse or modify the order and shall specify the reasons therefor. The
 6 decision of the commission shall be final unless review is sought under
 7 subsection (d).

8 (d) Any person aggrieved by an order of the commission made under
 9 this section may appeal such order to the district court in the manner
 10 provided by the act for judicial review and civil enforcement of agency
 11 actions.

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

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

18 Sec. 2. K.S.A. 2007 Supp. 74-50,181 is hereby amended to read as
 19 follows: 74-50,181. K.S.A. 2007 Supp. 74-50,181 through 74-50,196 *and*
 20 *section 1*, and amendments thereto, shall be known and may be cited as
 21 the Kansas professional regulated sports act.

22 Sec. 3. K.S.A. 2007 Supp. 74-50,182 is hereby amended to read as
 23 follows: 74-50,182. As used in the Kansas professional regulated sports
 24 act:

25 (a) “Bout” means one match involving a regulated sport.

26 (b) “Commission” means the athletic commission or the commis-
 27 sion’s designee.

28 (c) “*Commissioner*” means the boxing commissioner or the commis-
 29 sioner’s designee.

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

32 ~~(e)~~ (e) “Contestant” means a person who ~~competes~~ *is licensed by the*
 33 *commission to compete* in a regulated sport.

34 ~~(f)~~ (f) “Fund” means the athletic fee fund.

35 ~~(g)~~ (g) “Mandatory count of eight” means a required count of eight
 36 that is given by a referee to a contestant who has been knocked down.

37 ~~(h)~~ (h) “Noncompetitive boxing” means boxing or sparring where a
 38 decision is not rendered.

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

42 ~~(j)~~ (j) “Professional full-contact karate” means any form of full-con-
 43 tact martial arts including but not limited to full-contact kung fu, full-

1 contact tae-kwon-do or any form of martial arts or self-defense conducted
 2 on a full-contact basis in a bout or contest ~~with or~~ without weapons and
 3 where contestants *may* compete for valuable consideration. ~~Such contests~~
 4 ~~take place in a rope-enclosed ring and are fought in timed rounds.~~

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

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

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

22 ~~(m)~~ (n) “Regulated sports” means professional boxing, sparring, pro-
 23 fessional kickboxing, professional *and amateur* mixed martial arts, *pro-*
 24 *fessional wrestling* and professional full-contact karate.

25 ~~(n)~~ (o) “Sparring” means boxing for practice or as an exhibition.

26 Sec. 4. K.S.A. 2007 Supp. 74-50,186 is hereby amended to read as
 27 follows: 74-50,186. (a) The commission shall have general charge and
 28 supervision of all regulated sports and professional wrestling perform-
 29 ances held in the state. The commission may enter into agreements with
 30 the federal bureau of investigation, the federal internal revenue service,
 31 the Kansas attorney general or any state, federal or local agency as nec-
 32 essary to carry out the duties of the commission under this act.

33 (b) The commission shall accept applications for and may issue li-
 34 censes to any person, organization, corporation, partnership, limited li-
 35 ability company or association desiring to promote regulated sports con-
 36 tests if such person holds a promoter’s license from an organization which
 37 has been in existence and has held meetings at regular intervals during
 38 the entire year immediately preceding the granting of the license. The
 39 commission shall accept applications and may issue licenses to referees,
 40 judges, physicians, managers, contestants, timekeepers, seconds, pro-
 41 moters, *announcers* and matchmakers for regulated sports contests. A
 42 license fee of not less than \$20 shall accompany any application for licen-
 43 sure. Unless revoked for cause, all licenses issued under this subsection

1 and all renewals thereof shall expire on ~~June 30 of the year succeeding~~
2 ~~the year in which they were issued~~ *the anniversary of the date of issuance*
3 *occurring in the calendar year following the year of issue.* Licenses shall
4 be renewable from year to year upon the filing of a renewal application
5 prior to the expiration of each such license and payment of the fee
6 therefor.

