

ACT 135

H.B. NO. 1907-86

A Bill for an Act Relating to Boxing Commission.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. [[](a)[]] The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- [[3] Chapter 440 (Boxing Commission)
- [[4] (3) Chapter 460J (Pest Control Board)
- [[5] (4) Chapter 438 (Board of Barbers)
- [[6] (5) Chapter 439 (Board of Cosmetology)

[[](b)[]] The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)
- (7) Chapter 455 (Board of Examiners in Naturopathy)

[[](c)[]] The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)

- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)
- (7) Chapter 442 (Board of Chiropractic Examiners)
- (8) Chapter 448 (Board of Dental Examiners)
- (9) Chapter 436E (Board of Acupuncture)

[[[d]]] The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)

[[[e]]] The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 462A (Pilotage)

[[[f]]] The following [[]]chapters are[[]] hereby repealed effective December 31, 1991:

- [[(1)]] Chapter 448H (Elevator Mechanics Licensing Board)
- [[(2)]] Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- [[(3)]] Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [[(4)]] Chapter 460 (Board of Osteopathic Examiners)
- [[(5)]] Chapter 461 (Board of Pharmacy)
- [[(6)]] Chapter 461J (Board of Physical Therapy)
- [[(7)]] Chapter 463E (Podiatry).]

(g) The following chapter is hereby repealed effective December 31, 1992:

- (1) Chapter 440 (Boxing Commission)."

SECTION 2. Chapter 440, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§440- Revocation; suspension; fine. (a) The commission shall have the power to revoke or suspend the license of any person, partnership, or corporation licensed under any of the classifications designated in this chapter, or fine the licensee, or both, for any of the following causes:

- (1) Violation of any provision of this chapter or the rules adopted pursuant thereto or any other law, regulation, or rule which applies to those persons licensed under this chapter;
- (2) Manifest incapacity, professional misconduct, or unethical conduct;
- (3) Making any false representations or promises through advertising or other dissemination of information;
- (4) Any fraudulent, dishonest, or deceitful act in connection with the licensing of any person, partnership, or corporation under this chapter or in connection with any boxing match;
- (5) Making any false or misleading statement in any application or document submitted or required to be filed in this chapter;
- (6) Revocation or suspension of a license or other disciplinary action against the licensee by another state or boxing commission;

(7) Failure to report any disciplinary action, including medical and mandatory suspensions, or revocation or suspension of a license in another jurisdiction within fifteen days preceding any boxing match in which the licensee participates.

(b) The manager and second may be held responsible for all violations of this chapter by a boxer whom they manage, second, train, or serve as an agent for and may be subject to license revocation or suspension, or a fine, or any combination thereof, irrespective of whether any disciplinary action is taken against the boxer.

(c) Any person, partnership, or corporation in violation of this chapter shall be fined not more than \$1,000 for each violation.

(d) In addition to the penalties provided in this chapter, any person, partnership, or corporation found in violation of any of the above may be prohibited from engaging in any boxing activities in the State for a period in conformity with that set forth in section 92-17."

SECTION 3. Chapter 440, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§440- Cumulative penalties. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 4. Section 440-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Boxing" means a contest in which the act of attack and defense is practiced with gloved fists by two contestants."

SECTION 5. Chapter 440, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§440- Powers and duties of the board. In addition to the powers and duties enumerated elsewhere in this chapter, the commission shall adopt rules pursuant to chapter 91 to provide for the following:

- (1) A trust/escrow account system to ensure all financial obligations are met by a promoter before a boxing contest. This system shall supersede all other financial obligatory requirements imposed on promoters by this chapter;
- (2) A public record accounting for the distribution of all tickets provided to the commission by a promoter and anything else of value which is provided to the commission;
- (3) An annual clinic or seminar on health and medical safety for boxers;
- (4) A mandatory neurological examination for any boxer who is knocked out in a boxing contest, and an eye examination by a licensed ophthalmologist as part of a boxer's annual medical examination;
- (5) An annual review of the commission's rules and powers to insure that all rules and powers exercised are within the authority of the commission and pursuant to chapter 91."

