

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 10-0349.01 Jery Payne

HOUSE BILL 10-1245

HOUSE SPONSORSHIP

Liston, Balmer

SENATE SPONSORSHIP

Johnston,

House Committees

Business Affairs and Labor

Senate Committees

Business, Labor and Technology

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE REGULATION OF BOXING BY
102 THE BOXING COMMISSION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Sunset Process - House Business Affairs and Labor Committee. The bill implements the recommendations of the department of regulatory agencies in its sunset review of the functions of the Colorado state boxing commission (commission), which include the following recommendations:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
Am ended 2nd Reading
March 16, 2010

HOUSE
3rd Reading Unam ended
February 22, 2010

HOUSE
Am ended 2nd Reading
February 19, 2010

- ! **Sections 1 through 3:** *Recommendation 1* continues the commission and the office of boxing (office) until 2017.
- ! **Sections 5 and 8:** *Recommendations 2 and 10* clarify that mixed martial arts is regulated by the commission and repeal a requirement that the department of regulatory agencies adopt standards that allow amateur tough person fighting.
- ! **Section 6:** *Recommendation 3* repeals the requirement for the commission to meet at least quarterly.
- ! **Section 9:** *Recommendations 4 and 5* repeal the requirements that the director of the office confer with the commission at least monthly and that the executive director of the department of regulatory agencies appoint and supervise the director of the office, and transfer these duties to the director of the division of registrations.
- ! **Section 10:** *Recommendations 6 and 11* transfer the commission's authority to establish and collect licensing fees and surcharges to the director of the division of registrations and credit fines to the state's general fund rather than the division of registrations cash fund.
- ! **Sections 4 and 7:** Make conforming amendments for the provisions affected by recommendations 2, 6, and 11.
- ! **Sections 7 and 11:** *Recommendations 7, 8, and 9* transfer enforcement authority from the commission to the director of the office, repeal authorization for the commission to maintain a membership in the association of boxing commissions and for the director of the office to attend the association's annual convention, and repeal authorization for the commission to subscribe to the record-keeping database provider approved by the association of boxing commissions.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Repeal.** 24-34-104 (41) (g), Colorado Revised
3 Statutes, is repealed as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for termination, continuation, or reestablishment.**

6 (41) The following agencies, functions, or both, shall terminate on July
7 1, 2010:

1 (g) ~~The office of boxing, including the Colorado state boxing~~
2 ~~commission, created by article 10 of title 12, C.R.S.;~~

3 **SECTION 2.** 24-34-104 (48), Colorado Revised Statutes, is
4 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

5 **24-34-104. General assembly review of regulatory agencies**
6 **and functions for termination, continuation, or reestablishment.**

7 (48) The following agencies, functions, or both, shall terminate on July
8 1, 2017:

9 (i) THE OFFICE OF BOXING, INCLUDING THE COLORADO STATE
10 BOXING COMMISSION, CREATED BY ARTICLE 10 OF TITLE 12, C.R.S.

11 **SECTION 3.** 12-10-111 (1), Colorado Revised Statutes, is
12 amended to read:

13 **12-10-111. Repeal of article.** (1) This article is repealed,
14 effective July 1, ~~2010~~ 2017.

15 **SECTION 4.** 12-10-102, Colorado Revised Statutes, is amended
16 to read:

17 **12-10-102. Legislative declaration.** (1) The general assembly
18 hereby finds, determines, and declares that the federal "Professional
19 Boxing Safety Act of 1996" requires the state of Colorado to establish a
20 state boxing commission. Because there is no state boxing commission,
21 any professional boxing ~~or kickboxing~~ match held in Colorado has to be
22 supervised by another state's boxing commission, using safety guidelines
23 and procedures implemented by that state.

24 (2) The general assembly further finds and declares that it is in the
25 best interests of the residents of Colorado, professional boxing ~~and~~
26 ~~kickboxing~~ participants, and the future of the ~~sports~~ SPORT of boxing ~~and~~
27 ~~kickboxing~~ in Colorado that the conduct of ~~such sports~~ THE SPORT be

1 subject to an effective and efficient system of strict control designed by
2 the general assembly. Such system shall, at a minimum:

- 3 (a) Protect the safety of the participants; and
- 4 (b) Promote the public trust and confidence in the conduct of
5 professional boxing. ~~and kickboxing.~~

6 (3) To further public confidence and trust, this article and rules
7 promulgated pursuant to this article shall regulate all persons, practices,
8 and associations that relate to the operation of live professional boxing
9 ~~and professional kickboxing~~ events, performances, or contests held in
10 Colorado.

