

CHAPTER 11**(SB 66)**

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.066 is amended to read as follows:

- (1) The Division of Occupations and Professions shall provide administrative services, technical assistance, and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the State Board of Accountancy, ~~the Kentucky Athletic Commission,~~ the State Board of Examiners and Registration of Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the State Board for Proprietary Education, the State Board of Examiners and Registration of Landscape Architects, the State Board of Medical Licensure, the Board of Speech-Language Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Licensing Board for Specialists in Hearing Instruments, the Kentucky Board of Social Work, and such other boards and commissions as are created to license, certify, register, or otherwise regulate any occupational or professional category.
- (2) To the extent that the division provides administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The division shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The division may employ persons previously employed by boards or commissions.
- (3) The division may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the division for administrative purposes. The division shall cause such complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The division shall keep a record of all complaints received by it and forwarded to a board or commission.
- (4) Any board or commission listed in subsection (1) of this section, shall accept personal checks in payment of license renewal fees.

Section 2. KRS 229.011 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise the following definitions shall apply:

- (1) "Advertise" includes the use of handbills, placards, posters, billboards, pictures, printed or written material or newspapers or other publications, or radio, television and other communication media.

- (2) *"Authority" means the Kentucky Boxing and Wrestling Authority.*
- (3) "Exhibition," in addition to its ordinary meaning, shall include a public show or showing through the medium of closed circuit television to which an admission ticket is required, or other charge is made.
- ~~(4)(3)~~ "Person" includes an individual, partnership, corporation, association or club.
- ~~(5)(4)~~ "Professional" is a boxer or wrestler who competes for a money prize, or other pecuniary gain.
- ~~(6)(5)~~ "Professional match" is a boxing, sparring, or wrestling match or exhibition in which a professional is a contestant.

Section 3. KRS 229.151 is amended to read as follows:

- (1) *The Kentucky Boxing and Wrestling Authority is hereby created and established as an agency of state government charged with the responsibility for regulatory oversight and the establishment of sound policies and procedures governing the conduct of professional boxing, wrestling, and other professional full contact competitive bouts within the Commonwealth of Kentucky. The authority shall be attached to the Environmental and Public Protection Cabinet, Department of Public Protection, for administrative purposes.*
- (2) *The authority shall consist of five (5) members appointed by the Governor.*
- (a) *One (1) member shall be the Secretary of the Environmental and Public Protection Cabinet, or the secretary's designee, who shall serve as an ex officio voting member;*
- (b) *One (1) member shall be a medical doctor; and*
- (c) *Three (3) members shall be appointed from the state at large. one (1) of whom shall have no financial interest in the business or industry regulated.*

One (1) member shall be appointed to serve as the authority's chairperson. The Governor shall further designate a second member to serve as vice chair with authority to act in the absence of the chair. A majority of the members of the authority shall constitute a quorum for the transaction of business.

- (3) *The appointed members of the authority shall serve for a term of three (3) years at the pleasure of the Governor, with initial terms staggered. Any member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.*
- (4) *Members of the authority shall receive one hundred dollars (\$100) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business.* ~~[There is hereby established the Kentucky Athletic Commission which shall consist of seven (7) members, appointed by the Governor, with initial appointments for two (2) members for terms of four (4) years, two (2) members for terms of three (3) years, two (2) members for terms of two (2) years, and one (1) member for a term of one (1) year, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms expiring July 14, 1999, shall serve until February 14, 2000; two (2) members appointed to fill the terms expiring July 14, 2000, shall serve until February 14, 2001; one (1) member appointed to fill the term expiring July 14, 2001, shall serve until February 14, 2002; two (2) members appointed to fill the terms expiring July 14, 2002, shall serve until February 14, 2003; and subsequent appointments shall be for four (4) year terms ending on February 14. Thereafter, members shall be appointed by the Governor~~

~~for staggered terms of four (4) years. At least one (1) member shall have a background in the professional boxing or wrestling industry. At least one (1) member shall be a licensed physician. The executive director of the Division of Occupations and Professions shall serve on the commission in an ex officio capacity. One (1) member shall be designated by the Governor as chairman and one (1) member shall be elected by the commission as vice chairman, who shall have authority to act as chairman in the event of the chairman's absence or inability to act. The chairman, vice chairman, other members of the commission, and those persons referred to in KRS 229.161, shall receive one hundred dollars (\$100) per day for each meeting attended and shall be paid their actual and necessary traveling and other expenses incurred by them in the performance of their official duties. The commission shall hold one (1) regular meeting every three (3) months. Four (4) members of the commission shall constitute a quorum to conduct business.~~

