

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 994

Short Title: Establish State Athletics Commission. (Public)

Sponsors: Senators Clodfelter; Dannelly and Rand.

Referred to: State and Local Government.

March 26, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA STATE ATHLETICS COMMISSION.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** The regulation of boxing under the authority of the Alcohol Law
5 Enforcement Division of the Department of Crime Control and Public Safety is transferred to
6 the North Carolina State Athletics Commission established pursuant to Article 68A of Chapter
7 143 of the General Statutes, as enacted in Section 3 of this act, within the Department of
8 Commerce, Division of Tourism, Film, and Sports Development, by a Type II transfer, as
9 defined by G.S. 143A-6(b).

10 **SECTION 2.** Article 68 of Chapter 143 of the General Statutes is repealed.

11 **SECTION 3.** Chapter 143 of the General Statutes is amended by adding the
12 following new Article to read:

13 "Article 68A.

14 "North Carolina State Athletics Commission.

15 **"§ 143-659.1. Legislative findings and declarations.**

16 The General Assembly finds and declares to be the public policy of this State that it is in the
17 best interest of the public and of boxing that boxing should be subject to an effective and
18 efficient system of strict control and regulation to:

- 19 (1) Protect the safety and well-being of participants in boxing; and
20 (2) Promote the public confidence and trust in the regulatory process and the
21 conduct of boxing.

22 To further the public confidence and trust, the provisions of this Article are designed to
23 regulate all persons, practices, and associations related to the operation of any live boxing
24 event, performance, or contest held in North Carolina.

25 **"§ 143-659.2. Definitions.**

26 The following definitions apply in this Article:

- 27 (1) Amateur. – A person who is not receiving or competing for and has never
28 received or competed for any purse or other article or thing of value for
29 participating in a match.
30 (2) Announcer. – Any person who engages in the act of announcing a boxing
31 match.
32 (3) Boxer. – Any person who engages as a participant in a boxing match.
33 (4) Boxing match. – A match in which the participants engage in the use of full
34 contact boxing techniques (using the fist only), and in which the object of a
35 match is to win by decision, knockout (KO), or technical knockout (TKO).
36 (5) Commission. – The North Carolina State Athletics Commission.
37 (6) Contest. – A boxing match in which the participants strive earnestly to win.



- 1 (7) Contestant. – Any person who engages as a participant in a boxing match.
- 2 (8) Division. – The Division of Tourism, Film, and Sports Development of the
- 3 Department of Commerce.
- 4 (9) Exhibition. – A boxing match in which the participants display their boxing
- 5 skills and technique without necessarily striving to win.
- 6 (10) Judge. – A person who has a vote in determining the winner of any match or
- 7 contest.
- 8 (11) Kickboxer. – Any person who engages as a participant in a kickboxing
- 9 match.
- 10 (12) Kickboxing match. – A match in which the participants engage in full-
- 11 contact martial arts fighting techniques using the hands and the feet, and in
- 12 which the object of the match is to win by decision, knockout (KO), or
- 13 technical knockout (TKO).
- 14 (13) Licensee. – Any person, club, corporation, organization, or association to
- 15 whom a license has been issued pursuant to the provisions of this Article.
- 16 (14) Manager. – Any person who controls or administers the boxing affairs of
- 17 any contestant, and who:
- 18 a. By contract, agreement, or other arrangement with any person
- 19 undertakes or has undertaken to represent in any way the interest of
- 20 the contestant in any professional boxing contest in which the boxer
- 21 is to participate as a contestant, and is entitled under that contract,
- 22 agreement, or arrangement to receive monetary or other
- 23 compensation for his or her services, without regard to the sources of
- 24 the compensation. The term 'manager' shall not be construed to mean
- 25 any attorney licensed to practice in this State whose participation in
- 26 the activities is restricted solely to his representing the interests of a
- 27 professional boxer as a client.
- 28 b. Directs or controls the professional boxing activities of any
- 29 professional boxer.
- 30 c. Receives or is entitled to receive a percentage of the gross purse or
- 31 gross income of any professional boxing contest.
- 32 (15) Match. – Any boxing or kickboxing contest or exhibition, and includes any
- 33 event, engagement, sparring or practice session, show or program where the
- 34 public is admitted and in which there is intended to be physical contact,
- 35 whether an exhibition or contest. This definition does not include training or
- 36 practice sessions when no admission is charged.
- 37 (16) Matchmaker. – A person through whom matches are arranged for
- 38 participants and who otherwise assists participants in procuring engagement
- 39 dates for boxing.
- 40 (17) Mixed martial artist. – Any person who engages as a participant in a mixed
- 41 martial arts match.
- 42 (18) Mixed martial arts. – A form of sporting martial arts that uses a variety of
- 43 martial arts techniques to deliver blows with the hands, elbows, and any part
- 44 of the leg below the hip, including the knee and foot, and also uses boxing,
- 45 wrestling, and grappling techniques.
- 46 (19) Natural person. – An individual.
- 47 (20) Participant. – Any person who engages in a match or exhibition and
- 48 performs as a boxer.
- 49 (21) Person. – An individual, group of individuals, business, corporation, limited
- 50 liability company, partnership, or any other individual or collective entity.
- 51 (22) Physician. – An individual licensed to practice medicine in this State.

