

ALVIN A. JAEGER
SECRETARY OF STATE

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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

PHONE (701) 328-2900

FAX (701) 328-2992

E-MAIL sos@nd.gov

June 14, 2016

TO: Rep. Devlin, Chairman, and Members of the Administrative Rules Committee

FR: Al Jaeger, Secretary of State

RE: Adoption of Amended Rules related to Combative Sports – N.D.A.R. Chapter 72-02.2-02

1. **Are the rules resulted from statutory changes made by the Legislative Assembly?** No. However while the rules are being changed, they are being updated to reflect the name change that took place in the 2011 Legislative Assembly with the adoption of SB 2286. It changed the name of the administrator of boxing and mixed fighting style competition from state athletic commissioner to state commissioner of combative sports.
2. **Are the rules related to any federal statute or regulation?** No
3. **What were the rulemaking procedures followed in adopting the rules?** As required by N.D.C.C. § 28-32-10, a notice (see attached) was published in the state's official newspapers and a public hearing was held on April 11, 2016, with a comment period until April 21, 2016, to receive written or verbal comments.
4. **Did any person present a written or oral concern, objection, or complaint for agency consideration related to the adoption of these rules?** No
5. **What was the cost of providing public notice, holding the hearing, and approximate cost of developing and adopting the rules?** Publishing public notice - \$2,052.84; Public hearing - \$313.50; there were no other costs
6. **What is the subject matter of the rules and the reasons for their adoption?** According to Chapter 53-01 of the Century Code, the Secretary of State is the state commissioner of combative sports and these rules pertain to the regulation of boxing, kickboxing, mixed fighting style competition, and sparring that are identified in N.D.C.C. § 53-01-02. The amended rules change various fees charged to promoters and participants in the events administered. The revenue received is deposited in a special fund authorized by N.D.C.C. § 53-01-09. Under the current fee structure, the generated revenue does not cover the expenses related to the administering the provisions related to combative sports. The reference to a standing eight count is also removed because it is no longer relevant in the sport of boxing under the Association of Boxing Commissions, to which the state belongs.
7. **Was a regulatory analysis prepared or required? Was a taking assessment required? Did a small entity regulatory analysis reveal an impact on small entities? Did the small entity impact statement reveal an impact on small entities?** For answers, please see numbers 2, 3, 4, and 5 in the attached letter addressed to Vonette Richter dated April 29, 2016.
8. **Will the rules have a fiscal impact on the funds controlled by the agency?** Yes, in order to fulfill its statutory requirement to regulate Chapter 53-01 governing combative sports, the agency has subsidized its regulatory responsibilities utilizing other funds. The increase in fees will reduce that need. In addition, because of limitations currently in Chapter 53-01, the Secretary of State will request legislation in the next session that will allow greater flexibility to utilize the administrative rules process to set fees to adequately provide revenue to cover the agency's regulatory responsibilities.

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BISMARCK ND 58505-0500

April 29, 2016

Vonette Richter
Assistant Code Revisor
Legislative Council
State of North Dakota
600 E Boulevard Avenue
Bismarck ND 58505-0360

Dear Ms. Richter,

I respectfully request the publication of the enclosed rules amending Chapter 72-02.2-02 of the North Dakota Administrative Rules. The proposed effective date for the rules is July 1, 2016, as provided for in N.D.C.C. §28-32-15(2)(a)(3).

The proposed rules address the regulation of Combative Sports, which includes boxing and mixed fighting style events as authorized in Chapter 53-01 of the North Dakota Century Code.

1. No individual appeared to testify at the public hearing held on Monday, April 11, 2016, nor was any written or verbal comments received before the public comment period ended on Thursday, April 21, 2016. Having received no comments, the agency did not prepare an analysis.
2. No regulatory analysis was prepared, per the provisions of N.D.C.C. § 28-32-08, because the proposed rules are not expected to have an impact on the regulated community in excess of \$50,000, and neither the Governor nor any member of the Legislative Assembly requested a regulatory analysis.
3. No takings assessment was required, per the provisions of N.D.C.C. § 28-32-09, because the rules do not limit the uses of real property.
4. The small entity regulatory analysis finds that there is no regulatory impact on small entities.
5. The small entity economic impact statement discloses that the expected impact on small entities will vary depending on the success of an event but also unavoidable in covering regulatory expenses.
6. No changes were made to the proposed rules as they were submitted to the Legislative Council on March 11, 2016.

