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HOUSE BILL 498

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Ben Lujan

AN ACT

**RELATING TO PROFESSIONAL CONTESTS; AMENDING AND ENACTING
SECTIONS OF THE PROFESSIONAL ATHLETIC COMPETITION ACT.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 60-2A-2 NMSA 1978 (being Laws 1980,
Chapter 90, Section 2, as amended) is amended to read:**

**"60-2A-2. DEFINITIONS. --As used in the Professional
Athletic Competition Act:**

- A. "board" means the medical advisory board;**
- B. "commission" means the New Mexico athletic
commission;**
- C. "foreign co-promoter" means a promoter who has
no place of business in this state;**
- D. "professional boxer" or "professional wrestler"
means an individual who competes for money, prizes or purses or**

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1 who teaches, pursues or assists in the practice of boxing,
2 wrestling or martial arts as a means of obtaining a livelihood
3 or pecuniary gain;

4 E. "professional contest" means any professional
5 automobile racing, boxing, wrestling or martial arts contest or
6 exhibition or a one-time professional sporting event, whether
7 or not an admission fee is charged for admission of the public;

8 F. "promoter" means any person, and in the case of
9 a corporate promoter includes any officer, director or
10 stockholder of the corporation, who produces or stages any
11 professional boxing, wrestling or martial arts contest,
12 exhibition or closed circuit television show;

13 G. "purse" means the financial guarantee or any
14 other remuneration, or part thereof, for which professional
15 boxers or professional wrestlers are participating in a contest
16 or exhibition and includes the participant's share of any
17 payment received for radio broadcasting, television or motion
18 picture rights;

19 H. "ring official" means any person who performs an
20 official function during the progress of a contest or
21 exhibition; and

22 I. "department" means the regulation and licensing
23 department. "

24 Section 2. Section 60-2A-3 NMSA 1978 (being Laws 1980,
25 Chapter 90, Section 3, as amended) is amended to read:

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1 "60-2A-3. COMMISSION CREATED--TERMS--RESTRICTIONS.--

2 A. There is created the "New Mexico athletic
3 commission". The commission shall be administratively attached
4 to the department.

5 B. The commission shall consist of [~~five~~] seven
6 members who are New Mexico residents and who are appointed by
7 the governor. Three of the members shall have experience in
8 the professional sports, and the other [~~two~~] four members shall
9 represent the public. The public members shall not have been
10 licensed or have any financial interest, direct or indirect, in
11 the profession regulated. The members shall be appointed for
12 staggered terms of four years each. Each member shall hold
13 office until the expiration of the term for which appointed or
14 until a successor has been appointed. Not more than [~~three~~]
15 four members of the commission shall be appointed from the same
16 political party. No commission member shall serve more than
17 two full terms consecutively.

18 C. No member shall at any time during his
19 membership on the commission promote or sponsor any
20 professional contest or have any financial interest in the
21 promotion or sponsorship of any professional contest."

22 Section 3. Section 60-2A-9 NMSA 1978 (being Laws 1980,
23 Chapter 90, Section 9) is amended to read:

24 "60-2A-9. LICENSES TO CONDUCT PROFESSIONAL CONTESTS.--

25 A. The commission may issue licenses to conduct,

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1 hold or give a professional contest to any promoter under such
2 terms and in accordance with such rules as the commission may
3 adopt.

4 B. Any application for [~~such~~] a license shall be in
5 writing and shall correctly show the promoter. The application
6 shall be accompanied by the annual fee prescribed by law.

7 C. Before any license is granted to a promoter, the
8 promoter ~~must~~ file a bond or, with the permission of the
9 commission, a certified check or letter of credit in an amount
10 fixed by the commission but not less than [~~two thousand dollars~~
11 ~~(\$2,000)] ten thousand dollars (\$10,000) with good and
12 sufficient surety and conditioned for the faithful performance
13 by the promoter of the provisions of the Professional Athletic
14 Competition Act. "~~

15 Section 4. Section 60-2A-17 NMSA 1978 (being Laws 1980,
16 Chapter 90, Section 17) is amended to read:

17 "60-2A-17. INSURANCE. --

18 A. The commission may by rule require insurance
19 coverage for each licensed professional boxer or professional
20 wrestler to provide for medical, surgical and hospital care for
21 injuries sustained while preparing for or engaged in a
22 professional contest, in an amount of [~~one thousand dollars~~
23 ~~(\$1,000)] two thousand dollars (\$2,000) payable to [~~such~~] the
24 boxer or wrestler as beneficiary.~~

25 B. In lieu of or in addition to the insurance

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1 provided for in Subsection A of this section, the commission
2 may establish a voluntary injury fund in the state treasury to
3 provide for the medical care of a professional boxer or
4 professional wrestler injured in the course of a professional
5 contest. The fund shall consist solely of voluntary
6 contributions by promoters equal to two percent of the gross
7 receipts of the professional contest. The funds may be
8 expended upon vouchers signed by the chairman of the commission
9 and warrants drawn by the secretary of finance and
10 administration. "

