

# CURRENT AND PROPOSED FEDERAL REGULATION OF PROFESSIONAL BOXING

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## INTRODUCTION

The sport of boxing has often been referred to as the “red

light district” of sports.<sup>1</sup> Many view the objective of the sport as one in which an opponent intentionally inflicts punishment upon his competitor. As a result, boxing has come under close scrutiny by legislatures and the public in general. Upon examination of the inherent brutishness of the sport, one must conclude that the troubled sport is in need of guidance.

Part I of this examination discusses the history of boxing and current rules and practices in the sport, as well as a brief overview of attempts at legislative regulation. Part II explores concerns and reasons surrounding boxing regulation. Part III examines the statutory regulations in place in three states with a high volume business in the boxing industry: New York, New Jersey and Nevada. Part IV analyzes the recently enacted Professional Boxing Safety Act.<sup>2</sup> Part V examines one area that current federal regulation leaves untouched, using the Mike Tyson – Evander Holyfield fight as a case study. Part V will conclude with a brief description of current congressional proposals. Finally, Part VI contains additional shortcomings in existing regulation and discusses alternatives to federal regulation.

## I. OVERVIEW OF THE SPORT OF BOXING

### A. *History and Rules of the Sport*

Early evidence of boxing dates back 5000 years, evidenced by stone carvings suggesting boxing matches between ancient Sumarians.<sup>3</sup> The Greeks adopted the sport in the Olympic Games in 688 A.D., making it one of the oldest dated Olympic sports.<sup>4</sup> The fighters wore gloves called

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1. 139 CONG. REC. S13129-01, S13132 (Oct. 6, 1993) (quoting Sen. John McCain).

2. 15 U.S.C. § 6301-6313 (1998).

3. See Ross Rosen, *Perspective: In the Aftermath of McClellan: Isn't It Time for the Sport of Boxing to Protect Its Participants?*, 5 SETON HALL J. SPORTS L. 611, 613 n.12 (1995).

4. See Dartmouth College Experimental Visualization Laboratory, *The Ancient Olympic Games Virtual Museum, Contests* (visited Oct. 11, 1999) <<http://devlab.cs.dartmouth.edu/olympic/Games/Boxing.html>> [hereinafter *The Ancient Olympic Games*]. Boxing was found in Greek mythology where Apollo was considered to be the patron deity and inventor of the sport. See *id.*

himantes that were strips of ox hide that covered the knuckles, palms, wrists, and forearms.<sup>5</sup> As the sport evolved, the objective of the game centered more on stronger, harder blows as opposed to technique, skill and speed.<sup>6</sup> The use of pig skin straps, reinforcement of straps, blows to the genital organs and holds were precluded.<sup>7</sup> The rules provided for no time limit and no division based upon weight classifications.<sup>8</sup> Fighters fought until one conceded defeat or fell to the ground defenseless.<sup>9</sup> Both contestants could opt to send a drawn out game to klimax.<sup>10</sup> Klimax was the "sudden death round" where each fighter stood motionless and absorbed the opponents shot in return for his own clear, unopposed shot.<sup>11</sup> If both contestants agreed, the referee would allow them time to regain strength and continue battle.<sup>12</sup>

The Romans modified the art of boxing to increase the energy and bloodshed by adding metal spikes and weights to the fighter's fist.<sup>13</sup> Because of the bloodiness of the sport, boxing disappeared from history until approximately 1700 A.D.<sup>14</sup> In the next two centuries, the combination of James Fig and Jack Broughton revolutionized prize fighting in England.<sup>15</sup> Broughton created boxing's rules that eliminated, among other things, hitting below the belt, hitting an opponent while down and strangling.<sup>16</sup> Broughton also provided for umpires and a referee.<sup>17</sup> In 1838, the rules were

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5. *See id.*

6. *See id.*

7. *See id.*

8. *See The Ancient Olympic Games, supra note 4.*

9. *See id.*

10. *See id.*

11. *Id.*

12. *See The Ancient Olympic Games, supra note 4.*

13. ELLIOTT J. GORN, *THE MANLY ART: BARE-KNUCKLE PRIZE FIGHTING IN AMERICA* 23 (1986).

14. *See id.*

15. *See id.* at 24. Boxing became so popular in England in the late nineteenth century that many considered it the national sport. *See id.*

16. *See id.*

17. *See Gorn, supra note 13, at 24.* A round began with the fighters lined "to the side of the square" and was completed when an opponent was thrown or punched to the ground with competition resuming exactly thirty seconds later. *Id.* Custom dictated a twenty-four foot ring. *See id.* at 44. Two umpires and a referee sat outside the ring and resolved disputes when an alleged foul occurred. *See id.*

modified once again with The London Prize Ring Rules.<sup>18</sup> The London rules covered elements of the sport that Broughton's Rules left void. For example, the London rules expressly prohibited eye-gouging, head-butting, and hair pulling.<sup>19</sup>

In 1865, The Marquis of Queensberry Rules were written and became the foundation for current rules regarding boxing contests.<sup>20</sup> Most notably, the rules required each round to be three minutes long with a one minute rest period in between and provided for a fallen contestant to be given ten seconds to regain his feet before the referee would declare the other opponent the victor.<sup>21</sup> Following the declaration of the Queensberry Rules, numerous other regulations surfaced as prize fighting traveled from England to what would become the most prolific boxing area, the United States.<sup>22</sup>

The current state of boxing can be examined as a three-tiered sport with three sets of procedures and rules. The first is Olympic boxing, which features 12 weight classifications with different categories for certain age ranges.<sup>23</sup> Currently, five two-minute rounds are permitted with one minute given between rounds.<sup>24</sup> Scoring is electronic, with five judges working keyboards at separate positions of the ring.<sup>25</sup> Each judge presses a button when he witnesses a scoring blow.<sup>26</sup> A central computer will recognize

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at 45. The referee rendered the final decision. *See id.* *See also Cyber Boxing Zone, Encyclopedia of Boxing, Laws Rules and Regulations, Braughton's Rules of 1743* (visited Oct. 11, 1999) <<http://www.cyberboxingzone.com/1743.htm>>.

18. *See GORN, supra* note 13, at 75.

19. *See id.*

20. *See Cyber Boxing Zone, Encyclopedia of Boxing, Laws Rules and Regulations, Marquis of Queensberry Rules* (visited Oct. 11, 1999) <<http://www.cyberboxingzone.com/boxing/q-rules.htm>>.

21. *See id.* The rules also prohibited wrestling and hugging and required gloves of the best quality and condition. *See id.*

22. *See Cyber Boxing Zone, Encyclopedia of Boxing, Laws, Rules and Regulations* (visited Oct. 11, 1999) <<http://www.cyberboxingzone.com/boxing/q-rules.htm>>. Among the various sets of rules were American Fair-Play Rules to Govern Glove Contests, The Frawley Law, The Horton Law and The Walker Law. *See id.*

23. *See United States Olympic Committee, Sports A to Z* (visited Oct. 11, 1999) <<http://www.usoc.org/sports/az 373.html>> [hereinafter *USOC*].

24. *See id.*

25. *See id.*

26. *See id.*

the punch as a scoring blow if three of the five judges depress their scoring button within a one second interval.<sup>27</sup> A contestant wins the bout in one of several situations. First, he may win on points by accumulating the most amount of recognized scoring blows during the bout.<sup>28</sup> Second, he may win by retirement where the boxer or coach voluntarily requests that the bout cease.<sup>29</sup> Third, the winner may win by the referee stopping the contest (RSC), which occurs when the referee believes the fighter has been outclassed and injury or other harm may occur if the bout continues.<sup>30</sup> Fourth, a boxer may win by disqualification.<sup>31</sup> Finally, a bout may be declared a "no contest," whereby one or both fighters cannot continue for reasons beyond anyone's control.<sup>32</sup>

The second tier of boxing is amateur boxing. Amateur boxing is regulated by organizations both in the United States and abroad. Generally, there are at least twelve weight divisions.<sup>33</sup> Bout lengths are usually scheduled for two to three minutes for three rounds.<sup>34</sup> The main objective of amateur boxing is to score as many points as possible.<sup>35</sup> Judges base their score on punches landed, style, defense, and aggressiveness.<sup>36</sup>

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27. See *USOC*, *supra* note 23.

28. See *id.*

29. See *id.*

30. See *id.* This includes being knocked off one's feet and being unable to regain fighting composure, as determined by the referee, by the verbal count of eight. See *id.*

31. See *USOC*, *supra* note 23. Such decisions are made by the referee. See *id.*

32. *Id.* Examples include ring damage or power failure. See *id.*

33. See, e.g., *USA Boxing, A Quick Look* (visited Oct. 11, 1999) <<http://www.usaboxing.org/quick.htm>>. Weight classes include light flyweight (less than 106 pounds); flyweight (112 pounds); bantamweight (119 pounds); featherweight (125 pounds); lightweight (132 pounds); light welterweight (139 pounds); welterweight (147 pounds); light middleweight (156 pounds); middleweight (165 pounds) light heavyweight (178 pounds); heavyweight (201 pounds); and super heavyweight (+201 pounds). See *id.*

34. See *Amateur Boxing News, Amateur Boxing FAQ, General Information* (visited Oct. 11, 1999) <<http://www.amateurboxing.com/geninfo.htm>>.

35. See *Amateur Boxing Association of England, Rules* (visited Oct. 11, 1999) <<http://www.amateurboxing.freemove.co.uk/rules.htm>>. Amateur boxing rules are very similar to those governing Olympic Boxing and boxers can win for the same reasons in both tiers. See *id.* See also *USOC*, *supra* note 23 and accompanying text.

36. See *Amateur Boxing Association of England*, *supra* note 35.

The last tier is professional boxing, which is currently one of the most lucrative sports in America and produces many of the highest paid and most renowned athletes.<sup>37</sup> It is also touted as the most dangerous category of boxing and most in need of regulation and, therefore, is the central focus of this article.

Professional boxing has been traditionally regulated by the various states.<sup>38</sup> Each state, either through a commission or statute, creates rules that govern the bouts.<sup>39</sup> These rules include weight classifications, size of the gloves, and the definition and regulation of fouls.<sup>40</sup> Between four and twelve rounds are scheduled for three minutes each, depending on the level of skill and experience of the fighter.<sup>41</sup> A professional boxing match can be won in various ways. One way is by decision of the judges at the conclusion of the match.<sup>42</sup> Another way to win is by technical knockout (TKO), which requires the fighter's opponent to be deemed unable to complete the fight.<sup>43</sup> The third way to win a professional bout is by knockout (KO).<sup>44</sup> This form of victory occurs when the fighter is knocked off of his feet by a scoring blow and cannot regain his feet to resume fighting by the count of ten.<sup>45</sup> Many of the most popular and respected boxers win a high number of bouts by either knockout or TKO.<sup>46</sup> Finally,

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37. See Peter Spiegel, *Money & Sports: Jordan & Co.*, FORBES, Dec. 15, 1997, at 180. Among the athletes in the top five of the Forbes Super 40 athletes are boxers Evander Holyfield, Oscar de la Hoya and Mike Tyson. See *id.* Also in the top forty are George Foreman, Naseem Hamed, Lennox Lewis, and Michael Moorer. See *id.* The Forbes Super 40 ranks athletes by combined salary and endorsement earnings for each year. See *id.*

38. See Lawrence Bershad & Richard J. Ensor, *Boxing in the United States: Reform, Abolition or Federal Control? A New Jersey Case Study*, 19 SETON HALL L. REV. 865, 875 (1989).

39. See *id.*

40. See Michael T. Flannery & Raymond C. O'Brien, *Mandatory HIV Testing of Professional Boxers: An Unconstitutional Effort to Regulate A Sport That Needs to Be Regulated*, 31 U.C. DAVIS L. REV. 409, 430-32 (1998).

41. 2 GEORGE SULLIVAN, WORLD BOOK ENCYCLOPEDIA, at 437 (1980).

42. See *id.* A fighter is declared the victor if at least two of the three scoring judges have recognized him as the winner. See *id.*

43. See *id.* The referee may stop the fight because the fighter has taken an undesired amount of physical damage; or a fighter may elect to end the bout. See *id.* In some states, the doctor may call the end of the fight by TKO. See *id.*

44. See *id.*

45. See SULLIVAN, *supra* note 41.

46. See Jeff Ryan, *Mike Tyson Shows He's Mortal . . . But He's Still Headed for*

a bout may end by a draw when the judges cannot reach a confirmed decision on which fighter has won at the conclusion of the scheduled limit.<sup>47</sup>

The professional ranks of boxing are also governed by various bodies that declare a champion in either national or international competition.<sup>48</sup> It is important to note that these organizations only sanction and regulate boxing at the championship level.<sup>49</sup> Non-title bouts are not governed by the sanctioning organizations unless they are declared official title elimination bouts.<sup>50</sup> Currently, the rules between the various organizations are inconsistent and lacking uniformity.<sup>51</sup> For example, the World Boxing Council (WBC) requires eight-ounce gloves whereas the International Boxing Federation (IBF) and United States Boxing Association (USBA) require ten ounce gloves in competition.<sup>52</sup> The organizations also differ in the procedure and conduct of fighters that have committed a foul.<sup>53</sup>

Only recently have several of the sanctioning

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*Immortality*, KO MAGAZINE, Aug. 1993, at 64 (noting the success of Mike Tyson and his ability to win fights by knockout).

47. See SULLIVAN, *supra* note 41.

48. Among these are the World Boxing Council (WBC), World Boxing Association (WBA), International Boxing Federation (IBF) and the United States Boxing Association (USBA). See *ESPN Sports Zone, Boxing* (visited Oct. 13, 1999) <<http://espn.go.com/boxing/championship/index.html>>; *IBF/USBA* (visited Oct. 13, 1999) <<http://www.ibf-usba-boxing.com/main.html>>; *World Sports Organization* (ranking both kickboxers and boxers) (visited Oct. 13, 1999) <<http://www.wso-boxing.com/about.html>>; see also *The North Atlantic Boxing Federation* (visited Oct. 13, 1999) <<http://www.nabfnews.com>> (a not-for-profit organization encouraging uniform supervision and regulation of boxing as well as providing a forum for expressing opinions about boxing in general).

49. See THOMAS HAUSER, *THE BLACK LIGHTS: INSIDE THE WORLD OF PROFESSIONAL BOXING* 93 (1986). Such organizations also sanction and regulate championship-elimination fights. See *id.*

50. See *id.*

51. See HBO.com, *Boxing, Standard Championship Rules*, (visited Oct. 13, 1999) <<http://www.hbo.com/boxing/columns/cmp/rules.html>>.

52. See *id.*

53. See *id.* Organizations often require the fight to be scheduled for twelve rounds. See *id.* There are various weight classifications among the various organizations, but all require a weigh-in and physical examination. See *id.* The referee may stop the bout at any time and declare a fighter the winner without a specified number of knockdowns or punches. See *id.* Only the referee is allowed to stop the fight, and a drug test is required of every athlete after each contest. See *id.*

organizations proposed to unify the rules.<sup>54</sup> By standardizing the fight rules, a "super-champion" could be created by having the recognized champion of the organizations meet in a final decisive match.<sup>55</sup> As described by the officials of the WBC and WBA, their goal is to "produce better boxing and improve its image with the fans."<sup>56</sup> These new rules are expected to become effective throughout the world in 1999.<sup>57</sup>

### B. Legislative History of Boxing

The sport of boxing has enjoyed a long history of state regulation. Most notably is New York state's attempts to regulate prize fighting when it was first recognized as a legitimate sport in 1911.<sup>58</sup> The first attempt by the federal government to regulate boxing came in 1960.<sup>59</sup> The Senate Subcommittee on Antitrust and Monopoly conducted a four year investigation of the effects of organized crime on boxing.<sup>60</sup> The subcommittee's primary supporter was Senator Estes Kefauver from Tennessee.<sup>61</sup> Kefauver sought to create a commission within the Department of Justice that would regulate contracts, physical exams, and centralize data collection on fighters.<sup>62</sup> Unfortunately, Kefauver died before the bill came to a vote. The one victory that did come from Kefauver's work is a law that makes bribing a participant in a sporting contest a crime.<sup>63</sup>

Following Kefauver's death, the sport of boxing did not

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54. See Sportserver.com, *WBA, WBC Agree to Unify* (visited Apr. 21, 1998) <<http://www.sportserver.com/newsroom/sports/oth/1998/oth/box/feat/archive/042198/box219832.html>>. The most applaudable agreement of rules are ones creating a mandatory three knockdown rule, whereby a fighter is not allowed to compete after three knockdowns in one round; and the mandatory deduction of one point from a fighter for an intentional or unintentional clash of heads. See *id.*

55. *Id.*

56. *Id.* (quoting Jesus Mendoza, Vice-president of the WBA's classification committee).

