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SB-469 State Athletic Commission. (2015-2016)

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Senate Bill No. 469

CHAPTER 316

An act to amend Sections 18602, 18613, 18645, and 18843 of, to amend and renumber Sections 18852, 18853, 18854, 18855, 18860, 18861, 18865, 18868, and 18869 of, and to add Sections 18649 and 18855 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 21, 2015. Filed with Secretary of State September 21, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 469, Hill. State Athletic Commission.

Under existing law, the State Athletic Commission Act, the State Athletic Commission has jurisdiction over all professional and amateur boxing, professional and amateur kickboxing, all forms and combinations of forms of full contact martial arts contests, including mixed martial arts, and matches or exhibitions conducted, held, or given within this state. A violation of the act is a crime. Existing law requires the commission to appoint an executive officer. Existing law repeals these provisions establishing the commission and authorizing it to appoint an executive officer on January 1, 2016.

This bill would extend those repeal dates to January 1, 2020.

Existing law requires the Advisory Committee on Medical and Safety Standards to consist of 6 licensed physicians and surgeons appointed by the commission and authorizes the commission to call meetings at such times and places as it deems appropriate for the purpose of studying and recommending medical and safety standards for the conduct of boxing, wrestling, and martial arts contests.

This bill would provide that a majority of the appointed members of the committee constitutes a quorum for the purposes of those meetings.

Existing regulation prohibits the administration or use of any drugs, alcohol or stimulants, or injections in any part of the body, either before or during a match, to or by any boxer. Under existing regulation, a person who applies for or holds a license as a professional boxer and who has at any time had a positive drug test confirmed by any commission for any specified substance is required as a condition of licensure or renewal to provide a urine specimen. Further, under existing regulation, a licensed boxer is required to provide a urine specimen for drug testing either before or after the bout, as directed by the commission.

This bill would prohibit the administration or use of any drugs, alcohol, stimulants, or injections in any part of the body or the use of any specified prohibited substances by a professional or amateur boxer or martial arts fighter licensed by the commission. Because a violation of this prohibition would be a crime, the bill would impose a state-mandated local program. The bill would authorize the commission, subject to the adoption of regulations, to determine the necessity of exemptions to that prohibition. The bill would authorize the commission to conduct testing at any time during the period of licensure to ensure compliance with the

prohibition, as provided. The bill would make a licensee in violation of the prohibition subject to a fine of up to 40% of the value of the total purse.

Under existing regulation, contracts between boxers and managers and between boxers or managers and licensed clubs are required to be executed on printed forms approved by the commission. Existing regulation authorizes the commission to recognize or enforce a contract not on its printed form if entered into in another jurisdiction. Existing regulation prohibits no other contract or agreement from being recognized or enforced by the commission. Under existing regulation, all disputes between the parties to the contract, including the validity of the contract, are required to be arbitrated pursuant to the provisions of the contract. Under existing regulation, a person who seeks arbitration of a contract dispute is required to send a written request for arbitration to the commission and to the office of the Attorney General, as specified.

This bill would codify these regulatory provisions in statute and would authorize the commission to recover the costs for the arbitration from the parties subject to the arbitration.

This bill would renumber various enforcement provisions and would make other nonsubstantive changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 18602 of the Business and Professions Code is amended to read:

18602. (a) Except as provided in this section, there is in the Department of Consumer Affairs the State Athletic Commission, which consists of seven members. Five members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, and one member shall be appointed by the Speaker of the Assembly.

The members of the commission appointed by the Governor are subject to confirmation by the Senate pursuant to Section 1322 of the Government Code.

No person who is currently licensed, or who was licensed within the last two years, under this chapter may be appointed or reappointed to, or serve on, the commission.

(b) In appointing commissioners under this section, the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall make every effort to ensure that at least four of the members of the commission shall have experience and demonstrate expertise in one of the following areas:

(1) A licensed physician or surgeon having expertise or specializing in neurology, neurosurgery, head trauma, or sports medicine. Sports medicine includes, but is not limited to, physiology, kinesiology, or other aspects of sports medicine.

(2) Financial management.

(3) Public safety.

(4) Past experience in the activity regulated by this chapter, either as a contestant, a referee or official, a promoter, or a venue operator.

