

Meeting Agenda
SOUTH DAKOTA ATHLETIC COMMISSION

Via ZOOM

OR

Call-In: 1-312-626-6799

Meeting ID: 892 1402 7466

Passcode: 483130

Wednesday, September 6, 2023, 12:00 p.m. (CDT)

Proposed Agenda

- A. Call to Order
- B. Roll Call
- C. Approval of the Agenda
- D. Open Forum: 5 minutes for the public to address the Commission
- E. Approval of Meeting Minutes: December 16, 2022 and May 15, 2023
- F. Financial Report as of July 31, 2023
- G. Executive Session pursuant to SDCL 1-25-2(3) to consult with legal counsel regarding proposed or pending litigation
- H. Old Business
 - 1) Approved Event Update
 - i. MMA 2023-03 (Bellator)
 - 2) Agreed-Upon Procedures Audit Update
 - 3) 2024 Legislation Proposal
 - 4) Administrative Rule Review Update
- I. New Business
 - 1) Event Applications
 - 2) Election of Officers
- J. Other Business
- K. Announcements
- L. Adjourn

Meeting Minutes
SOUTH DAKOTA ATHLETIC COMMISSION
Via Teleconference
December 16, 2022 1:00 p.m. CST

Chairman Kilmer called the meeting to order at 1:01 p.m. A quorum was present.

Members Present Electronically: Mike Kilmer, George Giovanis, Mark Johnston, and Verle Valentine

Others Present Electronically: Jennifer Stalley, executive secretary; Amber Mulder, Department of Labor, Legal Counsel, and Bob Mercer, KELO Land Media Group

Johnston made a motion to approve the agenda. Giovanis seconded the motion. **MOTION PASSED.**

Kilmer asked for any public comments. No comments were offered.

Giovanis made a motion to approve the August 30, 2022 commission meeting minutes. Valentine seconded the motion. **MOTION PASSED.**

Johnston made a motion to accept the November 30, 2022 financial report as presented. Giovanis seconded the motion. **MOTION PASSED.**

Stalley provided an update on previously approved events.

Giovanis made a motion to approve the 2023 exempt organization request from South Dakota USA Boxing on the condition matches between girls and boys (women and men) are not allowed. Johnston seconded.

Valentine made a substitute motion to approve the 2023 exempt organization request from South Dakota USA Boxing on the condition South Dakota USA Boxing inform the Commission of any sanctioned events in South Dakota before the event takes place and South Dakota USA Boxing report all event results and any contestant injuries to the Commission within 30 days of the event. Johnston seconded the motion. Johnson and Valentine voted aye. Giovanis voted no. **MOTION FAILED.** Kilmer was recused.

Johnston made a motion to approve the 2023 exempt organization request from South Dakota USA Boxing on the condition South Dakota USA Boxing without any conditions or exceptions. Valentine seconded the motion. **MOTION PASSED.** Kilmer was recused.

Valentine made a motion to approve an event request by Legacy Fighting Alliance for an MMA event to be held in Sioux Falls, South Dakota on a date to be determined in 2023 on the condition the promoter is properly licensed for 2023 and the promoter complies with all the rules, regulations and deadlines of the Commission for the event. Giovanis seconded the motion. **MOTION PASSED.**

Stalley updated the Commission on the vacant position on the Committee and the timeline for the Commission considering revisions to administrative rules.

Johnston made a motion to adopt the 2023 Commission meeting schedule as proposed with meetings scheduled for February 10, 2023; May 19, 2023; September 8, 2023; and December 1, 2023. Giovanis seconded. **MOTION PASSED.**

Johnston made a motion to nominate Verle Valentine as Commission Chairman and Mike Kilmer as Commission Vice-Chairman for 2022-2023. Giovanis seconded. **MOTION PASSED.**

Valentine made a motion to nominate Mark Johnston as Commission Secretary for 2022-2023. Giovanis seconded. **MOTION PASSED.**

The next Commission meeting is scheduled for February 10, 2023, at 12:30 pm (central)

Giovanis made a motion to adjourn the meeting at 1:57 pm. Valentine seconded the motion. **MOTION PASSED.**

Respectfully Submitted,

Mark Johnston, Secretary

Meeting Minutes
SOUTH DAKOTA ATHLETIC COMMISSION
Via Teleconference
May 19, 2023 12:30 p.m. CDT

Chairman Valentine called the meeting to order at 12:30 p.m. A quorum was present.

Members Present Electronically: Mike Kilmer, George Giovanis, Mark Johnston, and Verle Valentine

Others Present Electronically: Jennifer Stalley, executive secretary; and Amber Mulder, Department of Labor, Legal Counsel

Kilmer made a motion to approve the agenda. Giovanis seconded the motion. **MOTION PASSED.**

Valentine asked for any public comments. No comments were offered.

Johnston made a motion to approve the January 4, 2023, commission meeting minutes. Giovanis seconded the motion. **MOTION PASSED.**

Kilmer made a motion to accept the April 30, 2023 financial report as presented with direction to Stalley to clarify the payment noted on the report for insurance. Johnston seconded the motion. **MOTION PASSED.**

Johnston made a motion to go into executive session at 12:46 p.m. for the reasons noticed on the agenda. Giovanis seconded. **MOTION PASSED.**

Valentine declared the Commission out of executive session at 1:25 p.m.

