

CHAPTER 2014-128

Committee Substitute for Committee Substitute for House Bill No. 773

An act relating to pugilistic exhibitions; amending s. 548.002, F.S.; revising and providing definitions; amending s. 548.004, F.S.; revising the duties and responsibilities of the executive director of the Florida State Boxing Commission; deleting a provision requiring the electronic recording of commission proceedings; amending s. 548.006, F.S.; clarifying the jurisdiction of the commission over certain amateur and professional matches; amending s. 548.007, F.S.; revising the applicability of chapter 548, F.S.; repealing s. 548.013, F.S., relating to a requirement that foreign copromoters be licensed; amending s. 548.014, F.S.; conforming provisions to changes made by the act; repealing s. 548.015, F.S., relating to the authority of the commission to require a concessionaire to file a form of security with the commission; amending s. 548.017, F.S.; deleting a requirement for the licensure of concessionaires and booking agents; amending s. 548.046, F.S.; providing for immediate license suspension and other disciplinary action if a participant fails or refuses to provide a urine sample or tests positive for specified prohibited substances; amending s. 548.052, F.S.; revising requirements for providing an advance payment or loan against a purse to a participant; amending s. 548.054, F.S.; revising procedure and requirements for requesting a hearing following the withholding of a purse; amending s. 548.06, F.S.; revising the calculation of gross receipts; authorizing a promoter to issue a specified amount of complimentary tickets that are not included in gross receipts; requiring authorization from the commission to issue complimentary tickets that are not included in gross receipts in an amount greater than a specified amount; providing application requirements and procedures; providing that certain promoters are not required to report specified information; requiring promoters to retain specified documents and records; authorizing the commission and the Department of Business and Professional Regulation to audit specified records retained by a promoter; requiring the commission to adopt rules; amending s. 548.066, F.S.; conforming a provision to changes made by the act; amending s. 548.07, F.S.; revising the procedure for suspension of licensure; amending s. 548.073, F.S.; requiring that commission hearings be held in accordance with the Administrative Procedure Act; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 548.002, Florida Statutes, is amended to read:

548.002 Definitions.—As used in this chapter, the term:

(1) “Amateur” means a person who has never received nor competed for any purse or other article of value, either for the expenses of training or for participating in a match, other than a prize of \$50 or less in value or less.

(2) “Amateur sanctioning organization” means a ~~any~~ business entity organized for sanctioning and supervising matches involving amateurs.

(3) “Boxing” means the unarmed combat sport of fighting by striking to compete with the fists.

(4) “Commission” means the Florida State Boxing Commission.

~~(5) “Concessionaire” means any person or business entity not licensed as a promoter which receives revenues or other compensation from the sale of tickets or from the sale of souvenirs, programs, broadcast rights, or any other concessions in conjunction with the promotion of a match.~~

~~(5)(6)~~ “Contest” means a boxing, kickboxing, or mixed martial arts engagement in which persons participating strive earnestly to win using, ~~but not necessarily being limited to,~~ strikes and blows to the head or other full-contact maneuvers.

~~(6)(7)~~ “Department” means the Department of Business and Professional Regulation.

~~(7)(8)~~ “Event” means one or more matches comprising a show.

~~(8)(9)~~ “Exhibition” means a boxing, kickboxing, or mixed martial arts engagement in which persons participating show or display their skill without necessarily striving to win using, ~~but not necessarily being limited to,~~ strikes and blows to the head or other full-contact maneuvers.

(9) “Face value” means the dollar value of a ticket equal to the dollar amount that a customer is required to pay or, for complimentary tickets, would have been required to pay to purchase a ticket with equivalent seating priority in order to view the event. If the ticket specifies the amount of admission charges attributable to state or federal taxes, such taxes are not included in the face value.

(10) “Full contact” means the use of strikes and blows during a match which:

(a) Are intended to break the plane of the receiving participant’s or amateur’s body;

(b) Are delivered to the head, face, neck, or body of the receiving participant or amateur; and

(c) Cause the receiving participant or amateur to move in response to the strike or blow.