~~(2) The board shall be placed for organizational purposes under the Division of Occupations and Professions which shall provide administrative and secretarial services.]~~

Section 4. KRS 229.161 is amended to read as follows:

The *authority*~~[commission]~~ may appoint, employ, and remove at will *any*~~[such other]~~ officers, employees, and inspectors as may be necessary to administer the provisions of this chapter.

SECTION 5. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

- (1) *To carry out the functions relating to the authority's duties and responsibilities and to afford the full experience and resources of the Environment and Public Protection Cabinet, the Governor shall appoint an executive director who shall serve at the pleasure of the Governor. The Governor shall set the qualifications and salary for the position of executive director under the provisions of KRS 64.640.*
- (2) *The executive director shall employ sufficient regulatory staff for the authority and shall be responsible for the day-to-day operations of the authority, including but not limited to the following:*
 - (a) *Complying with regulations;*
 - (b) *Issuing licenses and permits;*
 - (c) *Establishing appropriate organizational structures;*
 - (d) *Carrying out policy and program directives of the authority; and*
 - (e) *Performing all other duties and responsibilities as assigned.*
- (3) *With approval of the authority, the executive director and regulatory staff may enter into agreements with any state agency or political subdivision of the state, any postsecondary education institution, or any other person or entity to enlist assistance to implement the duties and responsibilities of the authority.*

Section 6. KRS 229.171 is amended to read as follows:

- (1) The *authority*~~[commission]~~ shall have and hereby is vested with the sole direction, management, control, and jurisdiction over all professional boxing, sparring, and wrestling matches or exhibitions to be conducted, held, or given within the Commonwealth. The *authority*~~[commission]~~ is hereby given the sole control, authority, and jurisdiction over all licenses to hold boxing, sparring, or wrestling matches or exhibitions for prizes or purses or

where an admission fee is received, and over all licenses to any and all persons who participate in the boxing, sparring, or wrestling matches, or exhibitions.

- (2) *Except as otherwise provided in this chapter, the authority shall be responsible for the following:*
- (a) *Developing programs and procedures which will aggressively fulfill its oversight and regulatory role, with full accountability and internal controls to protect professional athletes in the ring;*
 - (b) *Adhering to the best regulatory practices and due process procedures to protect the regulated community and the interests of the Commonwealth, and ensuring that all education and training requirements for hearing officers and members serving as hearing officers under KRS Chapter 13B are met;*
 - (c) *Developing the Commonwealth's goals of providing the professional staff necessary to ensure that events are effectively regulated, while allowing authority members to provide the policy oversight necessary to protect the integrity of the regulatory program; and*
 - (d) *Recommending changes to statutory and regulatory authorities to best protect professional athletes, while promoting Kentucky as a world-class market for major events.*

Section 7. KRS 229.180 is amended to read as follows:

- (1) The **authority**~~[commission]~~ is authorized to adopt and promulgate, amend or abrogate any and all rules and regulations considered by it necessary or expedient for the performance of its functions provided in this chapter. In recognition of the fact that more supervision is desirable in this area, it is the intention of the General Assembly to confer upon the **authority**~~[commission]~~ wider discretion than that ordinarily possessed by administrative agencies.
- (2) *All licenses approved by, and dates awarded by, the Kentucky Athletic Commission shall remain in effect through December 31, 2005.*

Section 8. KRS 229.071 is amended to read as follows:

- (1) No person shall conduct or advertise a professional match without a license and permit issued by the **authority**~~[commission]~~ to conduct the match. An accompanying program of events shall be filed with the application for permit which specifies the location, date and time of the match.
- (2) If, in the judgment of the **authority**~~[commission]~~, the financial responsibility, experience, character, and general fitness of an applicant, including in the case of corporations its officers and stockholders, are such that the participation of the applicant will be consistent with the public interest, convenience, or necessity and with the best interests of boxing or wrestling generally and in conformity with the purposes of this chapter, the **authority**~~[commission]~~ may grant an annual license in accordance with the provisions of subsection (3) of this section.
- (3) The annual license fee shall be established by the **authority**~~[board]~~ by promulgation of administrative regulations.~~[Each license shall expire twelve (12) months after the date of issue.]~~