Johnston made a motion to proceed to collections for the delinquent event fee owed by Kaos Kelly Productions. Giovanis seconded. **MOTION PASSED.**

Giovanis moved to dismiss complaint 2022-01. Johnston seconded. **MOTION PASSED.**

Stalley provided an update on previously approved events.

Stalley provided an update on the review of statutes and administrative rules and the timeline for the project.

Valentine reminded Commissioners to submit the annual Conflict of Interest Disclosure Form.

Johnston made a motion to approve an event request by Bellator for a mixed martial arts event to be held on August 11, 2023, in Sioux Falls, South Dakota on the condition the promoter complies with all the rules, regulations and deadlines of the Commission for the event. Kilmer seconded the motion. **MOTION PASSED.**

Giovanis moved to renew the contract with Midwest Solutions for executive services with a 7% increase. Kilmer seconded the motion. **MOTION PASSED.**

Johnston moved to extend the contract with Midwest Solutions for services related to updating the Commission's statutes and administrative rules through fiscal year 2024. Giovanis seconded the motion. **MOTION PASSED.**

The next Commission meeting is scheduled for September 8, 2023, at 12:30 p.m. (central)

Johnston made a motion to adjourn the meeting at 1:48 p.m. Giovanis seconded the motion. **MOTION PASSED.**

Respectfully Submitted,

Mark Johnston, Secretary

Draft

AGENCY: 10 LABOR & REGULATION

BUDGET UNIT: 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	1039000887	1140000	112,551.69	DR	BOXING COMMISSION FUND
COMPANY/SOURCE TOTAL 6503 887			112,551.69	DR *	
COMP/BUDG UNIT TOTAL 6503 1039			112,551.69	DR **	
BUDGET UNIT TOTAL 1039			112,551.69	DR ***	

AGENCY 10 NOT ON TM700 FILE
BUD UNIT 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO

COMP	CENTER	ACCOUNT	DOCUMENT ID	POST DATE	APPROVAL, VENDOR, OR PO #	EFFECT DATE	AMOUNT	DR CR
COMPANY NO		6503						
COMPANY NAME		PROFESSIONAL & LICENSING BOARDS						
6503	1039	71010100	BD07012023	07/02/2023		07/01/2023	11,529.00	CR
6503	1039	71020100	BD07012023	07/02/2023		07/01/2023	1,573.00	CR
TOTAL ACCOUNT GROUP NET CHANGE							13,102.00	CR *
6503	1039	72030100	BD07012023	07/02/2023		07/01/2023	3,877.00	CR
6503	1039	72040100	BD07012023	07/02/2023		07/01/2023	43,048.00	CR
6503	1039	72050100	BD07012023	07/02/2023		07/01/2023	1,100.00	CR
TOTAL ACCOUNT GROUP NET CHANGE							48,025.00	CR *
TOTAL COMPANY--NET CHANGE							61,127.00	CR **

COMPANY NO 6503
COMPANY NAME PROFESSIONAL & LICENSING BOARDS

6503	1039000887	52042000	FM306082	07/26/2023		07/20/2023	310.94	DR
6503	1039000887	52053500	MS306049	07/19/2023		07/11/2023	9.65	DR
6503	1039000887	52042000	FL306065	07/14/2023		07/07/2023	117.98	DR
6503	1039000887	52042000	RM306058	07/10/2023		07/05/2023	87.00	DR
TOTAL ACCOUNT GROUP NET CHANGE							525.57	DR *
6503	1039000887	82040900	23-1000-001 2054	07/12/2023	24SC10001A	07/11/2023	1,598.27	CR
6503	1039000887	82049600	23-1000-001 2054	07/12/2023	24SC10001A	07/11/2023	134.50	CR
6503	1039000887	82040900	24SC10001A	07/10/2023	12199902	07/10/2023	2,000.00	DR
6503	1039000887	82049600	24SC10001A	07/10/2023	12199902	07/10/2023	200.00	DR
TOTAL ACCOUNT GROUP NET CHANGE							467.23	DR *
TOTAL COMPANY--NET CHANGE							992.80	DR **

STATE OF SOUTH DAKOTA
MONTHLY EXPENDITURE REPORT
FOR PERIOD ENDING: 07/31/2023

AGENCY 10 LABOR & REGULATION
BUDGET UNIT 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO
CENTER-5 10390 SD ATHLETIC COMMISSION