- 1 (23) Professional. – Any person who is licensed as a professional boxer under the
2 federal Professional Boxing Safety Act of 1996.
- 3 (24) Promoter. – Any person who produces, arranges, stages, holds, or gives any
4 match in North Carolina involving a professional participant.
- 5 (25) Referee. – The official who shall enter and remain in the ring for the
6 duration of a match and shall enforce the rules and maintain order in the
7 ring.
- 8 (26) Ring official. – Any person who performs an official function for the
9 duration of a match.
- 10 (27) Sanctioned amateur. – A person who competes in a sanctioned amateur
11 match.
- 12 (28) Sanctioned amateur match. – Any boxing or kickboxing match regulated by
13 an amateur sports organization that has been recognized and approved by the
14 North Carolina Boxing Commission.
- 15 (29) Second. – Any person who will work or be present in the corner of a
16 participant for the duration of a match.
- 17 (30) Timekeeper. – Any person who will operate the clock or watch for the
18 duration of a match for the purpose of keeping the official time of the match.
- 19 (31) Toughman contestant. – Any person who competes in a toughman event.
- 20 (32) Toughman event. – An elimination program of matches in which: (i) the
21 contestants are not professional boxers; (ii) the finalist receives a purse or
22 other article of value; (iii) the participants engage in the use of full-contact
23 boxing techniques; and (iv) the object of each match is to win by decision,
24 knockout (KO), or technical knockout (TKO).
- 25 (33) Unarmed combat. – A match consisting of any combination of boxing,
26 kicking, wrestling, hitting, punching, or other combative contact techniques
27 that may reasonably be expected to inflict injury to opponents.

28 **"§ 143-659.3. State Athletics Commission.**

29 (a) Creation. – The North Carolina State Athletics Commission is created within the
30 Division of Tourism, Film, and Sports Development of the Department of Commerce to
31 regulate live boxing and kickboxing matches, whether professional, amateur, sanctioned
32 amateur, or toughman events, for which admission is charged for viewing, or the contestants
33 compete for a purse or prize of value greater than twenty-five dollars (\$25.00). The
34 Commission shall consist of six voting members and two nonvoting members. All the members
35 shall be residents of this State and meet requirements for membership under the Professional
36 Boxing Safety Act of 1996. The Commission members shall be appointed as follows:

- 37 (1) One voting member shall be appointed by the Governor for an initial term of
38 two years.
- 39 (2) One voting member shall be appointed by the President Pro Tempore of the
40 Senate for an initial term of three years.
- 41 (3) One voting member shall be appointed by the Speaker of the House of
42 Representatives for an initial term of three years.
- 43 (4) One voting member shall be appointed by the Secretary of Commerce for an
44 initial term of three years.
- 45 (5) One voting member shall be appointed by the Lieutenant Governor for an
46 initial term of two years.
- 47 (6) One voting member shall be appointed by the Tribal Council of the Eastern
48 Band of the Cherokee for an initial term of three years.
- 49 (7) One nonvoting advisory member shall be appointed by the Speaker of the
50 House of Representatives for an initial term of one year, from nominations

1 made by the North Carolina Medical Society, which shall nominate two
2 licensed physicians for the position.

- 3 (8) One nonvoting advisory member shall be appointed by the President Pro
4 Tempore of the Senate for an initial term of one year, from nominations
5 made by the North Carolina Medical Society, which shall nominate two
6 licensed physicians for the position.

7 Notwithstanding the schedule above in subdivisions (1), (5), (7), and (8) of this subsection,
8 if any former member of the North Carolina Boxing Advisory Commission is appointed to the
9 initial membership, that person shall serve an initial term of three years. The member appointed
10 pursuant to subdivision (6) of this subsection may serve on the Commission only if an
11 agreement exists and remains in effect between the Tribal Council of the Eastern Band of the
12 Cherokee and the Commission authorizing the Commission to regulate professional boxing
13 matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety
14 Act of 1996.

15 The two nonvoting advisory members appointed pursuant to subdivisions (7) and (8) of this
16 subsection shall advise the Commission on matters concerning the health and physical
17 condition of boxers and health issues relating to the conduct of exhibitions and boxing matches.
18 They may prepare and submit to the Commission for its consideration and approval any rules
19 that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

20 Terms for all members of the Commission except for the initial appointments shall be for
21 three years.

22 The Governor shall designate which member of the Commission is to serve as chair. A
23 member of the Commission may be removed from office by the appointing authority for cause.
24 Members of the Commission are subject to the conflicts of interest requirements of 15 U.S.C. §
25 6308 (contained in the Professional Boxing Safety Act of 1996, as amended). Each member,
26 before entering upon the duties of a member, shall take and subscribe an oath to perform the
27 duties of the office faithfully, impartially, and justly to the best of the member's ability. A
28 record of these oaths shall be filed with the Division.

29 (b) Vacancies. – Members shall serve until their successors are appointed and have
30 been qualified. Any vacancy in the membership of the Commission shall be filled in the same
31 manner as the original appointment. Vacancies for members appointed by the General
32 Assembly shall be filled in accordance with G.S. 120-122. A vacancy in the membership of the
33 Commission other than by expiration of term shall be filled for the unexpired term only.

34 (c) Meetings. – Meetings of the Commission shall be called by the chair or by any two
35 members of the Commission, and meetings shall be held at least quarterly. Any three members
36 of the Commission shall constitute a quorum at any meeting. Action may be taken and motions
37 and resolutions adopted by the Commission at any meeting by the affirmative vote of a
38 majority of the members of the Commission present at a meeting at which a quorum exists.
39 Any or all members may participate in a regular or special meeting by, or conduct the meeting
40 through the use of, any means of communication by which all members participating may
41 simultaneously hear each other during the meeting. A member participating in the meeting by
42 this means is deemed to be present in person at the meeting.

43 (d) Rule-Making Authority of the Commission. – The Commission shall have the
44 exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and
45 performances of live boxing, kickboxing, sanctioned amateur, amateur, and toughman matches
46 and exhibitions in this State. The rules shall be issued pursuant to the provisions of Chapter
47 150B of the General Statutes and may include the following:

- 48 (1) Requirements for issuance of licenses and permits required by this Article.
49 (2) Regulation of ticket sales.
50 (3) Physical requirements for contestants, including classification by weight and
51 skill.