(10) ~~“Foreign copromoter” means a promoter who has no place of business within this state.~~

(11) ~~“Judge” means a person licensed by the commission who evaluates and scores a match using a designated scoring system who has a vote in determining the winner of any contest.~~

(12) ~~“Kickboxing” means the unarmed combat sport of fighting by striking to compete with the fists, hands, feet, legs, or any combination thereof, and includes “punchkick” and other similar competitions. The term does not include any form of ground fighting techniques.~~

(13) ~~“Manager” means a any person who, directly or indirectly, controls or administers the boxing, kickboxing, or mixed martial arts affairs of a any participant.~~

(14) ~~“Match” means a any contest or exhibition.~~

(15) ~~“Matchmaker” means a person who brings together professionals or arranges matches for professionals.~~

(16) ~~“Mixed martial arts” means the unarmed combat sport involving the use, subject to any applicable limitations set forth in this chapter, of a combination of techniques, including, but not limited to, grappling, kicking, striking, and using techniques from different disciplines of the martial arts, including, but not limited to, boxing, kickboxing, Muay Thai, jujitsu, and wrestling grappling, kicking, and striking.~~

(17) ~~“Participant” means a professional competing in a boxing, kickboxing, or mixed martial arts match.~~

(18) ~~“Physician” means a person who is approved by the commission, who has a license to practice medicine issued pursuant to chapter 458 or chapter 459, and whose license to practice medicine is unencumbered and in good standing an individual licensed to practice medicine and surgery in this state.~~

(19) ~~“Professional” means a person who has received or competed for a any purse or other article of a value greater than \$50, either for the expenses of training or for participating in a any match.~~

(20) ~~“Promoter” means a any person or entity, including an and includes any officer, director, trustee, partner employee, or owner stockholder of a corporate promoter or promoter partnership, who produces, arranges, or stages a any match involving a professional.~~

(21) ~~“Purse” means the financial guarantee or other remuneration for which a professional is participating in a match and includes the professional’s share of any payment received for radio broadcasting and, television, including pay-per-view or closed circuit and motion picture rights.~~

(22) “Second” or “cornerman” means a person who assists a the match participant in preparing for a match and between rounds, and who maintains the corner of a the participant during a the match.

(23) “Secretary” means the Secretary of Business and Professional Regulation.

(24) “Unarmed combat” means a form of competition in which a strike or blow is struck that may reasonably be expected to inflict injury.

Section 2. Section 548.004, Florida Statutes, is amended to read:

548.004 Executive director; duties, compensation, administrative support.—

(1) The department shall employ an executive director with the approval of the commission. The executive director shall serve at the pleasure of the secretary. The executive director or the executive director’s designee shall perform the duties specified by the commission, including conducting the functions of the commission office; appointing event and commission officials; approving licenses, permits, and matches; and performing any ~~keep a record of all proceedings of the commission; shall preserve all books, papers, and documents pertaining to the business of the commission; shall prepare any notices and papers required; shall appoint judges, referees, and other officials as delegated by the commission and pursuant to this chapter and rules of the commission; and shall perform such other duties as the department or commission deems necessary to fulfill the duties of the position~~ directs. The executive director may issue subpoenas and administer oaths to witnesses, permitholders, record custodians, and licensees.

~~(2) The commission shall require electronic recording of all scheduled proceedings of the commission.~~

~~(2)(3)~~ (3) The department shall provide assistance in budget development and budget submission for state funding requests. The department shall submit an annual balanced legislative budget for the commission which is based upon anticipated revenue. The department shall provide technical assistance and administrative support, if requested or determined necessary needed, to the commission and its executive director on issues relating to personnel, contracting, property management, or other issues identified as important to performing the duties of this chapter and to protecting the interests of the state.