COMP	CENTER	ACCOUNT	DOCUMENT NUMBER	POSTING DATE	JV APPVL # OR PAYMENT #	SHORT NAME	VENDOR NUMBER	VENDOR GROUP	AMOUNT	DR/CR
			23-1000-001 2054	07/14/2023	00863069	MIDWESTSOL	12199902		1,598.27	DR
			OBJSUB: 5204090 MANAGEMENT CONSULTANT						1,598.27	DR *
			6503 1039000887 52042000 FM306082	07/26/2023					310.94	DR
			6503 1039000887 52042000 PL306055	07/14/2023					117.98	DR
			6503 1039000887 52042000 RM306058	07/10/2023					87.00	DR
			OBJSUB: 5204200 CENTRAL SERVICES						515.92	DR *
			6503 1039000887 52049600 23-1000-001 2054	07/14/2023	00863069	MIDWESTSOL	12199902		134.50	DR
			OBJSUB: 5204960 OTHER CONTRACTUAL SERVICE						134.50	DR *
			OBJECT: 5204 CONTRACTUAL SERVICES						2,248.69	DR **
			6503 1039000887 52053500 MS306049	07/19/2023					9.65	DR
			OBJSUB: 5205350 POSTAGE						9.65	DR *
			OBJECT: 5205 SUPPLIES & MATERIALS						9.65	DR **
			GROUP: 52 OPERATING EXPENSES						2,258.34	DR ***
			COMP: 6503						2,258.34	DR ****
			CNTR: 1039000887						2,258.34	DR *****
			B. UNIT: 1039						2,258.34	DR *****

STATE OF SOUTH DAKOTA
 MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
 FOR PERIOD ENDING: 07/31/2023

BA0215V1 07/29/2023

AGENCY	10	SOUTH DAKOTA ATHLETIC COMMISSION - INFO				
BUDGET UNIT	1039	SD ATHLETIC COMMISSION				
CENTER-5	10390	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO	6503			PROFESSIONAL & LICENSING BOARDS		
COMPANY NAME						
1039000887	6503	52040900		MANAGEMENT CONSULTANT	1,598.27	1,598.27
1039000887	6503	52042000		CENTRAL SERVICES	515.92	515.92
1039000887	6503	52049600		OTHER CONTRACTUAL SERVICE	134.50	134.50
ACCT: 5204				CONTRACTUAL SERVICES	2,248.69	2,248.69
1039000887	6503	52053500		POSTAGE	9.65	9.65
ACCT: 5205				SUPPLIES & MATERIALS	9.65	9.65
ACCT: 52				OPERATING EXPENSES	2,258.34	2,258.34
COMP: 6503				PROFESSIONAL & LICENSING BOARDS	2,258.34	2,258.34
CENTER: 1039000887					2,258.34	2,258.34
B UNIT: 1039					2,258.34	2,258.34

BUDGET UNIT 1039

CENTER NAME SOUTH DAKOTA ATHLETIC COMMISSION - INFO

COMP	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	YEAR-TO-DATE EXPENDITURES	AVAILABLE APPROPRIATIONS	CASH BALANCE
6503-I	61,127.00	0.00	0.00	467.23	2,258.34	58,401.43	112,551.69
BUDGETED TOT	61,127.00	0.00	0.00	467.23	2,258.34	58,401.43	
ALL COMP TOT	61,127.00	0.00	0.00	467.23	2,258.34	58,401.43	

TOTAL BUDGETED:

OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES	YEAR-TO-DATE	BUDGET AVAILABLE	PCT AVL
5101 EMPLOYEE SALARIES	11,529.00	0.00	0.00	0.00	0.00	11,529.00	100.0
5102 EMPLOYEE BENEFITS	1,573.00	0.00	0.00	0.00	0.00	1,573.00	100.0
5203 TRAVEL	3,877.00	0.00	0.00	0.00	0.00	3,877.00	100.0
5204 CONTRACTUAL SVCS	43,048.00	0.00	467.23	2,248.69	2,248.69	40,332.08	93.7
5205 SUPPLIES & MATRLS	1,100.00	0.00	0.00	9.65	9.65	1,090.35	99.1
TOTALS	61,127.00	0.00	467.23	2,258.34	2,258.34	58,401.43	95.5

BREAKOUT BY COMPANY:

COMPANY 6503-I PROFESSIONAL & LICENSING BOARDS

OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES	YEAR-TO-DATE	BUDGET AVAILABLE	PCT AVL
5101000 EMPLOYEE SALARIES	11,529.00	0.00	0.00	0.00	0.00	11,529.00	100.0
5102000 EMPLOYEE BENEFITS	1,573.00	0.00	0.00	0.00	0.00	1,573.00	100.0
5203000 TRAVEL	3,877.00	0.00	0.00	0.00	0.00	3,877.00	100.0
5204000 CONTRACTUAL SVCS	43,048.00	0.00	467.23	2,248.69	2,248.69	40,332.08	93.7
5205000 SUPPLIES & MATRLS	1,100.00	0.00	0.00	9.65	9.65	1,090.35	99.1
PS SUBTOTALS	13,102.00	0.00	0.00	0.00	0.00	13,102.00	100.0
OE SUBTOTALS	48,025.00	0.00	467.23	2,258.34	2,258.34	45,299.43	94.3
COMPANY 6503-I TOT	61,127.00	0.00	467.23	2,258.34	2,258.34	58,401.43	95.5



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
<http://atg.sd.gov>

MARTY J. JACKLEY
ATTORNEY GENERAL

MARK W. BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

August 24, 2023

Honorable Kristi Noem
Office of the Governor
500 E. Capital Avenue
Pierre, SD 57501

OFFICIAL OPINION No. 23-02

Re: Regulation of Slap Fighting Contests by the South Dakota Athletic Commission

Dear Governor Noem,

As Governor of the State of South Dakota you have requested an official opinion from the Attorney General's Office on the following question:

QUESTION:

Does the South Dakota Athletic Commission have jurisdiction to regulate slap fighting contests or exhibitions?