11 Section 5. Section 60-2A-20 NMSA 1978 (being Laws 1980,
12 Chapter 90, Section 20) is amended to read:

13 "60-2A-20. ATTENDANCE AT WEIGH-INS--MEDICAL
14 EXAMINATIONS--PROFESSIONAL CONTESTS. --

15 A. The executive [~~secretary~~] director or other
16 designated staff and a member of the commission shall be
17 present at all weigh-ins, medical examinations and professional
18 contests and shall see that the provisions of the Professional
19 Athletic Competition Act and the rules made pursuant [~~thereto~~]
20 to that act are strictly enforced.

21 B. Every participant in a professional boxing
22 contest shall be present and weighed in no later than [~~twelve~~
23 ~~o'clock~~] 12:00 noon on the day of the professional contest. "

24 Section 6. Section 60-2A-21 NMSA 1978 (being Laws 1980,
25 Chapter 90, Section 21) is amended to read:

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1 "60-2A-21. LENGTH OF PROFESSIONAL CONTESTS-- ROUNDS. -- No
2 professional boxing contest shall be more than [~~fifteen~~] twelve
3 rounds in length, and each round shall not exceed three minutes
4 in length. There shall be a one-minute rest between rounds.
5 The commission shall adopt rules governing the length of
6 professional wrestling contests, duration of rounds and the
7 period of rest between rounds. "

8 Section 7. Section 60-2A-23 NMSA 1978 (being Laws 1980,
9 Chapter 90, Section 23, as amended) is amended to read:

10 "60-2A-23. [~~PRIVILEGE TAX~~] REGULATORY FEES ON
11 PROMOTIONS. --

12 A. In addition to any other taxes or fees provided
13 by law, there is imposed upon every promoter for the privilege
14 of promoting a professional [~~contests~~] contest a [~~tax at the~~
15 ~~rate of~~] regulatory fee in an amount determined pursuant to the
16 rules of the commission to be sufficient to cover the costs of
17 regulating the contest; provided that the fee may not exceed
18 four percent of the total gross receipts of any professional
19 contest conducted live in New Mexico.

20 B. The commission shall adopt rules and regulations
21 for the administration, collection and enforcement of the [~~tax~~]
22 fee imposed [~~in~~] pursuant to this section.

23 C. As used in this section, "total gross receipts
24 of any professional contest" includes:

- 25 (1) the gross price charged for the sale,

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1 lease or other exploitation of broadcasting, television or
2 motion picture rights of [~~such~~] the professional contest
3 without any deductions for commissions, brokerage fees,
4 distribution fees, advertising or other expenses or charges;

5 (2) the face value of all tickets sold and
6 complimentary tickets issued; and

7 (3) any sums received as consideration for
8 holding a professional contest at a particular location. "

9 Section 8. Section 60-2A-24 NMSA 1978 (being Laws 1980,
10 Chapter 90, Section 24) is amended to read:

11 "60-2A-24. ATHLETIC COMMISSION FUND. --The proceeds of the
12 [~~privilege tax~~] regulatory fee on promotions and of the
13 [~~privilege tax~~] supervisory fee on closed-circuit television
14 [~~or motion pictures~~], together with any license fees or other
15 fees authorized [~~under~~] pursuant to the Professional Athletic
16 Competition Act, shall be deposited with the state treasurer to
17 the credit of the "athletic commission fund", which is hereby
18 created. Expenditures from the athletic commission fund shall
19 only be made on vouchers issued and signed by the person
20 designated by the commission upon warrants drawn by the
21 department of finance and administration in accordance with the
22 budget approved by the department of finance and
23 administration. "

24 Section 9. Section 60-2A-25 NMSA 1978 (being Laws 1980,
25 Chapter 90, Section 25) is amended to read:

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1 "60-2A-25. TIME OF PAYMENT OF [~~PRIVILEGE TAX~~] REGULATORY
2 FEE. --

3 A. Any person upon whom the [~~privilege tax~~]
4 regulatory fee is imposed [~~by~~] pursuant to Section [~~23 of the~~
5 ~~Professional Athletic Competition Act~~] 60-2A-23 NMSA 1978
6 shall, within seventy-two hours after the completion of any
7 professional contest for which an admission fee is charged and
8 received or a contribution is requested and received, furnish
9 to the commission a written report on forms prescribed by the
10 commission showing:

11 (1) the number of tickets sold and issued or
12 sold or issued for [~~such~~] the professional contest;

13 (2) the amount of the gross receipts or value
14 thereof;

15 (3) the amount of gross receipts derived from
16 the sale, lease or other exploitation of broadcasting, motion
17 picture or television rights of [~~such~~] the professional
18 contest, [~~and~~] without any deductions for commissions,
19 brokerage fees, distribution fees, advertising or any other
20 expenses or charges; and

21 (4) such other matters as the commission may
22 prescribe.