57. See Sportserver.com, *Boxing Associations Aim for Merger* (visited Oct. 13, 1999) <<http://www.sportserver.com/newsroom/ap/oth/1998/oth/box/feat/archive/042398/box17460.html>>.

58. See Peter E. Millspaugh, *The Federal Regulation of Professional Boxing: Will Congress Answer the Bell?*, 19 SETON HALL LEGIS. J. 33, 40 (1994).

59. See CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 3 (1994).

60. See *id.* at 3 n.4.

61. See *id.*

62. See Bershada & Ensor, *supra* note 38, at 900.

63. See *id.* at 901



receive much attention until 1977 when the American Broadcasting Company joined Don King Productions to produce what was known as the U.S. Boxing Championships.<sup>64</sup> It was discovered that numerous fighters who participated in the tournaments had fabricated records.<sup>65</sup> As a result, the Subcommittee on Communications of the House Committee on Interstate and Foreign Commerce conducted oversight hearings on the scandal.<sup>66</sup> However, no legislation was produced.<sup>67</sup>

Two years later, as a result of fears of organized crime influence, the Subcommittee on Labor Standards of the House Committee on Education and Labor proposed a bill that would require all boxers to register with a federal agency and would regulate safety measures in the sport.<sup>68</sup> After the hearings were held in March and April of 1979, no action was taken on the bill.<sup>69</sup>

In 1983, three separate bills were introduced by Representatives Florio, Williams, and Richardson. Representative Florio introduced a bill that sought to bring state commissioners, promoters, physicians, media representatives, professional boxers and persons with a special interest or knowledge in boxing together in an advisory commission focusing on ranking guidelines and health issues concerning professional boxers.<sup>70</sup> Representative Richardson introduced a similar bill except with a differing composition of membership on the commission.<sup>71</sup> At the same time, Representative Williams introduced a bill that sought to create a commission within the Department of Labor that focused on compensation, working conditions, and the safety of equipment and

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64. See HAUSER, *supra* note 49, at 89-91.

65. See *id.* at 91-92. For example, Pat Dolan was found to have fabricated four wins in 1975. See *id.* at 92. Similarly, in 1976 Ike Fluellen purportedly had two wins in Mexico, was ranked third in tournament rankings and was given honorable mention as most improved boxer. See *id.* In reality, Fluellen had not fought a single round that year. See *id.*

66. See Bershad & Ensor, *supra* note 38, at 901-02.

67. See *id.*

68. See *id.* at 902.

69. See *id.* at 903.

70. See Bershad & Ensor, *supra* note 38, at 904 (citing H.R. 1778, 98<sup>th</sup> Cong., § 4(a) (1983)).

71. See *id.* at 905.

facilities.<sup>72</sup> Congress took no action towards the passage of any of the bills.

Two more bills were introduced in 1985 that sought to regulate boxing through the use of a non-profit entity.<sup>73</sup> The concern in this instance was to oversee the different state commissions by setting minimum standards for rules and regulations.<sup>74</sup> A compromise bill sponsored by Representative Richardson received popular support as did a competing bill introduced later that year.<sup>75</sup> In 1987, Representative Dorgan introduced the Federal Boxer Protection Act, which was very similar to the bills introduced in 1983 and 1985.<sup>76</sup> Once again, however, Congress did not pass these bills.

On February 8, 1992, IBF middleweight champion James Toney fought an unknown challenger named Dave Tiberi in Atlantic City.<sup>77</sup> The fight was of little significance in the boxing world, however, it spawned congressional attention that produced the only federal legislation ever made into law concerning boxing. Dave Tiberi was considered to be a weak opponent for the champion Toney.<sup>78</sup> After twelve grueling rounds, however, most thought that Tiberi had won the fight.<sup>79</sup> Yet Toney was awarded a split decision by the judges in Atlantic City.<sup>80</sup> One television commentator described the decision as "the most disgusting decision" he had ever seen.<sup>81</sup> Senator Roth, from Tiberi's home state of Delaware, ordered the minority staff of the Permanent Subcommittee on Investigations to begin an inquiry into the practices surrounding the world of professional boxing.<sup>82</sup> A complete

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72. See *id.* at 906-07 (citing H.R. 1751, 99<sup>th</sup> Cong., § 2(b) (1983)). There were to be five citizen members appointed by the Secretary of Labor. See *id.* at 907.

73. See *id.* at 907-08.

74. See Bershada & Ensor, *supra* note 38, at 908.

75. See *id.* at 912. The competing bill differed only marginally. See *id.*

76. See *id.* at 911 (citing H.R. 134, 100<sup>th</sup> Cong., 1<sup>st</sup> Sess. (1987)).

77. See Joseph C. Tintle, *Why James Toney Almost Lost to an Off-The-Board Underdog*, THE RING, June 1992, at 44.

78. See Kevin M. Walsh, *Boxing: Regulating a Health Hazard*, 11 J. CONTEMP. HEALTH L. & POL'Y 63, 78 (1994).

79. See *id.*

80. See *id.*

81. See *id.*

82. See Kelley C. Howard, *Regulating the Sport of Boxing - Congress Throws the first Punch with the Professional Boxing Safety Act*, 7 SETON HALL J. OF SPORT L.

investigation was ordered and 130 witnesses from the boxing community were asked to provide testimony.<sup>83</sup> After hearing testimony, the subcommittee made three important findings. First, they found that private sanctioning organizations such as the WBC and IBF operated with practically no oversight or accountability.<sup>84</sup> Second, it was found that the current system of state regulation could be manipulated so as to create harm to fighters.<sup>85</sup> Lastly, credible evidence existed to suggest the influence of organized crime in professional boxing.<sup>86</sup>

As a result of the findings of the subcommittee, Senator Roth and Representative Bill Richardson introduced what was known as the Professional Boxing Corporation Act.<sup>87</sup> The act was to create the Professional Boxing Corporation (PBC) which was a self-funded governmental corporation.<sup>88</sup> The PBC was to set minimum standards for boxing matches.<sup>89</sup> It included a national registry system that would closely scrutinize fighters, managers, physicians, and promoters.<sup>90</sup> Additionally, the PBC was to act as overseer of all sanctioning bodies of fights.<sup>91</sup>

The one major criticism of the bill was the influence the federal government would have over the sport of boxing.<sup>92</sup> Many critics disfavored the big government role suggested by the bill.<sup>93</sup> In response to this politically unappealing approach, Senator John McCain from Arizona introduced a competing bill in 1994 known as the Professional Boxing

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103, 108 (1997).

83. *See id.* at 108-09.

84. *See id.* at 109

85. *See id.* at 109. By way of example Howard describes a fighter who was able to fight in several states despite being banned from fighting for life in other states for medical reasons. *See id.* at 109 n.34.

86. *See* Howard, *supra* note 82, at 109.

87. *See id.*

88. *See id.* at 110.

89. *See id.* at 110.

90. *See* Howard, *supra* note 82, at 110.

91. *See id.*

92. *See id.* at 111. For instance, veteran boxing journalist Bert Sugar complained that government's purpose was not to regulate the sports industries. *See* Penny Bender, *Senate Subcommittee Considers Federal Regulation of Boxing*, GANNETT NEWS SERV., Mar. 10, 1993.

93. *See* Howard, *supra* note 82, at 111.

Safety Act.<sup>94</sup> This act would require state commissions to share information about fights and fighters.<sup>95</sup> Although the bill received tremendous support, no action was taken that year.<sup>96</sup> As a result, Senator McCain reintroduced the bill as The Professional Boxing Safety Act of 1995.<sup>97</sup> The bill passed through Congress and was signed into law by President Clinton in 1997.<sup>98</sup> The current legislation will be discussed in detail in Part IV below.

## II. REASONS FOR FEDERAL REGULATION OF BOXING

### A. Health Concerns

One of the biggest concerns surrounding the sport is the physical abuse that occurs as the result of boxing. Many in the medical community believe that the sport deserves special attention because it involves intentional destructiveness as opposed to injuries that occur by accident, as they do in most sports.<sup>99</sup> The most obvious health concern is the possibility that prolonged punishment in the ring will cause death. Although it is not certain how many deaths have resulted from organized boxing, there were more than 500 recorded deaths between 1900 and 1990.<sup>100</sup> The first widely publicized death occurred in a prizefight in 1842 between Christopher Lilly and Thomas McCoy.<sup>101</sup> As the fight was reported after round seventy:

McCoy was now indeed a most unseemly object: both eyes were black—the left one nearly closed, and indeed the whole cheek presented a shocking appearance. His very forehead was black and blue; his lips were swollen to an incredible size, and the blood streamed profusely down his chest. . . . When he came

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94. See *id.* at 111 n. 46 (citing the Professional Boxing Safety Act of 1994, S. 1991, 103<sup>rd</sup> Cong., (1994)).

95. See *id.* at 111.

96. See *id.* at 113.

97. See Howard, *supra* note 82, at 113 n.64 (citing 141 CONG. REC. S735-736 (daily ed. Jan. 10, 1995)).

98. See Rick Wright, *Is 15-Rounder Not Extinct?*, ALBUQUERQUE JOURNAL, June 06, 1997, at D1.

99. See JOSEPH S. TORG, ATHLETIC INJURIES TO THE HEAD, NECK, AND FACE 4 (1982).

100. See Flannery & O'Brien, *supra* note 40, at 426.

101. See GORN, *supra* note 13, at 74-76.

up he appeared very weak, and almost gasping for breath, and endeavored, while squaring away, to eject the clotting fluid from his throat.<sup>102</sup>

The fight continued for two hours and forty-one minutes and lasted a total of 119 rounds.<sup>103</sup> In the end, McCoy collapsed and died.<sup>104</sup> The coroners found that the blood from his wounds had drained into his lungs, causing him to drown in his own blood.<sup>105</sup>

Although the conditions under which the McCoy – Lilly fight occurred are quite antiquated by today's standards, boxing deaths have not stopped. In 1947, 12,000 fans watched the welterweight championship between Sugar Ray Robinson and Jimmy Doyle.<sup>106</sup> The fight ended in a knockout of Doyle and later culminated in the first death in a championship fight in the 1900's.<sup>107</sup> Doyle died from a blood clot in the brain coupled with respiratory paralysis.<sup>108</sup> The death shocked the boxing world and caused a public outcry for boxing reform. Again in 1962, the world witnessed the boxing death of Benny "Kid" Paret, after he was punched savagely in the head eighteen times before falling unconscious in a welterweight championship against Emile Griffith at Madison Square Garden in New York.<sup>109</sup>

In the early 1980's, the widely publicized death of Duk Koo Kim, at the hands of Ray "Boom Boom" Mancini, again brought attention to the deadly consequences of boxing.<sup>110</sup> Former champion Davey Moore was killed in a bout due to lack of medical supervision.<sup>111</sup> Most recently, the death of journeyman Johnny Montantes has brought the debate of mandatory headgear to light.<sup>112</sup>

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102. See *id.* at 75.

103. See *id.* at 76.

104. See *id.*

105. See GORN, *supra* note 13, at 76.

106. See Nat Fleischer, *Second Guessers Know the Answers*, THE RING, Sept. 1993, at 68.

107. See *id.* at 73.

108. See *id.* at 68.

109. See John Whisler, *TV Has Firm Hold On Sweet Science; Fight Coverage as Common as an Uppercut*, SAN ANTONIO EXPRESS-NEWS, Aug. 17, 1997, at 4C.

110. See Walsh, *supra* note 78, at 63. A national television audience watched the championship fight. See *id.*

111. See Rosen, *supra* note 3, at 624 n.83.

112. See *Death Fuels Debate Over Headgear*, NEWS AND OBSERVER (Raleigh, NC),

In addition to boxing fatalities, many other health and safety hazards are imminent in the sport. It is almost universally agreed that the largest health threat in boxing is chronic traumatic encephalopathy, otherwise known as "punch-drunk syndrome," which is the result of multiple blows to the head.<sup>113</sup> The American Medical Association (AMA) has found that approximately 15% of professional boxers endure punch-drunk syndrome.<sup>114</sup> A recent report to Congress showed that 20% of boxers experience symptoms of chronic brain injury following their retirement; however, other research demonstrates that for career boxers, that number may be as high as 87%.<sup>115</sup> The symptoms of chronic brain injury include personality changes, slurred speech, difficulty walking and memory loss.<sup>116</sup> Additionally, medical journals find that boxers who have fought more than fifty times have inhibited thinking ability, headaches, and blurred vision even though there are no outward signs of brain damage.<sup>117</sup> The first major medical society to publicly oppose

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Oct. 3, 1997, at C5. Montantes' wife lobbied for headgear following her husband's death at the hands of James Crayton during their junior welterweight bout. *See id.* In addition, contender Jimmy Garcia was killed in a nationally televised bout in 1995. *See* Norm Frauenheim, *Boxing's Future On the Ropes After Tyson's Biting Antics*, ARIZONA REPUBLIC, July 6, 1997, at C1.

Some find the number of deaths in boxing unacceptably high due to the comparatively few participants. *See* TORG, *supra* note 99, at 5. However, at least one study has discovered contrary results, finding that 0.13 out of 1000 participants die each year from boxing, a lower rate than other high-risk sports. *See* Walsh, *supra* note 78, at 63 n.4.

113. Joan Ryan, *Brain-Rattling Punches Boxing's Biggest Foe*, S.F. CHRON., Mar. 9, 1996, at E1. Punch-Drunk syndrome is caused by repeated blows to the head that causes the brain to slam against the side of the skull. *See* ALLAN M. LEVY, SPORTS INJURY HANDBOOK 155 (1993). The result is lost brain cells and scarring caused by bleeding in the brain. *See id.*; *see also* DANIEL N. KULUND, THE INJURED ATHLETE 269 (1988).

114. *See* Walsh, *supra* note 78, at 66.

115. *See* PROFESSIONAL BOXING SAFETY ACT S. REP. NO 104-159 (1995); *see also* Walsh, *supra* note 78, at 63 (citing George D. Lundberg, *Boxing Should be Banned in Civilized Countries - Round 3*, 255 JAMA 2483 (1986)).

116. *See* S. REP. NO. 104-159. The clinical effects of one treated for punch-drunk syndrome include irritable and depressed moods, slurred and monotone speech, tremors, dull headaches and seizures. *See* KULUND, *supra* note 113, at 269.

