

S U N R I S E R E V I E W

PROFESSIONAL BOXING

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1991 PROFESSIONAL BOXING SUNRISE REVIEW

The Department of Regulatory Agencies has the statutory responsibility to analyze and evaluate all requests for new occupational regulation under section 24-34-104.1, C.R.S. (the Sunrise Act). According to the statute, it is the responsibility of the applicant to prove that regulation is needed according to the following criteria:

1. Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent on tenuous agreement.
2. Whether the public needs, and can reasonably be expected to benefit from an assurance of initial and continuing professional or occupational competence.
3. Whether the public can be adequately protected by other means in a more cost-effective manner.

I. BACKGROUND

Application was made to the Sunrise/Sunset Committee to regulate professional boxing through a state boxing commission. The proposal was submitted by the Mile Hi Professional Boxing Association. It is proposed that the commission would regulate boxing through licensing promoters, managers, referees, judges, matchmakers, timekeepers, trainers, and seconds.

II. PREVIOUS REGULATION OF BOXING

Boxing was regulated by the State Athletic Commission of Colorado (Commission). The Commission was sunsetted in 1977. It regulated boxing and wrestling and was terminated because it had not effectively carried out its mandate.

The role of the Commission was essentially the same as the role for the proposed boxing commission. The Commission's purpose was to protect the health and safety of the participants and to maintain standards of fairness and validity in the matches.

III. WHAT PUBLIC PROTECTION WOULD OCCUR AS A RESULT OF THIS REGULATION?

In discussing public protection, there is a need to distinguish between the general public and the participants in the sport. The applicant states

that the general public will be protected because the events would be more legitimate and of better quality. The participants would be protected because state oversight would not permit them to box unless certain health and safety requirements were complied with by the boxers. Promoters would probably be required to meet certain financial requirements such as a bond.

Protection of boxers. The essential question of protection of health, safety, and welfare is more directly applicable to regulation of the participants. Boxing is a violent sport and participants can be seriously harmed.

A regulatory scheme might provide protection to a participant through mandatory physical examinations and certification. Typically, such examinations include weight, temperature, pulse, presence of infectious diseases, and general physical condition. Also, state regulation could require that a physician be at ringside during events to monitor the condition of the athletes, render treatment, or advise the referee to terminate the match.

Participants would also be protected by the administrative functions of a boxing commission. Size of the ring, length of the match and records of the participants would be controlled by the boxing commission so that fair matches between contestants of similar abilities would take place.

Protection of the general public. The licensing functions envisioned by the applicant offer protection to one segment of the general public, fans of professional boxing. The applicant points out that approximately 15,000 metro area residents purchase cable television access for any one professional boxing event carried as "pay per view." These figures may be representative of the general level of local interest in professional boxing. Fans may decide that \$25.00 is too much to watch a fight on television so Colorado interest in live boxing events may be much higher than these figures may indicate. On the other hand, these cable television events typically represent the best that boxing has to offer from a national perspective. Therefore, some of the same subscribers to these big events may show less interest in contests between lesser known fighters.

Nevertheless, the argument for regulated boxing holds that consumers would be protected from fixed fights. Also, the fans would know that they were watching legitimate professional fighters.

Added benefits to Colorado from regulated boxing. The applicant states that another benefit, not directly related to the health, safety, and welfare of the public or the participants, would result from regulation. Professional boxing, they argue, would provide a significant economic benefit to the state. Top boxing might promote Colorado as a tourist area. A tax on ticket sales would bring additional revenue to the state, they

believe.

IV. HOW IS PROFESSIONAL BOXING REGULATED IN OTHER STATES?

The regulation of professional boxing is not a simple procedure. The Department reviewed the regulatory scheme of one state that regulates professional boxing similar to the scheme envisioned by the applicant. The regulation of professional boxing would need to cover the following areas:

State licensing. The crux of licensing is the granting of the license by the state to the individual. Without the license, one cannot engage in the activity in the state. Colorado's licensing of the sport of boxing, to be effective, would at least have to license boxers, promoters, managers, referees, judges, and timekeepers. There may also be others involved in boxing that would require licensing.

Standards for the sport. The statute would have to establish certain standards regarding boxing or the regulatory authority would have to do so by rule and regulation. Details regarding the size and height of the ring, construction of the ring posts, size and composition of the ring ropes, use of a bell, specifications for gloves and shoes, and specifications regarding other protective equipment would be required.

The state would need to mandate weight classes for fighters and establish requirements and procedures for the "weigh in" before a fight. The results of the weigh in would be administratively recorded and the fight approved or denied by the state based upon the findings. In other words, if a fighter has gained too much weight to compete in the scheduled fight, he is denied the permission to compete. Conversely, if he has lost weight and no longer meets the minimum requirement for the weight class, he is not allowed to compete.

Other requirements needed for effective regulation. Colorado's General Assembly or the regulatory authority would need to define such terms as "knockout" and "technical knockout." The responsibilities and legal duties of referees, timekeepers, seconds (persons who assist boxers at ringside), and scorers would need to be established. Other provisions governing promoters, managers, and financial transactions, would have to be established by statute or rule but this discussion presents the basic focus that regulation of boxing would need to make.

