

SOUTH DAKOTA ATHLETIC COMMISSION
MINUTES OF PUBLIC HEARING

Commissioner Kilmer called the public hearing to order at 11:02 am on Monday, November 23, 2015, in Conference Room #3, Kneip Building, 700 Governors Drive, Pierre, South Dakota and noted that this was the time and place for the Athletic Commission Public Hearing to consider amendment and adoption of proposed rules ARSD 20:81:01:03; 20:81:01:10; 20:81:02:03; 20:81:03:01; 20:81:03:03; 20:81:03:04; 20:81:03:07; 20:81:03:08; 20:81:04:12; 20:81:04:13; 20:81:05:05; 20:81:05:06; 20:81:05:09; 20:81:05:11; 20:81:07:04; 20:81:07:05; and 20:81:07:06.

Hearing Officer: Mike Kilmer, Commission Chair

Members of the Commission in attendance via telephone: Mike Kilmer, Lee Lohff, Richard Little, and Margaret Gillespie.

Staff in attendance: Jennifer Stalley, Executive Secretary

Others in attendance: Bob Mercer

Kilmer called on Stalley to provide a summary of the notice of hearing and the proposed rule changes. Stalley noted the following process for noticing the public hearing:

The Commission solicited informal feedback on changes from promoters, officials and interested parties that have held events in South Dakota since July 1, 2014. On October 2, 2015, the Commission approved the proposed rules changes for consideration through the rulemaking process. The Commission served the Department of Labor with the proposed changes, notice of hearing, fiscal note, and small business impact statement of the proposed changes on October 8, 2015. Secretary Hultman signed the authorization to proceed on October 8, 2015.

The Commission served the Bureau of Finance and Management and Legislative Research Council with the proposed rules, notice of hearing, fiscal note and small business impact statement on October 9, 2015.

Notice of hearing was posted on the Commission's website on October 9, 2015. Twenty-one interested parties were notified of the hearing and provided with access to the proposed changes via e-mail on October 9, 2015.

The notice of hearing was posted in the Capital Journal on October 12, 2015; Watertown Public Opinion on October 13, 2015; and Rapid City Journal on October 14, 2015. Notice of hearing was also published in the Legislative Council Register beginning on October 13, 2015.

The Legislative Research Council has reviewed the proposed changes for legality and style and form. Style and form recommendations as to the capitalization of "commission" throughout and authorizing statutes have been made.

The Legislative Research Council also advised the Commission is without the authority to make the proposed changes to contest fees proposed on page 1 and 2.

Stalley provided a summary of the proposed rules:

20:81:01:03: Increases the time necessary between approval of an event and the date of the event from 14 days to 30 days to allow sufficient time for the Commission to prepare for the event and the promoter sufficient time to promote the event.

20:81:01:10: Allows the required medical equipment for an event to be available ringside or as part of the onsite ambulance equipment to allow for the most favorable access to the required equipment, if necessary.

20:81:02:03: As proposed increases the minimum fee for an event to \$3,000 and increases the time a promoter has to pay any additional fees due from 10 days to 30 days. The Legislative Research Council has advised the increase in the minimum fee conflicts with the statutory minimum set at \$1,000 and is outside the Commission's authority to increase by rule. The recommendation is to remove the proposed changes to increased fees and keep the changes to the increased time period to pay a final fee to the Commission after an event.

20:81:03:01: Adds physician's assistants and nurse practitioners to perform pre-fight physicals for boxers and kickboxers consistent with their collaborative supervision by a medical doctor or doctor of osteopathy.

20:81:03:03: Adds physician's assistants and nurse practitioners to perform pre-fight physicals for mixed martial artists consistent with their collaborative supervision by a medical doctor or doctor of osteopathy.

20:81:03:04: Increases the time necessary between approval of an event and the date of the event from 14 days to 30 days to allow sufficient time for the Commission to prepare for the event and the promoter sufficient time to promote the event; removes the requirement that the promoter provide the bell, buzzer or whistle and timer for an event; and adds a requirement that the promoter provide a security plan for the event.

20:81:03:07: Increases the number of rounds a referee can officiate from 32 to 35 and clarifies that the ringside physician must medically clear the referee to enter the ring. The increase rounds allows one referee to officiate a full card, if necessary.

20:81:03:08: Changes the word referee's to judge's to clear up a typo in the originally passed rule.

20:81:04:12: Increases the time before a boxing or kickboxing event when the official weigh-in can take place from 24 hours to 30 hours to better accommodate the Commission's oversight of the weigh-in, the medical checks required at the weigh-in and the timing of the promoter's public weigh-in.

20:81:04:13: Removes the requirement that the promoter provides the official scales for a boxing or kick boxing weigh-in. The Commission furnishes the official scales.

20:81:05:05: Increases the time before a mixed martial arts event when the official weigh-in can take place from 24 hours to 30 hours to better accommodate the Commission's oversight of

the weigh-in, the medical checks required at the weigh-in and the timing of the promoter's public weigh-in.

20:81:05:06: Removes the requirement that the promoter provides the official scales for a mixed martial arts weigh-in. The Commission furnishes the official scales.

20:81:05:09: Clarifies that a Commission designee can oversee the wrapping of hands pre-fight.

20:81:05:11: Clarifies the promoter's responsibility for providing rubber gloves to be used by seconds in the corner during the fight.

20:81:07:04: Increases the time requirement for submitting the ticket inventory for an event from 10 days to 30 days to be consistent with the changes to the requirements for submitting the final event fee.

20:81:07:05: Clarifies the time requirement for submitting the ticket inventory for an event from 10 days to 30 days to be consistent with the changes in other rule changes.

20:81:07:06: Clarifies the time requirement for paying applicable sales tax for an event from 10 days to 30 days to be consistent with the changes in other rule changes.

Stalley noted the Commission received comments from the South Dakota Chiropractors Association requesting that chiropractors be included in the definition of ringside physician in ARSD 20:81:01:01(10) and throughout the Commission's rule on Sunday, November 22, 2015. A copy of these comments was forwarded to all Commissioners on Monday, November 23, 2015, in advance of this rules hearing. No other written comments were received by the Commission regarding the proposed rules.

Kilmer entered the notices and referenced documents into the hearing record.

Kilmer entered the written comments of the South Dakota Chiropractors Association into the hearing record.

Kilmer asked for public comment from any members of the public. There were no additional comments.

Kilmer closed the hearing to public comments and moved to discussion and action by the Commission.

Kilmer noted that the national Association of Ringside Physicians does not support chiropractors serving as ringside physicians and no other state allows chiropractors to serve in this capacity. Little noted that the inclusion of physician's assistants and nurse practitioners to perform pre-fight physicals proposed in 20:81:03:01 and 20:81:03:03 is consistent with their collaborative supervision by a medical doctor or doctor of osteopathy. He noted no such collaborative supervision exists for a medical doctor or doctor of osteopathy and a chiropractor. Lohff noted the South Dakota Chiropractor Association's comments are similar to their comments the last time the Commission looked at this issue and nothing has changed that would change his mind about the qualifications for a ringside physician.

Lohff moved to withdraw the proposed change to lines 30 and 31 on page 1 and line 3 on page 2 of the administrative rules as noticed and approve the remaining rules as proposed. Little seconded. The

Commission voted on the motion by roll call. Commissioners Kilmer, Lohff, Little, and Gillespie voted Yea. Motion carried.

Little moved to adjourn the hearing at 11:22 am. Loff seconded. The Commission voted on the motion by roll call. Commissioners Kilmer, Lohff, Little, and Gillespie voted Yea. Motion carried.

Respectfully submitted,

Dr. Richard Little
Secretary