117. *See* LEVY, *supra* note 113, at 155. A medical study announced by renowned boxing trainer Angelo Dundee found that one out of five veteran boxers suffers from dementia, tremors or a stumbling gait. *See* ABC *Nightline* (ABC television broadcast, July 9, 1997).

boxing was The Southern Neurosurgical Society, passing a resolution "opposing professional, collegiate, and amateur boxing in its present form."<sup>118</sup> The AMA followed the lead in 1982 and called for a concerted national effort to ban boxing.<sup>119</sup> According to the AMA, acute and long term brain injury occurs from even minimal exposure to boxing.<sup>120</sup>

Injury can of course occur without multiple blows. The most severe head injury to the head is brain hemorrhaging, which can end in paralysis or even death.<sup>121</sup> Punches to the head may cause the brain to rock against the sides of the skull, causing bleeding and destruction of brain cells.<sup>122</sup> The damaged part of the brain then scars, which interferes with brain functions.<sup>123</sup> A punch in the face by a professional boxer has been compared to the blow of a thirteen pound sledgehammer that is traveling at a speed of twenty miles per hour.<sup>124</sup> A straight right punch typically possesses a force sixty times greater than gravity and travels at a speed of more than thirty miles per hour.<sup>125</sup> The pressure caused by a punch sends waves through the head that snaps nerve fibers and destroys brain cells.<sup>126</sup> The "knockout" that occurs twists and contorts the brain stem, overwhelming the sleep-wake center of the brain and in turn bombards the

118. DON H. O'DONOGHUE, M.D., TREATMENT OF INJURIES TO ATHLETES 94 (1984).

119. See Walsh, *supra* note 78, at 68. The AMA Resolution stated:

RESOLVED, That the American Medical Ass'n:

1. Encourage the elimination of both amateur and professional boxing, a sport in which the primary objective is to inflict injury;
2. Communicate its opposition to boxing as a sport to appropriate regulating bodies;
3. Assist state medical societies to work with their state legislatures to enact laws to eliminate boxing in their jurisdictions; and
4. Educate the American public, especially children and young adults, about the dangerous effects on boxing on the health of participants.

*Id.* (quoting American Medical Ass'n, Proceedings of the House of Delegates: 38<sup>th</sup> Interim Meeting, Dec. 2-5, 1984, at 371 (1984)).

120. See Bershad & Ensor, *supra* note 38, at 868-69.

121. See LEVY, *supra* note 113, at 156.

122. See *id.* at 155.

123. See *id.*

124. See Walsh, *supra* note 78, at 71. The punch described was based on that of former heavyweight champion Frank Bruno. See *id.* at 71 n.76.

125. See Flannery & O'Brien, *supra* note 40, at 427.

126. See Walsh, *supra* note 78, at 71. Head injuries to boxers can be classified as either acute or chronic. See *id.* Acute injuries occur where there is a cerebral concussion. See *id.* The chronic brain injury is punch-drunk syndrome. See *id.*

brain with impulses that renders the boxer unconscious.<sup>127</sup>

Most medical experts are certain to agree that a concussion or head injury requires trained medical attention. Although most boxers regain consciousness immediately, medical attention is often needed to regain stimulation in the brain area.<sup>128</sup> In the event that consciousness is not immediately regained, the boxer must be transported to a hospital for further observation with as little movement of the body as possible.<sup>129</sup> Following a concussion, a fighter should not box for at least four weeks.<sup>130</sup> Due to the high probability and frequency of head injuries in boxing, it is necessary to ensure that adequately staffed medical personnel are available before, during, and after a fight.

There have been numerous boxing heroes who have suffered from injuries as described above. In 1976, Wilfred Benitez became the youngest boxer to ever win a world championship at the green age of 17.<sup>131</sup> Benitez has not even reached age forty but requires care from his relatives because he is barely coherent.<sup>132</sup> Jerry Quarry, age fifty-four, a former heavyweight contender and "old foil" to Muhammad Ali,<sup>133</sup> needs help showering, shaving, and putting on his socks.<sup>134</sup> His doctors have explained that he has the mind of an 80-year-old and is not expected to live more than ten years.<sup>135</sup>

127. See KULUND, *supra* note 113, at 269. Additionally, a boxer may be knocked unconscious by the pain of a shot to the eye or neck during a match. See *id.* Furthermore, A blow to the heart or solar plexus may block the flow of blood and render the fighter unconscious. See *id.* Any punches to the temporal region may lead to a loss of balance or dizziness. See *id.*

128. See J.L. Blonstein, *Boxing*, in *INJURY IN SPORT* 159, 161 (J. R. Armstrong and W. E. Tucker, eds., 1964).

129. See *id.*

130. See *id.* at 162.

131. See Ryan, *supra* note 113, at E1.

132. See *id.*

133. Michael Leahy, *Boxing Long Overdue for Movement to Stop Killing Its Combatants*, *ARKANSAS DEMOCRAT-GAZETTE*, June 23, 1996, at 2J.

134. See Ryan, *supra* note 113, at E1. In 1990, the Nevada State Athletic Commission voted 3-2 to deny Jerry Quarry a license to box at the age of 45, although his neurological condition was reported to be "good." See Robert Cassidy, *A Picture's Worth A Thousand Unspoken Words*, *BOXING* 90, Sept. 1990, at 46. Two years later, however, Quarry fought in Colorado, losing by knockout. See Leahy, *supra* note 133, at 2J.

135. See Ryan, *supra* note 113, at E1. Quarry was never advised nor required to get brain scans to determine any possible brain damage in his fighting days.



Probably the most recent and most tragic instance of brain injury in boxing is the case of Gerald McClellan. McClellan won the WBC middleweight championship on May 8, 1993, in a fifth round knockout over the highly regarded champion Julian Jackson.<sup>136</sup> Due to his success in knocking-out opponents in the first round and his self-celebrated cruelty in the ring, McClellan was branded "the hardest hitter in boxing."<sup>137</sup> On February 25, 1995, McClellan stepped in the ring against another devastating puncher, Nigel Benn.<sup>138</sup> McClellan collapsed during the bout as a result of a blood clot in his brain.<sup>139</sup> He almost died, but escaped with serious brain damage.<sup>140</sup> Today, McClellan requires constant care from his three sisters because he is blind and partially deaf.<sup>141</sup> McClellan wakes up everyday still believing that he is the WBC middleweight champion of the world because he has no short term memory.<sup>142</sup>

Also deserving of attention is a plethora of other serious injuries likely to take place in the boxing ring. Eye injuries are common in boxing and can lead to serious consequences. Hemorrhage around the eye causes swelling which impairs vision.<sup>143</sup> Continued blows to the eye may produce retinal hemorrhage, edema, tear or detachment.<sup>144</sup> Detached retinas require surgical repair and could cause blindness if a fighter continues to box.<sup>145</sup> An estimated 58% of boxers receive "vision-threatening injuries" as a result of experience in the ring.<sup>146</sup> Other common injuries resulting from boxing

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See Leahy, *supra* note 133 at 2J.

136. See Nigel Collins, *Winning the Title With A Bang, Gerald McClellan: The Hardest Hitter in Boxing*, THE RING, Sept. 1993, at 40.

137. *Id.* See also Richard Hoffer, *Enough?*, SPORTS ILLUSTRATED, Mar. 6, 1995, at 24.

138. See Rosen, *supra* note 3, at 611.

139. See *id.*

140. See *id.*

141. See Ryan, *supra* note 113, at E1.

142. See Leahy, *supra* note 133, at 2J.

143. See KULUND, *supra* note 113, at 276.

144. See *id.*

145. See LEVY, *supra* note 113, at 156. For example, former lightweight champion Aaron Pryor continued to box after a detached retina caused blindness in his left eye. See P.N. Ehrmann, *Dark Shadows: The Comeback of Aaron Pryor*, THE RING, Oct. 1990, at 23. The circumstances surrounding the comeback of Aaron Pryor are discussed below.

146. Walsh, *supra* note 78, at 72.

matches include broken nose, broken cheekbone, broken jaw, punctured eardrum, ruptured spleen, damaged liver, and wrist injuries.<sup>147</sup>

Recently, the boxing world has awoken to a new health threat: HIV and AIDS. In February 1996, heavyweight contender Tommy Morrison failed the required physical exam before a fight because he tested positive for the HIV virus.<sup>148</sup> The Nevada Athletic Commission immediately suspended Morrison from boxing.<sup>149</sup> After Morrison made the announcement that he was infected, nine states began testing boxers for HIV.<sup>150</sup>

Although celebrated by the media, Morrison's case is not the only one involving HIV. Lamar Parks was a middleweight contender who, after contracting the AIDS virus, had a friend pose as him to take a mandatory AIDS test.<sup>151</sup> After a second test was ordered, Parks quit training and never fought again.<sup>152</sup> In addition to Morrison and Parks, boxers Ruben Palacio, Proud Kilimanjaro, Eduardo Castro, and Paul Banke have each contracted HIV or the AIDS virus.<sup>153</sup> Despite mandatory testing in Massachusetts, Carl Madison was allowed to fight before the results of his AIDS test were returned.<sup>154</sup> The test later showed Madison was HIV positive.<sup>155</sup>

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147. See LEVY, *supra* note 113, at 156-58.

148. See William Gildea, *Morrison Confirms HIV Result; Promoter Says Suspended Boxer Tested Positive in Las Vegas*, WASH. POST, Feb. 13, 1996, at E1.

149. See *id.*

150. See Jon Saraceno, *Boxing Eyes Counterpunch to HIV Concerns*, USA TODAY, Mar. 12, 1996, at 1C. The Morrison story did not end in February 1996, however. See *Morrison Victorious with Quick Knockout*, SUN SENTINEL (Fort Lauderdale, Fla), Nov. 3, 1996, at 18C. Morrison fought again in Japan on November 2, 1996, when he knocked out Marcus Rhodes in the first round of a scheduled ten round heavyweight bout. See *id.*

151. See Saraceno, *supra* note 150, at 1C.

152. See *id.* Parks previously fought for the WBA Middleweight Championship against Reggie Johnson. See W. H. Stickney Jr., *Johnson Battles For Pride, Title; Challenger Parks Rates as 8-5 Favorite*, HOUSTON CHRON., Oct. 27, 1992.

153. See Saraceno, *supra* note 150, at 1C.

154. See *Death Fuels Debate over Headgear*, NEWS AND OBSERVER (Raleigh, NC), Oct. 3, 1997, at C5.

155. See *id.* However, at least one state, Florida, flatly refuses to test for the virus. See Saraceno, *supra* note 150, at 1C. Opponents of required testing point to the fact that chances of transmitting the virus are so insignificant as to not justify a bodily intrusion of an individual boxer. See Flannery & O'Brien, *supra* note 40, at 501 (stating that no instance of HIV transmission has occurred at any

As the previous paragraphs demonstrate, there is a need for some sort of regulation in the boxing industry to control boxers' health and safety. Experts agree that although headgear may help prevent head injuries, it does not reduce a punch's impact on the brain.<sup>156</sup> There has not been a consensus to increase the padding in gloves or bolster existing safety equipment in the ring.<sup>157</sup> Before the Professional Boxing Safety Act,<sup>158</sup> many venues had no rules governing the safety of fighters. At one recent fight in Colorado, for example, a local lifeguard served as the official "ringside physician."<sup>159</sup> Through a uniform set of rules, safety precautions and HIV tests will help reduce the concerns described above from occurring in the future.

### B. Criminal Influence In Boxing

It has always been believed that criminals and disreputable persons dominate the sport of boxing.<sup>160</sup> In January 1916, former heavyweight champion Jack Johnson signed a confession that he had thrown his 1915 fight with Jess Willard in which he was stopped in the 26th round.<sup>161</sup> Fixed fights and mob-controlled fighters were considered to be the norm in boxing's golden era of the 1940's and 1950's.<sup>162</sup> The fixed fights involving the legendary Jake LaMotta in the 1950's have been well documented.<sup>163</sup> Furthermore, former welterweight contender Harold Green admitted to faking a knockout against the soon to be champion Rocky Graziano in a third meeting between the two warriors on September 28, 1945.<sup>164</sup> Because boxing had

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professional sporting event held in the United States).

156. See Greg Logan, *Special Report: Concussions in Sports*, NEWSDAY, July 10, 1996, at A49.

157. See *id.*; see also Collins, *supra* note 136 and accompanying text.

158. Professional Boxing Safety Act, 15 U.S.C. § 6301-6313 (1998).

159. See Leahy, *supra* note 133, at 2J.

160. See *Tilelli v. Christenberry*, 120 N.Y.S.2d 697, 700 (1953).

161. See Steve Farhood, *Ringside Commentary*, THE RING, Feb. 1991, at 4.

162. See Frauenheim, *supra* note 112, at C1.

163. See CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 17 (1994). LaMotta testified that he had intentionally lost two fights for a promise that he would get a chance to fight for the middleweight championship of the world. See *id.*

164. See Robert Cassidy, *45 Years After Losing to Graziano, Harold Green Says "I Was Told to Lay Down,"* THE RING, Feb. 1991, at 46. The disclosure came in

such a poor reputation due to organized crime and fixed fights, Senator Kefauver, as previously stated, introduced a federal law making sports bribery a crime.<sup>165</sup>

A recent survey conducted by *The Ring* magazine queried insiders in the boxing industry whether they believed that fixed fights still existed.<sup>166</sup> Forty-nine percent responded affirmatively.<sup>167</sup> Additionally, recent investigations have found ample confirmation of underworld intrusion.<sup>168</sup> A 1980 undercover Federal Bureau of Investigation (FBI) probe was examined by the Senate in determining mob influence in boxing.<sup>169</sup> One FBI investigation focused on then-assistant boxing commissioner of New Jersey, Bob Lee.<sup>170</sup> Lee admitted accepting contributions towards his attempts to gain higher posts in various boxing sanctioning organizations.<sup>171</sup> Lee was found to have accepted money and gifts from promoters Don King, Butch Lewis, Dan Duva and Bob Arum.<sup>172</sup> Additionally, Lee solicited Atlantic City casinos for contributions.<sup>173</sup> When required to appear before a federal grand jury, Lee invoked his Fifth Amendment privilege against self-incrimination.<sup>174</sup> Lee is the current president of the International Boxing Federation (IBF).<sup>175</sup> A New Jersey commission reported in 1985 that "the presence of organized crime in boxing . . . warrants aggressive official reaction. . . . [N]o human endeavor so brutal, so susceptible to fraud and so generally degrading should be accorded any

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1991. *See id.*

165. *See* CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 17 (1994); *See also* Howard, *supra* note 82, at 107.

166. *See* Steve Farhood, *Boxing's Insiders Have Their Say*, THE RING, May 1993, at 27.

167. *See id.* Fifty-one percent answered in the negative. *See id.*

168. *See* Bershada & Ensor, *supra* note 38, at 874 (describing memory lapses of testifying witnesses that occurred only when questioning turned to organized crime within boxing during a State of New Jersey investigation). There was, however, no conclusive proof that any particular boxer was directly involved with an organized crime figure or participated in a fixed fight. *See id.*

169. *See* Denise Tom, *Senate Uses FBI to Link Boxing, Organized Crime*, USA TODAY, Aug. 13, 1992, at 15C.

170. *See id.*

171. Bershada & Ensor, *supra* note 38, at 893.

172. *See id.* at 893 n.172.

173. *See id.*

174. *See* Tom, *supra* note 169, at 15C.

175. *See id.*

societal standing.”<sup>176</sup>

Promoter Don King has been linked to organized crime families as well.<sup>177</sup> Evidence demonstrated that four organized crime families arranged a meeting with King and that King agreed to co-promote an event with the crime families.<sup>178</sup> In addition, former Gambino crime boss Salvatore Gravano testified to the fact that contact was made with King in contemplation of illegal activities.<sup>179</sup> When called to submit testimony, King asserted his Fifth Amendment privilege.<sup>180</sup>

Significant links between boxers and organized crime have also been discovered in recent history. Former WBC welterweight champion James “Buddy” McGirt is managed by Al Certo who has been identified by the FBI as a member of the Genovese crime family.<sup>181</sup> Gravano testified in 1993 that it was “put on the record” that Gambino soldier Joseph “Jo Jo” Corozzo had a financial interest in McGirt.<sup>182</sup> Also implicated in organized crime was former IBF middleweight champion Iran Barkley.<sup>183</sup> Barkley testified that one of his advisors was Lenny Minuto who is associated with the Luchese crime family.<sup>184</sup> Former middleweight and WBA cruiserweight champion Bobby Czyz has also allegedly been linked to interest-free loans from Luchese crime family members.<sup>185</sup> Also, Salvatore Gravano testified to a plan of

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176. Bershada & Ensor, *supra* note 38, at 895.