ANSWERS:

No, the South Dakota Athletic Commission does not have jurisdiction to regulate slap fighting contests or exhibitions under current state law.

FACTS:

Slap fighting is held out as a combat sport where participants, wearing no gloves or protective headgear, trade open hand blows to the face. The Nevada Athletic Commission determined that slap fighting met the Nevada

statutory definition of unarmed combat, and concluded it fell under the jurisdiction of the Nevada Commission. The South Dakota Athletic Commission has fielded inquiries regarding its jurisdiction and authority to regulate slap fighting contests in South Dakota.

IN RE QUESTION:

Based upon the above facts, you have asked whether the South Dakota Athletic Commission (Commission) has jurisdiction to regulate slap fighting contests or exhibitions?

The Commission is vested with the authority to regulate all “contests and exhibitions of boxing, kickboxing, and mixed martial arts competitions and sparring exhibitions held in the State[.]” SDCL 42-12-9.

When interpreting a statute to determine its meaning, “the language expressed in the statute is the paramount consideration.” *Olson v. Butte County Commission*, 2019 S.D. 13, ¶ 5, 925 N.W.2d 463, 464 (quoting *Goetz v. State*, 2001 S.D. 138, ¶ 15, 636 N.W.2d 675, 681). “When the language in a statute is clear, certain and unambiguous, there is no reason for construction[.]” *In re Wintersteen Revocable Trust Agreement*, 2018 S.D. 12, ¶ 12, 907 N.W.2d 785, 789 (internal citations omitted). When the intent of the statutory language is unclear, “the intent of the [L]egislature is derived from the plain, ordinary and popular meaning of the statutory language.” *Id.*

Based upon the unambiguous language of SDCL 42-12-9, slap fighting must fall within the statutory definitions of either boxing, kickboxing, or mixed martial arts for the Commission to have authority to regulate slap fighting contests or exhibitions.

“Boxing” is defined by state law as “the sport or practice of fighting with fists in which participants wear boxing gloves.” SDCL 42-12-7.1(3). I conclude, based upon this definition, that slap fighting cannot be considered boxing under State law. Slap fighting does not involve the use of fists, and slap fighting participants generally do not wear boxing gloves.

“Kickboxing” is statutorily defined as “the sport of attack and defense in which participants wear boxing gloves and throw punches as in boxing and kick with bare feet as in karate.” SDCL 42-12-7.1(4). As with boxing, I conclude slap fighting does not meet the statutory definition of kickboxing. Again, slap fighting does not generally involve the use of boxing gloves. Slap fighting also does not involve the “[throwing of] punches as in boxing” or “kick[ing] with bare feet as in karate.” *Id.* “Mixed martial arts” is defined as “the sport of fighting in which participants inflict or employ kicks, punches, blows, holds, and other

techniques to injure, stun, choke, incapacitate, or disable an opponent, using a combination of boxing, kickboxing, wrestling, grappling, or other martial arts.” SDCL 42-12-7.1(5). As established above, slap fighting does not meet the statutory definition of boxing or kickboxing. Wrestling is commonly defined as “a sport in which two competitors attempt to unbalance, control, or immobilize each other by various holds and maneuvers.” *Wrestling*, American Heritage Dictionary, <https://www.ahdictionary.com/word/search.html?q=wrestling> (last visited 05/26/2023). Grappling is defined as “a struggle or contest in which the participants attempt to wrestle with each other by clutching or gripping.” *Grapple*, American Heritage Dictionary, <https://www.ahdictionary.com/word/search.html?q=grapple> com (last visited 05/26/2023).

The act of slapping another individual with an open hand blow does not meet the generally accepted definition of wrestling or grappling. “Martial art[s]” are defined as “the arts of self-defense, such as aikido, judo, karate, or tae kwon do, often practiced as sports.” *Martial arts*, American Heritage Dictionary, <https://www.ahdictionary.com/word/search.html?q=martial+arts> com (last visited 05/26/2023). In comparison to those sports traditionally considered to be martial arts, I conclude slap fighting is not a “martial art” as that term is used in SDCL 42-12-7.1(5). While slap fighting participants inflict blows upon each other to incapacitate or disable their opponent, I conclude these blows are not delivered using a combination of “boxing, kickboxing, wrestling, grappling, or other martial arts.” *Id.* As such, slap fighting is not a mixed martial art as defined by state law.

CONCLUSION

I conclude that slap fighting does not meet the definition of any of the fighting styles referenced in SDCL 42-12-9. As such, the Commission does not have the authority to regulate slap fighting contests or exhibitions in South Dakota. At this time, the Legislature has not authorized the Commission to regulate slap fighting contests or exhibitions in the State.

Sincerely,



Marty J. Jackley
ATTORNEY GENERAL

MJJ/SRB/dd

CHAPTER 42-12

BOXING, KICKBOXING, MIXED MARTIAL ARTS, UNARMED COMBAT SPORTS AND SPARRING

42-12-1 to 42-12-7. Repealed.

42-12-7.1 Definitions.

42-12-8 South Dakota Athletic Commission created.

42-12-8.1 Terms--Vacancies.

42-12-8.2 Meetings--Quorum.

42-12-8.3 Officers.

42-12-8.4 Per diem--Expenses.