11 **SECTION 5.** 12-10-103 (2), (7), (8), (10), (12), and (15),
12 Colorado Revised Statutes, are amended, and the said 12-10-103 is
13 further amended BY THE ADDITION OF THE FOLLOWING NEW
14 SUBSECTIONS, to read:

15 **12-10-103. Definitions.** As used in this article, unless the context
16 otherwise requires:

17 (2) "Boxing" ~~includes~~ MEANS FIGHTING, STRIKING, FORCING AN
18 OPPONENT TO SUBMIT, OR DISABLING AN OPPONENT, INCLUDING THE
19 DISCIPLINES OF kickboxing AND MIXED MARTIAL ARTS.

20 (6.5) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS WITHIN
21 THE DEPARTMENT.

22 (7) "Exhibition" means a match in which the participants display
23 their boxing ~~or kickboxing~~ skills and techniques without striving earnestly
24 to win.

25 (8) ~~"Kickboxer" means a participant in a kickboxing match.~~

26 (10) "Match" means a professional boxing ~~or professional~~
27 ~~kickboxing~~ contest or exhibition, the object of which is to win by a

1 decision, knockout, or technical knockout, and includes an event,
2 engagement, sparring or practice session, show, or program where the
3 public is admitted and there is intended to be physical contact. "Match"
4 does not include a training or practice session when no admission is
5 charged.

6 (10.5) "MIXED MARTIAL ARTS" MEANS THE COMBINED
7 TECHNIQUES OF BOXING AND MARTIAL ARTS DISCIPLINES SUCH AS
8 GRAPPLING, KICKING, AND STRIKING, INCLUDING THE USE OF FULL,
9 UNRESTRAINED PHYSICAL FORCE.

10 (12) "Participant" means a person who engages in a match as a
11 boxing ~~or kickboxing~~ contestant.

12 (15) "Toughperson fighting" means a physical contest, match,
13 tournament, exhibition, or bout, or any activity that involves physical
14 contact between two or more individuals engaging in combative skills
15 using the hands, feet, or body, whether or not prizes or purses are
16 awarded at the event or promised in future events or spectator admission
17 fees are charged or received, and the contest, match, tournament,
18 exhibition, bout, or activity is not recognized by and not sanctioned by
19 any state, regional, or national boxing ~~or kickboxing~~ sanctioning authority
20 that is recognized by the executive director of the department of
21 regulatory agencies. ~~unless the contest, match, tournament, exhibition,~~
22 ~~bout, or activity meets health and safety standards adopted by the~~
23 ~~department of regulatory agencies. The department shall adopt such~~
24 ~~standards within one hundred twenty days after May 21, 2004. Such~~
25 ~~standards shall be adopted within the department's existing~~
26 ~~appropriations.~~ "Toughperson fighting" does not mean activities
27 occurring under a martial arts instructor at a place of training or other

1 types of instructor-student or student-student contact occurring under the
2 supervision of an instructor at a place of training. "Toughperson
3 fighting" does not mean a sanctioned boxing ~~or kickboxing~~ event
4 approved by the commission.

5 **SECTION 6.** 12-10-105 (2) (a) (IV) (B), (2) (c), and (3),
6 Colorado Revised Statutes, are amended to read:

7 **12-10-105. Colorado state boxing commission - creation.**

8 (2) (a) The commission shall consist of five voting members and two
9 nonvoting advisory members. All members shall be residents of
10 Colorado, be of good character and not have been convicted of any felony
11 or match-related offense, notwithstanding the provisions of section
12 24-5-101, C.R.S., and be appointed as follows:

13 (IV) (B) The two nonvoting advisory members shall advise the
14 commission on matters concerning the health and physical condition of
15 boxers ~~and kickboxers~~ and health issues relating to the conduct of
16 matches. The nonvoting members may prepare and submit to the
17 commission for its consideration and approval any rules that in their
18 judgment will safeguard the physical welfare of the participants engaged
19 in boxing.