177. See *Boxing*, USA TODAY, Aug. 14, 1992, at 15C.

178. See CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 18 (1994). A witness for the FBI referred to as “Bobby” was the source of this evidence. See *id.* Bobby posed as a drug dealer who was looking to launder large amounts of proceeds from the sale of illegal drugs in the boxing industry. See *id.* However, the investigation ended before the promotion was complete. See *id.*

179. See *id.*

180. See *id.* King is not the only promoter associated with organized crime. In 1993, promoter John Yopp was indicted by a federal grand jury on charges that he was the leader of a multimillion dollar drug ring in Detroit. See *Outside the Ropes*, THE RING, June 1993, at 9. The drug ring operated from Detroit to Los Angeles and involved large shipments of cocaine and heroin. See *id.*

181. See CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 20 (1994).

182. See *id.*

183. See *id.* at 22.

184. See *id.* Various sums of money ranging from \$100,000 to \$125,000 have gone from Barkley’s promotions directly to Minuto. See *id.*

185. See S. Rep. No. 103-408, at 23.

the Gambino crime family to move heavyweight Renaldo Snipes though the top ten rankings into a bout with Francesco Damiani.<sup>186</sup> Snipes was then ordered to lose the fight setting up a staged fight between Damiani and then champion Mike Tyson.<sup>187</sup>

Allegations of corruption in the boxing industry have continued well into the 1990s. Former World Boxing Organization (WBO) champion Ray Mercer allegedly offered journeyman Jesse Ferguson \$100,000 to give the contest away during the course of their fight.<sup>188</sup> In 1997 shortly after the Professional Boxing Safety Act took effect, members of the Arizona Boxing Commission were embroiled in a controversy over issuing fraudulent licenses to fighters.<sup>189</sup> Additionally, a recent report was released from the Oklahoma Department of Labor indicating numerous allegations of fraud and corruption in professional boxing within the state.<sup>190</sup> The report revealed racketeering schemes and elements of tax evasion, Social Security fraud, harboring of fugitives, transportation of fugitives across state lines, fight fixing and forgery.<sup>191</sup> Oklahoma Labor Commissioner Brenda Reneau asked for stronger regulation of the sport to curb the problem of crime within the state.<sup>192</sup> These illustrations of the criminal element in boxing point to the need for regulation of the sport. As the statements of one referee indicate, without regulation, boxing need not be abolished because "it would simply die a natural death."<sup>193</sup>

### C. Promoter and Manager Responsibility Over the Athlete

Another need for regulation lies in the business practices

186. See Steve Farhood, *A Star-Spangled Beating?*, KO, Aug. 1993, at 13.

187. See *id.*

188. See *Was the Fix In*, KO, July 1993, at 64. After a trial and an admission of the events by Ferguson, Mercer was cleared of wrongdoing. See Robert Thomas, *Jury Finds Mercer Is Not Guilty In Ferguson Bout Bribery Case*, N.Y. TIMES, Mar. 30, 1994, at 15B.

189. See Frauenheim, *supra* note 112, at C1.

190. See Oklahoma Department of Labor, *Reneau to Ask for Stronger Regulation of Boxing to Deal with Alleged Fraud and Racketeering*, (visited Mar. 21, 1999) <<http://www.oklaosf.state.ok.us/~okdol/boxing/index.htm>>.

191. See *id.*

192. See *id.*

193. CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 1 (1994).

of the boxing world that often befuddle the boxer who is committed to the sport yet dependant upon other forces to guide him. Boxing commentator Charley Steiner recently stated that “[w]hat we’re seeing here is capitalism at its best and worst, the rich get very rich, the little guys get swallowed up and public be damned.”<sup>194</sup> Boxers can have their rights and talents exploited by commissions or sanctioning organizations if not guided by a careful eye. For instance, state boxing commissions have the sole responsibility of selecting officials for fights held within their jurisdiction.<sup>195</sup> Due to competition among states to host matches, however, it has been alleged that sanctioning organizations and promoters influence the selection of judges and referees.<sup>196</sup> In this instance, the regulated rule the regulators. The problem is, what organization will be held accountable if the events during the fight are questioned: the state commission, sanctioning body or promoter?<sup>197</sup> Moreover, sanctioning organizations will often require that their own rules govern the fight rather than those endorsed by the state commissions.<sup>198</sup>

For example, New York Boxing Commissioner Randy Gordon testified before the Senate that he was approached by the WBA regarding a world lightweight championship being held under the commission’s auspices.<sup>199</sup> Gordon testified that the WBA required that in order for the fight to continue, he must agree to endorse the WBA’s selection of judges.<sup>200</sup> Competition between boxing commissions may be considerable since some jurisdictions are willing to pay “site

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194. See *ABC Nightline* (ABC television broadcast, July 9, 1997) (statements of Charley Steiner).

195. See CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 4 (1994).

196. See *id.* For example, a former Ohio boxing commissioner claimed that he was willing to overlook criminal behavior in order to ensure that a fight occurred in Ohio. See *id.* at 5. The James Toney – Dave Tiberi fight is an example of the sanctioning organizations and promoters prevailing over the state and boxer. See *id.* at 11. For that match the IBF required that organization referees be used instead of ones authorized by the State of New Jersey, where the bout was held. See *id.*

197. See *id.*

198. See *id.*

199. See S. REP. NO. 103-408, at 4.

200. See *id.*

fees” for promoting attractive high profile boxing matches.<sup>201</sup> Gordon testified that he was “more or less handcuffed” and was like “a homeowner whose house is being robbed at gunpoint by a roving band of thugs.”<sup>202</sup>

The sanctioning bodies also rank or rate fighters for purposes of competing for their national or international title.<sup>203</sup> A fighter is essentially dependent upon the sanctioning organization to gain a right to fight for a title. Therefore, if the boxer has no chance of fighting for a title, his ability to obtain substantial earnings in the sport is altered significantly.<sup>204</sup> Editor Steve Farhood of *Ring Magazine* described this system in the following manner: “Less is based on talent than at any time in boxing history. It’s not whether your fighter has kayoed twenty straight opponents, but how many (sanctioning body) conventions you’ve been to.”<sup>205</sup>

The sanctioning body then requires a sanction fee to be paid every time the champion defends the title.<sup>206</sup> The WBC’s recent tax records demonstrate that the revenue received from sanction fees paid by boxers is close to \$1 million annually.<sup>207</sup> When explaining the sanctioning organizations’ functions, former heavyweight champion Evander Holyfield testified, “I can’t recall them doing anything but showing up and having judges to judge the fight.”<sup>208</sup>

Another problem that frequently occurs in boxing is the incentive to promote the interest of one fighter at the expense of fighter. This often occurs in the context of a mismatch. Although boxing matches are presumed to occur with two evenly matched opponents, it is not unusual for a mismatch to occur in professional boxing for the sole purpose of improving the superior boxer’s record.<sup>209</sup> Since one fighter is

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201. *See id.* Most notable among states willing to pay exorbitant site fees are Nevada and New Jersey, which have legal gambling that attracts large amounts of revenue. *See id.*

202. *Id.*

203. *See* S. REP. NO. 103-408, at 13.

204. *See id.*

205. *Id.*

206. *See id.* at 11

207. *See* S. REP. NO. 103-408, at 11.

208. *Id.* Holyfield also added that if a fighter wins a title, he is required to pay for his own championship belt. *See id.*

209. *See id.* at 6.



of far superior skill, the chances of injury are increased. A dramatic instance of a mismatch was the WBA title fight between Ray "Boom Boom" Mancini and the Korean challenger Duk Koo Kim. Prior to Kim's death at the hands of Mancini, he was not rated in the top ten by any boxing expert.<sup>210</sup> Moreover, the Korean Sports Foundation did not report having Kim listed among Korea's top forty boxers.<sup>211</sup> The end result of the match was a win for Mancini and the death of Kim.

Intentional mismatches also occur in order to make a fighter a more attractive draw to the public and sanctioning organizations. In 1979, WBC bantamweight champion Carlos Zarate fought the number one challenger from Africa.<sup>212</sup> Zarate scored a third round knockout with relatively ease.<sup>213</sup> Although ranked as the top challenger by the WBC, it was later revealed that Zarate's opponent had never had a professional fight.<sup>214</sup>

Another area of caution for fighters is unscrupulous management and promoters.<sup>215</sup> In general, a manager and promoter should maintain an arms-length relationship with the boxer.<sup>216</sup> Many states recognize the need to regulate the amount of money a manager gets from the fighter's purse.<sup>217</sup> The typical maximum amount that the manager can deduct

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210. See Walsh, *supra* note 78, at 75.

211. See *id.* (describing a poll conducted by *The Ring* boxing magazine).

212. See CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 6 (1994).

213. See *id.*

214. See *id.* Another example occurred December 12, 1991 when heavyweight contender Alexander Zolkin fought James Holley. See *id.* Zolkin was a rising heavyweight while Holley had lost his previous twenty-four fights with twenty of them coming by knockout. See *id.* As anticipated, Zolkin won by a first round knockout. See *id.*

215. See Ian Forman, *Boxing in the Legal Arena*, 3 SETON HALL J. SPORT L. 75, 92 (1996). The duties of promoters have been viewed as the following:

[Promoters] sign fighters and arrange for tickets to be sold. Promoters must adopt flamboyant public personalities, stage events in marketable locations, and continually invent new catch-phrases to advertise their exhibitions and make the public take notice. In addition to being an outstanding showman, the modern promoter is often a cunning and ruthless businessman who uses his power and superior bargaining position to his advantage whenever possible.

*Id.*

216. See CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 13 (1994).

217. See *id.*

for his salary in states that regulate managerial relations is 33.3%.<sup>218</sup> Some states also prohibit promoters from having a financial interest in any of the fighters that they are promoting.<sup>219</sup> The unwary boxer may be “duped” by the promoter or manager if he is unaware of state regulations and the business dealings in the boxing world.

For example, promoter Don King promoted many heavyweight fighters in states that prohibit a promoter – manager dual role. Don King’s son, Carl King, assumed the role of manager for the fighters, charging them a 50% managerial fee.<sup>220</sup> Carl King’s salary was then paid to Don King Productions.<sup>221</sup> A notable example occurred in a 1986 fight between Tim Witherspoon and James “Boncrusher” Smith.<sup>222</sup> After an investigation, it was discovered that Carl King was listed as the manager of both Witherspoon and Smith.<sup>223</sup> This was in direct violation of a New York State Athletic Commission rule that prohibited a manager from representing two athletes competing against one another in a boxing match.<sup>224</sup> Despite Witherspoon’s prefight objections, Don King promoted the fight while Carl King managed both fighters in the heavyweight championship bout.<sup>225</sup>

Former heavyweight champion Mike Tyson sued Don King alleging that King fraudulently siphoned millions of dollars from his boxing winnings.<sup>226</sup> Tyson sued for \$100 million claiming that King forced Tyson to sign contracts without the advice of counsel while Tyson was serving a prison sentence in Indiana.<sup>227</sup> King allegedly reduced Tyson’s share of profits and made improper deductions.<sup>228</sup> Former King financial advisor, Joseph J. Maffia, claimed in 1992 that funds were deducted from Tyson’s purses.<sup>229</sup> Maffia claimed that King

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218. *See id.*

219. *See id.*

220. *See* S. REP. NO. 103-408, at 14.

221. *See id.*

222. *See id.*

223. *See* Bershada & Ensor, *supra* note 38, at 878.

224. *See id.*

225. *See id.*

226. *See* Tom Pedulla, *Tyson Sues King for \$100 Million, Cites Fraud, Theft, USA TODAY*, Mar. 6, 1998, at 10C.

227. *See id.*

228. *See id.*

229. *See Fight Confidential*, KO, Sept. 1992, at 10.

took a third of Tyson's purse as his promoter fee; then deducted \$100,000 for his wife, Henrietta, who was named as consultant; \$100,000 for each of his two sons, Eric and Carl, as consultants; and \$52,000 for his daughter, Debbie, who was named the president of the Mike Tyson Fan Club.<sup>230</sup>

One way that disreputable promoters may control a boxing championship is through multiple option contracts.<sup>231</sup> By including a multiple option clause in the contract, a promoter of a champion can require a challenger to allow the promoter to promote the next fight if the challenger beats his client.<sup>232</sup> The promoter can prevent the fight if the challenger refuses to agree to the multiple option contract.<sup>233</sup> This device assures the promoter of promoting the next championship fight regardless of the outcome of the present championship fight. James "Buster" Douglas was tied to such a commitment with Don King after he won the world heavyweight championship from Mike Tyson in Tokyo on February 10, 1990.<sup>234</sup> The agreement provided that the three year term of the existing contract be extended for the entire duration that Douglas was champion and for two years following the loss of the title.<sup>235</sup> This option was to be recognized in the event that Douglas won the championship.<sup>236</sup> Douglas brought suit in federal court claiming that the option was void due to its intention to run for an unlimited time.<sup>237</sup> The court reasoned that the commitment was questionable because it was excessive, but did not suffer from indefiniteness or ambiguity.<sup>238</sup>

Another example of a fighter who could have benefited

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230. *See id.*

231. *See* CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 15 (1994).

232. *See id.*

233. *See id.*

234. *See* Don King Productions, Inc., v. Douglas, 742 F. Supp. 741, 749 (S.D.N.Y. 1990). Douglas signed the promotional agreement with King prior to his fight against Tyson. *See id.* at 747.

235. *See id.* at 748.

236. *See id.*

237. *See id.* at 763. Specifically, suit was brought in the Southern District of New York. *See id.*

238. *See* Don King Productions, 742 F. Supp. at 763. Douglas ultimately paid Don King \$4 million to be released from the contract. *See* Foreman, *supra* note 215, at 95.

from regulation over the unscrupulous practices of boxing promoters is former junior welterweight champion Aaron Pryor. Pryor was lured back into boxing by novice promoter and manager, Diana Lewis, after his retirement from boxing in 1987.<sup>239</sup> Pryor was medically blind in his left eye, suffering from a detached retina and a cataract.<sup>240</sup> Furthermore, Pryor was coming off a six year addiction to cocaine.<sup>241</sup> Lewis had never promoted a fight, but guided Pryor into the ring against Jerry Strickland, a fighter who had compiled a verified record of eleven wins and seventy-four losses.<sup>242</sup> Lewis attempted to get fights for Pryor in New York, California, New Jersey and Nevada.<sup>243</sup> However, these attempts failed when the state commissions refused to license Pryor because of his blindness.<sup>244</sup> The only state that would allow Pryor to fight was Wisconsin, which at the time lacked both a boxing commission and an athletic commission.<sup>245</sup> Following the fight in Wisconsin, an investigation revealed that Pryor submitted forged mandatory medical and insurance forms.<sup>246</sup>

It has been stated that "once boxers enter the business, they surrender all control over their careers."<sup>247</sup> As the preceding paragraphs suggest, professional boxers are often

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239. See Ehrmann, *supra* note 145, at 24. Diana Lewis' major success as a sports agent prior to Aaron Pryor was reported as getting a cowchip-throwing champion a tryout with the New York Jets. See *id.*

240. See *id.* Dr. David Smith reported that Pryor had major eye damage and had lost the focusing lens in his eye. See *id.* at 24.

