S T A T E O F N E W Y O R K

4995--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 14, 2013

Introduced by M. of A. GABRYSZAK -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend chapter 912 of the laws of 1920, relating to the regulation of boxing, sparring and wrestling, in relation to requiring the state amateur martial arts advisory commission to promulgate rules and regulations for amateur martial arts training and competitions; and to amend the correction law, in relation to prohibiting the employment of sex offenders in certain positions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 4 of chapter 912 of the laws of 1920 relating to the regulation of boxing, sparring and wrestling, is amended by adding a new subdivision 5-a to read as follows:

5-A. (A) THERE IS HEREBY CREATED IN THE DEPARTMENT OF STATE THE AMATEUR MARTIAL ARTS ADVISORY COMMISSION. THE ADVISORY COMMISSION SHALL CONSIST OF SEVEN MEMBERS TO BE APPOINTED AS FOLLOWS: THREE MEMBERS TO BE APPOINTED BY THE GOVERNOR; TWO MEMBERS TO BE APPOINTED BY THE SENATE; AND TWO MEMBERS TO BE APPOINTED BY THE ASSEMBLY. A CHAIR OF THE COMMISSION SHALL BE APPOINTED BY THE GOVERNOR FROM AMONG HIS OR HER APPOINTEES. THE LENGTH OF THE TERMS OF SUCH MEMBERS SHALL BE FOUR YEARS. VACANCIES SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENTS.

(B) (I) THE CHAIRMAN SHALL HAVE:

(A) A MASTER'S DEGREE FROM AN ACCREDITED UNIVERSITY IN EDUCATION OR BUSINESS;

(B) AT LEAST TEN YEARS EXPERIENCE AS A MARTIAL ARTIST CERTIFIED AT THE BLACK BELT LEVEL;