SECTION 6. Section 440-9, Hawaii Revised Statutes, is amended to read as follows:

"§440-9 Jurisdiction of commission. (a) The [boxing] commission is vested with the sole jurisdiction, direction, management, and control over all

professional and amateur boxing, to be conducted, held, or given within the State. No professional or amateur boxing contest shall be conducted, held, or given within the State except in accordance with this chapter and the rules adopted by the commission pursuant thereto.

(b) [The] No boxing contest shall take place unless the commission has approved all proposed bouts. In addition, the commission shall not allow any professional boxing contest unless:

- (1) [the] The contestants use gloves not less than [five] six ounces in weight [and];
- (2) The contest [does not consist] consists of not more than fifteen rounds of a duration of not more than three minutes each with an interval of one minute between each round and the succeeding round[, and unless each];
- (3) Each contestant is at least eighteen years of age; and
- (4) [one] One hour prior to the contest each contestant is examined by a licensed physician who shall certify in writing to the referee of the contest that the contestant is physically fit to engage therein.”

SECTION 7. Section 440-10, Hawaii Revised Statutes, is amended to read as follows:

“§440-10 Licenses, promoters. (a) Any individual, partnership, club, association, organization, or corporation may make application to the [boxing] commission for a license to conduct, hold, and give professional boxing contests. The application shall be in writing, addressed to the commission, and duly verified by the applicant, or if the applicant is a club, association, organization, or corporation, by a duly authorized officer thereof, and shall include the following:

- (1) Evidence of financial integrity for an individual applicant, for each partner of a partnership or joint venture, or for each corporate entity or association to include a:
 - (A) Current credit report covering a five-year period immediately preceding the date of application;
 - (B) Current financial statement certified by a registered certified public accountant or a registered public accountant;
 - (C) State tax clearance from the state department of taxation;
- (2) For corporations organized under the laws of the State [of Hawaii], a copy of the affidavit of officers on file with the department of commerce and consumer affairs, or certificates of registration for foreign corporations and partnerships;
- (3) Proof that the applicant has contracted for [major] medical insurance coverage for all boxers on the applicant’s cards.

(b) The application shall contain a recital of the facts as may be specified by the commission in order for it to determine whether or not the applicant possesses the necessary physical, mental, moral, and financial qualifications to entitle the applicant to a license.

(c) The commission shall not issue any license to conduct, hold, or give boxing contests unless it is satisfied that the applicant has complied with the conditions of this chapter, possesses the necessary qualifications for a license, and is the real party in interest, and intends to conduct, hold, or give the contests or matches itself. A license may be revoked at any time if the commission finds after a hearing that the licensee is not the real party in interest or does not comply with the conditions of this chapter. Every license shall be subject to this chapter and the rules as the commission may prescribe.”

SECTION 8. Section 440-11, Hawaii Revised Statutes, is amended to read as follows:

“§440-11 License fee; bond[.]; requirements to maintain license. (a) The application for a license to promote professional boxing contests or amateur boxing contests shall be accompanied by a fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.

(b) Before any license is granted, the applicant shall file and maintain with the [boxing] commission proof of medical insurance for boxers as provided in section 440-10(a)(3) and a bond in the sum of \$5,000 with good and sufficient sureties conditioned for the faithful performance by the applicant of this chapter. In case of default in the performance, the bond shall be forfeited and the full amount thereof, or any less amount as the commission may determine, shall be recovered by the attorney general in the name of the State and the amount so recovered shall be paid to any aggrieved party for monetary damages sustained as a result of the applicant’s default in performance, as determined by the commission, with the remainder paid into the state treasury.

(c) Failure, refusal, or neglect of any licensed promoter to maintain in full force and effect the applicable medical insurance or the applicable bond covered in this section shall cause the automatic suspension of the promoter’s license as of the date of expiration or cancellation of the medical insurance or bond. A licensee may, within fifteen days after receipt of the notification of the license suspension, request an administrative hearing to review the suspension pursuant to chapter 91.

The commission shall not reinstate the affected license until satisfactory proof of medical insurance or bond coverage, as appropriate, is submitted to the commission. Failure to effect a reinstatement of a suspended license within sixty days of the suspension shall cause the license to be terminated.

The commission may assess a fee not to exceed \$500 as a condition for the reinstatement of a license terminated pursuant to this section.”

