

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 165 Department or Agency Alabama Athletic Commission
Rule No. 165-x-2-.03
Rule Title: Licenses Issued by the Commission
 New x Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? YES

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 412223, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer *Brandon Owen*

Date 12-17-2012

(DATE FILED)
(STAMP)

APA-2
07/04

Alabama Athletic Commission
NOTICE OF INTENDED ACTION

AGENCY NAME:

Alabama Athletic Commission

RULE NO. & TITLE: 165-X-2-.03 Non-Sanctioned Events

INTENDED ACTION: Amended Rule

SUBSTANCE OF PROPOSED ACTION:

To clarify the amount charged for license fees regarding broadcasts and ticket sales

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Oral or written comments should be addressed to the Alabama Athletic Commission at the address or phone number below and must be received no later than Wednesday, February 6th.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

February 6th, 2013

CONTACT PERSON AT AGENCY:

Ashley McGhee
260 Commerce St, Fourth Floor
Montgomery, AL 36104
(334)245-4374



Brandon Owens, Executive Director
Alabama Athletic Commission

165-X-2-.03 Licenses Issued By The Commission.

(1) **Promoter's License.** Application for a promoter's license must be made in writing and received by the Commission no less than thirty (30) days in advance of the proposed date for promoting any professional match, contest, or exhibition in this state.

(a) Each application for a promoter's license shall be accompanied with a cashier's check or money order in the amount of \$250.00 and made out to the Alabama Athletic Commission.

(b) Each application for a promoter's license shall be accompanied with an appropriate security bond.

(c) Applications for a promoter's license shall be signed in the presence of a Commission representative, or shall be signed in the presence of and verified by a notary public.

(d) The promoter shall provide the Commission's executive director a video of the match, contest, or exhibition within 10 days of the match, contest, or exhibition. The video shall be provided in a format acceptable to the Commission or the commission executive director. The Commission reserves the right to change the requested format of the video at any time.

(e) Promoters are prohibited from participating in any match, contest, or exhibition that they are promoting without approval from the Commission. Any promoter that is approved to participate in a match, contest, or exhibition must obtain the appropriate participant license from the Commission.

(f) Any licensed promoter who partners or joint-ventures with any other person, for the promotion of a boxing or mixed martial arts match, contest, or exhibition in this state, shall disclose to the Commission each party's financial responsibility in the partnership or joint-venture. The promoter licensed by the Commission shall be considered the principal promoter of the show and will be solely responsible for all financial obligations incurred in its production. Contracts shall be filed with the Commission delimiting each party's financial responsibility.

(g) Any licensed promoter who partners or joint-ventures with any other person, or the promotion of a boxing or mixed martial arts match, contest, or exhibition in this state, shall be considered a co-promoter.

(h) Co-promoters must obtain a promoters license prior to promoting any professional match, contest, or exhibition in this state.

(i) Agreements between the promoter and any other party or co-promoter for payment of any purse will not be honored by the Commission unless the co-promoter or any other party files with the Commission an approved security bond in the amount of the total deferred obligation.

(j) Agreements between the promoter and any other party or co-promoter for payment of any regulatory fees, match permit fees, license fees, and or taxes will not be honored by the Commission without prior approval by the Commission and without the co-promoter or other party filing with the Commission an approved security bond or some combination thereof in the amount of the total deferred obligation.

(k) Any co-promoter of a boxing or mixed martial arts promotion shall obtain a promoter license from the Commission. There shall be no limitation on the number of days prior to a match, contest or

exhibition when a co-promoter's application may be submitted to the Commission, however, the application must be submitted thirty (30) days prior to promoting the match, contest or exhibition.

1. Rules and requirements shall be the same for co-promoters as for promoters, provided however that the Commission may require from each co-promoter, in addition to the promoter's license bond, a suitable match permit bond or such other financial security as defined by these rules or the Alabama Boxing and Mixed Martial Arts Act.
2. Agreements between the co-promoter and the promoter for payment of any purse shall be submitted to the Commission and approved prior to the start of the match, contest, or exhibition.
3. Agreements between the co-promoter and the promoter for payment of any fees, and taxes shall be submitted to the Commission and approved prior to the start of the match, contest, or exhibition.