42-12-8.5 Immunity from personal liability.

42-12-8.6 Liability coverage.

42-12-9 Direction of boxing, kickboxing, ~~and~~-mixed martial arts, and unarmed combat competitions and sparring exhibitions.

42-12-9.1 Powers and duties of commission.

42-12-10 Promulgation of rules.

42-12-11 Boxing commission fund.

42-12-12 Competitions and exhibitions to conform to local ordinances.

42-12-13 Certain educational institutions and amateur associations exempt.

42-12-14 Certificate of registration required for boxers, kickboxers, ~~and~~-mixed martial artists, and combatants--Application--Violation as misdemeanor.

42-12-15 License required to facilitate a competition or exhibition--Application--Violation as misdemeanor.

42-12-16 Certificate of registration required for competition or exhibition--Violation as misdemeanor.

42-12-17 Records pertaining to competition or exhibition.

42-12-18 Inspection of competition or sparring exhibition.

42-12-19 Proceeds subject to forfeiture.

42-12-20 Sanctions for violation of chapter.

42-12-21 Summary suspension of registration or license--Hearing--Appeal.

42-12-22 Proceedings for revocation or suspension.

42-12-23 Appeals from discipline.

42-12-24 Penalties for violation of chapter.

42-12-25 Cease and desist order--Service--Hearing.

42-12-26 Failure to appear--Criminal prosecution.

42-12-27 Report--Orders.

42-12-28 Fees to reimburse commission for proceedings.

- 42-12-29 Prosecution of criminal action.
42-12-30 Prosecution of civil action.

42-12-1 to 42-12-7. Repealed by SL 2009, ch 219, § 8, eff. July 1, 2012.

42-12-7.1. Definitions.

Terms used in this chapter mean:

- (1) "Department," the Department of Labor and Regulation;
- (2) "Commission," the South Dakota Athletic Commission;
- (3) "Boxing," the sport or practice of fighting with fists in which participants wear boxing gloves;
- (4) "Kickboxing," the sport of attack and defense in which participants wear boxing gloves and throw punches as in boxing and kick with bare feet as in karate;
- (5) "Mixed martial arts," the sport of fighting in which participants inflict or employ kicks, punches, blows, holds, and other techniques to injure, stun, choke, incapacitate, or disable an opponent, using a combination of boxing, kickboxing, wrestling, grappling, or other martial arts;
- (6) "Boxer," a participant in a boxing competition or sparring exhibition;
- (7) "Kickboxer," a participant in a kickboxing competition or sparring exhibition;
- (8) "Mixed martial artist," a participant in a mixed martial arts competition or sparring exhibition;
- (9) "Promoter," any person, club, corporation, association, or entity, who produces, arranges, or stages any competition or sparring exhibition;
- (10) "Manager," any person who acts on behalf of a boxer, kickboxer, or mixed martial artist to facilitate the production, arrangement, or staging of any competition or sparring exhibition;
- (11) "Matchmaker," any person, club, corporation, association, or entity that brings together a competition or sparring exhibition;
- (12) "Competition," any match, fight, contest, or event in which the participants intend to and actually inflict punches, blows, kicks, or other techniques to temporarily incapacitate an opponent with the intent to win the competition, and in which the participants receive payment or remuneration, directly or indirectly, as consideration for the participant's performance; ~~and~~
- (13) "Sparring exhibition," any match, fight, contest, or event in which the participants intend to and actually inflict punches, blows, kicks, or other techniques to temporarily incapacitate an opponent with the intent to display skills without striving to win, and in which the participants receive payment or remuneration, directly or indirectly, as consideration for the participant's performance; ~~and~~
- (14) "Unarmed combat sport," any form of competition in which a blow is usually struck which may reasonably be expected to inflict injury.

Source: SL 2014, ch 209, § 28.

42-12-8. South Dakota Athletic Commission created.

There is hereby created, within the jurisdiction of the Department of Labor and Regulation, the South Dakota Athletic Commission consisting of five members appointed by the Governor. ~~Not all members may be of the same political party.~~ One member shall have experience with, or have been active in boxing, kickboxing, or mixed martial arts. One member shall be a physician licensed to practice in South Dakota. One member shall represent the public at large.

Source: SL 2013, ch 221, § 1; SL 2014, ch 209, § 1.

42-12-8.1. Terms--Vacancies.

Each appointment to the commission shall be for a period of three years except for the initial appointments which shall be for staggered terms. Each member shall serve until the expiration of the term for which the commissioner was appointed or until the member's successor is appointed and qualified to serve on the commission. If a vacancy occurs other than by expiration of term, the Governor shall appoint a qualified person to fill the vacancy for the unexpired term. The appointment to an unexpired term is not considered a full term. No member may serve more than three consecutive full terms.

Source: SL 2014, ch 209, § 2.

42-12-8.2. Meetings--Quorum.

The commission shall hold at least one meeting annually. The commission may hold other meetings at a time and place set by the chair or by a majority of the commission. A majority of the commissioners constitutes a quorum to conduct business. A majority of those present and voting constitutes a decision of the commission.

Source: SL 2014, ch 209, § 3.

42-12-8.3. Officers.