20 (c) The commission shall designate by majority vote which
21 member is to serve as chair. Any member may be removed from office
22 by the person making the appointment for misfeasance, malfeasance,
23 willful neglect of duty, or other cause. ~~after notice and a public hearing,~~
24 ~~unless such notice and hearing have been expressly waived in writing.~~

25 (3) Meetings of the commission shall be held at least ~~quarterly~~
26 ANNUALLY and shall be called by the chair or by any two members of the
27 commission and shall be open to the public. Any three voting members

1 shall constitute a quorum at any meeting. Action may be taken and
2 motions and resolutions may be adopted at any meeting at which a
3 quorum exists by the affirmative vote of a majority of the voting members
4 present. Members may participate in a regular or special meeting by, or
5 conduct the meeting through the use of, any means of communication by
6 which all members participating may simultaneously hear one another at
7 all times during the meeting. A member participating in a meeting by this
8 means is deemed to be present in person at the meeting.

9 **SECTION 7.** The introductory portion to 12-10-106 (1) and
10 12-10-106 (1) (b), (1) (e), (1) (g), (1) (J), (3), (4), and (5), Colorado
11 Revised Statutes, are amended to read:

12 **12-10-106. General powers and duties of the commission.**

13 (1) In addition to any other powers specifically granted to the
14 commission in this article, the commission shall issue such rules as are
15 necessary for the regulation of the conduct, promotion, and performance
16 of live boxing and kickboxing matches in this state. Such rules shall be
17 consistent with this article and applicable federal law and shall include:

18 (b) Regulation of ticket sales; ~~and the establishment and collection~~
19 ~~of fees and surcharges;~~

20 (e) Requirements for insurance COVERING PARTICIPANTS and
21 bonding OF PROMOTERS;

22 (g) Guidelines for contracts and financial arrangements BETWEEN
23 PROMOTERS AND PARTICIPANTS;

24 (J) Responsibilities of participants, including female boxers; and
25 kickboxers; and

26 (3) ~~The commission shall enforce this article and shall investigate~~
27 ~~any allegation of an activity that may violate this article.~~

1 (4) ~~The commission may maintain membership in the association~~
2 ~~of boxing commissions and may send the director or the director's~~
3 ~~designee to the association's annual convention.~~

4 (5) ~~The commission may maintain a service subscription to the~~
5 ~~record-keeping database provider approved by the association of boxing~~
6 ~~commissions.~~

7 **SECTION 8.** Article 10 of title 12, Colorado Revised Statutes, is
8 amended BY THE ADDITION OF A NEW SECTION to read:

9 **12-10-106.3. License required.** NO PERSON SHALL PARTICIPATE,
10 OFFICIATE, JUDGE, REFEREE, PROMOTE, OR SECOND A PROFESSIONAL
11 BOXING ARTS CONTEST UNLESS THE PERSON IS LICENSED PURSUANT TO
12 THIS ARTICLE.

13 **SECTION 9.** 12-10-107 (1) and (3) (d), Colorado Revised
14 Statutes, are amended, and the said 12-10-107 (3) is further amended BY
15 THE ADDITION OF A NEW PARAGRAPH, to read:

16 **12-10-107. Director - appointment - qualification - powers and**
17 **duties.** (1) The director shall be appointed by the ~~executive~~ director of
18 the ~~department~~ DIVISION and shall be under the ~~immediate~~ supervision of
19 the ~~executive~~ director OF THE DIVISION.

20 (3) In addition to the duties imposed upon the director elsewhere
21 in this article, the director shall:

22 (d) ~~Confer with the commission as necessary or desirable, but not~~
23 ~~less than once each month, with regard to the operation of the~~
24 ~~commission;~~

25 (1) ENFORCE THIS ARTICLE AND INVESTIGATE ALLEGATIONS OF
26 ACTIVITY THAT MAY VIOLATE THIS ARTICLE.