As required by N.D.C.C. § 28-32-14 and evidenced by the enclosed copy, the Attorney General approved the legality of the amended rules. Therefore, I adopted them today as confirmed by the enclosed copy of Notice of Adoption,

Sincerely,

Alvin A. Jaeger
Secretary of State

**ABBREVIATED NOTICE
OF INTENT TO AMEND
AND ADOPT
ADMINISTRATIVE RULES**
relating to the Commission
of Combative Sports (boxing/
mixed fighting styles)

North Dakota

Secretary of State

will hold a public hearing to address
proposed amendments to North
Dakota Administrative Code, Article
72-02.2, regulating Combative Sports

Office of

Secretary of State

600 E Boulevard Ave

Dept 108

Bismarck ND 58505-0500

Monday, April 11, 2016

9:00 a.m.

A copy of the proposed amendments
is on the North Dakota Secretary
of State website: sos.nd.gov. A
written copy may be obtained by
calling (701) 328-2905 or sending a
request to Secretary of State, 600 E
Boulevard Ave Dept 108, Bismarck
ND 58505-0500. Submitted written
or oral comments on the proposed
amendments received by Thursday,
April 21, 2016, the date the comment
period closes, will be fully considered.
If you plan to attend the public hearing
and will need special facilities or
assistance relating to a disability,
please contact the Secretary of
State at the above phone number or
address at least one week prior to the
public hearing.

Dated this 9th day of March 9, 2016.



Wayne Stenehjem
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL
STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
BISMARCK, ND 58505-0040
(701) 328-2210 FAX (701) 328-2226
www.ag.nd.gov

OPINION

April 29, 2016

The Honorable Alvin Jaeger
Secretary of State
600 E Boulevard Ave Dept 108
Bismarck, ND 58505-0500

Dear Mr. Jaeger:

The Office of Attorney General has examined the proposed amendments N.D.A.C. art. 72-02.2 concerning the Commissioner of Combative Sports, along with the notice of the proposed rules, the publication of that notice, and the filing of that notice with the Legislative Council. This office has also determined that 1) a written record of the agency's consideration of any comments to the proposed rules was not made because there were no comments, 2) a regulatory analysis was not issued nor requested, 3) a takings assessment was not prepared, 4) a small entity regulatory analysis and an economic impact statement were prepared, 5) the proposed rules are within the agency's statutory authority.

These administrative rules are in compliance with N.D.C.C. ch. 28-32 and are hereby approved as to their legality. Upon final adoption, these rules may be filed with the Legislative Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas L. Trenbeath".

Thomas L. Trenbeath
Chief Deputy Attorney General

eee

cc: Vonette Richter, Legislative Council

ALVIN A. JAEGER
SECRETARY OF STATE

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BISMARCK ND 58505-0500

April 29, 2016

NOTICE OF ADOPTION

As required by N.D.C.C. § 28-32-14, in a letter dated April 29, 2016, the Attorney General approved the legality of the proposed rules amending Chapter 72-02.2-02 of the North Dakota Administrative Code. These rules regulate Combative Sports as defined and authorized by Chapter 53-01 of the North Dakota Century Code.

Therefore, as authorized by state law, I hereby officially adopt the rules amending Chapter 72.02.2-02 of the North Dakota Administrative Code.

A handwritten signature in cursive script, appearing to read "Alvin A. Jaeger".

Alvin A. Jaeger
Secretary of State

JULY 2016

ARTICLE 72-02.2

~~ATHLETIC COMMISSIONER~~COMMISSIONER OF COMBATIVE SPORTS

Chapter

- 72-02.2-01 Athletic Commissioner [Repealed]
72-02.2-01.1 ~~Athletic Commissioner~~Commissioner of Combative Sports and ~~Athletic Advisory Board~~Commission of Combative Sports - Boxing
72-02.2-02 ~~Athletic Commissioner and Mixed Fighting Style Advisory Board~~Commissioner of Combative Sports and Commission of Combative Sports - Mixed Fighting Style

CHAPTER 72-02.2-01.1

~~ATHLETIC COMMISSIONER~~COMMISSIONER OF COMBATIVE SPORTS AND ATHLETIC-ADVISORY BOARDCOMMISSION OF COMBATIVE SPORTS - BOXING

