

The House Committee on Governmental Affairs offers the following substitute to HB 558:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 4B of Title 43 of the Official Code of Georgia Annotated, relating to the
2 Georgia Athletic and Entertainment Commission, so as to provide and revise definitions; to
3 authorize the commission to collect and remit certain tax payments; to change certain
4 provisions relating to licensing of boxers in certain circumstances; to provide for
5 qualifications for persons 50 years of age or older seeking a license as a professional boxer;
6 to provide for the powers of the commission upon violation of laws and regulations relating
7 to boxing; to provide for reports and tax payments by promoters; to provide that making a
8 willfully false and fraudulent report is perjury; to provide a penalty for willful failure to make
9 a report and pay taxes; to clarify a provision making it unlawful for persons other than ticket
10 brokers to resell tickets or offer tickets for resale; to provide for exceptions; to revise
11 provisions relating to maintaining an office; to change provisions relating to requirements
12 for and conduct of ticket brokers; to require the placement of the license number of ticket
13 brokers on certain advertisements; to authorize certain municipal corporations and counties
14 to require permits for persons reselling tickets or offering tickets for resale in certain
15 circumstances; to renumber Code Section 43-4B-40 as 43-4B-21, conform cross-references,
16 and delete Article 4 of such chapter; to provide for related matters; to repeal conflicting laws;
17 and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**
20 Chapter 4B of Title 43 of the Official Code of Georgia Annotated, relating to the Georgia
21 Athletic and Entertainment Commission, is amended in Code Section 43-4B-1, relating to
22 definitions, by striking paragraph (19) and inserting in lieu thereof a new paragraph (19) and
23 by inserting new paragraphs to be designated paragraphs (11.1) and (11.2) to read as follows:
24 "(11.1) 'Original purchaser for personal use' means a person who buys one or more
25 tickets with the intention of using the ticket or tickets solely for the use of the purchaser
26 or the purchaser's invitees, employees, and agents. An original purchaser who resells

1 more than six tickets to the same athletic contest or entertainment event and who resells
 2 tickets to an athletic contest or entertainment event for more than 105 percent of their
 3 face value shall be rebuttably presumed to be engaging in the business of a ticket broker
 4 in any criminal prosecution or civil action, order, or penalty by the commission.

5 (11.2) 'Pay per view' means a telecast for which a fee is required in addition to any other
 6 fee paid by the viewer for any other services of the telecaster."

7 "(19) 'Ticket broker' means:

8 (A) Any any person who is involved in the business of reselling tickets of admission
 9 to athletic contests, concerts, theater performances, amusements, exhibitions, or other
 10 entertainment events held in this state to which the general public is admitted and who
 11 charges a premium in excess of the price of the ticket; or

12 (B) Any person who has a permanent office or place of business in this state who is
 13 involved in the business of reselling tickets of admission to athletic contests, concerts,
 14 theater performances, amusements, exhibitions, or other entertainment events held
 15 inside or outside this state to which the general public is admitted and who charges a
 16 premium in excess of the price of the ticket.

17 The term ticket broker shall not include the owner, operator, lessee, or tenant of the
 18 property in which an athletic contest or entertainment event is being held or the sponsor
 19 of such a contest or event or the authorized ticket agent of such persons."

20 SECTION 2.

21 Said chapter is further amended in said Code Section 43-4B-1, relating to definitions, by
 22 striking subparagraph (C) of paragraph (20) and inserting in lieu thereof the following:

23 "(C) Unarmed combat shall not include:

24 (i) Professional boxing;

25 (ii) Professional wrestling;

26 (iii) Amateur boxing;

27 (iv) Amateur wrestling;

28 (v) Any competition displaying the skills of a single form of an Oriental system of
 29 unarmed self-defense, including, but not limited to, kick boxing, karate, or
 30 full-contact karate, which is held pursuant to the rules of that form and governed or
 31 authorized by a nationally recognized organization; or

32 (vi) Shidokan when the competition is governed by the United States Shidokan of the
 33 World Karate Association; or

34 ~~(vi)~~(vii) Mixed martial arts fighting when the competition is sanctioned, approved,
 35 or endorsed by the International Sport Combat Federation (ISCF), the International

1 Sport Karate/Kickboxing Association (ISKA/MMA Division), or the World
 2 Kickboxing Association (WKA/MMA Division)."

3 **SECTION 3.**

4 Said chapter is further amended in Code Section 43-4B-4, relating to the authority of the
 5 commission relative to boxing, by inserting a new subsection to be designated subsection (l)
 6 to read as follows:

7 "(l) The commission is authorized to receive tax payments in accordance with Code
 8 Section 43-4B-20, and to remit such tax payments to the general treasury."