The commission shall select a chair, vice chair, and secretary annually. ~~No member may serve as chair for more than three consecutive years.~~

Source: SL 2014, ch 209, § 4.

42-12-8.4. Per diem--Expenses.

Members of the commission shall receive a per diem established pursuant to § 4-7-10.4 and expenses at the same rate as other state employees while engaged in official duties.

Source: SL 2014, ch 209, § 5.

42-12-8.5. Immunity from personal liability.

The commission, its members, and its agents are immune from personal liability for actions taken in good faith in the discharge of the commission's duties, and the state shall hold the commission, its members, and its agents harmless from all costs, damages, and attorney fees arising from claims and suits against them with respect to matters to which such immunity applies. The attorney general shall represent and appear for them in any action or proceeding brought by or against the commission, its members, and its agents because of such acts.

Source: SL 2014, ch 209, § 6.

42-12-8.6. Liability coverage.

The commission may acquire liability coverage from an outside entity to provide adequate coverage against claims.

Source: SL 2014, ch 209, § 7.

42-12-9. Direction of boxing, kickboxing, ~~and~~ mixed martial arts and unarmed combat competitions and sparring exhibitions.

The commission is hereby vested with the sole direction, control, and jurisdiction over all contests and exhibitions of boxing, kickboxing, ~~and~~ mixed martial arts, and unarmed combat competitions and sparring exhibitions held in the State of South Dakota. No competition or exhibition may be conducted within this state except in accordance with the provisions of this chapter.

Source: SL 2013, ch 221, § 2.

42-12-9.1. Powers and duties of commission.

The commission has the following powers and duties:

- (1) Through rules established pursuant to chapter 1-26, establish standards for the practice of boxing, kickboxing, ~~and~~ mixed martial arts, and unarmed combat;
- (2) Issue licenses and registrations to persons, clubs, corporations, associations, or other entities that meet the qualifications for licensure or registration;
- (3) Have available the names of persons, clubs, corporations, associations, or other entities registered or licensed pursuant to the provisions of this chapter;
- (4) Have available the date, time, and location of any competition or sparring exhibition registered pursuant to the provisions of this chapter;
- (5) Employ personnel in accordance with the needs and budget of the commission;
- (6) Enter into contracts as necessary to carry out the commission's responsibilities pursuant to the provisions of this chapter;

- (7) Communicate disciplinary actions and registration and license status of boxers, kickboxers, mixed martial artists, combatants, managers, promoters, and matchmakers to relevant state and federal governing bodies as may be required; and
- (8) Perform other duties directly related to the provisions of this chapter or rules promulgated pursuant to chapter 1-26.

Source: SL 2014, ch 209, § 26.

42-12-10. Promulgation of rules.

The commission shall promulgate rules, pursuant to chapter 1-26, to:

- (1) Govern the conduct of boxing, kickboxing, ~~and~~ mixed martial arts, and unarmed combat competitions, and sparring exhibitions;
- (2) Establish registration criteria and registration fees for all boxers, kickboxers, ~~and~~ mixed martial artists, ~~-and combatants~~ who participate in competitions and sparring exhibitions governed by the commission;
- (3) Establish license criteria and license fees for all promoters, managers, and matchmakers of boxing, kickboxing, ~~or~~ mixed martial arts, or unarmed combat competitions;
- (4) Establish registration requirements for all boxing, kickboxing, ~~or~~ mixed martial arts, or unarmed combat competitions or sparring exhibitions held in the state;
- (5) Establish the written records to be maintained for all competitions and sparring exhibitions conducted in the state;
- (6) Establish a fee based on the percentage of gross revenues from any boxing, kickboxing, ~~or~~ mixed martial arts, or unarmed combat competition or sparring exhibition held in the state. The fee established under this subdivision may not exceed five percent of the gross revenues of the exhibition from any and all sources including cable television and pay-per-view telecasts of the event, exclusive of any federal tax. However, the commission may establish and impose a minimum exhibition fee not to exceed five thousand dollars to cover the expenses of the South Dakota Athletic Commission;
- (7) Establish criteria for approved bona fide educational institutions or national amateur boxing, kickboxing, ~~or~~ mixed martial arts, or unarmed combat associations for purposes of being exempted from the provisions of this chapter;
- (8) Establish procedures for disciplinary proceedings; and
- (9) Establish procedures for receiving and conducting complaint investigations.

Source: SL 2013, ch 221, § 3; SL 2014, ch 209, § 25; SL 2016, ch 213, § 1.

42-12-11. Boxing commission fund.

All fees collected pursuant to this chapter shall be placed in the boxing commission fund that is hereby established in the state treasury. All money deposited in the fund is continuously appropriated to pay for the administration of this chapter and for the compensation and expenses of members of the South Dakota Athletic Commission.

Source: SL 2013, ch 221, § 4.

42-12-12. Competitions and exhibitions to conform to local ordinances.

Boxing, kickboxing, ~~or~~ mixed martial arts, or unarmed combat competitions or sparring exhibitions held in any city in this state shall be held in conformity to the ordinances of that city, in addition to the requirements of this chapter. No boxing, kickboxing, ~~or~~ mixed martial arts, or unarmed combat competition or sparring exhibition may be held in a city where such contests or exhibitions are prohibited by ordinance.

Source: SL 2013, ch 221, § 5.