(C) AT LEAST FIVE YEARS PRIOR EXPERIENCE OFFICIATING AS A JUDGE AND/OR REFEREE IN COMBATIVE SPORTS;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(D) PRIOR EXPERIENCE IN THE MEDICAL FIELD; EMERGENCY MEDICINE, FIRST RESPONDER, SPORTS MEDICINE PREFERRED;
(E) A BACKGROUND IN BUSINESS DEVELOPMENT, HUMAN RESOURCES, PUBLIC RELATIONS AND/OR COMMUNICATIONS CURRICULUM AND INSTRUCTION DESIRED;
(F) PAST BOARD MEMBER EXPERIENCE;
(G) KNOWLEDGE OF LEGISLATIVE PROCESS;
(H) FAMILIARITY WITH OTHER STATES' RULES AND LAWS GOVERNING COMBATIVE SPORTS;
(I) EXPERIENCE WITH PROMULGATING RULES FOR COMBATIVE SPORTS; AND
(J) KNOWLEDGE OF THE MARTIAL ARTS INDUSTRY AND COMMUNITY IN THIS STATE.
(II) ONE MEMBER SHALL BE A DOCTOR OF OSTEOPATHIC MEDICINE OR A MEDICAL DOCTOR LICENSED TO PRACTICE IN THIS STATE PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION LAW, IN GOOD STANDING, WHO HAS COMPLETED RESIDENCY TRAINING AND HAS AT LEAST FIVE YEARS EXPERIENCE IN SPORTS MEDICINE OR WORKING WITH A SPORTS TEAM, POST-CONCUSSION HEAD INJURY, NEUROLOGY, NEURO-ONCOLOGY AND/OR NEURO AND SPINAL SURGERY;
(III) ONE MEMBER SHALL HAVE A JURIS DOCTOR DEGREE FROM AN ACCREDITED LAW SCHOOL, ADMITTED TO THE NEW YORK STATE BAR IN GOOD STANDING, WITH LITIGATION EXPERIENCE AND KNOWLEDGE OF SPORTS LAW AND NEGLIGENCE;
(IV) ONE MEMBER SHALL HAVE A DOCTOR OF EDUCATION DEGREE FROM AN ACCREDITED UNIVERSITY WHO IS A CERTIFIED SCHOOL DISTRICT ADMINISTRATOR;
(V) ONE MEMBER SHALL HAVE A MASTER'S DEGREE IN PHYSICAL EDUCATION OR OTHER SPORTS RELATED FIELD AND WHO IS A CERTIFIED COACH OR OTHER OFFICIAL IN GOOD STANDING WITH SEVEN YEARS EXPERIENCE IN CONTACT SPORTS; AND
(VI) TWO MEMBERS SHALL BE MARTIAL ARTISTS, CERTIFIED AS BLACK BELT INSTRUCTORS WITH A RANK OF AT LEAST FOURTH DEGREE, WITH BACHELOR'S DEGREES FROM AN ACCREDITED SCHOOL OR UNIVERSITY RECOGNIZED BY THE NEW YORK STATE DEPARTMENT OF EDUCATION.
(C) THE ADVISORY COMMISSION IS HEREBY AUTHORIZED AND DIRECTED TO PROMULGATE RULES AND REGULATIONS SETTING STANDARDS, CRITERIA AND UNIFORM PRACTICES FOR TRAINING FACILITIES FOR ALL FORMS OF AMATEUR MARTIAL ARTS AND ORGANIZED AMATEUR MARTIAL ART EVENTS AND COMPETITIONS IN THIS STATE. SUCH RULES AND REGULATIONS SHALL PROVIDE FOR THE FOLLOWING:
(I) A PARTICIPANT LOG COMMONLY KNOWN AS A PASSBOOK, WHICH SHALL BE USED BY PARTICIPANTS, TRAINING FACILITIES AND LOCATIONS HOLDING AMATEUR MARTIAL ARTS EVENTS AND COMPETITIONS; SUCH A LOG WILL BE KEPT FOR THE SOLE PURPOSE OF RECORDING AND TRACKING THE MATCH OUTCOMES, AND INJURIES SUSTAINED BY EACH AMATEUR MARTIAL ART COMPETITOR PARTICIPATING IN AN ORGANIZED AMATEUR MARTIAL ART NON-PROFESSIONAL COMBATIVE SPORT COMPETITION. ALL INJURIES MUST BE RECORDED AND REPORTED TO THE ADVISORY COMMISSION. FAILURE TO KEEP RECORDS IN SUCH LOG OR KNOWINGLY PROVIDING FALSE INFORMATION OR CONCEALING FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO WILL SUBJECT ANY OFFENDING PARTY INCLUDING BUT NOT LIMITED TO: INSTRUCTOR, PROMOTER, SCHOOL, GYM, FITNESS FACILITY, CLUB, MANAGER OR PARTICIPANT TO A CIVIL PENALTY OF ONE THOUSAND DOLLARS PER VIOLATION AND POSSIBLE SUSPENSION AND/OR REVOCATION OF ALL APPLICABLE ASSOCIATED CERTIFICATION AND/OR LICENSES;
(II) THE AMOUNT OF LIABILITY INSURANCE COVERAGE DEEMED NECESSARY FOR EACH TRAINING FACILITY WHERE AMATEUR MARTIAL ARTS ARE PRACTICED. VALID PROOF OF INSURANCE MUST BE SENT TO THE COMMISSIONER FOR VERIFICATION. FAILURE TO SUBMIT VALID PROOF OF INSURANCE OR KNOWINGLY PROVIDING FALSE INFORMATION OR CONCEALING FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO WILL RESULT IN ANY OFFENDING PARTY INCLUDING BUT NOT LIMITED TO: INSTRUCTOR, PROMOTER, SCHOOL, GYM, FITNESS FACILITY, CLUB, MANAGER OR PROPERTY MANAGER TO A CIVIL PENALTY OF ONE

THOUSAND DOLLARS PER VIOLATION AND SUSPENSION AND POSSIBLE REVOCATION OF ALL APPLICABLE ASSOCIATED CERTIFICATIONS AND LICENSES;