9 **SECTION 4.**

10 Said chapter is further amended in Code Section 43-4B-11, relating to licenses for boxers and
 11 nonboxing participants, by striking subsection (a) and inserting in lieu thereof the following:

12 "(a) Prior to participating in a professional match, contest, or exhibition of boxing
 13 supervised by the commission, referees, judges, timekeepers, matchmakers, boxers,
 14 managers, trainers, and each person who assists a boxer immediately before and after a
 15 match, contest, or exhibition of boxing and between rounds during a match, contest, or
 16 exhibition of boxing shall apply for and be issued licenses. Licenses shall be issued
 17 annually and shall expire on December 31 of each calendar year. Each applicant shall make
 18 application on a form provided by the commission and pay an annual license fee not to
 19 exceed \$250.00. Any boxer who has been licensed by the commission during a previous
 20 year shall be deemed to be an applicant for a license in any year for which such boxer has
 21 entered into a written contract to participate in a professional match, contest, or exhibition
 22 of boxing in this state upon the date of entering into such a contract. Any party to such a
 23 contract may notify the commission that such a contract has been signed."

24 **SECTION 5.**

25 Said chapter is further amended by striking Code Section 43-4B-17, relating to age
 26 requirements for boxers, and inserting in lieu thereof the following:

27 "43-4B-17.

28 (a) No person under the age of 18 years shall participate as a contestant in any professional
 29 match, contest, or exhibition of boxing.

30 (b) A primary duty of the commission is ensuring that any person whose health does not
 31 permit safely engaging in boxing as a contestant is not licensed as a professional boxer.
 32 The General Assembly finds that adequate protection of the health of persons who are 50
 33 years of age or older requires additional precautions by the commission. A person who is

1 50 years of age or older shall be licensed as a professional boxer and permitted to
 2 participate in a professional match, contest, or exhibition of boxing only if such person:

3 (1) Has participated as a contestant in at least ten professional matches or contests of
 4 boxing in the immediately preceding ten years, including at least four professional
 5 matches or contests of boxing in the immediately preceding four years; and

6 (2) Is declared medically and physically able to participate as a contestant in a
 7 professional match, contest, or exhibition of boxing by a physician who has conducted
 8 a more rigorous examination than examinations performed in accordance with this
 9 chapter for persons who are younger than 50 years of age.

10 (c) The commission shall promulgate and adopt rules and regulations for the more rigorous
 11 examination required by this Code section for persons who are 50 years of age or older."

12 SECTION 6.

13 Said chapter is further amended by inserting new Code sections to be designated Code
 14 Section 43-4B-19, 43-4B-20, and 43-4B-21 to read as follows:

15 "43-4B-19.

16 (a) Whenever it may appear to the commission that any person is violating or has violated
 17 any provision of this article or Article 1 of this chapter and that proceedings would be in
 18 the public interest:

19 (1) Subject to notice and opportunity for hearing in accordance with Chapter 13 of Title
 20 50, the 'Georgia Administrative Procedure Act,' unless the right to notice is waived by the
 21 person against whom the sanction is imposed, the commission may:

22 (A) Issue a cease and desist order prohibiting any violation of this article or Article 1
 23 of this chapter;

24 (B) Issue an order against a person who violates this article or Article 1 of this chapter,
 25 imposing a civil penalty up to a maximum of \$1,000.00 per violation; or

26 (C) Issue an order suspending or revoking the license of the person violating this article
 27 or Article 1 of this chapter; or