Section 3. Section 548.006, Florida Statutes, is amended to read:

548.006 Power of commission to control professional and amateur boxing, kickboxing, and mixed martial arts matches ~~pugilistic contests and exhibitions~~; certification of competitiveness of professional mixed martial arts and kickboxing matches.—

(1) The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held within the state which involves a professional.

(2) As to professional mixed martial arts and kickboxing, until a central repository of match records for each exists and is approved by the commission, the matchmaker shall certify as to the competitiveness of each match.

(3) The commission has exclusive jurisdiction over approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing, and kickboxing, and mixed martial arts matches held in this state.

(4) Professional and amateur matches shall be held in accordance with this chapter and the rules adopted by the commission.

Section 4. Section 548.007, Florida Statutes, is amended to read:

548.007 Exemptions.~~This chapter does~~ Applicability of provisions to amateur matches and certain other matches or events.~~Sections 548.001-548.079 do not apply to~~ any of the following:

(1) ~~A match that does not allow full contact conducted or sponsored by a bona fide nonprofit school or education program whose primary purpose is instruction in the martial arts, boxing, or kickboxing, if the match held in conjunction with the instruction is limited to amateur participants, who are students of the school or instructional program;~~

(2) ~~A match conducted or sponsored by a any company or detachment of the Florida National Guard or the United States Armed Forces, if the match is limited to amateurs participants who are members of a the company or detachment of the Florida National Guard or the United States Armed Forces;~~ or

(3) ~~A match conducted or sponsored by the Fraternal Order of Police, if the match is limited to amateurs amateur participants and is held in conjunction with a charitable event.~~

(4) A match conducted by or between public postsecondary educational institutions or public K-12 schools, as described in s. 1000.04, if the match is limited to amateurs who are members of a school-sponsored club or team.

(5) A match conducted by the International Olympic Committee, the International Paralympic Committee, the Special Olympics, or the Junior Olympics, if the match is limited to amateurs who are competing in or attempting to qualify for the Olympics, Paralympics, Special Olympics, or Junior Olympics.

(6) A professional or amateur martial arts activity. As used in this subsection, the term "martial arts" means one of the traditional forms of self-

defense or unarmed combat involving the use of physical skill and coordination, including, but not limited to, karate, aikido, judo, and kung fu. The term does not include mixed martial arts.

Section 5. Section 548.013, Florida Statutes, is repealed.

Section 6. Paragraphs (a) and (d) of subsection (1) and subsection (2) of section 548.014, Florida Statutes, are amended to read:

548.014 Promoters ~~and foreign copromoters~~; bonds or other security.—

(1)(a) Before a ~~any~~ license is issued or renewed to a promoter ~~or foreign copromoter~~ and before a ~~any~~ permit is issued to a promoter ~~or foreign copromoter~~, she or he must file a surety bond with the commission in a ~~a~~ such reasonable amount determined by the commission of at least, but not less than \$15,000, as the commission determines.

(d) The surety bond must be conditioned upon the faithful performance by the promoter ~~or foreign copromoter~~ of her or his obligations under this chapter and upon the fulfillment of her or his contracts with any other licensees under this chapter. However, the aggregate annual liability of the surety for all obligations and fees may not exceed the amount of the bond.

(2) In lieu of a surety bond, the promoter ~~or foreign copromoter~~ may deposit with the commission cash or a certified check, in an equivalent amount and subject to the same conditions as the bond. Such security may not be returned to the promoter until 1 year after the date ~~on which~~ it was deposited with the commission unless a surety bond is substituted for it. If no claim against the deposit is outstanding, it shall be returned to the depositor 1 year after the date it was deposited.

Section 7. Section 548.015, Florida Statutes, is repealed.