23 B. The commission or any of its authorized
24 employees may inspect the books, ticket stubs or any other data
25 necessary for the proper enforcement of the [~~privilege tax~~]

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1 regulatory fee and supervisory fee imposed [in] pursuant to the
2 Professional Athletic Competition Act. "

3 Section 10. Section 60-2A-26 NMSA 1978 (being Laws 1980,
4 Chapter 90, Section 26, as amended) is amended to read:

5 "60-2A-26. [~~PRIVILEGE TAX~~] SUPERVISORY FEE ON CLOSED-
6 CIRCUIT TELECASTS [OR MOTION PICTURES]--REPORT TO COMMISSION. --

7 A. Any person who charges and receives an admission
8 fee for exhibiting any live professional contest on a closed-
9 circuit telecast [~~or motion picture~~] shall, within seventy-two
10 hours after the event, furnish to the commission a verified
11 written report on a form prescribed by the commission showing
12 the number of tickets sold and issued or sold or issued and the
13 gross receipts for the exhibition without any deductions.

14 B. There is imposed a [~~tax~~] supervisory fee upon
15 the privilege of exhibiting for an admission fee any live
16 professional contest [~~except a live professional boxing contest~~
17 ~~held in New Mexico between the effective date of this 1997 act~~
18 ~~and July 1, 1999]~~ on a closed-circuit telecast [~~or motion~~
19 ~~picture. The rate of the tax imposed is]~~. A supervisory fee
20 is imposed in an amount determined pursuant to the rules of the
21 commission to be sufficient to cover the costs of supervising
22 the exhibition; provided that the fee may not exceed five
23 percent of the gross receipts derived from the exhibition.

24 C. The [~~privilege tax~~] fee imposed [in] pursuant to
25 this section shall be administered, collected, enforced and the

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1 proceeds deposited as provided in Section 60-2A-24 NMSA 1978. "

2 Section 11. Section 60-2A-27 NMSA 1978 (being Laws 1980,
3 Chapter 90, Section 27) is amended to read:

4 "60-2A-27. PENALTY--NONPAYMENT OF FEE. --Any person who
5 willfully attempts to evade or defeat any [~~tax~~] regulatory or
6 supervisory fee or the payment thereof imposed [~~by~~] pursuant to
7 the Professional Athletic Competition Act is guilty of a fourth
8 degree felony. "

9 Section 12. Section 60-2A-28 NMSA 1978 (being Laws 1980,
10 Chapter 90, Section 28) is amended to read:

11 "60-2A-28. CIVIL PENALTY.--In the case of failure due to
12 negligence or disregard of rules and regulations of the
13 commission, but without intent to defraud, to pay when due any
14 amount of [~~tax~~] regulatory or supervisory fee required to be
15 paid by the Professional Athletic Competition Act, there shall
16 be added to the amount two percent per month or a fraction
17 [~~thereof~~] of a month from the date the tax was due or from the
18 date the report was required to be filed, not to exceed ten
19 percent [~~thereof~~] of the fee due. "

20 Section 13. A new section of the Professional Athletic
21 Competition Act is enacted to read:

22 "[NEW MATERIAL] EXECUTIVE DIRECTOR.--The commission may
23 contract for an executive director and staff necessary to carry
24 out the provisions of the Professional Athletic Competition
25 Act, provided that such a contract may not be with a member of

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1 the commission. "

2 Section 14. A new section of the Professional Athletic
3 Competition Act is enacted to read:

4 " [NEW MATERIAL] COOPERATIVE AGREEMENTS WITH TRIBAL
5 GOVERNMENTS. - -

6 A. The commission may enter into a cooperative
7 agreement with an Indian nation, tribe or pueblo whose tribal
8 lands lie wholly or partly in New Mexico for the exchange of
9 information and for the reciprocal, joint or common direction,
10 management or control of professional contests conducted, held
11 or given in New Mexico. To be effective, an agreement must be
12 signed by the governor of this state.

13 B. Money collected by the commission on behalf of
14 an Indian nation, tribe or pueblo in accordance with an
15 agreement entered into pursuant to this section is not money of
16 this state and shall be collected and disbursed in accordance
17 with the terms of the agreement, notwithstanding any other
18 provision of law.

19 C. Nothing in an agreement entered into pursuant to
20 this section shall be construed as an assertion or an admission
21 by either this state or by the Indian nation, tribe or pueblo
22 that the fees of one have precedence over the fees of the other
23 when the person, event or transaction is subject to the
24 jurisdiction of both governments. An agreement entered into
25 pursuant to this section shall be construed solely as an

1 agreement between the two party governments and shall not alter
2 or affect the government-to-government relations between this
3 state and any other Indian nation, tribe or pueblo. "

4 Section 15. EFFECTIVE DATE. --The effective date of the
5 provisions of this act is July 1, 2004.

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