

Response to Public Comments

The West Virginia State Athletic Commission filed the proposed legislative rules with the Secretary of State's Office on July 13, 2016. The rules modified West Virginia Code of State Rules § 177-1-1 et seq. and West Virginia Code of State Rules § 177-2-1 et seq. The public comment period closed at 5:00 P.M. on August 12, 2016. The Commission received fifteen comments from two individuals.

At 1:00 P.M. on August 16, 2016, the Commission conducted a public meeting to review the comments. The meeting was attended by Chairman Leon Ramsey, Commissioner Paul Thorton, and members of the public. Commissioner Tim Peasak, D.O., joined the meeting via telephone. Chairman, Leon Ramsey read each comment and then sought additional information related to each comment from the promoters and officials who attended the meeting. Based on the public comments and open discussion between the commissioners at the public meeting, the Commission decided by a quorum vote to adopt several modifications to the proposed rules.

The fifteen comments and responses of the Commission to each comment are attached below. The modifications have been incorporated into the attached rules.

Comment 1) Jerry Thomas:

Regarding 177-1-41 Series 1 (The Ring); Because we have the ability to conduct Mixed Martial Arts in a ring or a cage, I would like to request that this section be changed to include the option to conduct Boxing and Kick Boxing matches in a Combat Cage or a Ring. Furthermore, from a safety prospective, conducting Boxing and Kick Boxing matches in a Combat Cage would actually be safer for the participants.

Commission's Response to Comment 1:

After publicly reading the comment from Jerry Thomas, Chairman Ramsey requested information regarding the comment from the public. The Commission heard comments from

promoters Chris Smith and Jim Frio, who agreed with the comment, expressing the belief that permitting boxing and kickboxing matches to occur in a combat cage would not affect the safety of the contestants. Mr. Thomas also spoke in support of his comment stating that he had spoken to numerous contestants who would be willing to fight in a cage. After public discussion between the commissioners, the commission adopted the recommendation of Mr. Thomas by a quorum vote.

Adopted 3-0 (vote)

Comment 2) Jerry Thomas:

Regarding 177-2-41.4 Series 2 (Combat area); The current rule states that the use of a Ring for Mixed Martial Arts, requires that the minimum size of the Ring shall be 20x20 feet inside, however the minimum Cage size is listed at 18X18 feet inside the combat area. Because the average size ring is 18x18 feet inside the ropes, I would like to request that this section be changed to show that the minimum size for a Cage or Ring to be 18X18 feet inside the combat area.

Commission's Response to Comment 2:

After publicly reading Mr. Thomas' comment, Chairman Ramsey requested input from the public. Mr. Thomas spoke in support of his comment. Deputy Robert Riley spoke in support of changing the minimum size of the ring stating that reducing the minimum size of the ring would not affect the safety of the contestants or officials. After public discussion between the commissioners, the commission adopted the recommendation of Mr. Thomas by a quorum vote.

Adopted 3-0 (vote)

Comment 3) Chris Smith:

177-1-15.2 relating to time and completion of weigh-ins:

Weigh-ins time of completion section for boxing rules seem extremely restrictive. Please eliminate the wording "weigh-ins must be completed at least 2 hours prior to start of show and fighters that fail to appear on time will not fight and will be suspended for 6 months." If strictly enforced, this will ruin my Rough N Rowdy Brawl events as many contestants will not be able to make it on time because of work. Most of my contestants get off work at 5 p.m.

Commission's Response to Comment 3:

After publicly reading Mr. Smith's comment, Chairman Ramsey requested input from the public. Mr. Smith spoke in support of his comment, requesting that the Commission either modify the rule to eliminate the two hour requirement or reduce the penalty if a fighter fails to appear. Following extensive discussion between Mr. Smith, Mr. Thomas, Mr. Frio, Deputy J.P. Stevens, Mr. Riley, Commissioner Thornton, and Chairman Ramsey, the Commission decided by a quorum vote to modify the rule to reduce the suspension for failure to timely appear to a maximum of sixty days instead of the six month suspension currently mandated in the proposed version of W. Va. Code R. § 177-1-15.2.

Modified 3-0 (vote)

Comment 4) Chris Smith:

177-1-45.2. (b) I think semi-pro participants are over restricted to qualify by the maximum proposed number of amateur MMA, boxing and kickboxing matches allowed. Some of these amateurs with 5 fights have losing records. Instead of banning them from competing semi-pro after 5 amateur fights, how about allowing them to have a maximum of 5 amateur wins in any of the 3 sports? If a contestant has more than 5 amateur wins in any of the 3 sports of boxing, kickboxing or MMA then make the contestant ineligible to compete in semi-pro tournaments.

Commission's Response to Comment 4:

After publicly reading Mr. Smith's comment, Chairman Ramsey requested input from the public. Mr. Smith and Mr. Thomas spoke in support of changing the rule to prohibit a fighter with five amateur wins from participating in a semi-professional contest instead of prohibiting a fighter who participated in five amateur bouts from fighting as a semi-professional. Mr. Thomas requested

clarification that the five wins would include any amateur contest but not any semi-professional contest. Following a public discussion amongst the commissioners, the Commission voted by a quorum to adopt the recommended change of Mr. Smith.