Section 8. Subsection (1) of section 548.017, Florida Statutes, is amended to read:

548.017 Participants, managers, and other persons required to have licenses.—

(1) A participant, manager, trainer, second, timekeeper, referee, judge, announcer, physician, matchmaker, ~~concessionaire, or promoter~~ must book- ~~ing agent or representative of a booking agent~~ shall be licensed before directly or indirectly acting in such capacity in connection with any match involving a participant. A physician approved by the commission must be licensed pursuant to chapter 458 or chapter 459, must maintain an unencumbered license in good standing, and must demonstrate satisfactory medical training or experience in boxing, or a combination of both, to the executive director before ~~prior to~~ working as the ringside physician.

Section 9. Paragraph (c) of subsection (3) of section 548.046, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

548.046 Physician’s attendance at match; examinations; cancellation of match.—

(3)

~~(c) A participant who fails or refuses to provide a urine sample immediately upon request shall be considered an immediate serious danger to the health, safety, or welfare of the public and his or her opponent. The license of a participant who fails or refuses to provide a urine sample shall immediately be suspended pursuant to s. 120.60(6), and such failure or refusal is grounds for additional disciplinary action result in the revocation of the participant’s license. Any participant who has been adjudged the loser of a match and who subsequently refuses to or is unable to provide a urine sample shall forfeit his or her share of the purse to the commission. A Any participant who is adjudged the winner of a match and who subsequently refuses to or is unable to provide a urine sample forfeits shall forfeit the win and shall not be allowed to engage in any future match in the state. The decision shall be changed to a no-decision result and shall be entered into the official record as the result of the match. The purse shall be redistributed as though the participant found to be in violation of this subsection had lost the match. If redistribution of the purse is not necessary or after redistribution of the purse is completed, the participant found to be in violation of this subsection shall forfeit his or her share of the purse to the commission.~~

~~(d) A participant who tests positive for a prohibited substance as specified by commission rule shall be considered an immediate serious danger to the health, safety, or welfare of the public and his or her opponent. The license of a participant who tests positive for a prohibited substance shall immediately be suspended pursuant to s. 120.60(6), and the positive test result is grounds for additional disciplinary action.~~

Section 10. Section 548.052, Florida Statutes, is amended to read:

548.052 Payment of advances by promoter or foreign copromoter regulated.—A promoter or foreign copromoter may not pay, lend, or give a participant an advance against her or his purse before a contest, except with the prior written permission of the commission, the executive director, or the executive director’s designee a commissioner; and, if permitted, such advance may be made only for expenses for transportation and maintenance in preparation for a contest.

Section 11. Subsection (2) of section 548.054, Florida Statutes, is amended to read:

548.054 Withholding of purses; hearing; disposition of withheld purse forfeiture.—

(2) Any purse so withheld shall be delivered by the promoter to the commission upon demand. Within 10 days after the match, the person from whom the sum was withheld may submit a petition for a hearing to the

~~commission pursuant to s. 120.569 apply in writing to the commission for a hearing. Upon receipt of the petition application, the commission shall hold shall fix a date for a hearing pursuant to ss. 120.569 and 120.57. Within 10 days after the hearing or after 10 days following the match, If no petition application for a hearing is filed, the commission shall meet and determine the disposition to be made of the withheld purse. If the commission finds the charges sufficient, it may declare all or any part of the funds forfeited. If the commission finds the charges insufficient not sufficient upon which to base a withholding order, it shall immediately distribute the withheld funds to the appropriate persons entitled thereto.~~

Section 12. Section 548.06, Florida Statutes, is amended to read:

548.06 Payments to state; exemptions; audit of records.—

(1) Except as provided in subsection (5), a promoter holding a match shall, within 72 hours after the match, file with the commission a written report that which includes the number of tickets sold, the amount of gross receipts, and any other facts the commission may require. For the purposes of this chapter, total gross receipts include each of the following:

(a) The gross price charged for the sale or lease of broadcasting, television, and pay-per-view motion picture rights of any match occurring within the state without any deductions for commissions, brokerage fees, distribution fees, advertising, or other expenses or charges.;

~~(b) The portion of the receipts from the sale of souvenirs, programs, and other concessions received by the promoter;~~

~~(b)(e)~~ The face value of all tickets sold and complimentary tickets issued, provided, or given, not including complimentary tickets issued, provided, or given in accordance with subsections (2) and (3).; and

~~(c)(d)~~ The face value of any seat or seating issued, provided, or given in exchange for advertising, sponsorships, or anything of value to the promotion of an event.