28 (2) Upon a showing by the commission in any superior court of competent jurisdiction
 29 that a person has violated or is about to violate this article or Article 1 of this chapter, a
 30 rule promulgated under this article or Article 1 of this chapter, or an order of the
 31 commission, the court may enter or grant any or all of the following relief:

32 (A) A temporary restraining order or a temporary or permanent injunction;

33 (B) A civil penalty up to a maximum of \$2,000.00 per violation of this article or
 34 Article 1 of this chapter;

35 (C) A declaratory judgment;

1 (D) Restitution to any person or persons adversely affected by a defendant's action in
2 violation of this article or Article 1 of this chapter; or

3 (E) Other relief as the court deems just or reasonable.

4 (b) Unless the commission determines that a person subject to this article intends to depart
5 quickly from this state or to remove his or her property from this state or to conceal his or
6 her person or property in this state or that there is immediate danger of harm to citizens of
7 this state or another state, the commission shall give notice in writing that such proceedings
8 are contemplated and allow such person a reasonable opportunity to appear before the
9 commission and execute an assurance of voluntary compliance. The determination of the
10 commission under this subsection shall be final and not subject to review.

11 (c) Procedures relating to hearings, notice, counsel, subpoenas, records, enforcement
12 powers, intervention, rules of evidence, decisions, exceptions, review of initial decisions,
13 final decisions, and judicial review of decisions shall be governed by Chapter 13 of Title
14 50, the 'Georgia Administrative Procedure Act,' unless the provisions of such chapter are
15 contrary to the express provisions of this article or Article 1 of this chapter.

16 43-4B-20.

17 (a) A promoter holding a match shall, within 72 hours after the match, file with the
18 commission a written report which includes the number of tickets sold, the amount of gross
19 receipts, and any other facts the commission may require. For the purposes of this chapter,
20 total gross receipts include:

21 (1) The gross price charged for the sale or lease of pay per view telecasting and motion
22 picture rights without any deductions for commissions, brokerage fees, distribution fees,
23 advertising, or other expenses or charges;

24 (2) The face value of all tickets sold and complimentary tickets issued, provided, or
25 given; and

26 (3) The face value of any seat or seating issued, provided, or given in exchange for
27 advertising, sponsorships, or anything of value to the promotion of an event.

28 (b) Where the rights to telecast by pay per view a match or matches held in this state under
29 the supervision of the commission are in whole owned by, sold to, acquired by, or held by
30 any person who intends to or subsequently sells or, in some other manner, extends such
31 rights in part to another, such person is deemed to be a promoter and must be licensed as
32 such in this state. Such person shall, within 72 hours after the sale, transfer, or extension
33 of such rights in whole or in part, file with the commission a written report that includes
34 the gross price charged for the rights to telecast by pay per view, the number of tickets sold,
35 the amount of gross receipts, and any other facts the commission may require.

1 (c) Any written report required to be filed with the commission under this Code section
2 shall be postmarked within 72 hours after the conclusion of the match, and an additional
3 five days shall be allowed for mailing.

4 (d) The written report shall be accompanied by a tax payment in the amount of 5 percent
5 of the total gross receipts exclusive of any federal taxes, except that the tax payment
6 derived from the gross price charged for the sale or lease of pay per view telecasting and
7 motion picture rights shall not exceed \$40,000.00 for any single event.

8 (e)(1) Any promoter who willfully makes a false and fraudulent report under this Code
9 section is guilty of perjury and, upon conviction, is subject to punishment as provided by
10 law. Such penalty shall be in addition to any other penalties imposed by this chapter.

11 (2) Any promoter who willfully fails, neglects, or refuses to make a report or to pay the
12 taxes as prescribed or who refuses to allow the commission to examine the books, papers,
13 and records of any promotion is guilty of a misdemeanor.

14 (f) The commission shall remit all tax payments to the general treasury of the state.

15 43-4B-21.

16 (a) Whenever the Attorney General has reasonable cause to believe that a person is
17 engaged in a violation of this article, the Attorney General may bring a civil action
18 requesting such relief, including a permanent or temporary injunction, restraining order,
19 or other order against such person as the Attorney General determines to be necessary to
20 restrain the person from continuing to engage in, sanction, promote, or otherwise
21 participate in a professional match, contest, or exhibition of boxing in violation of this
22 article.