27 **SECTION 10.** The introductory portion to 12-10-107.1 (1),

1 12-10-107.1 (1) (b), (1) (d), (1) (e), (2) (b), (2) (c), (2) (d), (2) (e), and (3)
2 (b), Colorado Revised Statutes, are amended, and the said 12-10-107.1 (1)
3 is further amended BY THE ADDITION OF A NEW PARAGRAPH, to
4 read:

5 **12-10-107.1. Grounds for discipline.** (1) The director may
6 deny, suspend, revoke, place on probation, or issue a letter of admonition
7 ~~against the license of an applicant or licensee~~ A LICENSE OR AN
8 APPLICATION FOR A LICENSE if the applicant or licensee:

9 (b) Fails to meet the requirements of this article or the rules of the
10 commission ~~or uses fraud, misrepresentation, or deceit in applying for or~~
11 ~~attempting to apply for licensure;~~

12 (d) Is addicted to or dependent upon alcohol or any controlled
13 substance, within the meaning of part 3 of article 22 of this title, or is a
14 habitual user of said controlled substance, if the use, addiction, or
15 dependency is a danger to ~~clients or prospective clients~~ OTHER
16 PARTICIPANTS OR OFFICIALS;

17 (e) Has incurred disciplinary action related to professional boxing
18 in another jurisdiction. Evidence of such disciplinary action shall be
19 prima facie evidence for denial of a license or other disciplinary action if
20 the violation would be grounds for such disciplinary action in this state;

21 OR

22 (f) USES FRAUD, MISREPRESENTATION, OR DECEIT IN APPLYING FOR
23 OR ATTEMPTING TO APPLY FOR LICENSURE.

24 (2) (b) ~~When a complaint or investigation discloses an instance of~~
25 ~~misconduct that, in the opinion of the director, does not warrant formal~~
26 ~~action by the director but that should not be dismissed as being without~~
27 ~~merit, a letter of admonition may be issued and sent, by certified mail, to~~

1 ~~the licensee.~~ UPON COMPLETING AN INVESTIGATION, THE DIRECTOR SHALL
2 MAKE ONE OF THE FOLLOWING FINDINGS:

3 (I) THE COMPLAINT IS WITHOUT MERIT AND NO FURTHER ACTION
4 NEED BE TAKEN.

5 (II) THERE IS NO REASONABLE CAUSE TO WARRANT FURTHER
6 ACTION.

7 (III) THE INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT
8 THAT DOES NOT WARRANT FORMAL ACTION AND SHOULD BE DISMISSED,
9 BUT THE DIRECTOR NOTICES INDICATIONS OF POSSIBLE ERRANT CONDUCT
10 THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED. IF THIS
11 FINDING IS MADE, THE DIRECTOR SHALL SEND A CONFIDENTIAL LETTER OF
12 CONCERN TO THE LICENSEE.

13 (IV) THE INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT
14 THAT DOES NOT WARRANT FORMAL ACTION BUT SHOULD NOT BE
15 DISMISSED AS BEING WITHOUT MERIT. IF THIS FINDING IS MADE, THE
16 DIRECTOR MAY SEND A LETTER OF ADMONITION TO THE LICENSEE BY
17 CERTIFIED MAIL.

18 (V) THE INVESTIGATION DISCLOSES FACTS THAT WARRANT
19 FURTHER PROCEEDINGS BY FORMAL COMPLAINT. IF THIS FINDING IS MADE,
20 THE DIRECTOR SHALL REFER THE COMPLAINT TO THE ATTORNEY GENERAL
21 FOR PREPARATION AND FILING OF A FORMAL COMPLAINT.

22 (c) (I) When a letter of admonition is sent ~~by the director,~~ by
23 certified mail to a licensee, ~~such licensee shall be advised~~ THE DIRECTOR
24 SHALL INCLUDE IN THE LETTER A NOTICE ~~that he or she~~ THE LICENSEE has
25 the right to request in writing, within twenty days after receipt of the
26 letter, that formal disciplinary proceedings be initiated to adjudicate the
27 propriety of the conduct upon which the letter of admonition is based.

1 (II) IF THE REQUEST FOR ADJUDICATION IS TIMELY MADE, THE
2 LETTER OF ADMONITION IS VACATED AND THE DIRECTOR SHALL PROCEED
3 BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

4 (d) If the request for adjudication is timely made, the letter of
5 admonition shall be deemed vacated and the matter shall be processed by
6 means of formal disciplinary proceedings.