- 1 (4) Supervision of matches and exhibitions by licensed physicians and referees.
- 2 (5) Insurance and bonding requirements.
- 3 (6) Compensation of participants and licensees.
- 4 (7) Contracts and financial arrangements.
- 5 (8) Prohibition of dishonest, unethical, and injurious practices.
- 6 (9) Facilities.
- 7 (10) Approval of sanctioning amateur sports organizations.
- 8 (11) Procedures and requirements for compliance with the Professional Boxing
- 9 Safety Act of 1996.

10 (e) Compensation. – None of the members of the Commission shall receive
11 compensation for serving on the Commission. However, members of the Commission may be
12 reimbursed for their expenses in accordance with the provisions of Chapter 138 of the General
13 Statutes.

14 (f) Staff Assistance. – The Division shall hire a person to serve as Executive Director
15 of the Commission and shall provide staff assistance to the Executive Director. The Executive
16 Director shall enforce this Article through the Division. If necessary, the Executive Director
17 may train and contract with independent contractors for the purpose of regulating and
18 monitoring events, issuing licenses, collecting fees, and enforcing rules of the Commission.
19 The Executive Director may initiate and review criminal background checks on persons
20 requesting to work as independent contractors for the Commission or persons applying to be
21 licensed by the Commission.

22 (g) Admission to Facilities. – A promoter is prohibited from barring the admission of a
23 Commission member to an event, performance, or contest held pursuant to this Article.

24 **"§ 143-659.4. Unauthorized matches prohibited.**

25 No person shall promote, conduct, or engage in an unarmed combat match, whether the
26 participants are professional or amateur, except as authorized by this Article. This section shall
27 not preclude professional wrestling.

28 **"§ 143-659.5. Licensing and permitting.**

29 (a) License and Permit Required. – Except for sanctioned amateur matches, it is
30 unlawful for any person to act in this State as an announcer, contestant, judge, manager,
31 matchmaker, promoter, referee, timekeeper, or second unless the person is licensed to do so
32 under this Article. It is unlawful for a promoter to present a match in this State, other than a
33 sanctioned amateur match, unless the promoter has a permit issued under this Article to do so.
34 The Commission has the exclusive authority to issue, deny, suspend, or revoke any license or
35 permit provided for in this Article.

36 (b) License. – All licenses issued under this Article shall be valid only during the
37 calendar year in which they are issued, except contestant licenses shall be valid for one year
38 from the date of issuance. A license for an announcer, contestant, judge, matchmaker, referee,
39 timekeeper, or second shall be issued only to a natural person. A natural person shall not
40 transfer or assign a license or change it into another name. A license for a manager or promoter
41 may be issued to a corporation or partnership; provided, however, that all officers or partners
42 shall submit an application for individual licensure, and only those officers or partners who are
43 licensed shall be entitled to negotiate or sign contracts. The addition of a new officer or partner
44 during the license period shall necessitate the filing of an application for individual licensure by
45 the new officer or partner.

46 An applicant for a license shall file with the Commission the appropriate nonrefundable fee
47 and any forms, documents, medical examinations, or exhibits the Commission may require in
48 order to properly administer this Article. The information requested shall include the date of
49 birth and social security number of each applicant as well as any other personal data necessary
50 to positively identify the applicant and may include the requirement of verification of any
51 documents the Commission deems appropriate. A person may not participate under a fictitious

1 or assumed name in any match unless the person has first registered the name with the
2 Commission.

3 (c) Surety Bond. – An applicant for a promoter's license must submit, in addition to any
4 other forms, documents, or exhibits requested by the Commission, a surety bond payable to the
5 Commission for the benefit of any person injured or damaged by (i) the promoter's failure to
6 comply with any provision of this Article or any rules adopted by the Commission or (ii) the
7 promoter's failure to fulfill the obligations of any contract related to the holding of a boxing
8 event. The surety bond shall be issued in an amount to be no less than ten thousand dollars
9 (\$10,000). The amount of the surety bond shall be negotiable upon the sole discretion of the
10 Commission. All surety bonds shall be upon forms approved by the Secretary of Commerce
11 and supplied by the Commission.

