

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2001**

to serve until elections are held for the revised districts.

See title page for effective date.

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## CHAPTER 165

H.P. 338 - L.D. 428

**An Act to Modify the Bureau of Insurance Complaint Ratios and to Increase the Amount of Penalties Assessed Against Violators of the Maine Insurance Code**

**Be it enacted by the People of the State of Maine as follows:**

### PART A

**Sec. A-1. 24-A MRSA §216, sub-§2**, as amended by PL 1997, c. 314, §1, is further amended to read:

2. All records of the bureau are subject to public inspection, except as otherwise expressly provided by law as to particular matters; and except that records, correspondence and reports of investigation in connection with actual or claimed violations of this Title or prosecution or disciplinary action for those violations are confidential. The confidential nature of any such record, correspondence or report may not limit or affect use of the same by the superintendent in any such prosecution or action. This subsection does not preclude participation by the superintendent in the establishment of an interstate complaint handling system that may involve the sharing of information with insurance regulatory officials in other jurisdictions and with the National Association of Insurance Commissioners, as long as the names of the complainant and insured remain confidential. This subsection does not preclude the dissemination of aggregate ratios of ~~substantiated~~ consumer complaints to the public by the superintendent. Only complaints received in writing are included in the calculation of the complaint ratio. A complaint received by electronic means is considered a written complaint. ~~A substantiated consumer complaint includes any matter in which the resolution results in a favorable outcome to the consumer, including, but not limited to, the recovery of premium refunds, additional amounts paid on claims or policy reinstatements. A matter in which the actions of an insurer are in violation of this Title is deemed a substantiated complaint.~~ For the purposes of this subsection, a "consumer complaint" means any written complaint that results in the need for the bureau to conduct further investigation or to communicate in writing with a regulated entity for a response or resolution to the complaint. The superintendent

shall adopt rules necessary to define the method for calculating complaint ratios. Rules adopted pursuant to this subsection are ~~major substantive~~ routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

### PART B

**Sec. B-1. 24-A MRSA §12-A, sub-§1**, as repealed and replaced by PL 1997, c. 634, Pt. B, §1, is amended to read:

1. **Civil penalty.** Civil penalties may be assessed against any person who:

- A. Violates any provision of this Title, Title 24 or any other law enforced by the superintendent;
- B. Violates any rule lawfully adopted by the superintendent; or
- C. Violates any lawful order of the superintendent that has not been stayed by order of the superintendent or the Superior Court.

The Superior Court, upon an action brought by the Attorney General, may assess a civil penalty of not less than \$500 and not more than \$5,000 for each violation in the case of an individual and not less than \$2,000 and not more than \$15,000 for each violation in the case of a corporation or other entity other than an individual, unless the applicable law specifies a different civil penalty.

The superintendent, following an adjudicatory hearing, may assess a civil penalty of up to \$500 for each violation in the case of an individual and a civil penalty of up to ~~\$2,000~~ \$10,000 for each violation in the case of a corporation or other entity other than an individual, unless the applicable law specifies a different civil penalty. The superintendent may assess a civil penalty only if the Attorney General elected not to pursue an action in Superior Court to seek civil penalties. The Attorney General shall notify the superintendent in writing whether or not the Attorney General elects to pursue an action in Superior Court within 90 days after receiving a request from the superintendent for such an action.

See title page for effective date.

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## CHAPTER 166

S.P. 561 - L.D. 1723

**An Act to Amend the Maine Athletic Commission Laws**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** current law providing for a 15% gate tax to fund the Maine Athletic Commission has the effect of reducing the number of events over which the commission has jurisdiction; and

**Whereas,** without an immediate reduction in the current gate tax, the commission has no means of supporting its regulatory program; and

**Whereas,** without regulation of boxing, wrestling and kick-boxing, the health, safety and welfare of Maine citizens are at risk; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 5 MRSA §12004-A, sub-§44,** as amended by PL 1999, c. 687, Pt. B, §1, is further amended to read:

44. Maine Athletic Commission	<del>\$35/Day</del> <u>Expenses Only</u>	32 MRSA §13501
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**Sec. 2. 32 MRSA §13501,** as amended by PL 1993, c. 600, Pt. A, §267, is further amended to read:

**§13501. Commission**

The Maine Athletic Commission, established by Title 5, section 12004-A, subsection 44, and in this chapter called "the commission," consists of 5 members appointed by the Governor. A person who receives ~~any~~ compensation or remuneration for promoting, competing or otherwise engaging in boxing, wrestling or kick-boxing is not eligible for appointment. Each member of the commission is entitled to ~~compensation~~ expense reimbursement as provided in Title 5, chapter 379.