- (4) No person may be issued an annual license unless he *or she* has been a resident of Kentucky for sixty (60) days prior to the issuance thereof, or in the case of a corporation, unless it has qualified to do business in the Commonwealth.
- (5) In determining which applicant may be granted a permit to conduct a professional wrestling match, the **authority**~~[commission]~~ shall give preference to Kentucky residents and domestic corporations.

Section 9. KRS 229.061 is amended to read as follows:

- (1) The **authority**~~[commission]~~ may issue a permit, without the payment of any taxes or license, to any accredited college, university, school, Young Men's Christian Association, Young Men's Hebrew Association, or organization which in the judgment of the **authority**~~[commission]~~ is of like character, to hold boxing or wrestling matches or exhibitions upon a sufficient showing that the matches or exhibitions are to be held by and between bona fide students or members of such accredited colleges, universities, schools, Young Men's Christian Associations, Young Men's Hebrew Associations, or organizations which in the judgment of the **authority**~~[commission]~~ are of like character.
- (2) Any regularly organized post of the American Legion, and any organization operating solely for charitable purposes from which no individual, partnership, or corporation derives any monetary gain, may hold boxing or wrestling matches or exhibitions without the payment of the license fee prescribed by KRS 229.071. Any post of the American Legion or other organization holding matches or exhibitions under this section shall be subject to the provisions of KRS 229.031 and 229.051.
- (3) No match permitted by subsections (1) and (2) of this section may be conducted without a permit to hold the specific match and accompanying program of events at a specified location on a specified date.

Section 10. KRS 229.021 is amended to read as follows:

Unless a license or permit has been granted by the **authority**~~[commission]~~, as provided in this chapter, no person shall:

- (1) Engage in a professional match, or a fight for a bet or stakes;
- (2) Act as a second in a professional match, bear a challenge or the oral or written acceptance of a challenge for such match, make up or aid in making up the stakes for the match or assist in any way in the bringing on or conducting of the match;
- (3) Train or prepare, or assist another in training or preparing for such a match in this state; and
- (4) Voluntarily permit the use of any land owned, controlled or occupied by him *or her* for such a match.

Section 11. KRS 229.081 is amended to read as follows:

A person shall not participate in a professional match in any of the following enumerated capacities or in any other capacity as set out in administrative regulations promulgated by the **authority**~~[commission]~~ without holding a license issued by the **authority**~~[commission]~~ and meeting all eligibility requirements as established by the **authority**~~[commission]~~ by promulgation of administrative regulations:

- (1) Contestant;
- (2) Judge;

- (3) Manager;
- (4) Physician;
- (5) Referee;
- (6) Timekeeper; or
- (7) Trainer.

Licenses issued under this section shall expire on December 31 of the year in which they are issued. The *authority*~~{commission}~~ may establish a schedule of compensation to be paid to officials for participating in a professional match by promulgation of administrative regulations. The compensation shall be paid by the person conducting the match, and by no other person.

Section 12. KRS 229.091 is amended to read as follows:

- (1) Every licensee shall be subject to the administrative regulations promulgated by the *authority*~~{commission}~~.
- (2) Every application for a license shall be in writing, shall be addressed to the *authority*~~{commission}~~, and shall be verified by the applicant, if an individual, or by some officer, if a corporation or association, on whose behalf the application is made. It shall contain a recital of such facts as show the applicant entitled to receive a license and such other facts and recitals as the *authority*~~{commission}~~ requires by administrative regulation to be shown.