SECTION 9. Section 440-12, Hawaii Revised Statutes, is amended to read as follows:

“§440-12 Licenses, participants. Any individual, partnership, or corporation may make application to the [boxing] commission for a license to act as a physician, referee, judge, matchmaker, manager, timekeeper, second, [announcer,] or professional boxer to participate, either directly or indirectly, in any contest. The application shall be in writing, addressed to the commission, and duly verified by the applicant or, if the applicant is a corporation, by a duly authorized officer thereof. The application shall contain a recital of facts as may be specified by the commission in order for it to determine whether or not the applicant possesses the necessary physical, mental, and moral qualifications to entitle the applicant to a license.

In addition, the applicant for a referee, judge, manager, or second license shall take and pass a written examination as provided by the commission. The commission may exempt an applicant for a manager or second license from taking the examination, if the applicant holds a valid manager or second license in another jurisdiction with comparable boxing regulations.

Any license to act as a physician, referee, judge, matchmaker, manager, timekeeper, second, [announcer,] or professional boxer may be suspended or revoked by the commission upon cause as it deems sufficient after due hearing.”

SECTION 10. Section 440-13, Hawaii Revised Statutes, is amended to read as follows:

“§440-13 License fees. License fees shall be paid annually to the State by every applicant to whom a license is issued to participate in the conduct of professional boxing in any of the capacities set forth in this section: physician, referee, judge, matchmaker, manager, timekeeper, second, [announcer,] and professional boxer. The charge for a duplicate of a license and all fees required by this chapter shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.

The director of commerce and consumer affairs may establish a schedule of license fees for participation in amateur boxing contests, and may waive payment of license fees for amateur boxing contests.”

SECTION 11. Section 440-16, Hawaii Revised Statutes, is amended to read as follows:

“§440-16 Failure to report receipts. Whenever any person, club, corporation, organization, or association holding a license to conduct, hold, or give boxing contests fails to make a report of any boxing contest at the time and in the manner herein prescribed, or whenever the report is unsatisfactory to the [boxing] commission, the secretary, at the licensee’s expense, may examine, or cause to be examined, the books and records of the person, club, corporation, organization, or association.”

SECTION 12. Section 440-19, Hawaii Revised Statutes, is amended to read as follows:

“§440-19 Referees; duties. At each boxing contest there shall be in attendance a duly licensed referee designated by the [boxing] commission, who shall direct and control the [same.] contest. Before starting the boxing contest the referee shall ascertain from each contestant the name of the contestant’s chief second, and shall hold the chief second responsible for the conduct of the assistant seconds during the progress of the contest.

The referee may recommend and the commission may in its discretion declare forfeited any prize, purse, or remuneration or any part thereof, to which the contestants or one of the contestants may be entitled, or any part of the gate receipts for which the contestants are competing, if in its judgment the contestants or one of the contestants are not honestly competing.

Every referee shall warn competing boxers of the referee’s power to recommend the forfeiture of purse or purses, should there be any apparent cause for the warning.

In any case where the referee decides that the contestants are not honestly competing and that under the law the contestants’ purses or the purse of either contestant should be forfeited, the bout shall be stopped before the end of the last round, and no decision shall be given. A contestant earns nothing and shall not be paid for a contest in which there is stalling, faking, [or] dishonesty, or collusion. The commission may, independently of the referee or the referee’s decision, determine the merits of any contest, and take whatever action it considers proper. In any case the secretary or commissioner may order the purse of the offender held up for investigation and action.

The referee shall stop the contest when either of the contestants shows a marked superiority or is apparently outclassed. The referee, at the termination of each boxing contest, shall render a decision.”

SECTION 13. Section 440-31, Hawaii Revised Statutes, is amended to read as follows:

“§440-31 Persons barred as amateur contestants. No person shall appear as a contestant in amateur boxing contests who prior thereto has received any compensation or monetary reward in any form for displaying, exercising, or giving any example of the person’s boxing skill [in or knowledge of athletic exercises,] or for rendering services [of any kind] to any athletic organization or to any person or persons as a boxing trainer, coach, instructor, or otherwise, or who has been employed in any manner professionally by reason of the person’s [athletic] boxing skill or knowledge.”

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 15. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.