

AMENDED IN SENATE APRIL 22, 2015

SENATE BILL

No. 469

Introduced by Senator Hill

February 25, 2015

An act to amend Sections 18602 ~~and~~, 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.

LEGISLATIVE COUNSEL'S DIGEST

SB 469, as amended, 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 ~~the repeal date~~ *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 these meetings.

Existing law requires any person applying for a license or the renewal of a license as a professional boxer or as a professional martial arts fighter to present documentary evidence satisfactory to the commission that the applicant has been administered tests, by a specified laboratory, to detect the presence of specified antibodies and a specified antigen and that the results of all three tests are negative. 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 an unspecified fine.

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.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

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

3 18602. (a) Except as provided in this section, there is in the
4 Department of Consumer Affairs the State Athletic Commission,
5 which consists of seven members. Five members shall be appointed
6 by the Governor, one member shall be appointed by the Senate
7 Rules Committee on Rules, and one member shall be appointed
8 by the Speaker of the Assembly.

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

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

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

20 (1) A licensed physician or surgeon having expertise or
21 specializing in neurology, neurosurgery, head trauma, or sports

1 medicine. Sports medicine includes, but is not limited to,
2 physiology, kinesiology, or other aspects of sports medicine.

3 (2) Financial management.

4 (3) Public safety.

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

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

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

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

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

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

21 (e) (1) This section shall remain in effect only until January 1,
22 2020, and as of that date is repealed, unless a later enacted statute,
23 that is enacted before January 1, 2020, deletes or extends that date.

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

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

29 18613. (a) (1) The commission shall appoint a person exempt
30 from civil service who shall be designated as an executive officer
31 and who shall exercise the powers and perform the duties delegated
32 by the commission and vested in him or her by this chapter. The
33 appointment of the executive officer is subject to the approval of
34 the Director of Consumer Affairs.

35 (2) The commission may employ in accordance with Section
36 154 other personnel as may be necessary for the administration of
37 this chapter.

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

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

3 18645. (a) There is hereby created within the jurisdiction of
4 the State Athletic Commission an Advisory Committee on Medical
5 and Safety Standards.

6 ~~The~~

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

13 ~~It~~

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

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

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

21 18649. (a) *The administration or use of any drugs, alcohol,*
22 *stimulants, or injections in any part of the body or the use of any*
23 *prohibited substance specified in the Prohibited List of the World*
24 *Anti-Doping Code, as adopted by the World Anti-Doping Agency,*
25 *by a professional or amateur boxer or martial arts fighter licensed*
26 *by the commission shall be prohibited. The commission, in its*
27 *discretion and pursuant to regulations adopted pursuant to the*
28 *Administrative Procedure Act (Chapter 3.5 (commencing with*
29 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
30 *Code), may determine the necessity of exemptions to this section*
31 *for certain licensees.*

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

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

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

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

8 18843. (a) In addition to its authority under other provisions
9 of this chapter to take action against a licensee, the commission,
10 its executive officer, or his or her duly authorized representative
11 shall have the authority to assess fines not to exceed two thousand
12 five hundred dollars (\$2,500) for each violation of any of the
13 provisions of this chapter or any of the rules and regulations of the
14 commission.

15 (b) Notwithstanding any other provision, the commission may
16 also assess a fine equal to ___percent of the total purse for a
17 violation of Section 18649 related to the use of prohibited
18 substances.

19 ~~This fine~~

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

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

29 ~~18852.~~

30 18851. A manager of a boxer or martial arts fighter shall
31 maintain an accurate annual record showing all of the following
32 with respect to each contest in which the boxer or martial arts
33 fighter has ~~participated.~~ participated:

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

39 The manager’s record shall be supported by documentation,
40 shall be made available to both the fighter under contract and the

1 commission upon request, and shall be kept in the manager's
2 possession for a period of five years from the transaction.

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

5 ~~18853.~~

6 *18852. No fighter shall be paid before a contest, except that a*
7 *promoter may, with the written approval of the commission,*
8 *advance to the fighter before the contest, up to one thousand dollars*
9 *(\$1,000) plus any necessary transportation and living expenses.*
10 *However, such advance, except necessary transportation and living*
11 *expenses, shall not exceed 20 percent of the fighter's purse.*

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

14 ~~18854.~~

15 *18853. No fighter, nor his or her manager, shall be paid for the*
16 *services of the fighter except in the presence of an authorized*
17 *commission representative. The commission representative shall*
18 *report to the executive officer any payment made contrary to the*
19 *provisions of the contract on file with the commission.*

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

22 ~~18855.~~

23 *18854. Any official who fails to enforce the provisions of this*
24 *act or the commission's rules and regulations shall be subject to*
25 *disciplinary action.*

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

28 *18855. The commission shall recognize and enforce contracts*
29 *between boxers or martial arts fighters and managers and between*
30 *boxers or martial arts fighters and licensed clubs. Contracts shall*
31 *be executed on printed forms approved by the commission. The*
32 *commission may recognize or enforce a contract not on its printed*
33 *form if entered into in another jurisdiction. No other contract or*
34 *agreement may be recognized or enforced by the commission. All*
35 *disputes between the parties to the contract, including the validity*
36 *of the contract, shall be arbitrated by the commission pursuant to*
37 *the provisions of the contract. Subject to Section 227 of Title 4 of*
38 *the Code of Regulations, a person who seeks arbitration of a*
39 *contract shall send a written request to the commission's*
40 *headquarters and to the Office of the Attorney General. The*

1 *commission may seek cost recovery related to arbitration*
 2 *proceedings from the parties subject to the proceedings.*

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

5 ~~18860.~~

6 18856. (a) The commission, the executive officer, or authorized
 7 representative shall have power to order a promoter to withhold
 8 any purse, any part thereof, any receipts or other funds owing or
 9 payable to any contestant, or the share thereof of any manager, if,
 10 in his or her judgment, it should appear that ~~such~~ *the* contestant is
 11 not competing honestly, or is intentionally not competing to the
 12 best of his or her ability, or if it should appear that the contestant,
 13 manager, or any seconds have violated any provision of this act,
 14 or the rules and regulations adopted by the commission.

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

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

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

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

29 ~~18861.~~

30 18857. The commission, the executive officer, or authorized
 31 representative shall have the power to order a promoter to withhold
 32 10 percent of the total purse payable to a contestant if the manager
 33 of the contestant does not present an itemized statement of expenses
 34 incurred in connection with the contest. The money so withheld
 35 shall be paid to the commission and held in trust for payment to
 36 the contestant or his or her manager, upon presentation by the
 37 manager to the commission of the itemized statement of expenses.

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

1 ~~18865.~~

2 18858. Any licensee who directly or indirectly holds,
3 participates in, aids or abets any sham or fake contest or match
4 shall be subject to disciplinary action.

5 This section does not apply to any exhibition.

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

8 ~~18868.~~

9 18859. (a) The commission shall have the authority to obtain
10 and review criminal history information to determine whether an
11 applicant or licensee has been convicted of any offense or has been
12 arrested for any offense for which disposition is still pending. A
13 conviction, or a plea of guilty or nolo contendere to an offense,
14 may be cause to deny an application or take disciplinary action
15 against a licensee dependent on the relevancy of the offense to the
16 licensed activity.

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

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

26 ~~18869.~~

27 18860. Nothing in this chapter shall prevent any county, city,
28 or city and county from prohibiting the holding or participating in
29 any contest, match, or exhibition.

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

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