241. See *id.* at 23.

242. See *id.* at 25.

243. See Ehrmann, *supra* note 145, at 25.

244. See *id.* at 23-25.

245. See *id.* at 23. New York Boxing Commission Chairman Randy Gordon appealed to Wisconsin Governor Tommy Thompson "for a stay of execution for Aaron Pryor." *Id.* at 24. When questioned by the media, Diana Lewis claimed, "I plan on being Wisconsin boxing." *Oooh-Oooh, Diana*, THE RING, Feb. 1993, at 8. When questioned about Pryor's blindness in one eye, Lewis explained, "If he's blind in one eye, he's still got another eye." Ehrmann, *supra* note 145, at 23. After Pryor's fight, Wisconsin recommended that Lewis be barred from ever participating in boxing again. See *id.*

246. See *Gossipline*, KO, Mar. 1993, at 62.

247. *The Professional Boxing Safety Act: Joint Hearing on H.R. 1186 and S. 187 Before the House Subcomm. on Commerce, Trade, and Hazardous Materials of the House Comm. on Commerce and the Subcomm. on Workforce Protections of the House Comm. on Economic and Educational Opportunities*, 104th Cong. 12 (1996) [hereinafter *Owens Statement*] (statement of Major R. Owens, Congressman).

captives of promoters and managers and are subject to the influence of the various sanctioning organizations. Fighters are merely the "powerless puppets" of a business in which they have no control.<sup>248</sup> A boxer's only means of surviving in the industry is in the hands of their professional handlers. Regulation is necessary to ensure that sanctioning organizations place the best interests of the boxers as their first priority, as well as preventing forces similar to Don King and Diana Lewis from exerting undue or illegal influence over their clients.

#### *D. Cooperative Effort Among Boxing Commissions*

Another major reason for the regulation of boxing is the cooperative effort that is needed among state commissions. As the nationwide boxing system currently stands, forty-seven states have boxing commissions.<sup>249</sup> The regulatory system has been allowed to function without federal involvement because Congress has been reluctant to regulate sports that "have developed mechanisms which perform a self-regulating function."<sup>250</sup> Until the release of the Professional Boxing Safety Act, there was a frightening disparity of rules and regulations between the state commissions. For example, no one is certain how many licensed boxers exist in the United States, although the best estimate is around 5000.<sup>251</sup> Until the years of national boxing anarchy have an opportunity to adjust to the new boxing act, the true number of boxers will not be known. The major reason for this is that no mechanism existed for verifying a fighter's record.<sup>252</sup> Until 1997, there was no communication between the states. A fighter could fight in State A receiving a health threatening knockout, then fight the next day in State B.<sup>253</sup> State B may not find out about

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248. *Id.*

249. See Flannery & O'Brien, *supra* note 40, at 429. The states currently without commissions are Colorado, South Dakota and Wyoming. See *id.* In Kansas, however, the regulation of boxing is left at the sole discretion of city officials. See *id.*

250. Bershad & Ensor, *supra* note 38, at 876.

251. See HAUSER, *supra* note 49, at 59.

252. See *id.*

253. See *id.* (quoting Bert Sugar).

State A's fight for weeks, if at all.<sup>254</sup>

Boxing is filled with stories of boxers like Aaron Pryor, who are denied a license to fight in one state and then travel to another state to gain the opportunity to enter the ring. One of the more humorous examples involved journeyman fighter Ramon Zavala. Zavala was listed as having fought in six states between the years of 1989 to 1991.<sup>255</sup> However, the six states' commission reports listed Zavala with different birthdays, different social security numbers and different residences.<sup>256</sup>

Zavala is not alone. Many fighters use assumed names and fight in different states under various aliases. For example, boxer Eddie Flanning was knocked out in a fight in New York in 1982 and, under the New York rules at the time, Flanning was not able to fight again for forty-five days.<sup>257</sup> However, six nights later Flanning, under the name Raheem Tayib, fought in Charleston, South Carolina.<sup>258</sup> Not only was Flanning knocked out on this occasion, but he fought a third time several days later as well.<sup>259</sup>

The health concerns for fighting so frequently are obvious. To illustrate, fighter Ricky Stackhouse was barred for life from fighting in both Florida and New York because his skills and health deteriorated to an unsafe level, at least in part due to fighting so frequently.<sup>260</sup> Nevertheless, he obtained a non-title fight with then-IBF world middleweight champion James Toney in Michigan.<sup>261</sup> After suffering a three round beating by Toney, Stackhouse later fought future champion Charles Brewer, losing by a third round knockout again.<sup>262</sup>

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254. *See id.*

255. *See A Busy Fighter*, THE RING, Jan. 1992, at 9.

256. *See id.* Zavala is a native of Venezuela who is listed in some states as residing in Los Angeles, California. *See id.* Although fighting top competition, Zavala lost more than one half of his fights. *See id.*

257. *See* CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 7-8 (1994).

258. *See id.* at 8.

259. *See id.*

260. *See* S. REP. NO. 103-408, at 8.

261. *See id.*

262. *See id.*

### III. STATE SCHEMES FOR REGULATING THE SPORT OF BOXING

As previously mentioned, with few exceptions, every state has a boxing commission that regulates boxing contests.<sup>263</sup> In general, courts have been reluctant to find liability in boxing related injuries so long as the state rules were followed.<sup>264</sup> Therefore, the significance of state statutory schemes cannot be overstated and it is of obvious importance that states leave no void in the regulation of a boxing contest. The following section is a brief overview of the regulations in three of the most active boxing states.

#### A. *New York*<sup>265</sup>

In 1920, New York became the first state to make boxing legal by regulatating its performances.<sup>266</sup> New York has a state athletic commission, as well as a medical advisory board, that prepares regulations and develops educational programs.<sup>267</sup> A boxing exhibition will not be held in the state unless a recognized official representing the commission is in attendance.<sup>268</sup> All persons involved in the boxing event must procure a license from the commission before they participate.<sup>269</sup> The commission may issue temporary working permits for individuals involved in the execution of a boxing match who are not permanent residents of the state.<sup>270</sup> Any

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263. See Flannery & O'Brien, *supra* note 40, at 429; see also *supra* text accompanying note 250.

264. See, e.g., *Classen v. Izquierdo*, 520 N.Y.S.2d 999, 1001 (1987) (finding that the defendant's responsibility was to conform to the guidelines of the sanctioning body); see also *Moss v. Ohio Ass'n of United States of America/Amateur Boxing Federation, Inc.*, 1987 WL 9122, at \*3 (Ohio App. 2d) (stating that as long as there is compliance with state guidelines, the defendant will not be held liable).

265. What follows is a summary of the statutory regulations that have been pronounced as law by the legislature. Other regulatory rules may exist that have been created by the commission. The interplay of the various commissions will be discussed in Part IV, below, in conjunction with the founding of the Professional Boxing Safety Act.

266. See CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 4 (1994).

267. See N.Y. UNCONSOL. LAW § 8901, 8904 (McKinney 1997).

268. See *id.* § 8905.

269. See *id.* § 8907. "Participants" include "all corporations, persons, referees, judges, match-makers, timekeepers, corporation treasurers, box office employees, ticket takers, doormen, ushers, professional boxers, professional wrestlers, their managers, trainers, seconds, announcers and special policemen." *Id.*

270. N.Y. UNCONSOL. LAW § 8909-a (McKinney 1997).

license granted by New York is valid only for a year.<sup>271</sup> Among the factors considered by the commission when issuing a license include "financial responsibility, experience, character, general fitness of the applicant, . . . the public interest, . . . the best interest of boxing, . . . and general safety."<sup>272</sup> Before a fight can take place, each boxer must present a license and proof of identification.<sup>273</sup>

Any boxer seeking a New York license must submit to a physical and a neurological exam before a license will be granted.<sup>274</sup> The results of the neurological exam will be made a part of the permanent record of the fighter.<sup>275</sup> The fighter must agree to waive any right of confidentiality with regards to medical records that may provide information of "the treatment of any physical condition which relates to his ability to fight."<sup>276</sup> If a fighter is knocked out, he may not participate in any match in the next ninety days.<sup>277</sup> If he loses the bout by technical knockout, he may not participate in another bout within forty-five days.<sup>278</sup>

New York makes it illegal for any person or corporation to have a financial interest in a boxer who is boxing on the premises owned by that person or corporation, absent written authorization from the commission.<sup>279</sup> New York also makes it a crime for a boxing contestant to be paid for his services before the commencement of the bout.<sup>280</sup> Any licensed individual who participates in a sham or collusive fight will have their license removed by the commission.<sup>281</sup> If

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271. See *id.* § 8910. The statute provides that a valid license must be reissued following a year. See *id.*

272. *Id.* § 8912. A prerequisite to obtaining a license is the submission of fingerprints by all applicants filed in duplicate which are kept by the commission and forwarded to justice services within the state. See *id.* § 8911.

273. See *id.* § 8923. The license must show the boxer's "name, photograph, social security number, date of birth, . . . prior fight history . . . and prior medical history." *Id.*

274. See N.Y. UNCONSOL. LAW § 8912 (McKinney 1997).

275. See *id.*

276. *Id.*

277. See *id.* § 8917.

278. See N.Y. UNCONSOL. LAW § 8917 (McKinney 1997).

279. See *id.* § 8913. Additionally, a fighter must make available to the commission any contract with any other party before a license will be granted. See *id.* § 8912.

280. See *id.* § 8914.

281. See *id.* § 8915.



there are reasonable grounds to believe that a boxer has not given an honest exhibition of his skills, the commission reserves the right to withhold payment to the individual.<sup>282</sup> In addition, if a promoter or matchmaker knowingly arranges a bout where one boxer has far superior skill to another and physical harm could potentially occur, the commission may discipline the promoter or matchmaker.<sup>283</sup> A promoter has an affirmative duty to procure insurance for a licensed boxer that covers "medical, surgical, and hospital care with a minimum limit of seven thousand five hundred dollars."<sup>284</sup> Moreover, \$100,000 of insurance must be provided in the event of the death of a licensed fighter.<sup>285</sup>

The commission reserves the right to revoke the license of anyone "convicted of a crime or who is associated or consorting with any person who has . . . been convicted of a crime."<sup>286</sup> A license holder may also have his license revoked if he consorts with bookmakers or gamblers.<sup>287</sup> Generally, all license holders have a duty to be financially responsible and free from any fraudulent or dishonest conduct.<sup>288</sup>

All bouts conducted under the commission's auspices shall be scheduled for no more than fifteen rounds, with rounds constituting no more than three minutes.<sup>289</sup> No boxer may fight in more than fifteen rounds of action within a seventy-two hour period.<sup>290</sup> Every bout must have a duly licensed referee, three licensed judges, and at least one physician.<sup>291</sup> The physician may terminate the bout at any time if he or she believes a boxer has sustained "severe punishment or is in danger of serious physical injury."<sup>292</sup> The physician may enter the ring at any time and require the

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282. See N.Y. UNCONSOL. LAW § 8915 (McKinney 1997).

283. See *id.*

284. *Id.* § 8928-a.

285. See *id.* The benefits must be payable to the fighter's estate and the commission may increase the required minimum amounts as it deems appropriate. See *id.*

286. N.Y. UNCONSOL. LAW § 8917 (McKinney 1997).

287. See *id.*

288. See *id.* The New York commission will likely recognize any violation in another state. See *id.*

289. See *id.* § 8923.

290. See N.Y. UNCONSOL. LAW § 8923 (McKinney 1997).

291. See *id.*

292. *Id.* § 8926.

fighter and his manager to remain in the ring or premises until he is satisfied the boxer is physically able to leave.<sup>293</sup> The commission may require the presence of medical equipment, personnel and an ambulance at any match.<sup>294</sup>

New York also requires the fighters to wear thumbless gloves that weigh no less than eight ounces.<sup>295</sup> The commission must approve the ring before the bout begins.<sup>296</sup> The New York Boxing Commission also has the duty to study various types of headgear and may recommend that boxers use such equipment as a safety precaution.<sup>297</sup>

In conclusion, the New York Boxing Commission is well prepared for many of the problems illustrated above. Precautions are taken, such as the neurological exam,<sup>298</sup> to ensure that the fighter is in the requisite physical condition before he fights. Steps are even being taken to research further safety in boxing.<sup>299</sup> Furthermore, criminal influences are kept minimal because the commission reserves the right to revoke a license of any individual who is associated with others convicted of crimes. New York has also implemented procedures to ensure that promoters do not have corrupting influence over the boxer.

### B. New Jersey<sup>300</sup>

Similarly, New Jersey has a state athletic commission that oversees the sport of boxing within its borders. The powers to control the sport are given to the State Athletic Control Board.<sup>301</sup> The New Jersey legislature has found that it is "in the best interest of the public" to regulate boxing in order to "protect the safety and well-being of [its] participants" and "promote the public confidence and trust in the regulatory process."<sup>302</sup> The board has "sole discretion,

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293. *See id.*

294. N.Y. UNCONSOL. LAW § 8923 (McKinney 1997).

295. *See id.* § 8923.

296. *See id.* § 8924.

297. *See id.* § 8932.

298. *See* N.Y. UNCONSOL. LAW § 8912 (McKinney 1997).

299. *See id.* § 8932.

300. The following examination of New Jersey is based solely on the legislative enactments with regards to boxing.

301. *See* N.J. STAT. ANN. § 5:2A-3 (West 1998).

302. *Id.* § 5:2A-2.

management, control and supervision” over boxing and may make rules and regulations to implement the successful resolution of these goals.<sup>303</sup> No promoter, manager, trainer, booking agent, ring official or boxer may participate in a bout without first receiving the license of the New Jersey board.<sup>304</sup>

To receive a boxing license in New Jersey the applicant must “possess good character, honesty, integrity, and responsibility.”<sup>305</sup> The board must be assured by clear and convincing evidence that the applicant’s reputation is consistent with the goals of the state of New Jersey.<sup>306</sup> The board requests that the applicant demonstrate that he “has not engaged in activities with or associated with members of organized crime.”<sup>307</sup> The board may receive criminal record history and exchange fingerprint data with the FBI.<sup>308</sup> Also required is a passport book that contains a current photograph, applicant’s address, telephone number, social security number and an accurate history of all fights in which the boxer has participated.<sup>309</sup> Following a hearing, the board may revoke the license of any individual for cause.<sup>310</sup>

New Jersey has numerous rules governing those persons affiliated with the fighter as well as the fight itself. For instance, all seconds<sup>311</sup> and managers are subject to background checks supervised by the State Athletic Control Board before participating in a boxing event.<sup>312</sup> The costs of

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303. *Id.* § 5:2A-4.

304. *See id.* § 5:2A-14. The board consists of three public members who shall not all be members of the same political party. *See id.* § 5:2A-3. Board member may neither accept a gratuity in any form nor gamble in any legal gambling establishment. *See id.* § 5:2A-6. No board member is allowed to have any financial interest in any applicant for licensure either direct or indirect, nor have any spouse, child, parent or sibling that has a direct or indirect financial interest. *See id.* Also prohibited is the allowance for any board member or employee to hold office or position in any organization, body or association that sanctions boxing. *See id.* § 5:2A-6.1.

305. N.J. STAT. ANN. § 5:2A-15 (West 1998).

306. *See id.*

307. *Id.*

308. *See id.*

309. *See* N.J. STAT. ANN. § 5:2A-15 (West 1998).

310. *See id.* § 5:2A-17.

311. In general, a “second” is one of three people licensed to work in a boxer’s corner during a fight. *See* Interview with Kathryn P. Duva, Chief Financial Officer of Main Events (Nov. 11, 1999).