Section

- 72-02.2-01.1-01 Definitions
72-02.2-01.1-02 Athletic Advisory Board
72-02.2-01.1-03 General Provisions
72-02.2-01.1-04 Licensing
72-02.2-01.1-05 Terms and Conditions of License
72-02.0-21.1-06 Duties of Promoter
72-02.2-01.1-07 Duties of Referee
72-02.2-01.1-08 Duties of Judges
72-02.2-01.1-09 Duties of Cornerpersons
72-02.2-01.1-10 Duties of Timekeeper and Knockdown Counter
72-02.2-01.1-11 Duties of Physician
72-02.2-01.1-12 Boxing Ticket Provisions
72-02.2-01.1-13 Contracts and Financial Arrangements
72-02.2-01.1-14 Gross Revenue Fee
72-02.2-01.1-15 Sham or Collusive Matches
72-02.2-01.1-16 Weight and Weighing Ceremony
72-02.2-01.1-17 Conduct of Matches
72-02.2-01.1-18 Bandage and Glove Requirements
72-02.2-01.1-19 Medical and Other Safeguards
72-02.2-01.1-20 The Boxing Ring
72-02.2-01.1-21 Ringside Equipment
72-02.2-01.1-22 Scoring System
72-02.2-01.1-23 Boxing Knockdowns and Knockouts Requirements
72-02.2-01.1-24 Boxing Fouls
72-02.2-01.1-25 Stalling or Faking Prohibited

72-02.2-01.1-01. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "Board member" means the North Dakota state ~~athletic advisory board~~commission of combative sports, or an agent of the board acting on its behalf.
2. "Boxing" means a contest or match in which the act of attack and defense is practiced with fists by two contestants.
3. "Commissioner" means the North Dakota secretary of state acting as the ~~state athletic commissioner~~commissioner of combative sports.
4. "Contestant" or "boxer" means a participant in a match who receives remuneration directly or indirectly as consideration for the participant's performance.
5. "Exhibition" means boxing or sparring where a decision is not rendered.
6. "Gong" means the bell, horn, or buzzer that has a clear tone loud enough for the contestants and referee to hear.
7. "Match" means any bout, contest, or sparring, in which participants intend to and actually inflict punches, blows, or employ other techniques to temporarily incapacitate an opponent in a match, regardless of whether the object of the participants is to win or display their skills without striving to win.
8. "Matchmaker" means any person who brings together a professional boxer or arranges professional boxing matches.
9. "Promoter" means any person, club, corporation, or association, and in the case of a corporate promoter, includes any officer, director, employee, or stockholder thereof, who produces, arranges, or stages any professional boxing or kickboxing matches.
10. "Registry" means any entity certified by the association of boxing commissions for the purposes of maintaining records and identification of boxers.
11. "Sparring" means boxing for either practice or as an exhibition.
12. "Stalling or faking" means that a boxer is pulling punches or holding an opponent or deliberately maintaining a clinch.

History: Effective February 1, 1997; amended effective July 1, 1997; July 1, 2016.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-07

72-02.2-01.1-02. ~~Athletic advisory board~~Commission of combative sports.

The North Dakota ~~state athletic advisory board~~commission of combative sports consists of nine members who must be appointed to either one-year, two-year, or three-year terms. Any vacancy in the membership of the board, caused other than by expiration of terms, must be filled only for the balance of the term of the member in whose position the vacancy occurs.

History: Effective February 1, 1997; amended effective July 1, 2016.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-07

72-02.2-01.1-04. Licensing.

An application for a license must be made in writing on a form supplied by the board and be verified under oath by the applicant. The applicable fee must be submitted with the application. A license is valid for one calendar year and expires on December thirty-first of each year. The licenses available and license fees are as follows:

1. Boxer or kickboxer - ~~ten~~twenty-five dollars.
2. ~~Cornerperson/second/trainer~~Cornerperson or second or trainer - ~~ten~~twenty-five dollars.
3. Judge - twenty-five dollars.
4. Knockdown counter - ~~ten~~twenty-five dollars.
5. Manager - ~~twenty-five~~fifty dollars.
6. Matchmaker - fifty dollars.
7. Physician - no fee.
8. Promoter - ~~one hundred~~two hundred fifty dollars.
9. Referee - twenty-five dollars.
10. Timekeeper - ~~ten~~twenty-five dollars.