(2) A promoter may issue complimentary tickets for up to 5 percent of the seats in the house designated for use in the event, equally distributed among the price categories for which complimentary tickets are issued, without including the face value of such tickets in the calculation of gross receipts.

(3)(a) A promoter may, with written authorization from the commission, the executive director, or the executive director's designee, issue, provide, or give additional complimentary tickets in an amount greater than 5 percent of the seats in the house designated for use in the event without including the face value of such tickets in the calculation of gross receipts.

(b) The commission, the executive director, or the executive director's designee may provide authorization for additional complimentary tickets that are issued, provided, or given to:

1. Reserve or active duty members of the United States Armed Forces or the Florida National Guard.

2. Veterans, as defined in s. 1.01(14), even if the veteran is not eligible to receive benefits as a wartime veteran.

3. Not-for-profit organizations exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

(c) A promoter seeking authorization to issue, provide, or give additional complimentary tickets in an amount greater than 5 percent of the seats in the house designated for use in the event in accordance with this subsection shall submit an application on a form adopted by the commission. The application must include, at a minimum, the date, time, and location of the event; the number of additional complimentary tickets for which the promoter is seeking authorization from the commission; the percentage of tickets issued for the seats in the house designated for use in the event for which the promoter is seeking authorization from the commission; and the persons or entities that will receive the additional complimentary tickets.

(d) The commission, the executive director, or the executive director's designee shall approve or deny the application and shall provide the promoter a written explanation for each approval or denial. The commission, the executive director, or the executive director's designee may set limitations on an approval and may approve all or a portion of the additional complimentary tickets for which the promoter has sought authorization. The commission, the executive director, or the executive director's designee shall provide the promoter a written explanation of any limitation placed on an approval. The denial or approval with limitations of an application by the commission, the executive director, or the executive director's designee is not final agency action and may not be appealed.

(e) A promoter who receives authorization to issue, provide, or give complimentary tickets in an amount greater than 5 percent of the seats in the house designated for use in the event in accordance with this subsection shall maintain documentation showing that the authorized additional complimentary tickets were issued, provided, or given to individuals or entities eligible for such tickets under paragraph (b). These documents are subject to an audit of the promoter's books and records pursuant to subsection (8).

(f) The commission may not include the face value of complimentary tickets authorized under this subsection as part of the total gross receipts from admission fees.

(g) The promoter may issue, provide, or give complimentary tickets in an amount greater than 5 percent of the seats in the house designated for use in the event without obtaining written authorization in accordance with this subsection if the promoter includes the face value of such tickets in the calculation of gross receipts.

(h) The promoter remains responsible for complying with reporting and taxation requirements related to gross receipts as provided in this section. However, complimentary tickets issued, given, or provided under subsection (2) or as authorized by the commission are exempt from such reporting and taxation requirements.

~~(2) Where the rights to telecast a match or matches held in this state under the supervision of the Florida State Boxing Commission are in whole owned by, sold to, acquired by, or held by any person who intends to or subsequently sells or, in some other manner, extends such rights in part to another, such person is deemed to be a promoter and must be licensed as such in this state. Such person shall, within 72 hours after the sale, transfer, or extension of such rights in whole or in part, file with the commission a written report that includes the number of tickets sold, the amount of gross receipts, and any other facts the commission may require.~~

~~(3) A concessionaire shall, within 72 hours after the match, file with the commission a written report that includes the number of tickets sold, the amount of gross receipts, and any other facts the commission may require.~~

(4) A Any written report required to be filed with the commission under this section must shall be postmarked within 72 hours after the conclusion of the match, and an additional 5 days is shall be allowed for mailing.