312. *See* N.J. STAT. ANN. § 5:2A-17 (West 1998).

the background check must be reasonable and necessary and are borne by the promoter.<sup>313</sup> No bout is permitted to be held without two weeks notice to the board.<sup>314</sup> If the event is to be telecast, televised or broadcast, the board must be notified at least one week in advance.<sup>315</sup> All recipients of complimentary tickets to the bout must be included in a report to the commission.<sup>316</sup> Any contracts entered into involving any of the participants or television agreements must be available for inspection by the board.<sup>317</sup> No promoter is allowed to have financial dealings with the manager or boxer of the bout he is promoting.<sup>318</sup> Additionally, any payment for services made to an official or appointee of the board must be made by check and is not permitted to be paid in cash.<sup>319</sup>

The New Jersey statutory scheme also provides for a medical advisory board, which "approve[s] regulations, rules and standards for the physical and mental examination of all participants, including without limitation, pre-fight and post-fight examinations, periodic comprehensive examinations and an extensive medical examination prior to licensure and the renewal of any license."<sup>320</sup> One rule of safety that the board has created is the interval of time between bouts for the boxers.<sup>321</sup> A boxer is not permitted to fight more than once every thirty days, regardless of the number of rounds of the previous bout.<sup>322</sup> Furthermore, a fighter is not permitted to fight within sixty days of a knockout or longer if the ringside physician orders.<sup>323</sup> New Jersey rules not only

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313. *See id.*

314. *See id.* § 5:2A-18.

315. *See id.*

316. *See* N.J. STAT. ANN. § 5:2A-22.

317. *See id.*

318. *See id.* § 5:2A-27. Unless authorized by the board, the prohibition extends to members of the promoter's immediate family. *See id.* Also, no promoter is allowed to promote an event in a casino hotel unless the promoter is licensed as a "casino service industry" or is an applicant for licensure as a "casino service industry." *Id.* § 5:2A-14.1.

319. *See id.* § 5:2A-28.

320. *See* N.J. STAT. ANN. § 5:2A-8 (West 1998).

321. *See id.* § 5:2A-8.1.

322. *See id.* § 5:2A-8.1. This time limit applies to boxers who lose by technical knockout as well. *See id.* The commissioner may extend or shorten this time period. *See id.*

323. *See id.*

require promoters to provide medical insurance for the boxers, but require two qualified physicians and an ambulance present throughout the bout.<sup>324</sup> In addition, following a match an ophthalmological and neurological examination of a fighter may be ordered by the ringside physician if deemed necessary.<sup>325</sup>

New Jersey has a very active commission and hosts some of boxing's biggest fights every year.<sup>326</sup> It appears that the major emphasis of the New Jersey legislature is to avoid the appearance of impropriety in the sport of boxing. For example, New Jersey law requires judges to provide the scoring sheets to the commissioner or his designee at the conclusion of each round of boxing.<sup>327</sup> New Jersey's application process focuses more on the individual's background and ties with crime than with a boxer's health.<sup>328</sup> The New Jersey statutory framework provides adequate protection from promoter mismanagement as illustrated by the antics of Don King and Diana Lewis mentioned previously.

### C. Nevada

The Nevada legislature has created both a medical advisory board<sup>329</sup> and a state athletic commission<sup>330</sup> to oversee the business of boxing. The athletic commission consists of five members who are appointed by the governor and are prohibited from promoting or sponsoring a boxing event or having any financial interest in any such event.<sup>331</sup> The commission is statutorily required to regulate the

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324. See N.J. STAT. ANN. § 5:2A-14.2; see also *id.* § 5:2A-18.1. The amount of the insurance coverage is determined by the commissioner and must remain valid for six months beyond the completion of the fight. See *id.* § 5:2A-14.2. The physicians and ambulatory service must be present before the match begins. See *id.* § 5:2A-18.1.

325. See *id.* § 5:2A-18.2.

326. See CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 2 (1994).

327. See N.J. STAT. ANN. § 5:2A-26 (West 1998).

328. See *id.* § 5:2A-15. However, the board does defer to the Athletic Control Board Medical Advisory Council to create guidelines for a medical examination prior to licensure. See *id.*

329. See NEV. REV. STAT. ANN. § 467.012 (Michie 1997).

330. See *id.* § 467.020.

331. See *id.*

qualifications of the ring officials and prepare all forms and contracts between various participants in the boxing industry.<sup>332</sup> Nevada law gives the commission the authority to appoint inspectors to assist in fulfilling its duties as well as “affiliate with any other national boxing commission or athletic authority.”<sup>333</sup> Finally, the commission has the “sole direction, management control, and jurisdiction” over all bouts held within the state.<sup>334</sup> The commission also has control over issuing licenses within the State of Nevada.<sup>335</sup>

A license is required of all “contestants, promoters, managers, trainers, and ring officials” to participate in a boxing match either directly or indirectly.<sup>336</sup> There are only three statutory requirements to receive a license in Nevada. First, a bond must be posted.<sup>337</sup> Second, the license must include the social security number of the applicant.<sup>338</sup> Finally, a licensee may not be delinquent in child support payments.<sup>339</sup>

Although the criteria for obtaining a license are relatively low, the commission may revoke or suspend the license for numerous reasons.<sup>340</sup> Any individual member of the commission may suspend a boxer’s license if that boxer is charged with violating a boxing regulation and the

332. See NEV. REV. STAT. ANN. § 467.030 (Michie 1997). This includes determining the number of officials required and obtaining their fingerprints and criminal records. See *id.*

333. *Id.* § § 467.050, 467.063.

334. See *id.* § 467.070.

335. See *id.*

336. *Id.* § 467.100.

337. See NEV. REV. STAT. ANN. § 467.080 (Michie 1997). A deposit or bond must be executed by the applicant in an amount no less than \$10,000. See *id.* The bond is to ensure the “faithful performance by the applicant” to the state laws concerning boxing. *Id.* Any such deposit must be made at least five days prior to the event. See *id.*

338. See *id.* § 467.102.

339. See *id.* § 467.1015.

340. See *id.* § 467.110. An individual’s license may in jeopardy if he or she:

- a) Enters into a contract for a contest . . . in bad faith;
- b) Participates in any sham or fake contest;
- c) Participates in a contest . . . pursuant to [a] collusive . . . agreement that is not based on honest competition or . . . skill;
- d) Is guilty of failure to . . . compete [with] honest skills;
- e) Is guilty of an act . . . detrimental to a contest . . . including, but not limited to, any foul or unsportsmanlike conduct.

*Id.*

commissioner deems the suspension necessary to protect the public welfare and the sport as a whole.<sup>341</sup> For the same reasons, the commission as a whole may suspend a license.<sup>342</sup> When suspension comes from the commission as a whole it becomes permanent unless the fighter applies for a hearing within thirty days.<sup>343</sup>

Nevada also provides numerous statutory provisions that govern promoters. Examples of such provisions include paying a fee for a permit prior to each contest and paying a \$.50 or \$1 fee for each ticket sold at a live event.<sup>344</sup> Each promoter for each event must also submit a form with a fee to the commission verifying the number of tickets sold or issued if the event is shown on close-circuit telecast or motion picture.<sup>345</sup> The promoter and broadcasting network must file a copy of all contracts that relate to television rights.<sup>346</sup> Promoters are required to pay an additional 3% or 4% from the total gross receipts of live gate and broadcasting rights.<sup>347</sup> Finally, the promoter is given the duty of organizing all seating arrangements and must submit a verified written report to the commission demonstrating the number of tickets sold and gross receipts.<sup>348</sup>

In addition, statutory provisions ensure the integrity of the bout. For example, a promoter may not give a fighter a monetary advance for a contest or exhibition.<sup>349</sup> This law encourages boxers to use their best efforts in a bout and prevents sham agreements. The commission has also been given statutory authority to order the purse of an individual

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341. See NEV. REV. STAT. ANN. § 467.117 (Michie 1997). The suspension is for a period not exceeding ten days until final determination by the commission of a permanent course of action. See *id.*

342. See *id.* § 467.156.

343. See *id.* Additionally, the commission may revoke the license of an individual for cause demonstrated by the commission. See *id.* § 467.157.

344. See *id.* § 467.105; see *id.* § 467.108. If the gross receipts from the event are less than \$500,000 the commission may ask for only \$.50 per ticket. See *id.*

345. See NEV. REV. STAT. ANN. § 467.104 (Michie 1997).

346. See *id.* § 467.137.

347. See *id.* § 467.107.

348. See *id.* §§ 467.145, 467.109. The proceeds from the amounts received from live events must be awarded by the commission to organizations that promote amateur boxing. See *id.* § 467.108.

349. See NEV. REV. STAT. ANN. § 467.130 (Michie 1997). There is an exception for expenses used in preparation of a fight. See *id.*

withheld pending a hearing.<sup>350</sup> If the outcome of the hearing finds the fighter is not entitled to payment, then the purse is paid to the commission.<sup>351</sup>

Other Nevada statutory provisions provide for the safety of boxers. For example, the commission has the option of requiring insurance coverage for fighters in the amount of \$50,000.<sup>352</sup> Legislation requires that each fighter be present for a weigh-in no later than the day of the contest.<sup>353</sup> This requirement will ensure that no fighter with an unfair physical difference in size will be allowed to compete. No boxing contest may last more than twelve rounds in duration nor any round longer than three minutes.<sup>354</sup> A rest period of sixty seconds must be given between rounds.<sup>355</sup> Furthermore, a member of the commission must attend all weigh-ins, medical examinations and contests to ensure that the rules outlined above are followed.<sup>356</sup>

In addition to the athletic commission, the legislature created a medical advisory board with five members.<sup>357</sup> Each member of the board must be licensed to practice medicine and have at least five years experience.<sup>358</sup> The board is responsible to prepare standards for the physical and mental examination of fighters.<sup>359</sup> Every standard must be approved by the commission.<sup>360</sup> The board may make a recommendation to the commission regarding the "physical and mental fitness of a contestant."<sup>361</sup> The medical board also has the authority to report any recommendations for

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350. *See id.* § 467.135. The reasons to withhold a purse could be because the fighter is not competing to the best of his ability, or the manager or seconds have violated regulations created by the commission or statutory provisions. *See id.*

351. *See id.* The money is deposited into the state general fund overseen by the state treasurer. *See id.*

352. *See id.* § 467.125 (Michie 1997). Although the current statute reads that the commission "may" require insurance coverage, The Professional Boxing Safety Act preempts this area and now requires medical insurance. *See* 15 U.S.C.A. §6304 (1998).

353. *See* NEV. REV. STAT. ANN. § 467.155 (Michie 1997).

354. *See id.* § 467.150.

355. *See id.*

356. *See id.* § 467.140.

357. *See* NEV. REV. STAT. ANN. § 467.012 (Michie 1997).

358. *See id.* § 467.015.

359. *See id.* § 467.018.

360. *See id.*

361. NEV. REV. STAT. ANN. § 467.018 (Michie 1997).



revisions in the law in order to protect the health of fighters.<sup>362</sup>

The commission and the medical advisory board together have created numerous regulations in an attempt to clean up the image of professional boxing.<sup>363</sup> The commission must be satisfied that each fighter has the ability to compete, and may hold a hearing in this regard if an applicant's ability is questioned for any reason.<sup>364</sup> The fighter must undergo a physical examination by a physician certified by the commission before he is allowed to box.<sup>365</sup> The commission reserves the right to deny a license to an individual for various reasons of moral turpitude or health.<sup>366</sup> Likewise, any active fighter determined by a physician to be unfit for competition will be suspended until further demonstration proves his fitness.<sup>367</sup>

The administrative rules provide a variety of safeguards in the event of injury. For example, the commission requires an ambulance to be present during a boxing match and requires the promoter to ensure that specific emergency equipment is located on the premises during the program.<sup>368</sup> If a fighter is knocked out in the ring, he must remain in a prone position until he has recovered and a physician has

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362. *See id.*

363. The difference between the regulations and the statutory requirements is that the legislature of Nevada passed the statutes, while the commission created by the legislature produced the regulations. The provisions of the Nevada Administrative Code that follow may be found at <<http://www.state.nv.us/b&i/ac/regs.htm>>.

364. *See* NEV. ADMIN. CODE ch. 467, § 467.022 (1997).

365. *See id.* § 467.027.

366. *See id.* § 467.082. These grounds include if the applicant:

- (a) Has been convicted of a felony;
- (b) Engages in illegal bookmaking;
- (c) Engages in any illegal gambling activity;
- (d) Is a reputed underworld character;
- (e) Is under suspension from any other commission; or
- (f) Is engaged in any activity or practice which is detrimental to the best interests of [boxing].

*Id.*

367. *See id.* § 467.562.

368. *See* NEV. ADMIN. CODE ch. 467, § 467.414, 417 (1997). Required equipment includes blankets, a stretcher, smelling salts, bandages, surgical tape, splints, scissors, a soft and hard collar, an airway and surgical gloves. *See id.* § 467.414.

examined him.<sup>369</sup> No one may touch the injured fighter except the referee and the chief second.<sup>370</sup> If the decision rendered is a technical knockout then the boxer may not participate in another contest until the commission determines he is fit to fight, which shall not be sooner than fifteen days.<sup>371</sup> If the fighter is knocked-out, the boxer may not return to action for forty-five days.<sup>372</sup> At the completion of every contest, the physician must submit a report to the commission detailing every fighter who was injured during the contest or who applied for medical attention after the fight.<sup>373</sup>

A myriad of regulations also exist to ensure that promoter and manager agreements are fairly negotiated. By requiring a copy of the contract between a manager and boxer seventy-two hours before a bout, the commission insures its right to oversee and investigate such matters.<sup>374</sup> The contract will not be honored if the term is longer than four years.<sup>375</sup>

As illustrated above, the administration of boxing in Nevada is a bureaucratic nightmare. Numerous statutory provisions direct the taxation of the promoter. Virtually all safety provisions have been delegated by the Nevada legislature to the medical advisory board. The precautionary measures adopted by the board are rather comprehensive and complete but are hidden among a mountain of red tape. Currently federal legislation requires each state to honor the suspension of a boxer in another state.<sup>376</sup> Although fully equipped to handle licensing within the state, Nevada should endorse the federal regulation of boxing so as to ensure the safety and integrity of the sport throughout the nation. Due to the magnitude and complexity of the system, Nevada

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369. See *id.* § 467.752 (1997).

370. See *id.*

371. See NEV. ADMIN. CODE ch. 467, § 467.752 (1997).

372. See *id.*

373. See *id.* § 467.778.

374. See *id.* § 467.102.

375. See NEV. ADMIN. CODE CH. 467, § 467.102 (1997).

376. See 15 U.S.C. § 6306 (1997). Under certain circumstances, federal legislation currently allows a suspended fighter to fight in a different state only if that state consults and notifies in writing the suspending state's commission or appeals to and is granted permission by the Association of Boxing Commissions. See *id.*; see also, *infra* note 394 and accompanying text for an explanation of the Association of Boxing Commissions.

could become the pinnacle of boxing regulation in the United States.

#### IV. THE PROFESSIONAL BOXING SAFETY ACT

In 1996, President Clinton signed into law the Professional Boxing Safety Act.<sup>377</sup> The goal of the Act is to “provide for the safety of journeymen boxers.”<sup>378</sup> The two major functions of the Act are to “improve and expand . . . safety precautions” and to “assist state boxing commissions . . . [with] proper oversight.”<sup>379</sup> The Act does not allow a boxing match to occur unless supervised by a boxing commission.<sup>380</sup> In states that currently have no commission, the match must be supervised by a commission from another state.<sup>381</sup> The power is left with state commissions to impose more stringent laws than the rules outlined in the Act, so long as the state’s goal is to provide more protection or oversight.<sup>382</sup>

Significantly, the Act requires state commissions to adopt safety measures. A prefight physical examination is required before a boxer may compete in a contest.<sup>383</sup> The exam, detailing whether or not a boxer is fit to compete, must be filed with the commission.<sup>384</sup> The Act states that physicians must be present at ringside throughout the bout and requires the continuous presence of an “ambulance or medical personnel with appropriate resuscitation equipment.”<sup>385</sup> The Act mandates health insurance for each boxer in an amount sufficient to cover injuries potentially sustained in a bout.<sup>386</sup> Further, the Attorney General of the United States may seek an injunction to stop any match that

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377. See Manny Topol, *A Safer Sport of Boxing/Law Takes Effect; Sponsor Rips Mike*, *NEWSDAY*, July 1, 1997, at A57.