(c) Each member of the commission shall be appointed for a term of four years. All terms shall end on January 1. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term. No commission member may serve more than two consecutive terms.

(d) Notwithstanding any other provision of this chapter, members first appointed shall be subject to the following terms:

(1) The Governor shall appoint two members for two years, two members for three years, and one member for four years.

(2) The Senate Committee on Rules shall appoint one member for four years.

(3) The Speaker of the Assembly shall appoint one member for four years.

(e) (1) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

(2) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 2. Section 18613 of the Business and Professions Code is amended to read:

18613. (a) (1) The commission shall appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the commission and vested in him or her by this chapter. The appointment of the executive officer is subject to the approval of the Director of Consumer Affairs.

(2) The commission may employ in accordance with Section 154 other personnel as may be necessary for the administration of this chapter.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 3. Section 18645 of the Business and Professions Code is amended to read:

18645. (a) There is hereby created within the jurisdiction of the State Athletic Commission an Advisory Committee on Medical and Safety Standards.

(b) The committee shall consist of six licensed physicians and surgeons appointed by the commission. The commission may call meetings of those physicians and surgeons at such times and places as it deems appropriate for the purpose of studying and recommending medical and safety standards for the conduct of boxing, wrestling, and martial arts contests.

(c) It shall require a majority vote of the commission to appoint a person to the committee. Each appointment shall be at the pleasure of the commission for a term not to exceed four years.

(d) A majority of the appointed members of the committee shall constitute a quorum for the purposes of meeting.

SEC. 4. Section 18649 is added to the Business and Professions Code, to read:

18649. (a) The administration or use of any drugs, alcohol, stimulants, or injections in any part of the body or the use of any prohibited substance specified in the Prohibited List of the World Anti-Doping Code, as adopted by the World Anti-Doping Agency, by a professional or amateur boxer or martial arts fighter licensed by the commission shall be prohibited. The commission, in its discretion and pursuant to regulations adopted pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), may determine the necessity of exemptions to this section for certain licensees.

(b) The commission may conduct testing at any time during the period of licensure for a professional or amateur boxer or martial arts fighter licensed by the commission to ensure compliance with subdivision (a).

(c) The commission may collect blood and urine specimens from a professional or amateur boxer or martial arts fighter licensed by the commission to detect the presence of any prohibited substances. Collection of specimens shall be done in the presence of authorized commission personnel.

(d) A professional or amateur boxer or martial arts fighter licensed by the commission, for which the presence of a prohibited substance is detected through testing by the commission, shall be in violation of this section and subject to the penalties described in Section 18843.

SEC. 5. Section 18843 of the Business and Professions Code is amended to read:

18843. (a) In addition to its authority under other provisions of this chapter to take action against a licensee, the commission, its executive officer, or his or her duly authorized representative shall have the authority to assess fines not to exceed two thousand five hundred dollars (\$2,500) for each violation of any of the provisions of this chapter or any of the rules and regulations of the commission.

(b) Notwithstanding any other provision, the commission may also assess a fine of up to 40 percent of the total purse for a violation of Section 18649 related to the use of prohibited substances.

(c) Fines may be assessed without advance hearing, but the licensee may apply to the commission for a hearing on the matter if the fine should be modified or set aside. This application for a hearing shall be in writing and shall be received by the commission within 30 days after service of notice of the fine. Upon receipt of this written request, the commission shall set the matter for hearing within 30 days.

SEC. 6. Section 18852 of the Business and Professions Code is amended and renumbered to read:

18851. A manager of a boxer or martial arts fighter shall maintain an accurate annual record showing all of the following with respect to each contest in which the boxer or martial arts fighter has participated:

- (a) Training expenses.
- (b) Amount of money actually paid to the contestant.
- (c) Amount of money which the manager received from the purse.
- (d) Amount of money owed to the manager by the contestant.

The manager's record shall be supported by documentation, shall be made available to both the fighter under contract and the commission upon request, and shall be kept in the manager's possession for a period of five years from the transaction.