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

12 (d) ~~The commission shall recommend a taxing and fee structure for~~
13 ~~all regulated sports and submit such recommendations to the legislature~~
14 ~~on or before January 1, 2005.~~

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

18 ~~(f)~~ (e) The commission shall assist promoters in developing marketing
19 strategies for contests.

20 ~~(g)~~ (f) For the purpose of ascertaining compliance with any of the
21 provisions of this act or any rules and regulations adopted pursuant
22 thereto, the commission may request a court to issue subpoenas to compel
23 access to or for the production of any books, papers, records or memo-
24 randa in the custody or control of any licensee or officer, member, em-
25 ployee or agent of any licensee, or to compel the appearance of any li-
26 censee or officer, member, employee or agent of any licensee, or of any
27 person subject to the provisions of this act. Subpoenas issued pursuant
28 to this subsection may be served upon individuals and corporations in the
29 same manner provided in K.S.A. 60-304, and amendments thereto, for
30 the service of process by any officer authorized to serve subpoenas in civil
31 actions or by the commission or an agent or representative designated by
32 the commission. In the case of the refusal of any person to comply with
33 any such subpoena, the commission may make application to the district
34 court of any county where such books, papers, records, memoranda or
35 person is located for an order to comply.

36 Sec. 5. K.S.A. 2007 Supp. 74-50,187 is hereby amended to read as
37 follows: 74-50,187. (a) The commission shall adopt any rules and regu-
38 lations necessary to implement the provisions of this act. Such rules and
39 regulations shall include, but not be limited to, provisions concerning:

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

42 (2) The issuance of a license under this section and to prescribe qual-
43 ifications for licensees.

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

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

8 (5) The acquisition of liability insurance, indemnity coverage and sur-
9 ety bonds in amounts determined by the commission.

10 (6) Procedures and conditions for limitation, suspension and revo-
11 cation of licenses.

12 (7) *Procedures and requirements for testing for drugs and commu-
13 nicable diseases.*

14 (8) Any other matter deemed necessary by the commission to imple-
15 ment and enforce the provisions of this act.

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

21 (1) Requirements that a physician or other emergency medical pro-
22 vider be present at the performance.

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

25 (3) The payment of fees.

26 Sec. 6. K.S.A. 2007 Supp. 74-50,188 is hereby amended to read as
27 follows: 74-50,188. (a) There is hereby established in the state treasury
28 the athletic fee fund to be administered by the chairperson of the com-
29 mission or the chairperson's designee. All moneys received by or for the
30 commission from fees, charges or penalties shall be remitted to the state
31 treasurer in accordance with the provisions of K.S.A. 75-4215, and
32 amendments thereto, who shall deposit the entire amount thereof in the
33 state treasury to the credit of the athletic fee fund until July 1, ~~2007~~ **2012**.
34 ~~Thereafter, 20% of each such deposit shall be credited to the state general~~
35 ~~fund and the balance shall be credited to the athletic fee fund. **There-**~~
36 ~~**after, 20% of each such deposit shall be credited to the state gen-**~~
37 ~~**eral fund and the balance shall be credited to the athletic fee fund.**~~

38 All expenditures from such fund shall be made in accordance with ap-
39 propriation acts upon warrants of the director of accounts and reports
40 issued pursuant to vouchers approved by the boxing commissioner or the
41 commissioner's designee. All moneys credited to the athletic fee fund
42 shall be expended for the administration of the powers, duties, functions
43 and operating expenses of the commission and the boxing commissioner.