(5) Each the written report must shall be accompanied by a tax payment in the amount of 5 percent of the total gross receipts exclusive of any federal taxes, except that the tax payment derived from the gross price charged for the sale or lease of broadcasting, television, and pay-per-view motion picture rights of an event occurring within the state may shall not exceed \$40,000 for a any single event. A promoter who remits the maximum tax amount of \$40,000 for the sale or lease of broadcasting, television, or pay-per-view rights of an event occurring within the state and who submits a form provided by the commission indicating that he or she has paid the maximum tax amount is not required to provide any further information with regard to the sale or lease of broadcasting, television, or pay-per-view rights. However, the promoter remains responsible for complying with reporting and taxation requirements related to other gross receipts as provided in this chapter.

(6)(a) A Any promoter who willfully makes a false and fraudulent report under this section commits is guilty of perjury and, upon conviction, is subject to punishment as provided by law. Such penalty is shall be in addition to any other penalties imposed under by this chapter.

(b) A Any promoter who willfully fails, neglects, or refuses to make a report or to pay the taxes as prescribed or who refuses to allow the commission to examine the books, papers, and records of a any promotion commits is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7) A promoter shall retain a copy of the following records for 1 year and provide a copy of such records to the commission upon request:

(a) Records necessary to support each report submitted to the commission, including a copy of each report filed with the commission.

(b) A copy of each independently prepared ticket manifest.

(c) Documentation required to be maintained under paragraph (3)(e) verifying that additional complimentary tickets authorized by the commission, the executive director, or the executive director's designee were issued, provided, or given to eligible individuals or entities.

(8) Compliance with this section is subject to verification by department or commission audit. The commission may, upon reasonable notice to the promoter, audit a promoter's books and records relating to the promoter's operations under this chapter.

(9) The commission shall adopt rules establishing a procedure for auditing a promoter's records and resolving any inconsistencies revealed by an audit and shall adopt a rule imposing a late fee in the event of taxes owed.

Section 13. Subsection (2) of section 548.066, Florida Statutes, is amended to read:

548.066 Ticket refunds.—

(2) For failure to comply with this section, the commission may declare a promoter's ~~or foreign copromoter's~~ bond or other security forfeited, suspend or revoke the license of a promoter ~~or foreign copromoter~~, and impose any other penalty provided.

Section 14. Section 548.07, Florida Statutes, is amended to read:

548.07 Suspension of license or permit by commissioner; hearing.—

(1) The commission, the executive director, or the executive director's designee may issue an emergency suspension order pursuant to s. 120.60(6) suspending the license of a person or entity licensed under this chapter who poses an immediate, serious danger to the health, safety, and welfare of the public or the participants in a match.

(2) The department's Office of General Counsel shall review the grounds for each emergency suspension order issued and, if sufficient, shall file an administrative complaint against the licensee within 21 days after the issuance of the emergency suspension order.

(3) After service of the administrative complaint pursuant to the procedure provided in s. 455.275, the disciplinary process shall proceed pursuant to chapter 120 Notwithstanding any provision of chapter 120, any

~~member of the commission may, upon her or his own motion or upon the verified written complaint of any person charging a licensee or permittee with violating this chapter, suspend any license or permit until final determination by the commission if such action is necessary to protect the public welfare and the best interests of the sport. The commission shall hold a hearing within 10 days after the date on which the license or permit is suspended.~~

Section 15. Section 548.073, Florida Statutes, is amended to read:

548.073 Commission hearings.—All hearings held under this chapter shall be held in accordance with chapter 120 ~~Notwithstanding the provisions of chapter 120, any member of the commission may conduct a hearing. Before any adjudication is rendered, a majority of the members of the commission shall examine the record and approve the adjudication and order.~~

Section 16. The sum of \$111,000 in recurring funds is appropriated from the General Revenue Fund to the Department of Business and Professional Regulation for the implementation of this act by the Florida State Boxing Commission during the 2014-2015 fiscal year.

Section 17. This act shall take effect July 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.