42-12-13. Certain educational institutions and amateur associations exempt.

All boxing, kickboxing, ~~or~~ mixed martial arts, or unarmed combat competitions or sparring exhibitions conducted by bona fide educational institutions or by national amateur boxing, kickboxing, ~~or~~ mixed martial arts, or unarmed combat associations or their local affiliates approved by the commission are exempt from the provisions of this chapter.

Source: SL 2013, ch 221, § 6; SL 2014, ch 209, § 27.

42-12-14. Certificate of registration required for boxers, kickboxers, ~~and~~ mixed martial artists, and combatants--Application--Violation as misdemeanor.

No boxer, kickboxer, ~~or~~ mixed martial artist, or combatant may participate in any competition or sparring exhibition without having a certificate of registration issued by the commission. Each boxer, kickboxer, ~~or~~ mixed martial artist, or combatant shall submit an application upon a form prescribed by the commission and pay the required application fee. Any boxer, kickboxer, ~~or~~ mixed martial artist, or combatant in a competition or sparring exhibition who does not have a certificate of registration issued by the commission is guilty of a Class 2 misdemeanor. The commission may file a civil suit to enjoin any person engaging in a competition or sparring exhibition without a certificate of registration issued by the commission.

Source: SL 2014, ch 209, § 8.

42-12-15. License required to facilitate a competition or exhibition--Application--Violation as misdemeanor.

No manager, matchmaker, or promoter may participate in, facilitate, produce, stage, arrange, or profit from a competition or sparring exhibition without having a license issued by the commission. A manager, matchmaker, or promoter shall submit an application upon a form prescribed by the commission and shall pay the required application fee. Any person, club, corporation, association, or entity required to have a license pursuant to this section that participates in, facilitates, produces, stages, arranges, or profits from a competition or sparring exhibition without having a license issued by the commission is guilty of a Class 2 misdemeanor. The commission may file a civil suit to enjoin any person or entity engaging in a competition or sparring exhibition without a license issued by the commission.

Source: SL 2014, ch 209, § 9.

42-12-16. Certificate of registration required for competition or exhibition--Violation as misdemeanor.

No competition or sparring exhibition may be held without having a certificate of registration issued by the commission. The commission shall prescribe the form and the fee for registration. Any person, competitor, club, corporation, association, or entity that participates in, facilitates, produces, stages, arranges, or profits from a competition or sparring exhibition that does not have a certificate of registration issued by the commission is guilty of a Class 1 misdemeanor. The commission may file a civil suit to enjoin any person or entity from participating in, facilitating, producing, staging, arranging, or profiting from a competition or sparring exhibition that does not have a certificate of registration issued by the commission.

Source: SL 2014, ch 209, § 10.

42-12-17. Records pertaining to competition or exhibition.

Any competition or sparring exhibition held in South Dakota shall keep any written records pertaining to the competition or sparring exhibition that may be required by the commission. The records shall be made available for inspection by a representative or agent of the commission during normal business hours.

Source: SL 2014, ch 209, § 11.

42-12-18. Inspection of competition or sparring exhibition.

Any member of the commission, or its representative or agent, may freely enter upon and inspect a competition or sparring exhibition at the time and place set for the competition or sparring exhibition.

Source: SL 2014, ch 209, § 12.

42-12-19. Proceeds subject to forfeiture.

Any assets, interest, revenues, income, and proceeds acquired from a competition or sparring exhibition held without having a certificate of registration issued by the commission are subject to forfeiture to the commission.

Source: SL 2014, ch 209, § 13.

42-12-20. Sanctions for violation of chapter.

If the commission determines that a person, club, corporation, association, or entity is in violation of this chapter or any rule promulgated pursuant to this chapter, the commission may take the following actions:

- (1) Deny an application for registration or licensure;
- (2) Suspend, temporarily suspend, revoke, or refuse to renew a registration or license;
- (3) Place on probation, condition, or limit a registration or license;
- (4) Require reimbursement of the commission for expenses resulting from suspension, temporary suspension, revocation, refusal to renew, fines, censure, or reprimand resulting from a violation;
- (5) Pursue legal actions against a person, club, corporation, association, or entity that is not authorized to act by this chapter;
- (6) Impose an administrative fine as provided for by this chapter;
- (7) Seek an injunction as provided for by this chapter;
- (8) Issue a cease and desist order as provided for by this chapter; or
- (9) Other sanctions which the commission finds appropriate.

Source: SL 2014, ch 209, § 14.

42-12-21. Summary suspension of registration or license--Hearing--Appeal.

The commission may summarily suspend a registration or license in advance of a final adjudication or during the appeals process if the commission finds that a registrant or licensee represents a clear and immediate danger to the public safety or to the safety of other competitors or participants in any competition or sparring exhibition. Any registrant or licensee whose registration or license is suspended under this section is entitled to a prompt hearing pursuant to § [1-26-29](#). The registrant or licensee may subsequently appeal the suspension to circuit court in accordance with chapter [1-26](#).

Source: SL 2014, ch 209, § 15.

42-12-22. Proceedings for revocation or suspension.

Proceedings for the revocation or suspension of any registration or license shall be conducted pursuant to chapter [1-26](#) and any rules promulgated pursuant to this chapter.