Appointments are for 3-year terms. ~~Appointments of members must comply with section 60.~~ A member may be removed by the Governor for cause.

**Sec. 3. 32 MRSA §13502, first ¶,** as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

~~It is declared to be the policy of the State, that~~  
The mission and purpose of the commission is to supervise and oversee professional and amateur boxing, professional and exhibition wrestling and

~~professional and amateur kick-boxing in this State shall be supervised by the commission in a manner designed to promote that promotes these sports in accordance with while protecting the public interest, insure ensuring the safety of all participants and spectators and achieve achieving uniformity in the rules governing participation in these sports within the State.~~

**Sec. 4. 32 MRSA §13503, first ¶,** as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

The commission shall meet at least once a year to conduct its business and to elect a ~~chairman and a secretary~~ chair. Additional meetings ~~shall~~ may be held as necessary to conduct the business of the commission; and may be convened at the call of the ~~chairman~~ chair or a majority of the board members. ~~Three A majority of the members of the commission shall constitute constitutes a quorum for all purposes. The commission shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.~~

**Sec. 5. 32 MRSA §13506-A** is enacted to read:

**§13506-A. Prohibited competitions, exhibitions and events**

A professional or amateur "toughman," "badman" or "ultimate fighting" match, which includes a contest or exhibition where participants compete by using a combination of fighting skills, including, but not limited to, boxing, wrestling, kicking and martial arts skills, may not be held in this State. This section may not preclude kick-boxing as regulated by this chapter.

A person participating in or promoting a professional or amateur "toughman," "badman" or "ultimate fighting" match is guilty of a Class E crime.

**Sec. 6. 32 MRSA §13507, first ¶,** as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

The commission shall administer, coordinate and enforce this chapter consistent with ~~the declaration of policy~~ its statutory mission and purpose set forth in section 13502, and ~~shall have~~ has the following powers and duties in addition to those otherwise set forth in this chapter.

**Sec. 7. 32 MRSA §13507, sub-§1,** as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

**1. Rules.** The commission, in accordance with procedures established by ~~the Maine Administrative Procedure Act,~~ Title 5, chapter 375, subchapter ~~H~~ II-A, may adopt rules commensurate with the authority vested in it by this chapter.

A. In the exercise of its jurisdiction over boxing as set forth in section 13506, subsection 1, the commission may adopt rules governing, among others, referees, judges, boxers, seconds, promoters, managers, physicians, timekeepers and knockdown timekeepers. These rules may include, but not be limited to: Licensing requirements; age limits and physical condition of participants; lengths of contests and rounds; specifications of the facilities and equipment used in boxing contests and uniforms of contestants and referees; scoring of decisions; standards of weight and weighing of contestants; and the manner of presentation of closed circuit events. Rules governing amateur boxing contests ~~shall~~ must conform to tournament regulations of the Amateur Athletic Union or its successor in interest.

B. In the exercise of its jurisdiction over wrestling as set forth in section 13506, subsection 2, the commission may adopt rules governing, among others, wrestlers, managers, seconds, referees, matchmakers, physicians, timekeepers, trainers and promoters. These rules may include, but not be limited to: Licensing requirements and qualifications of participants; conduct of contests; specifications of equipment and facilities used in wrestling contests or exhibitions; and scoring of decisions.

C. In the exercise of its jurisdiction over kick-boxing, as set forth in section 13506, subsection 3, the commission may adopt rules governing, among others, referees, judges, kick-boxers, seconds, promoters, managers, physicians, timekeepers and knockdown timekeepers. These rules may include, but not be limited to, licensing requirements, age limits and physical condition of participants, lengths of contests and rounds, specifications of the facilities and equipment used in contests and uniforms of contestants and referees, scoring of decisions, standards of weight and weighing of contestants; and the manner of presentation of closed circuit events. Rules governing amateur kick-boxing contests ~~shall~~ must conform to tournament regulations of the Amateur Athletic Union or its successor in interest.