23 (b)(1) Any manager, promoter, matchmaker, or licensee who knowingly violates or
24 coerces or causes any other person to violate any provision of this article shall, upon
25 conviction, be imprisoned for not more than one year or fined not more than \$20,000.00,
26 or both.

27 (2) Any member or employee of the commission or any person who administers or
28 enforces this chapter or rules and regulations promulgated pursuant to this chapter who
29 knowingly violates Code Section 43-4B-14 or Code Section 43-4B-15 shall, upon
30 conviction, be imprisoned for not more than one year or fined not more than \$20,000.00,
31 or both.

32 (3) Any professional boxer who knowingly violates any provision of this article except
33 Code Section 43-4B-15 shall, upon conviction, be fined not more than \$1,000.00 for each
34 violation.

1 (4) Any professional boxer who violates the provisions of Code Section 43-4B-15 may
 2 be punished by a fine not to exceed \$25,000.00 together with a percentage of the purse
 3 not to exceed 15 percent for each violation.

4 (c) Unarmed combat, as defined in Code Section 43-4B-1, is a misdemeanor of a high and
 5 aggravated nature."

6 **SECTION 7.**

7 Said chapter is further amended in Code Section 43-4B-25, relating to authority to resell
 8 tickets, by striking subsection (a) and inserting in lieu thereof the following:

9 "(a) Except as otherwise provided in Code Section 43-4B-29, it shall be unlawful for any
 10 person other than a ticket broker licensed in accordance with this article to resell or offer
 11 for resale any ticket of admission or other evidence of the right of entry to any athletic
 12 contest, concert, theater performance, amusement, exhibition, or other entertainment event
 13 to which the general public is admitted for a price in excess of the face value of the ticket.
 14 Notwithstanding any other provision of this article to the contrary, a service charge not to
 15 exceed \$3.00 may be charged when tickets or other evidences of the right of entry are sold
 16 by an authorized ticket agent through places of established business licensed to do business
 17 by the municipality or county, where applicable, in which such places of business are
 18 located. Notwithstanding any other provision of this article to the contrary, the owner,
 19 operator, lessee, or tenant of the property on which such athletic contest or entertainment
 20 event is to be held or is being held or the sponsor of such contest or event may charge or
 21 may authorize, in writing, any person to charge a service charge for the sale of such ticket,
 22 privilege, or license of admission in addition to the face value of the ticket. Such writing
 23 granting authority to another shall specify the amount of the service charge to be charged
 24 for the sale of each ticket, privilege, or license of admission."

25 **SECTION 8.**

26 Said chapter is further amended by striking Code Section 43-4B-26, relating to requirements
 27 for ticket brokers, and inserting in lieu thereof the following:

28 "43-4B-26.

29 In order to engage in the practice or business of a ticket broker a person shall be required
 30 to:

31 ~~(1) Maintain a permanent office or place of business in this state, excluding a post office~~
 32 ~~box, for the purpose of engaging in the business of a ticket broker;~~

33 ~~(2)~~(1) Apply to the commission for a ticket broker's license on a form designated by the
 34 commission, pay an annual license fee of ~~\$400.00~~ \$500.00, and renew the license
 35 annually;

- 1 ~~(3)~~(2) Pay any local tax required by a local government; and
 2 ~~(4)~~(3) Register for sales and use tax purposes pursuant to Article 1 of Chapter 8 of Title
 3 48; ~~and~~
 4 ~~(5) Provide satisfactory evidence to the commission that the ticket broker has posted or~~
 5 ~~has made provision for the posting of a bond. The required bond shall be executed in~~
 6 ~~favor of the state, in the amount of \$100,000.00, with a surety company authorized to do~~
 7 ~~business in this state and conditioned to pay damages not to exceed the amount of such~~
 8 ~~bond to any person aggrieved by any act of the principal named in such bond, which act~~
 9 ~~is in violation of this Code section."~~

10 SECTION 9.

11 Said chapter is further amended by striking Code Section 43-4B-28, relating to ticket sales,
 12 disclosure requirements, restrictions, and refunds, and inserting in lieu thereof the following:

13 "43-4B-28.