378. H.R. REP. NO. 104-833, pt. 1, at 5 (1996).

379. 15 U.S.C.A. § 6302 (West 1998).

380. See *id.* § 6303.

381. See *id.* A tribal organization may carry out the regulation for fights occurring on Indian reservations. See *id.* § 6312.

382. See *id.* § 6313.

383. See 15 U.S.C.A. § 6304 (West 1998).

384. See *id.*

385. *Id.*

386. See *id.*

she reasonably believes will violate the Act.<sup>387</sup> The Act also requires the Secretary of Health and Human Services to “conduct a study to develop recommendations for health, safety, and equipment standards for boxers and for professional boxing matches.”<sup>388</sup>

Another major component of the Act requires that there be a unified registration system with the various boxing commissions.<sup>389</sup> Each boxer is responsible for registering with the boxing commission in the state where the boxer resides.<sup>390</sup> The boxer then receives an identification card that contains a photograph, the boxer’s social security number, and a personal identification number assigned through a national registry system.<sup>391</sup> The boxer must present the identification card to the commission at every match in which he participates.<sup>392</sup> The registry system prohibits a fighter from competing in one state while under suspension in another, so long as the suspension is for “a recent knockout or series of consecutive losses, an injury . . . or physician denial of certification, failure of a drug test, or the use of false aliases, or falsifying . . . identification cards.”<sup>393</sup> If the fighter is suspended for any other reason, he is prohibited from boxing unless an official of the suspending state’s commission is notified and consulted or the Association of Boxing Commissions finds the suspension was without sufficient evidence or otherwise improper.<sup>394</sup> At the

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387. See 15 U.S.C.A. § 6309 (West 1998).

388. *Id.* § 6311.

389. See *id.* § 6305.

390. See *id.*

391. See 15 U.S.C.A. § 6305 (West 1998).

392. See *id.*

393. *Id.* § 6306.

394. See *id.* This provision of the Act is treated more in depth in Section V below. The Association of Boxing Commissions is a nonprofit association comprised of all state boxing commissions and several Canadian and American Indian Tribe commissions. See *The Muhammad Ali Boxing Reform Act: Hearings on H.R. 1832 Before the Subcomm. on Telecommunications, Trade and Consumer Protection of the House Comm. on Commerce*, 106<sup>th</sup> Cong. 5 (1999) (statement of Gregory P. Sirb, President, Association of Boxing Commissions) [hereinafter *Sirb Statement*]; see also *Oneida Nation Earns Title From Boxing Group*, THE POST-STANDARD (Syracuse), Aug. 6, 1999, at B1. Members of the association respect each other’s regulations, including medical suspensions and licensing. See Bob Mee, *Boxing: Boxing Stumbles Along Road to Nowhere*, THE INDEPENDENT (London), Oct. 3, 1999, at 15.

conclusion of every bout the hosting commission has an affirmative duty to report the outcome of the match and any resulting suspensions to each boxing registry within twenty-four hours.<sup>395</sup>

The Act prohibits any financial conflict of interest between an employee of a boxing commission and anyone involved with a boxing event.<sup>396</sup> Therefore, an employee of an existing boxing commission is not allowed to receive compensation from any individual "who sanctions, arranges, or promotes professional boxing matches or who otherwise has a financial interest in an active boxer currently registered with a boxing registry."<sup>397</sup> This provision of the Act also applies to individuals responsible for the administration or enforcement of state boxing laws and members of the Association of Boxing Commissions.<sup>398</sup> Violators of the Act may be subjected to criminal penalties of up to one year in prison and fined up to \$20,000.<sup>399</sup>

The Act also orders the Secretary of Labor to "conduct a study on the feasibility and cost of a national pension system for boxers."<sup>400</sup> Such a pension plan would presumably provide supplemental income to fighters after retirement from the ring to offset their otherwise meager earnings and limited employment opportunities.

## V. THE MIKE TYSON EPISODE AND RECENT DEVELOPMENTS IN FEDERAL REGULATION

### A. Background

A much publicized addition to the argument for federal regulation of boxing came with the of events surrounding the popular sports figure Mike Tyson. Mike Tyson was involved in a bout with Evander Holyfield when he was disqualified for biting Holyfield's ear on June 28, 1997 in Las Vegas,

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395. See 15 U.S.C.A. § 6307 (West 1998). A "boxing registry" is defined as any entity "certified by the Association of Boxing Commissions for the purposes of monitoring records and identification of boxers." *Id.*

396. See *id.* § 6308.

397. *Id.*

398. See *id.*

399. See 15 U.S.C.A. § 6309 (West 1998).

400. *Id.* § 6311.

Nevada.<sup>401</sup> As a result, the Nevada State Athletic Commission promptly revoked Tyson's boxing license and ordered him to pay a \$3 million fine.<sup>402</sup> The commission permanently revoked Tyson's license but stated that he would be able to reapply for a license in one year, at which point his fitness to return to the ring would be examined by Nevada officials.<sup>403</sup>

In a surprise move, when Tyson became eligible to reapply he decided to forgo the Nevada Licensing Commission and instead applied for a license in the state of New Jersey.<sup>404</sup> However, when Tyson appeared before the New Jersey Athletic Control Board he became enraged and cursed when questioned about the Holyfield incident.<sup>405</sup> Tyson and his advisors subsequently withdrew the New Jersey application without comment.<sup>406</sup>

Almost immediately upon withdrawing his New Jersey application, Tyson filed for a boxing license in Nevada.<sup>407</sup> In the hearing before the Nevada commission, Tyson pleaded for reinstatement.<sup>408</sup> However, the commissioners asked Tyson to undergo a series of psychological tests to determine his fitness before they would render a decision.<sup>409</sup>

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401. See Jon Saraceno, *Undisputed Chomp Tyson Faces Disciplinary Hearing, \$3 Million Fine*, USA TODAY, June 30, 1997, at 1A.

402. See Steve Sneddon, *Commission Takes Stand Executive Director: Integrity Affirmed*, USA TODAY, July 10, 1997, at 3C. The vote was unanimous. See *id.*

403. See *Boxing Commission Bans Tyson, Fines Fighter \$3 Million*, DETROIT NEWS, July 10, 1997, at A1. To compound problems, less than a year after his ban, two women filed a \$22 million lawsuit against Tyson, claiming that he verbally and physically abused them after they rejected his sexual advances. See *Two Women File Suit Against Tyson*, DETROIT NEWS, Mar. 11, 1998, at F2.

404. See Steve Springer, *Tyson to Roll Dice in New Jersey Boxing*, L.A. TIMES, July 18, 1998, at C1.

405. See Randy Harvey, *Biting Mad: Tyson Melts Down, But He'll Still Probably Get License Back*, L.A. TIMES, July 30, 1998, at C1.

406. See Josh Barr, *Tyson Eyes Nevada, Drops NJ Application*, WASHINGTON POST, Aug. 14, 1998, at C1.

407. See Jack Thompson, *Tyson Hearing Set in Nevada*, CHICAGO TRIBUNE, Aug. 18, 1998, at 2.

408. See *Tyson Must Get Psychiatric Exam*, DETROIT NEWS, September 20, 1998 at D2.

409. See *id.* Before the test results were released, Tyson was party to a minor automobile accident in Maryland in which he allegedly assaulted two other drivers. See *Tyson Hit with More Charges*, L.A. TIMES, Sept. 4, 1998, at C13. Tyson later served three and half months in jail for the assault. See Tim Graham, *Guns, Punks, Gangs: Must by Tyson Week* (visited Nov. 5, 1999) <<http://espn.go.com/boxing/s/1999/1021/125757.html>>.

After submitting to the tests, Tyson again testified before the Nevada Commission.<sup>410</sup> The psychiatric report revealed that Tyson was depressed and lacked self-esteem.<sup>411</sup> However, the report stated that Tyson was mentally fit to return to the sport and likely would not repeat the incident.<sup>412</sup> In a four to one decision, the commission agreed to reinstate Tyson.<sup>413</sup> Currently, Tyson could be licensed to fight in all fifty states.

### B. Analysis

The Tyson-Holyfield incident was viewed as the federal government's first opportunity to exercise national control over the sport of boxing.<sup>414</sup> The Professional Boxing Safety Act was quoted as providing the power to have Tyson suspended nationwide.<sup>415</sup> If Tyson's situation fell under the auspices of the Professional Boxing Safety Act, Tyson would have been unable to fight under the commission of another state as long as the Nevada Commission's suspension was in existence.<sup>416</sup> As stated above, the Act disallows a fighter to fight in another jurisdiction if suspended for one of four very specific instances.<sup>417</sup>

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410. See Jon Saraceno, *Doctors Say Tyson 'Mentally Fit' to Box*, USA TODAY, Oct. 14, 1998, at 1C. Tyson testified on October 19, 1998. See *id.*

411. See Jon Saraceno, *Tests Show Tyson Runs Wide Range of Neuroses*, USA TODAY, Oct. 14, 1998, at 3C.

412. See Jon Saraceno, *Doctors Say Tyson 'Mentally Fit' to Box*, USA TODAY, Oct. 14, 1998, at 1C.

413. See Tim Dahlberg, *Tyson To Return To Ring After Regaining License*, THE PLAIN DEALER (Cleveland), Oct. 20, 1998, at 1A. Commissioner James Nave cast the lone dissenting vote. See *id.*

414. See Jack Torry, *New Federal Law Can Ban Tyson From Boxing in Every State*, PITTSBURGH POST-GAZETTE, July 9, 1997, reprinted in <<http://espn.sportszone.com/box/tysonholy/news.html>>.

415. See *Commerce Bill Earmarked at Cleaning Up Boxing May Take a Bite Out of Tyson*, COMMITTEE ON COMMERCE NEWS RELEASE (June 30, 1997) <<http://www.house.gov/commerce/releases/pr063097.htm>>.

416. See 15 U.S.C.A. § 6306(b) (West 1998).

417. See *id.* The four instances are suspension due to knockout or a series of losses, injury, drug test or use of aliases. See *id.* For a list of suspended boxers see *The Association of Boxing Commissions Suspension/Disciplinary List*, THE SPORTS NETWORK – BOXING (visited Apr. 10, 1999) <<http://www.sportsnetwork.com/default.asp?c=sportsnetwork&page=boxing/stat/suspension1.htm>>. The list includes the name of the fighter, the fighter's federal identification number, the state suspending the fighter, the start date and the length of the suspension. See *id.*

However, because Mike Tyson's suspension under the Nevada Commission resulted from his behavior in the ring, and not one of these four instances, the Act did not mandate that Tyson's suspension be enforced by other states. In such a case, the state where the suspended fighter intended to fight could "notify in writing and consult with the designated official" of the suspending state.<sup>418</sup> The Act does not require that the suspending state agree to the fighter's right to participate in a contest in the other state.

The culmination of these factors demonstrates that the recent federal legislation provided a loophole for Tyson. Congresswoman Eleanor Holmes Norton recognized this void and introduced a bill to cover the Tyson situation, entitled the "State Reciprocity in Professional Boxing Act."<sup>419</sup> Norton's bill hopes to mandate nationwide suspension for boxers who commit a "[m]alicious [f]oul or [i]nfraction."<sup>420</sup> Among the plethora of situations covered by the bill would be head butting, kicking, and biting.<sup>421</sup> Respectively, Senator McCain has proposed amendments to what constitutes punishable offenses under the Professional Boxing Safety Act.<sup>422</sup> The amendments hope to broaden the suspensions recognized by other states to include suspensions for "unsportsmanlike conduct or other inappropriate behavior inconsistent with generally accepted methods of competition in a professional boxing match."<sup>423</sup> These proposed revisions of the existing law would close the loophole that enabled Tyson to apply for a license in New Jersey.

### C. *Conclusions from the Tyson Episode*

Although Tyson wasn't bound to resign his role in the ring, he chose not to fight in any state during his Nevada suspension. As demonstrated, the reasons for Tyson's

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418. 15 U.S.C.A. § 6306(b)(1) (West 1998). The Association of Boxing Commissions may also trump the decision of the suspending state. *See id.* §6306 (b)(2); *see also Sirb Statement, supra* note 394 and accompanying text.

419. H.R. 2354, 105<sup>th</sup> Cong. (1997).

420. *Id.*

421. *See id.*

422. *See* S. 2238, 105<sup>th</sup> Cong. (1998). The bill, known as the Muhammad Ali Boxing Reform Bill, is discussed in more detail in Part V(D), below.

423. *Id.*



reluctance to return to the ring were not based on current federal law. However, speculation exists as to Tyson's acquiescence with the Nevada suspension. The political climate may have been a determining factor in Tyson's decision to remain inactive through the Nevada suspension period. Tyson's representatives indicated that they did not want to risk alienating the Nevada commission by fighting in another state.<sup>424</sup> Nevada's commission is one of the most influential and powerful organizations in boxing due to the money generated from the state's numerous bouts.<sup>425</sup> In 1995, nine major bouts alone generated \$35 million in revenue for Las Vegas even before gaming profits were counted.<sup>426</sup> For this reason, Nevada is one of the most popular venues to organize a professional, large-scale boxing event. Therefore, Tyson's representatives may have understood the importance of not drawing the ire of the Nevada commissioners who could stand in the way of a lucrative fight. Attempting to circumvent the Nevada commission could have been detrimental to Tyson's chances of ever receiving a license to fight in the state again.

Suggestions have also surfaced that the ultimate re-licensing of Tyson by the Nevada commission could have been purely economic in nature.<sup>427</sup> Nevada stood to profit tremendously if the commission allowed Tyson to retain the right to enter the ring once again. However, critics of this idea believe that those representing such financial interests would have encouraged the Nevada commission to give Tyson less than the maximum penalty when the first hearing was held.<sup>428</sup> Although the financial benefits of the commission's decision to reinstate Tyson's license were immense, commissioners maintain that their decisions rested on a remorseful Tyson, his mental fitness to fight, and fairness for

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424. See Royce Feour, *Without Tyson, Heavyweight Crowns May be Unified; Tyson Idle*, LAS VEGAS REVIEW-JOURNAL, July 25, 1997, at 4C.

425. See CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 2 (1994).

426. See *Marriage Between Vegas, Boxing on the Brink*, THE NANDO TIMES (visited Nov. 1, 1995) <<http://www.nando.net/newsroom/sports/oth/1995/oth/box/feat/archive/110195/box53993.html>>.

427. See Royce Feour, *Tyson's First Licensing Attempt Will Likely Fall on Deaf Ears*, LAS VEGAS REVIEW-JOURNAL, July 11, 1997, at 1C (quoting Forrest Sawyer).

428. See Royce Feour, *Commission Wasn't Influenced by Economics in Tyson Vote*, LAS VEGAS REVIEW-JOURNAL, Oct. 30, 1998, at 6C.

the sport in the state.<sup>429</sup>

Another potential reason for Tyson's inability or unwillingness to fight in another jurisdiction seems to be a system of honor in a dishonorable profession. Nevada commissioners were shocked and offended that Mike Tyson overlooked the Nevada commission and applied for a license in New Jersey.<sup>430</sup> If Tyson had successfully overcome the Nevada ban in another state it would have been a serious step back in attempts to unify the system of regulation.<sup>431</sup> Nevada commissioners claim that the framework of the system has worked without the Professional Boxing Safety Act on the unspoken rule that other states will honor suspensions.<sup>432</sup> Commissioners claim this has been the policy of Nevada for the past fifteen years.<sup>433</sup> Sponsors of the Act claim that the law implicitly states that other jurisdictions honor state suspensions and revocations.<sup>434</sup> Although New Jersey could have legally permitted Tyson to fight, both the traditional reciprocity described by the Nevada commission and that underlying the Act may have significantly influenced the ultimate decision to obey the Nevada commission. Ignoring the issue of whether Tyson's right to fight in other states was financially driven or part of an honorable code, Tyson's situation falls outside current successes by the federal government to control the fight game.