D. The commission may adopt rules requiring health and accident insurance providing coverage in the event of injury or death for persons competing in boxing events, wrestling events or kick-boxing events subject to this chapter, or for ~~any~~ a combination of those events. This insurance, if required, ~~shall~~ must comply with standards prescribed by the Superintendent of Insurance.

**Sec. 8. 32 MRSA §13507, sub-§2-A** is enacted to read:

**2-A. Report filed by commissioner.** The commissioner supervising an event, exhibit or show subject to the requirements of this chapter shall file an event report with the department within 48 hours of the event. Event reports must include:

A. The promoter's identity and license number;

B. The participants' identities and license numbers;

C. The facility at which the event was held;

D. A detailed factual description of any incident that required the immediate intervention of the attending commissioner during an event, including stopping the event or taking disciplinary action;

E. A recommendation to the commission regarding any need for disciplinary action; and

F. A certification that the officials, participants and event conformed to the requirements of the statutes and rules of the commission.

**Sec. 9. 32 MRSA §13507, sub-§5**, as enacted by PL 1999, c. 685, §3, is repealed.

**Sec. 10. 32 MRSA §13510**, as amended by PL 1999, c. 685, §20, is further amended to read:

**§13510. Boxing, wrestling and kick-boxing licenses**

**1. Persons to whom licenses may be issued.**

The commission may issue, in its discretion, and upon payment of a required fee, a license for a term of one year from date of issuance to ~~any~~ a person, club, association or corporation that is properly qualified to promote and conduct boxing, wrestling or kick-boxing contests and exhibitions in accordance with this chapter and the rules adopted pursuant to this chapter. All persons engaged in such contests and exhibitions as boxers, wrestlers, kick-boxers, seconds, managers, timekeepers, knockdown timekeepers, promoters, referees and judges must be licensed by the commission upon payment of a required fee in a like manner. A closed circuit license may be issued by the commission upon payment of a required fee to ~~any~~ a person who is properly qualified for a closed circuit license, which entitles that person to engage in the showing of boxing, wrestling or kick-boxing contests or exhibitions by closed circuit television.

**2. Limitation on certain licenses.** Each applicant for a promoter's license or a closed circuit boxing, kick-boxing or wrestling license shall specify the location for which the license is desired, and that promoter's license, when issued, ~~shall be~~ is limited to

that specified location. ~~No~~ A license issued under this section, other than a promoter's license or a closed circuit event license, may not be limited to a specified location.

**3. Fee for license.** ~~The Director of the Office of Licensing and Registration shall establish, by rule, the fee for each promoter's license to promote amateur events and for a license to promote professional events, depending upon the probable income of the licensee to be derived from the conducting of the contests and exhibitions. In addition, the director shall establish, by rule, fees for all other licenses issued under this section at a figure not to exceed \$200 for a one-year license. The director shall establish by rule license fees for live events and the broadcast of live events. When application by a fraternal, charitable or patriotic organization for a license to promote and conduct amateur boxing or kick boxing contests or exhibitions is made to the commission, it may grant the license without the requirement of the payment of a license fee. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.~~

**3-A. Fee for licenses.** The Director of the Office of Licensing and Registration may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$200 for a one-year license. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**4. Temporary license.** Upon application being made for ~~any~~ a license under this section, ~~any~~ and upon payment of a required fee, a member of the commission, in ~~his~~ the commissioner's discretion, may temporarily issue or temporarily refuse to issue the license. In the event that ~~such~~ a temporary license is issued, the temporary license ~~shall be~~ is valid only until the next meeting of the commission at which a quorum is present. ~~No~~ A license, ~~except such other~~ than a temporary license, may not be issued under this section, except by a majority vote taken at a commission meeting at which a quorum is present. All license applications ~~shall~~ must be considered in the first meeting of the commission following the receipt of the application, at which a quorum is present.

**Sec. 11. 32 MRSA §13511**, as amended by PL 1999, c. 547, Pt. B, §78 and affected by §80 and amended by c. 685, §21, is further amended to read:

#### **§13511. Wrestling licenses**

The commission, in accordance with this chapter and the rules adopted pursuant to this chapter, may issue a license upon payment of a required fee for a

term of one year to ~~any~~ a person, club, association or corporation that is properly qualified to conduct professional wrestling matches, shows or exhibitions. ~~The commission shall establish by rule fees for promoters' licenses issued under this section at levels adequate to carry out the purposes of this chapter.~~ A closed circuit wrestling license may be issued by the commission for a term of one year to ~~any~~ a person who is properly qualified for a closed circuit wrestling license, which entitles that person to engage in the showing of professional wrestling matches, shows or exhibitions by closed circuit television. The closed circuit wrestling license may be suspended or revoked by the District Court for ~~any~~ a violation of this chapter or the rules of the commission.