SEC. 7. Section 18853 of the Business and Professions Code is amended and renumbered to read:

18852. No fighter shall be paid before a contest, except that a promoter may, with the written approval of the commission, advance to the fighter before the contest, up to one thousand dollars (\$1,000) plus any necessary transportation and living expenses. However, such advance, except necessary transportation and living expenses, shall not exceed 20 percent of the fighter's purse.

SEC. 8. Section 18854 of the Business and Professions Code is amended and renumbered to read:

18853. No fighter, nor his or her manager, shall be paid for the services of the fighter except in the presence of an authorized commission representative. The commission representative shall report to the executive officer any payment made contrary to the provisions of the contract on file with the commission.

SEC. 9. Section 18855 of the Business and Professions Code is amended and renumbered to read:

18854. Any official who fails to enforce the provisions of this act or the commission's rules and regulations shall be subject to disciplinary action.

SEC. 10. Section 18855 is added to the Business and Professions Code, to read:

18855. The commission shall recognize and enforce contracts between boxers or martial arts fighters and managers and between boxers or martial arts fighters and licensed clubs. Contracts shall be executed on printed forms approved by the commission. The commission may recognize or enforce a contract not on its printed form if entered into in another jurisdiction. No other contract or agreement may be recognized or enforced by the commission. All disputes between the parties to the contract, including the validity of the contract, shall be arbitrated by the commission pursuant to the provisions of the contract. Subject to Section 227 of Title 4 of the California Code of Regulations, a person who seeks arbitration of a contract shall send a written request to the commission's headquarters and to the office of the Attorney General. The commission may seek cost recovery related to arbitration proceedings from the parties subject to the proceedings.

SEC. 11. Section 18860 of the Business and Professions Code is amended and renumbered to read:

18856. (a) The commission, the executive officer, or authorized representative shall have power to order a promoter to withhold any purse, any part thereof, any receipts or other funds owing or payable to any contestant, or the share thereof of any manager, if, in his or her judgment, it should appear that the contestant is not competing honestly, or is intentionally not competing to the best of his or her ability, or if it should appear that the contestant, manager, or any seconds have violated any provision of this act, or the rules and regulations adopted by the commission.

(b) Any purse, or portion thereof, so withheld, shall be delivered by the promoter to the commission upon demand. Any contestant claiming the money withheld shall within 10 days after the end of the contest apply in writing to the commission for a hearing, the commission shall fix a date for the hearing, and after the hearing determines the disposition to be made of the money held by the commission.

(c) If no application for a hearing is filed within the time prescribed the commission shall meet and determine the disposition to be made of the money held by the commission.

(d) This section does not apply to any exhibition where the participants are not competing to the best of their ability.

SEC. 12. Section 18861 of the Business and Professions Code is amended and renumbered to read:

18857. The commission, the executive officer, or authorized representative shall have the power to order a promoter to withhold 10 percent of the total purse payable to a contestant if the manager of the contestant does not present an itemized statement of expenses incurred in connection with the contest. The money so withheld shall be paid to the commission and held in trust for payment to the contestant or his or her manager, upon presentation by the manager to the commission of the itemized statement of expenses.

SEC. 13. Section 18865 of the Business and Professions Code is amended and renumbered to read:

18858. Any licensee who directly or indirectly holds, participates in, aids, or abets any sham or fake contest or match shall be subject to disciplinary action.

This section does not apply to any exhibition.

SEC. 14. Section 18868 of the Business and Professions Code is amended and renumbered to read:

18859. (a) The commission shall have the authority to obtain and review criminal history information to determine whether an applicant or licensee has been convicted of any offense or has been arrested for any offense for which disposition is still pending. A conviction, or a plea of guilty or nolo contendere to an offense, may be cause to deny an application or take disciplinary action against a licensee dependent on the relevancy of the offense to the licensed activity.

(b) The commission may require applicants to submit two sets of fingerprints which shall be furnished to the Department of Justice. Upon the request of the commission, the Department of Justice shall submit one set of the fingerprints to the Federal Bureau of Investigation to obtain a copy of the Federal Bureau of Investigation's record and shall retain one set to search the California criminal history system.

SEC. 15. Section 18869 of the Business and Professions Code is amended and renumbered to read:

18860. Nothing in this chapter shall prevent any county, city, or city and county from prohibiting the holding or participating in any contest, match, or exhibition.

SEC. 16. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.