History: Effective February 1, 1997; amended effective February 26, 1997; July 1, 2016.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-07

72-02.2-01.1-14. Gross revenue fee.

There is hereby imposed a fee upon each promoter, or other principal, operating in this state who conducts any professional boxing matches held within this state for each such event. The fee must be equal to the product of the gross revenues of each such boxing or sparring match multiplied by ~~one~~three percent but in no event may the fee be less than five hundred dollars. For purposes of this section, gross revenues means any and all revenues, from whatever source derived, received by any promoter, or other principal, on account of any particular match, including any revenues received from any advance ticket sales, gate receipts, promotional or advertising consideration, and from any cable television and pay-per-view telecasts of such match, exclusive of any federal tax thereon.

Each promoter, or other principal, liable for such gross revenue fee shall provide an accounting to the commissioner on a form provided by the commissioner not later than ten days from the date of the particular match, prepared by the promoter or by a certified public accountant, on behalf of the promoter, using generally accepted accounting principles, which details the source and amount of each component of gross revenues and contains a calculation showing the fee owed to the commissioner. Any source documents or records used by the promoter, or the certified public accountant, in preparing the accounting must be made immediately available to the commissioner, upon request, for verification.

The gross revenue fee due thereon must be remitted to the commissioner by no later than ten days from the date of the match. Any promoter or other principals involved in the receipt of moneys, or staging of the exhibition or match, are jointly and severally liable for the gross revenue fee provided for by this section. Any promoter who fails to calculate or remit the fee, as required, is subject to an immediate suspension of the promoter's license until the delinquent accounting or fee is submitted to the commissioner or until a hearing requested by such promoter is conducted and concluded by or on behalf of the commissioner.

History: Effective February 1, 1997; amended effective July 1, 2016.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-07

72-02.2-01.1-23. Boxing knockdowns and knockouts requirements.

The following definitions and provisions are applicable with regard to knockdowns, knockouts, and low blows:

1. **Knockdown:** A boxer is "down" when any part of the boxer's body, except the boxer's feet, touches the floor of the ring, or when the boxer hangs helplessly on the ring ropes or when the boxer is rising from a down position, as a result of a legal blow, according to the judgment of the referee, who is the only person authorized to determine when a boxer has suffered a knockdown. A contestant who is knocked down shall take a mandatory count of eight seconds. If either a knockdown or mandatory eight count or a combination of either occurs three times in one round, the contest must be stopped and a technical knockout must be awarded to the opponent.
2. **Eight count:** A boxer who is down must be required to take a count of eight whether or not the boxer has regained the boxer's feet before the count of eight has been reached.
3. ~~Standing eight count: If a boxer appears to be in or entering a state of unconsciousness, notwithstanding that such boxer has not been knocked down, the referee shall order such boxer's opponent to a neutral corner and commence a count of eight. Upon completion of said eight count, the referee shall determine whether such boxer is able to continue the contest or exhibition. If in the opinion of the referee such boxer is unable to continue, the referee shall declare such boxer's opponent the winner by a technical knockout. If, in the opinion of the referee, such boxer is able to continue, the referee shall order the boxers to continue and said "standing eight count" shall be deemed to be a knockdown for purposes of scoring the round and these rules. Should a boxer slip or fall down, or be pushed, the boxer must be ordered to the boxer's feet immediately. Failure to rise may subject such boxer to disqualification.~~
- ~~4.~~ **Counting:** When a boxer is down, the knockdown counter shall at once commence calling off the seconds, indicating the count with an arm motion. The referee shall immediately order the other boxer to a neutral corner and shall thereafter pick up the count from the knockdown counter and indicate it with an arm motion. If a boxer is unable to continue at the count of eight, the referee shall declare the other boxer the winner.
- ~~5.4.~~ **Save the boxer:** The bell can save the boxer only in the last round.
- ~~6.5.~~ **Low blow:** The referee may give a boxer not more than a five-minute break if the referee believes a foul has been committed. Each boxer must be instructed to return to the boxer's respective corner by the referee until the round is ready to resume.