Section 13. KRS 229.200 is amended to read as follows:

- (1) The *authority*~~{commission}~~ may suspend, reprimand, revoke, or refuse to renew or issue a license for the following reasons: that the licensee or applicant has, in the judgment of the *authority*~~{commission}~~, been guilty of an act detrimental to the interests of boxing or wrestling generally or to the public interest, convenience, or necessity, including, but not by way of limitation, the violation of any of the provisions of this chapter or any rule or administrative regulation of the *authority*~~{commission}~~.
- (2) The *authority*~~{commission}~~ may suspend, reprimand, revoke, or refuse to renew or issue a license, if it finds that the applicant, or any person who is a partner, agent, employee, stockholder, or associate of the applicant, has been convicted of a crime in any jurisdiction, or is associating or consorting with any person who has or persons who have been convicted of a crime or crimes in any jurisdiction or jurisdictions, or is consorting or associating with or has consorted or associated with bookmakers, gamblers, or persons of similar pursuits, or has himself engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with boxing or wrestling, or has violated or attempted to violate any law with respect to boxing or wrestling in any jurisdiction or any rule, regulation, or order of the *authority*~~{commission}~~, or shall have violated any rule of boxing or wrestling which shall have been approved or adopted by the *authority*~~{commission}~~, or has been guilty of or engaged in similar, related, or like practices.
- (3)
 - (a) The *authority*~~{commission}~~ may suspend, reprimand, revoke, or refuse to renew or issue a license to protect the health of the licensee, upon notification of the suspension or revocation of the license of a licensee in another state or jurisdiction.
 - (b) Upon proceedings for the revocation of any license under KRS 229.081, the *authority*~~{commission}~~ may, in its discretion, order a suspension of the license.

However, the licensee may have the alternative, subject to the approval of the **authority**~~[commission]~~, to pay in lieu of part or all of the days of any suspension period a sum not in excess of five hundred dollars (\$500).

Section 14. KRS 229.210 is amended to read as follows:

For any act which would justify the suspension of a license, the **authority**~~[commission]~~ may declare the person committing such act ineligible to receive a license for a period not to exceed one (1) year.

Section 15. KRS 229.190 is amended to read as follows:

- (1) Any action of the **authority**~~[commission]~~ taken under~~[authority of]~~ KRS 229.200 may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The **authority**~~[commission]~~ may provide for hearing officers or impanel not less than three (3) of its members to conduct hearings.
- (2) Any party aggrieved by a final order of the **authority**~~[commission]~~ may appeal to Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 16. KRS 229.051 is amended to read as follows:

Before a permit is granted to any person to hold, promote, or act as a booker for a professional boxing or a wrestling match or exhibition, the applicant shall file with the **authority**~~[commission]~~ a bond in the sum of five thousand dollars (\$5,000), to be approved as to form and the sufficiency of the sureties by the **authority**~~[commission]~~, conditioned for the payment of the tax imposed by KRS 229.031. Upon the approval of the bond, the **authority**~~[commission]~~ shall issue to the applicant a certificate of filing and approval, which shall be filed by the applicant with the **authority**~~[commission]~~, with the application for the permit. The permit shall not be issued until the certificate has been filed.

Section 17. KRS 229.031 is amended to read as follows:

- (1) Every person conducting a professional boxing or wrestling match or exhibition, other than those holding a permit under subsection (1) of KRS 229.061, shall, within twenty-four (24) hours after the termination of every match or exhibition, furnish to the **authority**~~[commission]~~ a written report, verified by the person, if an individual, or by some officer, if a corporation or association, showing the number of tickets sold for the match or exhibition, the amount of the gross receipts from such sale and such other matters as the **authority**~~[commission]~~ prescribes. He *or she* shall also, within the same period, pay to the **authority**~~[commission]~~ a tax of five percent (5%) of the gross receipts from the sale of all tickets to the match or exhibition.
- (2) He *or she* shall also pay to the **authority**~~[commission]~~, as soon as possible, a tax of five percent (5%) of the gross receipts from all other sources, direct or indirect, including but not by way of limitation the gross receipts from the sale, lease or other exploitation of broadcasting, television and motion picture rights of such contests. He *or she* shall also, prior to any such professional boxing or wrestling match or exhibition, file with the **authority**~~[commission]~~ a copy of each contract involving compensation of the contestants and a copy of each contract under which he *or she* will receive, directly or indirectly, compensation from any source whatsoever. Any person making payments under any such contract shall promptly report to the **authority**~~[commission]~~ the amount of any such payments.

- (3) All taxes required to be paid by this section shall be computed on the gross receipts without any deduction whatsoever for commissions, brokerage, distribution fees, advertising or other expenses, charges or recoupments in respect thereto, exclusive of any federal excise taxes.
- (4) Any person supplying radio, television or cable facilities for the broadcast or televising of any professional match shall, prior to the contest, notify the **authority**~~[commission]~~.