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

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

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

8 Sec. 7. K.S.A. 2007 Supp. 74-50,189 is hereby amended to read as
9 follows: 74-50,189. The commission shall not issue any license to hold
10 regulated sports contests in the state of Kansas, unless:

11 (a) Such regulated sports contests are sponsored by a promoter li-
12 censed by the commission;

13 (b) the governing body of the city in which such contests are to be
14 held has adopted a resolution approving the holding of such contest; or
15 if such contests are to be held in the unincorporated area of a county, the
16 board of county commissioners of such county has adopted a resolution
17 approving the holding of such contests; *The commission may issue a*
18 *written assurance that the required license will be issued. Such assurance*
19 *shall be conditioned upon the adoption of the resolution by the governing*
20 *body of the city or the board of county commissioners, as appropriate,*
21 *approving the holding of such contest;*

22 (c) such contests shall be of not more than 12 rounds of three minutes
23 each duration; and

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

26 Sec. 8. K.S.A. 2007 Supp. 74-50,193 is hereby amended to read as
27 follows: 74-50,193. ~~(a) Any person wishing to make a complaint against a~~
28 ~~licensee under this act, shall file the written complaint with the commis-~~
29 ~~sion setting forth supporting details on a form provided by the commis-~~
30 ~~sion. If the commission determines that the complaint warrants a hearing~~
31 ~~to ascertain whether the licensee shall be disciplined, the commission~~
32 ~~shall file a complaint as provided in the Kansas administrative procedure~~
33 ~~act. Any person holding more than one license issued by the commission~~
34 ~~and disciplined under one license will be automatically disciplined under~~
35 ~~all licenses.~~

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

42 ~~—(c)—The commission may file a complaint as provided in the Kansas~~
43 ~~administrative procedure act, against any holder of any license issued~~

1 ~~pursuant to this chapter, or against any person who has failed to renew~~
2 ~~or has surrendered their license for any of the following:~~
3 ~~—(1) Use of an alcoholic beverage or any controlled substance before~~
4 ~~or during a bout.~~
5 ~~—(2) The person has been found guilty or has entered a plea of guilty~~
6 ~~or nolo contendere in a criminal prosecution under any state or federal~~
7 ~~law for any offense reasonably related to the qualifications, functions or~~
8 ~~duties of any profession licensed or regulated under this act, for any of-~~
9 ~~ense an essential element of which is fraud, dishonesty or an act of vio-~~
10 ~~lence, or for any offense involving moral turpitude, whether or not a~~
11 ~~sentence is imposed.~~
12 ~~—(3) Use of fraud, deception, misrepresentation or bribery in securing~~
13 ~~any license issued pursuant to this act.~~
14 ~~—(4) Providing false information on applications or medical forms.~~
15 ~~—(5) Incompetency, misconduct, gross negligence, fraud, misrepresen-~~
16 ~~tation or dishonesty in the performing of the functions or duties of any~~
17 ~~profession licensed or regulated by this act.~~
18 ~~—(6) Violating or enabling any person to violate any provision of this~~
19 ~~act or any rule and regulation adopted pursuant to this act.~~
20 ~~—(7) Impersonating any license holder or allowing any person to use~~
21 ~~the licensee's license.~~
22 ~~—(8) Failing to put forth the best effort during a bout.~~
23 ~~—(9) Disciplinary action against a holder of a license or other right to~~
24 ~~practice any profession regulated by this act and issued by another state,~~
25 ~~territory, federal agency or country upon grounds for which revocation~~
26 ~~or suspension is authorized in this state.~~
27 ~~—(10) Adjudged mentally incompetent by a court of competent~~
28 ~~jurisdiction.~~
29 ~~—(11) Use of any advertisement or solicitation which is false, mislead-~~
30 ~~ing or deceptive to the general public or persons to whom the advertise-~~
31 ~~ment or solicitation primarily is directed.~~
32 ~~—(12) Disruptive conduct at regulated sports contests, including the~~
33 ~~use of foul or abusive language or mannerisms or threats of physical harm~~
34 ~~by any person associated with any bout or contest licensed pursuant to~~
35 ~~this act.~~
36 ~~—(13) Issuance of a license based upon a mistake of fact.~~
37 ~~—(14) Use of grease, ointments, strong smelling liniment, drugs which~~
38 ~~cause nausea or harmful reactions, liquids or powders or illegal substances~~
39 ~~is prohibited during a regulated sports contest.~~
40 ~~—(d) After the complaint is filed, the proceeding shall be conducted in~~
41 ~~accordance with the provisions of the Kansas administrative procedure~~
42 ~~act. If the administrative law judge finds that a person has violated one~~
43 ~~or more of the grounds specified in this section, such judge may limit and~~

