

LEGISLATIVE BILL 823

Approved by the Governor April 06, 2016

Introduced by Larson, 40.

A BILL FOR AN ACT relating to the State Athletic Commissioner; to amend section 81-8,139, Revised Statutes Supplement, 2015; to change the powers of the commissioner; to provide for identification of banned substances and banned substance testing; to provide for suspension and civil penalties as prescribed; to repeal the original section; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-8,139, Revised Statutes Supplement, 2015, is amended to read:

81-8,139 (1) Except as provided in subsection (2) of this section, the State Athletic Commissioner shall adopt and promulgate such rules and regulations for the administration and enforcement of sections 81-8,128 to 81-8,142.01 as he or she may deem necessary. Such rules and regulations shall include, but not be limited to, the establishment of written criteria for the granting and revoking of licenses, the setting of license fees, and the qualification requirements for those to be licensed as referees, physicians, managers, matchmakers, and professional boxing, professional mixed martial arts, or professional sparring match or exhibition judges. He or she shall have the power and may control and limit the number of professional mixed martial arts, amateur mixed martial arts, professional boxing, or professional sparring matches or exhibitions given, or to be held, each year, or within one week, in any city or town, or by any organization. He or she may fine ~~reprimand~~ any licensee, except amateur contestants, an amount not to exceed one thousand dollars and may amateur or professional athlete or any official or suspend for a period, not to exceed one year, any licensee's ~~his or her~~ right to participate in or conduct any match or exhibition conducted by any licensee for unsportsmanlike conduct while engaged in or arising directly from any match or exhibition, failure to compete in good faith, engaging in any sham match or exhibition, or the use of threatening and abusive language toward officials, other contestants, or spectators.

(2) The State Athletic Commissioner may adopt and promulgate rules and regulations to identify a list of substances banned for use by any amateur or professional contestant and may require any contestant to submit to a test for banned substances as a condition for allowing the contestant's participation in a match or exhibition.

(3) The State Athletic Commissioner may suspend an amateur or professional contestant from competition for a period not to exceed one year and may fine a professional contestant an amount not to exceed one thousand five hundred dollars or forty percent of the prize or purse, whichever is greater, for a first offense of failing a test for a banned substance on the list developed pursuant to subsection (2) of this section or for refusing to submit to such a test. He or she may suspend an amateur or professional contestant from competition for a period not to exceed three years and may fine a professional contestant an amount not to exceed three thousand dollars or seventy percent of the prize or purse, whichever is greater, for any second such offense. He or she may suspend an amateur or professional contestant from competition for life and may fine a professional contestant an amount not to exceed five thousand dollars or one hundred percent of the prize or purse, whichever is greater, for any third or subsequent such offense. For purposes of determining if an offense under this subsection is a first, second, third, or subsequent offense, failing a test for banned substances and refusing to submit to such a test shall be considered the same offense.

(4) Before levying an administrative fine pursuant to this section, the State Athletic Commissioner shall set the matter for hearing. Proceedings to levy an administrative fine shall be contested cases prosecuted and appealable pursuant to the Administrative Procedure Act. At least ten days before the hearing, the State Athletic Commissioner shall serve notice of the time, date, and place of the hearing upon the licensee or other violator by personal or certified mail service.

(5) The State Athletic Commissioner shall remit any administrative fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 2. Original section 81-8,139, Revised Statutes Supplement, 2015, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.