14 (a) The ticket broker shall be required to:

15 (1) ~~Post at its established place of business~~ Disclose the terms of the purchaser's right
 16 to cancel the purchase of a ticket from a ticket broker;

17 (2) Disclose to the purchaser the refund policy of the ticket broker should an athletic
 18 contest or entertainment event be canceled; and

19 (3) Disclose to the purchaser in writing the difference between the face value of the
 20 ticket and the amount which the ticket broker is charging for such ticket; ~~and~~

21 ~~(4) Sell tickets only at its permanent office or place of business; provided, however, that~~
 22 ~~delivery of one or more tickets after the transaction is completed to a place other than the~~
 23 ~~ticket broker's office or place of business shall not violate this paragraph.~~

24 (b)(1) A ticket broker shall be prohibited from employing any agent or employee for the
 25 purpose of making future purchases of tickets from the owner, operator, lessee, or tenant
 26 of the property on which an athletic contest or entertainment event is to be held.

27 (2) Each ticket broker, including any affiliated group of ticket brokers, shall be
 28 prohibited from acquiring and reselling in excess of 1 percent of the total tickets allocated
 29 for any contest or event.

30 (3) Unless otherwise provided in a written agreement between a ticket broker and the
 31 purchaser, a ticket broker shall be required to refund any payment received for the
 32 purchase of a ticket under this article if the purchaser returns the ticket and requests a
 33 cancellation of the sale thereof within 36 hours from the time of purchase of the ticket
 34 and if such return is made more than 72 hours preceding the athletic contest or
 35 entertainment event.

1 (4) A ticket broker shall be required to refund any payment received for the purchase of
 2 a ticket under this article if the athletic contest or entertainment event is canceled and not
 3 rescheduled.

4 (5) If a ticket broker guarantees in writing delivery of a ticket or tickets to an athletic
 5 contest or entertainment event as provided under this article to a purchaser and fails to
 6 complete such delivery, the ticket broker shall be required to provide within 15 days a full
 7 refund of any amount paid by the purchaser and, in addition, shall pay the purchaser a
 8 refund fee of three times the amount paid by the purchaser for each such ticket.

9 (c) A ticket broker and its employees, agents, and assigns are criminally prohibited from
 10 reselling or offering for resale any ticket within 1,500 feet from the venue where an event
 11 or contest is to be held or is being held.

12 (d) Any ticket broker offering to resell tickets to an athletic contest or entertainment event
 13 through any printed, broadcast, or Internet advertising shall include in such advertising the
 14 license number of such ticket broker offering such tickets for resale."

15 SECTION 10.

16 Said chapter is further amended in Code Section 43-4B-30, relating to county and municipal
 17 ordinances, by inserting a new subsection to be designated subsection (c) to read as follows:

18 "(c)(1) Municipal corporations and counties in this state are authorized to enact an
 19 ordinance requiring an individual reselling tickets or offering tickets for resale in such
 20 municipal corporations or in the unincorporated area of such counties to obtain a permit
 21 from the municipal corporation or county for such activity if the individual:

22 (A) Engages in reselling tickets or offering tickets for resale in or on the streets,
 23 sidewalks, or other places owned or operated by such municipal corporation or county
 24 and open to the public regardless of whether such individual maintains a permanent
 25 office or place of business for reselling tickets or offering tickets for resale in this state;
 26 or

27 (B) Does not maintain a permanent office or place of business in this state.

28 (2) A municipality or county may charge a fee for such permit not to exceed \$150.00.

29 (3) In order to obtain a permit, individuals first must provide proof of licensing under
 30 Code Section 43-4B-26 to the municipality or county issuing such permits.

31 (4) The provisions of this Code section shall not apply to an original purchaser for
 32 personal use.

33 (5) The provisions of this Code section shall not apply to the delivery of one or more
 34 tickets after a sales transaction is completed at a ticket broker's permanent office or place
 35 of business in this state."