Section 18. KRS 229.041 is amended to read as follows:

Whenever a person fails to make the report within the time prescribed by KRS 229.031, or whenever the report is unsatisfactory to the **authority**~~[commission]~~, it may examine or cause to be examined the books and records of that person to ascertain and fix the total amount of its gross receipts for any match or exhibition and the amount of the tax due.

Section 19. KRS 229.250 is amended to read as follows:

- (1) The first \$100,000 in fees and charges collected by the Kentucky **Boxing and Wrestling Authority**~~[Athletic Commission]~~ shall be paid into the State Treasury and credited to a separate revolving or trust and agency fund account established for the purpose of administering the provisions of this chapter. The amount of fees and charges collected in excess of \$100,000 shall be deposited to the credit of the general fund. The cost and expenses of administering the provisions of this chapter, including compensation to members of the **authority**~~[board]~~ and its officers and employees shall be paid out of the State Treasury upon warrants of the secretary of the Finance and Administration Cabinet according to law, provided that the total expense of administering these provisions shall not exceed the fees and other charges collected by the **authority**~~[board]~~ and available in the revolving or trust and agency fund account, of that **authority**~~[commission]~~, except that, in fiscal year 1984-85 such costs shall not exceed the fees and other charges collected by the **authority**~~[commission]~~ and available in the revolving or trust and agency account plus any funds which are appropriated to the **authority**~~[commission]~~ under the provisions of Acts Chapter 418 of the 1984 session of the Kentucky General Assembly.
- (2) All fees and charges collected by the Kentucky **Boxing and Wrestling Authority**~~[Athletic Commission]~~, up to a maximum of \$100,000, shall be available for the administration of the provisions of this chapter, and for no other purpose.

Section 20. KRS 229.111 is amended to read as follows:

Contestants in a professional boxing or wrestling match or exhibition shall be examined by a reputable licensed physician appointed by the **authority**~~[commission]~~, and shall meet the health and fitness requirements as established in administrative regulations promulgated by the **authority**~~[commission]~~ before participating in ~~[such]~~ a boxing or wrestling match or exhibition.

Section 21. KRS 229.131 is amended to read as follows:

Decisions may be rendered in any boxing or wrestling match or exhibition, permitted by this chapter, in the discretion of the **authority**~~[commission]~~ and by such method as it by rule prescribes.

Section 22. KRS 229.991 is amended to read as follows:

- (1) Any person who violates subsection (1) of KRS 229.071 or subsection (1) of KRS 229.021 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned in the county jail for not more than six (6) months, or both.

- (2) Any person who violates subsection (2), (3), or (4) of KRS 229.021 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned in the county jail for not more than ninety (90) days, or both.
- (3) Any person who violates KRS 229.081 where the violation does not constitute a violation of KRS 229.021, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
- (4) Any peace officer who willfully fails to execute the duties required of him by KRS 229.240 shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).
- (5) Any person who violates any of the provisions of this chapter for which no specific penalty is provided shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (6) Any person who fails to pay the taxes required by KRS 229.031 or ascertained to be due under KRS 229.041 together with the expenses incurred in the examination, within twenty (20) days after notice to the delinquent person of the amount fixed by the ~~authority~~~~commission~~ shall ipso facto forfeit his *or her* license. In addition he *or she* shall forfeit and pay into the State Treasury an additional amount equal to the taxes found to be due.
- (7) Any person who violates the provisions of KRS 229.121 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) and no person who has been guilty of such an offense shall be allowed to participate in any boxing or wrestling match or exhibition for one (1) year after being found guilty of the offense.
- (8) Any person failing to make the report required by subsection (2) or (4) of KRS 229.031 shall be liable for any tax the Commonwealth may lose as a result of his *or her* failure to make the required report.

Section 23. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 24. The General Assembly confirms Executive Order 2005-002, dated January 4, 2005, which abolishes the Kentucky Athletic Association and its membership and establishes the Kentucky Boxing and Wrestling Authority, to the extent that it is not otherwise confirmed or superseded by this Act.

Approved March 2, 2005.