Source: SL 2014, ch 209, § 16.

42-12-23. Appeals from discipline.

The findings and actions of the commission on disciplinary matters are subject to appeal as provided by chapter [1-26](#) and any rules promulgated pursuant to this chapter.

Source: SL 2014, ch 209, § 17.

42-12-24. Penalties for violation of chapter.

Any person, club, corporation, association, or entity that has violated any provision of this chapter or any rule promulgated pursuant to this chapter is subject to the following penalties:

- (1) Administrative fine:

- (a) Boxer, kickboxer, ~~or~~ martial artist, or combatant: any person registered by the commission who violates any provision of this chapter or rules promulgated pursuant to this chapter is liable for an administrative fine not to exceed five hundred dollars for each offense;
- (b) Manager, promoter, or matchmaker: any person, club, corporation, association, or entity licensed by the commission which violates any provision of this chapter or rules promulgated pursuant to this chapter is liable for an administrative fine not to exceed two thousand dollars for each offense;
- (c) Competition or sparring exhibition: any person, club, corporation, association, or entity responsible for facilitating, producing, staging, arranging, or profiting from a competition or sparring exhibition registered by the commission that violates any provision of this chapter or rules promulgated pursuant to this chapter is liable for an administrative fine not to exceed two thousand five hundred dollars for each offense.

An administrative fine not paid within sixty days from the date of the order imposing the fine may be enforced by an action in the appropriate county circuit court. Any person, club, corporation, association, or entity aggrieved by an order under this subdivision may make an appeal pursuant to chapter [1-26](#);

- (2) Injunction: if the commission deems it necessary for the public safety or the safety of competitors or participants in a competition or sparring exhibition, the commission may bring an action in the name of the state in the circuit court in any county in which jurisdiction is proper to enjoin the act, practice, or violation and to enforce compliance with this chapter or any rule promulgated pursuant to this chapter. Upon showing that a person, club, corporation, association, or entity has engaged in an otherwise unauthorized act or practice, a permanent or temporary injunction, or restraining order, or other appropriate relief shall be obtained against the person, club, corporation, association, or entity to prohibit the continuation of the unauthorized act or practice;
- (3) Cease and desist order: the commission may issue and have served upon a person, club, corporation, association, or entity an order requiring the person, club, corporation, association, or entity to cease and desist from any unauthorized practice or act which is in violation of this chapter or any rule promulgated pursuant to this chapter. The cease and desist order shall give reasonable notice of the rights to request a hearing pursuant to chapter [1-26](#) and shall state the reasons for the entry of the order.

Source: SL 2014, ch 209, § 18.

42-12-25. Cease and desist order--Service--Hearing.

Service of the cease and desist order is effective if the order is served on the person, club, corporation, association, entity, or counsel of record personally or by certified mail. Unless otherwise agreed by the commission and the party requesting the hearing, a hearing shall be held no later than ninety days after a request for a hearing is received by the commission.

Source: SL 2014, ch 209, § 19.

42-12-26. Failure to appear--Criminal prosecution.

If no hearing is requested within the thirty days of service of the cease and desist order, the order becomes final and remains in effect until the order is modified or vacated by the commission. If the party to whom a cease and desist order is issued requests a hearing, but after being duly notified fails to appear at the hearing, the party is in default and the proceeding may be determined against the party upon consideration of the cease and desist order, the allegations of which may be considered to be true. Action taken pursuant to this section does not relieve a party from criminal prosecution by a competent authority or from disciplinary action by the commission with respect to the party's application, registration, license, or renewal.

Source: SL 2014, ch 209, § 20.

42-12-27. Report--Orders.

The commission or hearing examiner shall issue a report within thirty days of the close of the contested case hearing record. Within thirty days after the report and any exceptions to the report, the commission shall issue a further order vacating, modifying, or making permanent the cease and desist orders as the facts require.

Source: SL 2014, ch 209, § 21.

42-12-28. Fees to reimburse commission for proceedings.

The commission may impose a fee to reimburse the commission for all or part of the cost of proceedings resulting in disciplinary action authorized by this chapter or rules promulgated pursuant to this chapter, the imposition of civil penalties or administrative fines, or the issuance of a cease and desist order. The fee may be imposed if the commission shows a person, club, corporation, association, or entity has committed an act or practice in violation of this chapter or rules promulgated pursuant to this chapter, or has violated an order of the commission. The costs include the amount paid by the commission for services from attorneys, investigators, court reporters, witnesses, expert witnesses, reproduction of records, commission members' per diem compensation, commission staff time, and expenses incurred by commission members and staff.

Source: SL 2014, ch 209, § 22.

42-12-29. Prosecution of criminal action.

Any criminal action for violation of any provision of this chapter or of any rule promulgated pursuant to this chapter shall be prosecuted by the attorney general of the state, or, at the attorney general's request and under the attorney general's direction, by the state's attorney of any county in which the violation occurred.

Source: SL 2014, ch 209, § 23.

42-12-30. Prosecution of civil action.

In any civil action to enforce the provisions of this chapter, the Department of Labor and Regulation and the state may be represented by any qualified attorney who is a regular salaried employee of the department and is designated by the department for this purpose or, at the department's request, by the attorney general.

Source: SL 2014, ch 209, § 24.