All persons, ~~other than wrestlers~~, engaging in professional wrestling matches, shows or exhibitions of wrestlers must be licensed by the commission in a like manner. The chair of the commission or the chair's designee may issue or deny temporary licenses. The full commission may review decisions by the chair or the chair's designee at its next regular meeting.

**Sec. 12. 32 MRSA §13512**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

#### **§13512. Permits for foreign copromoters**

~~No~~ A foreign copromoter, meaning a promoter who has no place of business within the State, may not directly or indirectly participate in the promotion of or receive ~~any~~ remuneration from or render ~~any~~ services in connection with ~~any~~ a boxing contest or exhibition, or ~~any~~ a professional wrestling match, show or exhibition held within the State, unless ~~he~~ the copromoter first has been granted a permit by the commission. ~~No~~ A promoter may not be associated with ~~any~~ a foreign copromoter in promoting ~~any~~ a boxing contest or exhibition, unless the foreign copromoter has first secured a permit. Permits for foreign copromoters ~~shall~~ must be issued in the same manner as provided in section 13510, ~~subsection 2, and section 13511~~, for licenses to promote amateur or professional boxing or wrestling, and the required fees for these permits ~~shall be~~ are the same as those established ~~by the commission~~ for these licenses.

A foreign copromoter, by accepting a permit, agrees to be subject to all the provisions of this chapter and the rules ~~promulgated~~ adopted under this chapter.

~~Any~~ A foreign copromoter who violates ~~any~~ a provision of this chapter or ~~any~~ a rule ~~promulgated~~ adopted under this chapter ~~shall be~~ is guilty of a Class E crime.

**Sec. 13. 32 MRSA §13514, first ¶**, as amended by PL 1999, c. 685, §22, is further amended to read:

The promoter or promoters of all boxing or kick-boxing contests or exhibitions and all professional wrestling matches, shows or exhibitions held under this chapter shall pay to the Treasurer of State, for credit to the Athletic Commission Fund, a tax of ~~4.5%~~ 5% of the gross receipts from the contest or exhibition. This section applies to all boxing, kick-boxing and wrestling contests or exhibitions ~~which~~ that are shown over closed circuit television.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 15, 2001.

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## CHAPTER 167

### H.P. 385 - L.D. 487

#### **An Act to Allow the Agencies of the Department of Professional and Financial Regulation to Revoke Professional and Occupational Licenses**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 10 MRSA §8003, sub-§5**, as amended by PL 1999, c. 547, Pt. B, §78 and affected by §80 and amended by c. 687, Pt. C, §7, is further amended to read:

**5. Authority of bureaus, offices, boards or commissions.** In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, each bureau, office, licensing board and commission within or affiliated with the department may take one or more of the following actions, except that this subsection does not apply to the Bureau of Banking.

A-1. For each violation of applicable laws, rules or conditions of licensure or registration, the bureau, office, board or commission may take one or more of the following actions:

- (1) Issue warnings, censures or reprimands to a licensee or registrant. Each warning, censure and reprimand issued must be based upon violations of different applicable laws, rules or conditions of licensure or must be based upon separate instances of actionable conduct or activity;
- (2) Suspend a license or registration for up to 90 days for each violation of applicable laws, rules and conditions of licensure or registration or for instance of actionable

conduct or activity. Suspensions may be set to run concurrently or consecutively ~~and, in total, may not exceed one year.~~ Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's or registrant's record;

(2-A) Revoke a license or registration;

(3) Impose civil penalties of up to \$1,500 for each violation of applicable laws, rules and conditions of licensure or registration or for instances of actionable conduct or activity; and

(4) Impose conditions of probation upon an applicant, licensee or registrant. Probation may run for such time period as the bureau, office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant, licensee or registrant; and other conditions as the bureau, office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant, licensee or registrant. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee or registrant.

B. The bureau, office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of: the applicant, licensee or registrant; the bureau, office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the ~~District~~ Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license or registration. A consent agreement is not subject to review or appeal, and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court.

C. The bureau, office, board or commission may:

- (1) Require all applicants for license or registration renewal to have responded un-