V. IS PROFESSIONAL BOXING IMPACTED BY THE LACK OF REGULATION?

Seven states do not regulate the sport of professional boxing according to

the Association of Boxing Commissions. Colorado, Oklahoma, Kansas, Wyoming, South Dakota, Wisconsin, and North Carolina have no boxing commissions although Wisconsin has some minor state involvement.

Of the seven, Colorado and Oklahoma have the most matches. According to the Association of Boxing Commissions, eleven shows were staged in Colorado in 1990 (a show will almost always consist of several different fights). Of the 23 states that staged more shows than Colorado, three presented twelve shows.

The Association of Boxing Commissions expressed its support of regulation in Colorado. It cited female boxing and senior citizen fights as problems that evolve from Colorado's lack of a commission. Also, the association reports that boxers from other states who are suspended or injured or not skilled enough to fight can come to Colorado and box.

Most boxing shows occur in New Jersey and Nevada. In fact, talented or aspiring Colorado boxers will usually go to Nevada to pursue their career.

The Department questions if a state commission would significantly impact this. Nevada and New Jersey are established boxing areas. Many title fights are held in these states and it would seem to make sense to acquire exposure and experience in those areas if one were a boxer. Also, there are many other states that regulate boxing but Colorado boxers do not tend to relocate to Utah or Minnesota, for example.

Debate over the value of state regulation. One argument holds that regulated boxing provides a better career path for amateur boxers than is offered in a state with no licensing. The Department interviewed representatives of the sport of amateur boxing, including the Olympic Training Facility, regarding this issue.

The Department found no real support for state regulation among the amateur community. Many felt that regulation of professional boxing would have little impact on amateur boxers. Others pointed out that amateur boxing is overseen by the United States of America Amateur Boxing Federation, Inc. and that amateur boxing is more susceptible to abuse than professional boxing. They ask why professional boxing cannot regulate itself. Professional football is not out of control and states do not regulate professional football players. Still others feel that regulation is not needed because professional boxing in Colorado would not become large enough or popular enough to warrant state regulation.

VI. IS REGULATION NEEDED?

Protection of boxers. The primary analysis to determine harm to the public is whether or not the participants are harmed by the unregulated practice and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument.

This is a somewhat difficult proposition to tackle because boxing, particularly professional boxing, appears to be such a violent sport. A sporting contestant who is unconscious has been harmed. Fighters can be severely harmed in a bout, sometimes fatally.

This situation is quite different from other regulatory scenarios such as the regulation of physicians. One of the reasons a state will regulate physicians is because the consumer is unable to make an informed decision in many cases because of the complexity of the medical field. Patients need medical care and incompetent physicians can do serious harm to them. State licensing seeks to "weed out" incompetent practitioners before harm occurs or discipline them if the harm has occurred.

Professional boxing is entirely different. By most accounts, participants fight voluntarily. Many, if not most, train specifically to engage in the sport. Boxers pose a threat to the health, safety, and welfare of their opponent and both of the fighters in the ring are fully aware of this threat.

True, state mandates could add extra protection for professional fighters. Larger gloves with more dense padding would increase a boxers' safety. A law requiring professional boxers to wear head protection would also contribute to safety in the ring. It is not likely that these safety measures would be greeted with favor by the boxing community. Nor is it likely that major boxing events would be held in Colorado under such regulations even though Colorado would be one of the safest states in which to hold matches.

Professional football is also a violent sport and games are held in Colorado. This sport is not regulated by the state; participants understand and accept the risk involved in their sport. The Department sees no role for state intervention based upon protection of the participants from the consequences of their personal choices. Boxing is a personal choice and the state should reject any effort to shift the responsibility for that choice from the individual to the state government.

Protection of the general public. This level of regulatory oversight would primarily provide the fans of boxing with a better quality event. Fans would be somewhat protected from fraudulent, "fixed" fights, or fights between opponents not evenly matched; (professional wrestling labors under the allegation that it promotes bogus matches).

This argument holds that state regulation protects consumers by establishing a level of quality in the competition. This reasoning could be applied to any entertainment event. Professional team sports, symphonies, even theatres might offer a higher quality product if they were

regulated by the state. The counter argument is that free market forces cause entertainment providers to meet their customer's standards for quality or go out of business.

The Department rejects the argument that boxing should be regulated so that the general public has "government approved" quality. Such oversight is not the role of the state.

Benefit to the state's economy. One purpose of this regulation is, in the words of the applicant, "the encouragement of the sport." This is a reasonable goal; Colorado hosts professional skiing and world-class auto racing. However, pursuit of this goal should occur through marketing and economic development models using the skills and creativity of the industry and not through regulation by the state.

CONCLUSION AND RECOMMENDATION

The Department has found no evidence that harm to the public health, safety, and welfare is occurring as result of unregulated professional boxing to a degree that requires state intervention through licensing.

Recommendation: The General Assembly should not regulate professional boxing in Colorado through the proposed boxing commission or through licensing, certification or registration of professional boxing participants.