Adopted 3-0 (vote)

Comment 5) Chris Smith:

177-1-45 Rules for Semi-Professional elimination style tournaments.

I would like to have a choice to use boxing or kickboxing for semi-pro events under this section. Will you please add 177-1-45.5. (d)? If promotion utilizes kickboxing instead of boxing then all fighters must also wear shin guards with instep pads in addition to all other required protective equipment mentioned in this section.

Commission's Response to Comment 5:

After publicly reading Mr. Smith's comment, Chairman Ramsey requested input from the public. Mr. Smith spoke in support of his comment. Following public discussion amongst the commissioners, the Commission voted by a quorum to modify the rule to expressly allow semi-professional tournaments to be conducted using boxing or kickboxing rules.

Adopted 3-0 (vote).

Comment 6) Chris Smith:

177-1-45.5. (a) I would like to eliminate the mandatory use of head gear for semi-pro events. Mixed Martial Arts does not require headgear and the contestants wear very small 6 ounce gloves. The head gear gets in the way and causes contestants to be more easily hit as their vision is partially blocked by head gear.

Commission's Response to Comment 6:

After publicly reading Mr. Smith's comment, Chairman Ramsey requested input from the public. Mr. Smith spoke in support of his comment. Mr. Frio also spoke in support of eliminating the requirement for headgear for semi-professional and kickboxing contestants. Mr. Frio asserted

that the headgear did not materially increase the safety of the contestants. Chairman Ramsey requested information from Connie Brammer regarding the use of headgear in Olympic boxing. Following a public discussion amongst the commissioners, the Commission voted by a quorum to remove the requirement of headgear for semi-professional, kickboxing, and amateur boxing. The Commission additionally voted to add a clarification that any boxing conducted under U.S.A. Boxing Rules would not be affected by the modification of this rule.

Modified 3-0 (vote)

Comment 7) Chris Smith:

177-1-2a.2. and 177-1-2a.3. I would like to increase the maximum number of semi-pro tournaments a contestant can win from 2 to 5. Most of the two-time winners have had a few training sessions in a gym or self-trained. Also since there are only a few women that fight in these tournaments, they only have to fight a couple of times to win a tournament. After they win two, they are eliminated from competing and have hardly any experience.

Commission's Response to Comment 7:

After publicly reading Mr. Smith's comment, Chairman Ramsey requested input from the public. Mr. Smith spoke in support of his comment asserting that it would add to the entertainment value of his tournaments. Mr. Thomas also spoke asserting that the two win maximum for semi-professional tournaments has worked for him. Following additional discussion from the public and members of the commission regarding whether this change would affect the safety of other semi-professional fighters, the Commission decided by a quorum vote to change the rule to reflect that the a boxer who wins three semi-professional tournaments is prohibited from competing in any subsequent semi-professional tournament.

Modified 3-0 (vote)

Comment 8) Chris Smith:

177-1-11a. Medical testing for fighters over 40. Please increase this age for the fighters to over 45. My age limit for Rough N Rowdy Brawl is 18-45 yrs. old. As you know, these fighters have to pass a pre-fight physical and get clearance from the physician and EMT's.

Commission's Response to Comment 8:

After publicly reading Mr. Smith's comment, Chairman Ramsey requested input from the public. Mr. Smith spoke in support of his comment voicing his concern that older fighters will not be able to afford the required testing. Mr. Thomas spoke in support of requiring the testing for fighters who are 40 or older. Mr. Thomas stated that fighters were not allowed to participate in his events if they were 40 years old or above. Commissioner Peasak, D.O., spoke in support of requiring testing for older fighters. He noted that the rule was adopted based on the ASSOCIATION OF RINGSIDE PHYSICIANS CONSENSUS STATEMENT ON MEDICAL CLEARANCE OF THE OLDER FIGHTER IN PROFESSIONAL COMBAT SPORTS (March 24, 2014). He noted that some of the testing recommended by the Association of Ringside Physicians was not adopted into the rule due to cost and effectiveness. He expressed concerns over the general health effects of combat sports for older fighters. Following a public discussion amongst the commissioners regarding the need for additional testing for fighters at 40 years and older, the Commission voted by a quorum to reject the recommended change of Mr. Smith.

Rejected 3-0 (vote)

Comment 9) Chris Smith:

177-1-50. Please eliminate the entire proposed drug testing. This will be very costly to the State if it is to be administered fairly across the board. The random testing and probable cause testing may cause some promoters to feel like their events are being unfairly singled out to harm business. The referee, paramedics and doctors have been doing a great job canceling any fighters that appear impaired.