7 (e) When a complaint or investigation discloses an instance of
8 conduct that does not warrant formal action by the director and, in the
9 opinion of the director, the complaint should be dismissed, but the
10 director has noticed indications of possible errant conduct by the licensee
11 that could lead to serious consequences if not corrected, a confidential
12 letter of concern may be issued and sent to the licensee. THE DIRECTOR
13 SHALL CONDUCT ALL PROCEEDINGS PURSUANT TO THIS SUBSECTION (2)
14 EXPEDITIOUSLY AND INFORMALLY SO THAT NO LICENSEE IS SUBJECTED TO
15 UNFAIR AND UNJUST CHARGES AND THAT NO COMPLAINANT IS DEPRIVED
16 OF THE RIGHT TO A TIMELY, FAIR, AND PROPER INVESTIGATION OF A
17 COMPLAINT.

18 (3) (b) Upon failure of any witness to comply with such subpoena
19 or process, the district court of the county in which the subpoenaed
20 person or licensee resides or conducts business, upon application by the
21 board or director with notice to the subpoenaed person or licensee, may
22 issue to the person or licensee an order requiring that person or licensee
23 to appear before the board or director; to produce the relevant papers,
24 books, records, documentary evidence, or materials if so ordered; or to
25 give evidence touching the matter under investigation or in question.
26 Failure to obey the order of the court may be punished by the court as a
27 contempt of court.

1 **SECTION 11.** 12-10-109, Colorado Revised Statutes, is amended
2 to read:

3 **12-10-109. Fees - boxing cash fund - created.** (1) The
4 ~~commission~~ DIRECTOR OF THE DIVISION shall establish and collect
5 nonrefundable license fees and may establish and collect surcharges and
6 other moneys as the ~~commission~~ DIRECTOR OF THE DIVISION deems
7 necessary; except that such fees and surcharges shall not exceed the
8 amount necessary to ~~carry out the provisions of~~ IMPLEMENT this article.

9 (2) ~~All~~ Moneys collected under this article OTHER THAN CIVIL
10 PENALTIES shall be transmitted to the state treasurer, who shall credit the
11 same to the division of registrations cash fund created in section
12 24-34-105, C.R.S., and the general assembly shall make annual
13 appropriations pursuant to said section for expenditures of the ~~board~~
14 ~~OFFICE~~ incurred in the performance of its duties under this article. Such
15 expenditures shall be made from such appropriations upon vouchers and
16 warrants drawn pursuant to law. CIVIL PENALTIES COLLECTED UNDER
17 THIS ARTICLE SHALL BE TRANSFERRED TO THE STATE TREASURER AND
18 CREDITED TO THE GENERAL FUND.

19 **SECTION 12.** 12-10-110 (1), (2), (3), and (5), Colorado Revised
20 Statutes, are amended to read:

21 **12-10-110. Violations.** (1) **Civil penalties.** The ~~commission~~
22 DIRECTOR may issue an order against any person who willfully violates
23 this article, after providing prior notice and an opportunity for a hearing
24 pursuant to section 24-4-105, C.R.S. The ~~commission~~ DIRECTOR may
25 impose a civil penalty in an amount up to five thousand dollars for a
26 single violation or twenty-five thousand dollars for multiple violations in
27 a proceeding or a series of related proceedings.

1 (2) **Criminal penalties.** Any person who engages in or offers or
2 attempts to engage in the conduct, promotion, or performance of live
3 boxing ~~or kickboxing~~ matches without an active license or permit issued
4 under this article commits a class 2 misdemeanor and shall be punished
5 as provided in section 18-1.3-501, C.R.S., for the first offense, and, for
6 the second or any subsequent offense, the person commits a class 6 felony
7 and shall be punished as provided in section 18-1.3-401, C.R.S.

8 (3) **Injunction.** Whenever it appears to the ~~commission~~ DIRECTOR
9 that a person has engaged or is about to engage in an act or practice that
10 violates this article or a rule or order issued under this article, the
11 ~~commission~~ DIRECTOR may bring an action ~~in any court of competent~~
12 ~~jurisdiction~~ to enjoin ~~such~~ THE acts or practices and to enforce
13 compliance with this article or any ~~such~~ rule or order.

14 (5) **Judicial review.** Final ~~commission~~ DIRECTOR actions and
15 orders appropriate for judicial review may be judicially reviewed in the
16 court of appeals in accordance with section 24-4-106 (11), C.R.S.

17 **SECTION 13. Specified effective date.** This act shall take effect
18 July 1, 2010.

19 **SECTION 14. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.