- 1 ~~condition the license for a period not to exceed five years, suspend the~~
2 ~~person's license for a period not to exceed three years or may revoke the~~
3 ~~person's license.~~
- 4 ~~—(c) The commission may refuse to issue a license to any person who~~
5 ~~has violated any of the grounds specified in this section. (a) The com-~~
6 ~~mission may deny, suspend, revoke or refuse renewal of any license issued~~
7 ~~under this act if the commission finds that the applicant or license holder~~
8 ~~has:~~
- 9 (1) *Provided incorrect, misleading, incomplete or untrue information*
10 *in the license application.*
- 11 (2) *Violated:*
- 12 (A) *Any provision of this act or any rule and regulation adopted*
13 *thereunder; or*
- 14 (B) *any subpoena or order of the commission.*
- 15 (3) *Used any alcoholic beverage or any controlled substance before*
16 *or during a bout.*
- 17 (4) *Has been found guilty or has entered a plea of guilty or nolo*
18 *contendere in a criminal prosecution under any state or federal law for*
19 *any offense reasonably related to the qualifications, functions or duties of*
20 *any profession licensed or regulated under this act, for any offense an*
21 *essential element of which is fraud, dishonesty or an act of violence, or*
22 *for any offense involving moral turpitude, whether or not a sentence is*
23 *imposed.*
- 24 (5) *Used fraud, deception, misrepresentation or bribery in securing*
25 *any license issued pursuant to this act.*
- 26 (6) *Provided false information on applications or medical forms.*
- 27 (7) *Been incompetent or engaged in any misconduct, gross negligence,*
28 *fraud, misrepresentation or dishonesty in the performing of the functions*
29 *or duties of any profession licensed or regulated by this act.*
- 30 (8) *Violated or enabled any person to violate any provision of this act*
31 *or any rule and regulation adopted thereunder.*
- 32 (9) *Impersonated any license holder or allowed any person to use the*
33 *licensee's license.*
- 34 (10) *Failed to put forth the best effort during a bout.*
- 35 (11) *Been disciplined by another state, territory, federal agency or*
36 *country for any action against a holder of a license or other right to*
37 *practice any profession regulated by this act upon grounds for which*
38 *revocation or suspension is authorized in this state.*
- 39 (12) *Been adjudged mentally incompetent by a court of competent*
40 *jurisdiction.*
- 41 (13) *Used any advertisement or solicitation which is false, misleading*
42 *or deceptive to the general public or persons to whom the advertisement*
43 *or solicitation primarily is directed.*

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

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

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

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

13 (c) *None of the following actions shall deprive the commission of any*
14 *jurisdiction or right to institute or proceed with any disciplinary pro-*
15 *ceeding against such license, to render a decision suspending, revoking or*
16 *refusing to renew such license, or to establish and make a record of the*
17 *facts of any violation of law for any lawful purpose:*

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

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

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

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

25 Sec. 9. K.S.A. 2007 Supp. 74-50,194 is hereby amended to read as
26 follows: 74-50,194. A regulated sports contestant may participate in a
27 contest in Kansas after obtaining a license from the commission. If a
28 contestant ~~participate~~ *participates* in more than one profession covered
29 by this act, such contestant shall obtain a license for each profession in
30 which such contestant participates.

31 Sec. 10. K.S.A. 2007 Supp. 74-50,181, 74-50,182, 74-50,186, 74-
32 50,187, 74-50,188, 74-50,189, 74-50,193 and 74-50,194 are hereby
33 repealed.

34 Sec. 11. This act shall take effect and be in force from and after its
35 publication in the statute book.