(2) Match Permit.

(a) Applications for a match permit must be made in writing and received by the Commission at least 30 days in advance of the date for such professional boxing match, contest, or exhibition. Any licensed promoter who has held a professional boxing match, contest, or exhibition in the state within the previous twelve months may apply for subsequent match permits no less than 15 days in advance of the proposed date of each subsequent professional boxing match, contest, or exhibition.

(b) Each match permit application shall be accompanied by a non-refundable cashier's check or money order in the amount of \$250.00 and made out to the Alabama Athletic Commission. For Amateur Mixed Martial Arts events, the match permit application shall be \$150.00.

(c) A match permit fee will be calculated by the Commission. ~~The match permit fee shall be calculated at five percent (5%) of the gross proceeds from ticket sales to the boxing match, contest, or exhibition, exclusive of any federal taxes.~~ Match permit fee shall be calculated at five percent (5%) of gross receipts from ticket sales to the professional boxing, amateur mixed martial arts, or professional mixed martial arts match, contest, or exhibition. For television and broadcasts, match permit fee shall be calculated at three percent (3%) of gross receipts from television and broadcast revenue for the first one million dollars (\$1,000,000) of revenue and one percent (1%) of the next two million. Broadcast fees will cap at fifty thousand dollars (\$50,000).

1. Ticket sales include the face value all tickets, orders, and lots sold for the event, and the fair value or face value of any promotional tickets, orders, and lots sold or provided at no cost.

2. The promoter must complete and submit to the Commission a Match Permit Fee Form provided by the Commission at the conclusion of the match, contest, or exhibition. The Commission will calculate the Permit Fee and notify the promoter.

3. The promoter shall have thirty (30) days to submit the Permit Fee. Failure to submit the Match Permit Fee or Match Permit Fee Form within thirty (30) days will result in a 20% fee and the Commission shall commence liquidation action against the security bond(s) on file with the Commission.

4. Two percent (2%) of tickets may be complimentary and exempt from the match permit fee.

(d) Each application for a match permit shall be accompanied with an appropriate security bond as

provided for in these rules.

(e) Each match permit application should be accompanied with copies of all contracts with all participants and officials, and any other contracts which the promoter has entered into for the match, contest, or exhibition.

(f) Applicants for a match permit will be notified of the date, time, and place of documents submitted by the applicant will be reviewed by the Commission.

1. Applicants or their designated and licensed representative(s) may attend the meeting and answer any questions the Commission has concerning the proposed event.

2. The Commission shall notify the applicant that his or her application has been approved or denied within seven (7) days of the Commission's decision.

(3) Matches, Contests and Exhibitions Benefiting Charity.

(a) A person who wishes to promote a match, contest or exhibition for charitable purposes must file with the Commission a letter of intent to present the match, contest or exhibition as benefiting a charitable organization. The letter of intent must contain the name of the charity, charitable fund, or organization which is to benefit from the match, contest or exhibition and the amount expected to be paid to the charity. The letter of intent must be signed by the promoter and co-signed by an authorized representative of the charity to benefit from the match, contest or exhibition. No match permit shall be issued for a charitable match, contest, or exhibition without full financial disclosure of all promoters and charitable organizations involved, including all contracts and proposals between all licensees, officials, and parties involved.

(b) Within three business days after a match, contest, or exhibition benefiting a charitable organization is held, the promoter(s) and benefiting charitable organization(s) shall furnish to the Commission:

1. A certified copy of the ticket manifest showing the number of tickets sold. The manifest shall give a breakdown disclosing the number of tickets sold in each price range and the number of complimentary tickets given for the match, contest, or exhibition;
2. A certified and itemized statement of the match, contest, or exhibition's gross receipts from sponsorships, ticket sales, advertisements, or any other source;
3. A statement disclosing the itemized and total gross expenditures in connection with the match, contest, or exhibition;
4. A statement co-signed by the promoter and the authorized representative of the Charitable organization, disclosing the net amount paid to the charitable fund or organization

(c) If the promoter or charitable organization fails to file any of these statements within the prescribed time, the Commission:

1. Shall notify the promoter that his or her license is summarily suspended.
2. Shall notify the charity of the suspension.
3. Decline to issue a match permit to the promoter for the holding of any match, contest, or

exhibition until the statements are provided.