Commission's Response to Comment 9:

After publicly reading Mr. Smith's comment, Chairman Ramsey requested input from the public. Mr. Smith spoke in support of his comment voicing his concern that a rule allowing drug testing of fighters would be costly for the Commission and would limit the number of contestants participating in the sport. Mr. Thomas spoke in support of having a rule that gives the Commission some power to test but voiced concerns about the cost and burden on the Commission of performing random testing. Deputy Riley spoke in support of some form of drug testing asserting that there was a rule in every state he had worked allowing drug testing of combat sport fighters. Following a public discussion regarding whether the Commission wanted to take on the added cost and burden of performing random drug testing, the Commission decided by quorum vote to eliminate the provision for random drug testing but maintain the ability to perform drug testing for reasonable cause.

Modified 3-0 (vote)

Comment 10) Chris Smith:

177-2-16.2 relating to time and completion of weigh-ins:

This rule seems extremely restrictive. Please eliminate the wording that "weigh-ins must be completed at least 2 hours prior to start of show and fighters that fail to appear on time will not fight and will be suspended for 6 months." If strictly enforced, this will harm my amateur MMA events as many contestants will not be able to make it by 5:30 p.m. because of work.

Commission's Response to Comment 10:

After publicly reading Mr. Smith's comment, Chairman Ramsey noted that the change requested was substantially similar to what was requested in Comment 3. Chairman Ramsey inquired whether there was any additional input from the public. No additional information was provided by the public. Following a brief discussion regarding the need for consistency between the boxing and MMA rules, the Commission decided by quorum vote to adopt a modification

consistent with its decision related to Comment 3 and to change the rule to reduce the suspension for failure to timely appear to a weigh-in to a maximum of sixty days instead of six months.

Modified 3-0 (vote)

Comment 11) Chris Smith:

177-2-53.3. (d) I would like to change the rules to allow head kicks for amateur MMA.

Commission's Response to Comment 11:

After publicly reading Mr. Smith's comment, Chairman Ramsey requested input from the public. Mr. Smith spoke in support of his comment voicing his belief that allowing head kicks for amateur MMA and kickboxing would improve the entertainment value of the sport without seriously affecting the safety of contestants. Following a discussion between the commissioners and the public regarding whether allowing kicks to the head in amateur MMA would result in additional safety concerns, the Commission decided by a quorum vote to change the rule to allow head kicks for amateur MMA contestants and kickboxing contestants.

Adopted 3-0 (vote)

Comment 12) Chris Smith:

177-2-53.3. (b) I would like to change the rules to allow elbows to the body for amateur MMA.

Commission's Response to Comment 12:

After publicly reading Mr. Smith's comment, Chairman Ramsey requested input from the public. Mr. Smith spoke in support of his comment voicing his belief that allowing elbows to the body of amateur MMA contestants would improve the entertainment value of the sport without seriously affecting the safety of contestants. Following a discussion between the commissioners

and the public regarding whether allowing elbows to the body in amateur MMA would result in additional safety concerns, the Commission decided by a quorum vote to change the rule to allow elbows to the body for amateur MMA contestants.

Adopted 3-0 (vote)

Comment 13) Chris Smith:

177-2-57.1 (a) I would like to change the rules to eliminate shin guards with instep pads for all amateur matches.

Commission's Response to Comment 13:

After publicly reading Mr. Smith's comment, Chairman Ramsey requested input from the public. Mr. Smith spoke in support of his comment voicing his belief that allowing elbows to the body of amateur MMA would improve the entertainment value of the sport without seriously affecting the safety of contestants. Mr. Thomas also spoke suggesting that there was no need for shin guards in amateur MMA. Following a discussion between the commissioners and the public regarding shin guards were necessary for the safety of amateur MMA contestants, the Commission decided by a quorum vote to eliminate the requirement for shin guards for amateur MMA contestants.

Adopted 3-0 (vote)

Comment 14) Chris Smith:

177-1-53a Please eliminate the entire proposed Drug Testing. This will be very costly to the State if it is to be administered fairly across the board. The random testing and probable cause testing may cause some promoters to feel like their events are being unfairly singled out to harm business. The referee, paramedics and doctors have been doing a great job canceling any fighters that appear impaired.

Commission's Response to Comment 14:

After publicly reading Mr. Smith's comment, Chairman Ramsey noted that the change requested was substantially similar to what was requested in Comment 9. Chairman Ramsey inquired whether there was any additional input from the public. No additional information was provided by the public. Following a brief discussion regarding the need for consistency between the boxing and MMA rules, the Commission decided by quorum vote to adopt a modification consistent with its decision related to Comment 9, to eliminate the provision for random drug testing, and to maintain the provision for reasonable cause drug testing.

Modified 3-0 (vote)

Comment 15) Chris Smith:

177-2-12a. Additional Medical Testing for older fighters.

Please increase the age fighters need mandatory additional testing to over 45. The additional medical testing costs thousands of dollars per contestant and is highly unaffordable.

Commission's Response to Comment 15:

After reading Mr. Smith's comment, Chairman Ramsey noted that the change requested was substantially similar to Mr. Smith's requested in Comment 8. Chairman Ramsey inquired whether there was any additional input from the public. No additional information was provided by the public. Following a brief discussion regarding the need for consistency between the boxing and MMA rules, the Commission decided by quorum vote to reject Mr. Smith's recommended change based on the discussion related to Comment 8.

Rejected 3-0 (vote)