12 (d) Permit. – A permit issued to a promoter under this Article is valid for a single
13 match. An applicant for a permit shall file with the Commission the appropriate nonrefundable
14 fee and any forms or documents the Commission may require.

15 **"§ 143-659.6. Fees; State Boxing Commission Revenue Account.**

16 (a) License Fees. – The Commission shall collect the following license fees:

17	<u>Announcer</u>	<u>\$75.00</u>
18	<u>Contestant</u>	<u>\$37.50</u>
19	<u>Judge</u>	<u>\$75.00</u>
20	<u>Manager</u>	<u>\$150.00</u>
21	<u>Matchmaker</u>	<u>\$300.00</u>
22	<u>Promoter</u>	<u>\$450.00</u>
23	<u>Referee</u>	<u>\$75.00</u>
24	<u>Timekeeper</u>	<u>\$75.00</u>
25	<u>Second</u>	<u>\$37.50.</u>

26 The annual license renewal fees shall not exceed the initial license fees.

27 (b) Permit Fees. – The Commission may establish a fee schedule for permits issued
28 under this Article. The fees may vary depending on the seating capacity of the facility to be
29 used to present a match. The fee may not exceed the following amounts:

30	<u>Seating Capacity</u>	<u>Fee Amount</u>
31	<u>Less than 2,000</u>	<u>\$150.00</u>
32	<u>2,000 – 5,000</u>	<u>\$300.00</u>
33	<u>More than 5,000</u>	<u>\$450.00.</u>

34 (c) State Athletics Commission Revenue Account. – There is created the State Athletics
35 Commission Revenue Account within the Division of Tourism, Film, and Sports Development
36 of the Department of Commerce. Moneys collected pursuant to the provisions of this Article
37 shall be credited to the Account and applied to the administration of the Article.

38 **"§ 143-659.7. Contracts and financial arrangements.**

39 Any contract between licensees and related to a boxing match or exhibition held or to be
40 held in this State must meet the requirements of administrative rules as set forth by the
41 Commission. Any contract which does not satisfy the requirements of the administrative rules
42 shall be void and unenforceable. All contracts shall be in writing.

43 **"§ 143-659.8. Sanctioned amateur matches.**

44 In addition to the other applicable provisions of this Article, a sanctioned amateur match
45 shall be conducted pursuant to the rules of the sports organization sanctioning the boxing match
46 or exhibition.

47 **"§ 143-659.9. Violations.**

48 (a) Civil Penalties. – The Commission may issue an order against a licensee or other
49 person who willfully violates any provision of this Article, imposing a civil penalty of up to
50 five thousand dollars (\$5,000) for a single violation or of up to twenty-five thousand dollars
51 (\$25,000) for multiple violations in a single proceeding or a series of related proceedings. No

1 order under this subsection may be entered without giving the licensee or other person 15 days'
2 prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of
3 Chapter 150B of the General Statutes.

4 The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted to
5 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

6 (b) Criminal Penalties. – A willful violation of any provision of this Article shall
7 constitute a Class 2 misdemeanor. The Commission may refer any available evidence
8 concerning violations of this Article to the proper district attorney, who may, with or without
9 such a reference, institute the appropriate criminal proceedings.

10 (c) Injunction. – Whenever it appears to the Commission that a person has engaged or
11 is about to engage in an act or practice constituting a violation of any provision of this Article
12 or any rule or order hereunder, the Commission may bring an action in any court of competent
13 jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any
14 rule or order issued pursuant to this Article."

15 **SECTION 4.** Each member serving on the North Carolina Boxing Advisory
16 Commission on the effective date of this act shall continue to serve the term for which the
17 member was appointed. Upon the expiration of a member's term, a member shall be appointed
18 to the North Carolina Athletics Commission in accordance with G.S. 143-659.3, as enacted in
19 Section 3 of this act.

20 **SECTION 5.** This act is effective when it becomes law.