4. Decline to issue a match permit to any promoter to hold any future match, contest, or exhibition for the benefit of the charitable organization, until the statements are provided.

(4) **Boxers and professional mixed martial arts fighters.** Boxers and mixed martial arts fighters applying to be licensed in Alabama shall meet the following requirements:

(a) Head Injury. A boxer or mixed martial arts fighter must provide sufficient evidence to the Commission that he or she has not been diagnosed with and has not suffered sub-dural hematoma or any type of Intra-cerebral hemorrhage.

1. Each boxer and mixed martial arts fighter has a duty to report his or her medical full medical history to the physician conducting the pre-fight physical.

(b) General Physical Evidencing Good Physical Health. Applications to be licensed as a boxer or mixed martial arts fighter shall be accompanied by a Physical Health Form signed by a licensed physician stating that the applicant is in good physical health, and has no abnormalities or deficiencies which prevent the applicant from or endanger the applicant's health when engaging in athletic competition.

1. Neurological Examination. Any boxer who has competed in over 200 rounds during his or her professional career must submit such additional proof of neurological fitness as specified in Rule 4.01(a)

2. Ophthalmological Examination. Any boxer who has competed in over 200 rounds during his or her professional boxing career must submit additional proof of ophthalmological fitness as specified in Rule 4.01 (b)

(c) Age Restrictions/Applicants over the age of 37.

An applicant-boxer or mixed martial artist who is more than 37 years of age and who submits satisfactory evidence that his or her health, ability and physical condition is sufficient to ensure the applicant's safety may be licensed. The applicant must submit to:

1. A detailed dilated ophthalmological examination, conducted by a state licensed ophthalmologist. The intent of this examination is to assure both the boxer and the Commission that no ophthalmological complications exist potentially hampering the boxer's ability to protect himself or herself in the ring, and to ensure that no ocular damage from previous bouts is evidenced. This exam must, at a minimum, include a careful dilated examination of the retinal periphery utilizing indirect ophthalmoscope.

2. A detailed neurological examination, conducted by a state licensed neurologist. Whether auxiliary neuro-diagnostic tests, such as electroencephalography (EEG), computerized tomography (CT), or magnetic resonance imaging (MRI), are utilized is left to the discretion and the clinical opinion of the examining physician.

3. A detailed cardiovascular examination to establish cardiovascular endurance. A poorly conditioned boxer is at increased risk of injury because of exhaustion, which may impede his or her ability to mount an active offense or defense. Whether auxiliary cardiovascular tests, such as an electrocardiogram (EKG), are utilized is left to the discretion and clinical opinion of the examining physician.

(d) Extended Periods of Inactivity. Applicants for a boxer or mixed martial arts fighter license

whose official ring record reports a continuous period of inactivity in the previous 36 months from the time of application shall provide to the Commission satisfactory evidence that his or her health, ability and physical condition is sufficient to ensure the applicant's safety. Such medical evidence shall include, but may not be limited to:

- poorly
1. A detailed cardiovascular examination to establish cardiovascular endurance. A conditioned boxer is at increased risk of injury because of exhaustion, which may impede his or her ability to mount an active offense or defense. Whether auxiliary cardiovascular tests, such as an electrocardiogram (EKG), are utilized is left to the discretion and clinical opinion of the examining physician.
 2. A detailed neurological examination, conducted by a state licensed neurologist. Whether auxiliary neuro-diagnostic tests, such as electroencephalography (EEG), computerized tomography (CT), or magnetic resonance imaging (MRI), are utilized is left to the discretion and the clinical opinion of the examining physician.
- (e) Visual Acuity. The minimum uncorrected visual acuity in Alabama is set at 20/200 in both eyes. Any person who applies for a license or renewal of a boxer license in the state may, upon the request of the Commission, be required to present evidence of their visual acuity.
- (f) Hepatitis and HIV Testing. All contestants in all bouts shall be tested for Hepatitis B, Hepatitis C, and HIV by a laboratory approved by the Commission. The initial test
- for
- Hepatitis B, Hepatitis C, and HIV detection shall be conducted within 180 days prior to licensure. In addition to the pre-licensure test, any boxer shall be re-tested for Hepatitis B, Hepatitis C, and HIV prior to his or her participation in each boxing match, contest, or exhibition in the state if the match, contest, or exhibition is scheduled to occur more than 180 days after the date of the most recent test. The results must be submitted to the Commission prior to the official weigh-in.
1. Any contestant who tests positive for Hepatitis B, Hepatitis C, or HIV shall appear before the medical advisory panel, which after verifying the results of the test, shall advise the Commission as to whether the applicant's participation in a match, contest, or exhibition would pose a threat to the health and safety of a participant, official, or spectator.
 2. A Boxer that tests positive for Hepatitis B or Hepatitis C or HIV who is licensed as a boxer must disclose to his manager, trainer, second, and promoter that he or she has tested positive for Hepatitis B, Hepatitis C, or HIV.
 3. No match Permit shall be issued for a match, contest, or exhibition in which a boxer has tested positive for Hepatitis B, Hepatitis C, or HIV, unless the boxer has disclosed the results of the tests to all participants, and the participants have agreed to participate in the match, contest, or exhibition.
- (g) Suspensions. Any contestant who at the time of his or her application is under medical or administrative suspension from any other Commission, where such suspension is recorded in the boxing or mixed martial arts registry, may be ineligible for licensure in Alabama.
- (5) **Matchmakers.** Matchmakers applying for licensure shall meet the following requirements:
- (a) A matchmaker shall demonstrate to the Commission that he or she has ~~at a minimum five-~~ **years** experience in matchmaking, and shall produce a list of all professional fighters that he or she has matched, the promoters who promoted the matches, and the results of the matches.
 - (b) The Commission may contact the persons listed to determine whether the applicant is

qualified for licensure.

(6) **Trainers.** Trainers applying for licensure shall meet the following requirements:

- (a) An applicant shall demonstrate to the Commission that he or she has ~~at a minimum five~~ years experience in training boxers, and shall produce a list of all professional fighters that he or she has trained, the promoters who promoted the matches, and the results of the matches. The applicant may be required to provide a list of amateur fighters that he or she has trained.
- (b) The Commission may contact the persons listed to determine whether the applicant is qualified for licensure.

(7) **Seconds.** Seconds applying for licensure shall meet the following requirements:

- (a) An applicant shall demonstrate to the Commission that he or she has ~~at a minimum one year~~ experience in serving as a second, and shall produce a list of all professional fighters that he or she has served as a second, the promoters who promoted the matches, and the results of the matches. The applicant may be required to provide a list of amateur fighters that he or she has served as a second.
- (b) The Commission may contact the persons listed to determine whether the applicant is qualified for licensure.

(8) **Disciplinary Action.**

- (a) The Commission may revoke, suspend, place on probation or take other disciplinary action against the license of any licensee who has violated any of its rules or regulations or any of the provisions of Code of Ala. 1975, §41-9-2010 or whose application contains false statements or material omissions.

- 1. Any person who has had his or her license revoked by the Commission may not petition for reinstatement or apply for a new license until one (1) year after the revocation.

(9) **Falsifying an Application.** Upon a finding by the majority of the Commission that any licensee or applicant has knowingly made a misleading, deceptive, untrue or fraudulent representation in regard to a professional match contest or exhibition of boxing or mixed martial arts or any document connected therewith or practiced fraud or deceit or intentionally made any false statement in obtaining a license to participate or promote a professional match contest or exhibition of boxing or mixed martial arts or made a false statement or deceptive registration with the Commission then the Commission shall have the authority to refuse to grant a license to an applicant, revoke the license of a person licensed by the Commission, or discipline a person licensed by the Commission.

Authors: J. Matt Bledsoe, Casey C. Sears

Statutory Authority: Code of Ala. 1975, §§41-9-1020,41-9-1030.

History: New Rule: Filed July 16, 2010; effective August 20, 2010.