History: Effective February 1, 1997; amended effective July 1, 2016.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-07

CHAPTER 72-02.2-02
COMMISSIONER OF COMBATIVE SPORTS AND
COMMISSION OF COMBATIVE SPORTS - MIXED FIGHTING STYLE

Section

72-02.2-02-01	Definitions
72-02.2-02-02	Commission of Combative Sports
72-02.2-02-03	General Provisions
72-02.2-02-04	Licensing - Terms and Conditions
72-02.2-02-05	Duties of Promoter
72-02.2-02-06	Duties of Referee
72-02.2-02-07	Duties of Judges
72-02.2-02-08	Duties of Seconds
72-02.2-02-09	Duties of Timekeeper
72-02.2-02-10	Duties of Physician
72-02.2-02-11	Ticket Provisions
72-02.2-02-12	Contracts and Financial Arrangements
72-02.2-02-13	Gross Revenue Fee
72-02.2-02-14	Sham or Collusive Matches
72-02.2-02-15	Weight Classes - Weigh-In and Weight Differences
72-02.2-02-16	Conduct of Contests and Exhibitions
72-02.2-02-17	Proper Appearance and Attire
72-02.2-02-18	Bandage and Glove Requirements
72-02.2-02-19	Medical and Other Safeguards
72-02.2-02-20	Ring or Fenced Area
72-02.2-02-21	Ringside Equipment
72-02.2-02-22	Scoring System
72-02.2-02-23	Fouls
72-02.2-02-24	Stalling or Faking
72-02.2-02-25	Results of Contests

72-02.2-02-04. Licensing - Terms and conditions.

An application for a license must be made in writing on a form supplied by the board and be verified under oath by the applicant.

The applicable fee must be submitted with the application. Applicants performing multiple duties must be licensed for each duty, but are not responsible for payment of more than one license fee. The license fee required of those holding more than one license is the highest of the applicable license fees.

1. A license is valid from the date of issuance until December thirty-first of that year. The licenses available and fees are as follows:
 - a. Judge - twenty-five dollars.
 - b. Manager - ~~twenty-five~~fifty dollars.
 - c. Matchmaker - fifty dollars.
 - d. Participants - ~~ten~~twenty-five dollars.
 - e. Physician - no fee.
 - f. Promoter - ~~one hundred~~two hundred fifty dollars.
 - g. Referee - twenty-five dollars.

- h. ~~Second/trainer~~ Second or trainer - ~~ten~~ twenty-five dollars.
 - i. Timekeeper - ~~ten~~ twenty-five dollars.
2. Terms and conditions. The following terms and conditions apply to licensed participants:
- a. Every license, excluding those for mixed fighting style participants, is subject to the following:
 - (1) The applicant must be at least eighteen years of age;
 - (2) The applicant must submit verifications, from qualified persons, of the licensee's proficiency, if requested by the commissioner;
 - (3) The applicant must agree that training requirements may be established by the commissioner;
 - (4) Financial responsibility, experience, character, and general fitness of an applicant, including in the case of corporations, its officers and stockholders, are such that the participation of such applicant will be consistent with the public interest, convenience, or necessity and the safety of participants and with the best interests of mixed fighting styles generally; and
 - (5) For the first infraction of any of the provisions of this subsection, the commissioner may issue a verbal warning. Following a second infraction, a written warning may be issued. Following a third infraction, the license may be suspended up to a six-month period. However, the commissioner may suspend a license for any serious violation without warning.
 - b. Every license issued to a mixed fighting style participant is subject to the following:
 - (1) The applicant must be at least eighteen years of age;
 - (2) The applicant must provide the applicant's legal and professional name, street address, city, state, country, zip code, telephone number, social security number, date of birth, height, weight, color of eyes, and any distinguishing marks;
 - (3) The applicant must provide the names and addresses of the applicant's trainers and managers, if applicable;
 - (4) The applicant must provide the applicant's complete record;
 - (5) The applicant must disclose whether the applicant is, or has been, under suspension during the preceding twelve months. If so, the state and the reason for the suspension must be disclosed;
 - (6) The applicant must provide acceptable photo identification;
 - (7) The applicant must present documented evidence that the applicant has been administered a test by a laboratory in the United States that possesses a certificate under the Clinical Laboratory Improvement Act [42 U.S.C. 263a], to detect the presence of bloodborne pathogens as identified by the commissioner, within the last six months prior to the application and that the results are negative;
 - (8) The applicant must disclose the date of the most recent complete physical examination, any serious bodily injuries, any serious head injuries, any surgeries, and whether the applicant is taking any medications.