*D. The Muhammad Ali Boxing Reform Bill: To Protect, To Assist and To Promote*

Despite the passage of the Professional Boxing Safety Act,

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429. See *id.* Although commissioners stated that they wished to investigate the acts that occurred subsequent to Tyson's suspension, see *supra* notes 409 and 414, it must be assumed that this behavior was not considered to be unworthy of a candidate for licensure in the state of Nevada. See Royce Feour, *When Commissioners Vote, Tyson Will be Turned Down*, LAS VEGAS REVIEW-JOURNAL, Oct. 2, 1998, at 3C.

430. See Royce Feour, *Tyson Case Could Return to Nevada, Where It Belongs*, LAS VEGAS REVIEW-JOURNAL, July 31, 1998 at 4C.

431. See *id.*

432. See *id.*

433. See Royce Feour, *New Jersey Should Honor Revocation*, LAS VEGAS REVIEW-JOURNAL, July 24, 1998, at 4C.

434. See *id.*

attorney Michael English testified before Congress, characterizing boxing as "a professional sport where the rules change as the participants cross state lines. . . . [A] professional sport where contracts valid in one state are invalid in another."<sup>435</sup> In a move to cure such inadequacies, Senator John McCain recently introduced a bill entitled the "Muhammad Ali Boxing Reform Act."<sup>436</sup> The proposed goal of the Bill is to establish reform for contracts within the sport.<sup>437</sup> The Bill has quite simply three purposes: to protect, to assist, and to promote: "To protect the rights and welfare of professional boxers, . . . [t]o assist state boxing commissions . . . [and] to promote honorable competition."<sup>438</sup> The Bill reasons that prize fighting is different from any other sport because of the lack of organization.<sup>439</sup> This has led to "disreputable and coercive business practices" and that fighters themselves are particularly vulnerable to these unregulated practices.<sup>440</sup> According to the Bill's author, although states are the proper regulators of boxing, they do not receive adequate information.<sup>441</sup> The Bill finds that sanctioning organizations contribute to the problem since they lack "objective criteria" to rank boxers and are "susceptible to manipulation."<sup>442</sup>

The new law would modify boxing contracts in several important ways. First, contracts between fighters and their representatives would include mutual obligations and specify a minimum number of contests per year.<sup>443</sup> Second, the Bill would place a one-year limit on "coercive promotional rights."<sup>444</sup> This provision would prevent a promoter from requiring a fighter's opponent to grant rights to him in return for the opportunity to fight his client.<sup>445</sup> The Bill labels such

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435. Royce Feour, *Boxing Drags Dirty Laundry to D.C.*, LAS VEGAS REVIEW-JOURNAL, Mar. 27, 1998, at 5C.

436. See S. 2238, 105<sup>th</sup> Cong. (1998)

437. See *id.* § 2(7).

438. *Id.* § 3.

439. See *id.* § 2(1).

440. *Id.* § 2 (2).

441. See S. 2238, § 2(3).

442. *Id.* § 2(5).

443. See *id.* § 4(a)(1)(A), (B).

444. *Id.* § 4(a)(2).

445. See S. 2238, § 4(a)(2)(B). Buster Douglas sued Don King over just such an arrangement in 1990. See *Don King Productions, Inc. v. Douglas*, 742 F. Supp.

contracts as a "restraint of trade and contrary to public policy and . . . unenforceable."<sup>446</sup>

Promoters and sanctioning organizations would further be limited because they would not be permitted to require a boxer to grant promotional rights to future bouts.<sup>447</sup> Likewise, agreements between a fighter and promoter that requires employment of a third party would be void and unenforceable.<sup>448</sup> The Bill also proposes a "Firewall" between promoters and managers, separating the roles of each and preventing each from having a financial interest in the role of the other.<sup>449</sup> Since the Bill is created to protect boxers, an exception is made for boxers who promote or manage themselves.<sup>450</sup>

The last significant proposal the Bill makes would limit the influence that sanctioning organizations have over fighters. Sanctioning organizations would be required to establish "objective and consistent written criteria" for the ranking of fighters and would allow an appeals process to contest the ranking.<sup>451</sup> In the instance that a fighter's ranking changes between ranking periods, a fighter would be given a written explanation for the change.<sup>452</sup> Finally, sanctioning organizations would be required to disclose "ratings criteria, policies, . . . general fee schedule[s], . . . bylaws, . . . appeals procedures . . . and business addresses of [voting officials]."<sup>453</sup> The disclosure would be made either to the Federal Trade Commission, which would make it public, or via the sanctioning organization's Internet site.<sup>454</sup>

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741 (S.D.N.Y. 1990).

446. S. 2238 §4 (a)(2)(B)(i), (ii).

447. *See id.* § 4(a)(3).

448. *See id.* § 4(b).

449. *See id.* § 4(c)(b)(2)(b)(1)(A), (B).

450. *See* S. 2238, § 4(c)(b)(2)(b)(2).

451. *Id.* §§ 5(a)(2)(a); 5(a)(b).

452. *See id.* § 5(a)(c)(1). This applies only to boxers in the top ten of the organization's rankings. *See id.*

453. *Id.* § 5(a)(d)(1)(A), (D).

454. *See* S. 2238 §5 (a)(d)(1), (3) and (4). Another bill in Congress embodies the rejuvenated idea of creating a professional boxing corporation. *See* H.R. 2176, 105<sup>th</sup> Cong. (1997). The bill seeks to create an administrative office in Washington, D.C. that would implement regulatory procedures outlined by a professional boxing advisory board. *See id.* at §§ 5, 6, 7. The bill would also require states to submit a state boxing plan that complies with standards articulated by the boxing corporation. *See id.* at § 9. The general goal of the

## VI. SHORTCOMINGS OF CURRENT POLICY AND ALTERNATIVES TO FEDERAL REGULATION

Although the Professional Boxing Safety Act provides many positive components to the boxing industry, there are some problems that it does not address. In addition to the loophole illustrated by the Tyson suspension, there exists the problem that rankings of the various sanctioning organizations do not reflect the abilities of the boxers.<sup>455</sup> Because rankings are dependent upon organizations consumed with the money associated with championship bouts, it is accepted practice to drop a fighter as a ranked contender when another sanctioning organization recognizes that boxer as a champion.<sup>456</sup> Federal legislation currently does not regulate sanctioning organizations that inevitably favor the business side of boxing. The proposed Muhammad Ali Boxing Reform Act seeks to rectify this shortfall by ranking fighters according to skill.

Another problem left unattended is a pension system that would assist boxers in coping with life once they exit the ring.<sup>457</sup> Currently, boxing is the only major American sport that fails to provide health benefits or any sort of compensation if the participant receives a career-ending injury.<sup>458</sup> California is the one state that considered implementing a retirement fund by deducting three percent from boxer's purses and promoter's salaries.<sup>459</sup> The result was fewer promotions in the state.<sup>460</sup> It is not surprising that the average boxer's earnings constitute less than a meager

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proposed regulation is to "establish and enforce uniform rules and regulations for professional boxing in order to protect the health and safety of boxers and to ensure fairness in the sport." *Id.* at § 3.

455. See Joseph White, *Boxing's Woes Get a Hearing On Capitol Hill*, Associated Press Wire Report, Slug: Boxing - Boxing Hearings, Mar. 24, 1998.

456. See *id.* However as mentioned above, a recent agreement between the WBC and WBA provides for the respective champions of these two organizations to fight for one title. See Sportserver.com, *supra*, note 54 and accompanying text. Whether or not this agreement will remain intact is debatable. See Sportserver.com, *supra*, note 54 and accompanying text.

457. See 15 U.S.C. § 6311 (1997). The Professional Boxing Safety Act does provide for a study to determine the worth of a national pension system. See *id.* However, Congress has yet to act on this problem.

458. See Walsh, *supra* note 78, at 63-64.

459. See Leahy, *supra* note 133, at 2J.

460. See *id.*

income. One report in the early 1990's found that out of ninety-five fights held in Nevada and New Jersey, Evander Holyfield and eight other fighters collected 85% of the total purse money.<sup>461</sup> The other 900 boxers who fought received annual average purses of only \$15,113.<sup>462</sup> In the other 619 fights held across the country during the study period, approximately 3,500 fighters split purses of \$2 million.<sup>463</sup> The conclusion is that most boxers do not live the lavish lifestyle of other better paid professions in the country. Since a career in boxing ends early and leads to few job opportunities, a supplemental plan for living is needed for the majority of participants in the sport. A federal commission aimed at providing for the welfare of boxers should consider this factor.

The Muhammad Ali Boxing Reform Bill recognizes yet another point not addressed by existing federal law, the regulation of contracts in the boxing industry. As stated above, option contracts bind fighters to certain promoters without freedom to negotiate future fights.<sup>464</sup> Since most fighters are unschooled in the law of contracts, their ability to negotiate successfully for future lucrative fights is greatly inhibited. Most boxers are subject to unscrupulous business practices because they are disenfranchised.<sup>465</sup> Option contracts with onerous conditions may also be accepted by a fighter because he is simple desperate to compete.<sup>466</sup> Some contracts require that promoters must use specific managers.<sup>467</sup> This can be a problem because some promoters overlap as de facto managers.<sup>468</sup> These examples illustrate a lack in mutuality of obligation between promoters and managers on one hand and boxers on the other.

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461. See *In Boxing, Only the Rich Survive*, KO, Jan. 1993, at 64.

462. See *id.*

463. See *id.*

464. See CORRUPTION IN PROFESSIONAL BOXING, S. REP. NO. 103-408, at 14 (1994).

465. See *Owens Statement*, *supra* note 247, at 12.

466. See Tony Batt, *Senator Criticizes Nevada Boxing Body*, LAS VEGAS REVIEW-JOURNAL, Mar. 25, 1998, at 1C.

467. See Royce Feur, *Boxing Drags Dirty Laundry to D.C.*, LAS VEGAS REVIEW-JOURNAL, Mar. 27, 1998, at 5C.

468. See *id.* Problems untouched also exist with regard to telecasters. See *id.* Telecasters currently require clauses in contracts that provide no escape from mandatory bouts. See *id.*

Senator McCain's efforts to enhance the supervisory powers of the federal government over boxing would enable boxing contracts to be examined with more scrutiny.

There are alternatives to federal regulation that the industry must consider. One of the suggestions is to do nothing and allow the Association of Boxing Commissioners to control boxing.<sup>469</sup> Some commentators simply favor abolishment of a sport that is so brutal and uncivilized.<sup>470</sup> A ban on boxing would likely send the sport underground and would completely defeat the purpose of greater control over the athlete's safety.<sup>471</sup>

More exotic ideas have also surfaced in an effort to make boxing a safer sport. One such idea is a device worn by boxers to eliminate bone to bone trauma causing less damage to the brain.<sup>472</sup> Another idea is to eliminate the use of gloves in the sport.<sup>473</sup> The idea behind such a paradoxical idea is that boxing would become more of a defensive sport.<sup>474</sup> The argument follows that eliminating gloves would urge fighters, out of self-interest for his own hands, to punch lighter and focus more on scoring punches than scoring knockouts.<sup>475</sup> This in turn would lead to less trauma to the brain.

The most viable alternative to federal regulation appears to be a boxer's union. Most professional athletes combat unfavorable working conditions through the use of players' unions.<sup>476</sup> However, boxing has yet to establish any sort of union for its participants.<sup>477</sup> A letter written by Gene Upshaw of the National Football League Players Association recognized the importance of such organization for boxers.<sup>478</sup> Upshaw wrote that "[b]oxers must take steps now to unite in

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469. *See id.*

470. *See* Steve Neal, *Critics Ready to Deck Boxing*, CHICAGO SUN TIMES, July 7, 1997, at 6.

471. *See* Rosen, *supra* note 3, at 612.

472. *See id.* at 616.

473. *See id.* at 617.

474. *See id.*

475. *See* Rosen, *supra* note 3, at 617.

476. *See* Owens Statement, *supra* note 247, at 12. All major sports including football, baseball, basketball, golf and bowling have player's unions. *See id.*

477. *See id.*

478. *See* Letter from Gene Upshaw to Paul Johnson, Aug. 1, 1988 (visited Oct. 29, 1999) <<http://www.uhu.com/boxing/nfl2.jpg>>.

this effort to protect their careers, dependents, and sport."<sup>479</sup> Boxers have little voice in the dangerous conditions in which they compete.<sup>480</sup> A union would allow fighters to compete for working benefits in a sport where determinations are normally made almost exclusively by others.<sup>481</sup> A union would allow fighters to insist upon needed protections such as larger gloves or shorter fights.<sup>482</sup>

A boxing union was called for by former heavyweight champion Jack Dempsey in 1937.<sup>483</sup> Currently, a committee to create a professional boxers union has been organized by the AFL-CIO and is chaired by former middleweight boxer Paul Johnson.<sup>484</sup> The purpose of the committee is "to give all professional boxers the opportunity to receive and enjoy the benefits of the collective bargaining process."<sup>485</sup> Among the health and safety benefits the committee is attempting to implement are improving of gym conditions, creating a pension plan, allowing death benefits for dependents and establishing an educational scholarship program.<sup>486</sup> The union committee also recognizes the unequal bargaining power between promoters and boxers. Therefore the committee seeks to review the policy of excessive deductions from boxers' purses, eliminate coercive signings of multiple option contracts, eliminate dehumanizing and unfair contracts, and oppose anti-boxing legislation.<sup>487</sup> The union seeks to encourage and support the Association of Boxing Commissions, which will link their services to commissions nationwide.<sup>488</sup>

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479. *Id.*

480. See Dick Meister, *Battling for a Boxer's Union* (visited Apr. 10, 1999) <<http://www.uhu.com/boxing/solidari.htm>>.

481. *See id.*

482. *See id.*

483. *See id.*

484. See Meister, *supra* note 480. Johnson is a member of the Transportation Communications Union. *See id.*

485. Committee To Organize Professional Boxing In The U.S. Federation Of Professional Athletes (AFL-CIO) (visited Oct. 30, 1999) <<http://www.uhu.com/boxing/purpose.htm>>.

486. *See id.*

487. *See id.*

488. *See id.*



## CONCLUSION

As shown above, the nature of boxing is savage and merciless, both inside and outside the ring. Boxing's roots extend back thousands of years. Therefore, it is not unreasonable to expect boxing to be a major part of sports culture for many centuries to come. Contemporary sports audiences should be allowed to enjoy the sport while the participants are allowed to compete in a safe and honest environment. Boxing, if left unregulated, will produce more unnecessary deaths and injuries due to the inherent physical brutality of the sport. Boxer's rights and dignities are sure to be exploited by unscrupulous individuals in the business absent some protective device.

Some states such as New Jersey, New York and Nevada have implemented some successful regulation. However, these states demonstrate the exception rather than the rule. Until every state closely monitors the intricacies of boxing, a nationwide plan is necessary. Federal regulation has been sorely needed for years and has finally arrived. The Professional Boxing Safety Act may be a good starting point to create a lucid approach to cleaning up the sport of boxing. Bills pending approval in Congress appear to be sending further legislative efforts in the right direction. In addition, there are alternatives to government regulation that should be given serious consideration. The most viable alternative thus far is the creation of a fighter's union. The greatest wish of every fan and fighter should be the creation of an organized boxing union. Giving a voice to each boxer in his own regulation ensures the continued success and happiness amongst the regulated. Future endeavors of the organized union as well as continued attention to the plight of the boxer, together with the Professional Boxing Safety Act, should make boxing a conscionable, safe sport for Americans to enjoy and allow the future propriety of the sport to prevail.