(III) ANY INDIVIDUAL, GROUP, SCHOOL, GYM, FITNESS FACILITY, CLUB OR PROMOTER HOSTING OR WHICH INTENDS TO HOST AN ORGANIZED AMATEUR MARTIAL ARTS EVENT OR COMPETITION SHALL SUBMIT VALID PROOF OF LIABILITY INSURANCE FOR THE ORGANIZED EVENT OR COMPETITION TO THE COMMISSION FOR VERIFICATION WITHIN NO LESS THAN ONE WEEK OF A SCHEDULED ORGANIZED AMATEUR MARTIAL ARTS EVENT OR COMPETITION. FAILURE TO SUBMIT VALID PROOF OF INSURANCE OR KNOWINGLY PROVIDING FALSE INFORMATION OR CONCEALING FOR THE PURPOSE OF MISLEADING INFORMATION CONCERNING ANY FACT MATERIAL THERETO WILL RESULT IN ANY OFFENDING PARTY INCLUDING BUT NOT LIMITED TO: INSTRUCTOR, PROMOTER, SCHOOL, GYM, FITNESS FACILITY, CLUB, MANAGER AND/OR PARTICIPANT TO A CIVIL PENALTY OF FIVE THOUSAND DOLLARS PER VIOLATION AND SUSPENSION AND POSSIBLE REVOCATION OF ALL APPLICABLE ASSOCIATED CERTIFICATIONS AND LICENSES;

(IV) STANDARDS FOR CONDUCT IN NON-PROFESSIONAL MARTIAL ARTS TRAINING AND LOCATIONS HOLDING EVENTS AND COMPETITIONS;

(V) LICENSE FOR ALL AMATEUR MARTIAL ARTS COMPETITORS;

(VI) ESTABLISH APPLICABLE BACKGROUND CHECKS, CERTIFICATION AND REGISTRATION FEES, AND PENALTIES FOR VIOLATIONS;

(VII) ESTABLISH APPLICATION PROCESS AND TRAINING FOR SCHOOLS, INSTRUCTORS, OFFICIALS, PARTICIPANTS, MANAGERS AND OTHER ANCILLARY PERSONNEL;

(VIII) ESTABLISH APPLICABLE CERTIFICATION AND LICENSING FEES FOR SCHOOLS, INSTRUCTORS, OFFICIALS, PARTICIPANTS, MANAGERS AND OTHER ANCILLARY PERSONNEL; AND

(IX) ESTABLISH FINES AND PENALTIES FOR VIOLATIONS OF THE ESTABLISHED RULES AND REGULATIONS.

(D) FOR PURPOSES OF THIS SECTION: (I) "AMATEUR MARTIAL ARTS" SHALL MEAN NON-PROFESSIONAL COMBATIVE SPORT COMPETITION WHEREIN THE RULES SET FORTH BY THE ADVISORY COMMISSION AUTHORIZE NON-PROFESSIONAL COMBATIVE SPORT MATCHES BETWEEN SINGLE DISCIPLINE AND VARIOUS FIGHTING DISCIPLINES, INCLUDING DISCIPLINES THAT UTILIZE PERMITTED AMATEUR MARTIAL ARTS TECHNIQUES INCLUDING, STRIKING, KICKING, AND GRAPPLING; AND

(II) "SINGLE DISCIPLINE MARTIAL ARTS" SHALL MEAN ANY SCHOOL, INSTITUTION, GYM, CLUB AND/OR TRAINING FACILITY THAT CONDUCTS LESSONS AND INSTRUCTS NON-PROFESSIONAL ATHLETES AND THOSE THAT CONDUCT OR HOLD MATCHES, TOURNAMENTS OR EXHIBITIONS THAT ARE CONSIDERED AMATEUR EVENTS FOR NON-PROFESSIONALS.

S 2. Section 168-w of the correction law, as relettered by chapter 604 of the laws of 2005, is relettered section 168-x and a new section 168-w is added to read as follows:

S 168-W. SEX OFFENDERS SHALL NOT BE EMPLOYED IN A POSITION INVOLVING SUBSTANTIAL CONTACT WITH CHILDREN. 1. NO SEX OFFENDER SHALL APPLY FOR OR ACCEPT A POSITION WHICH INVOLVES SUBSTANTIAL CONTACT WITH CHILDREN. SUCH POSITION SHALL INCLUDE ANY JOB, TASK OR OCCUPATION WHICH, BY ITS NATURE, REQUIRES A PERSON TO BE IN SUBSTANTIAL CONTACT WITH CHILDREN IN THE REGULAR PERFORMANCE OF HIS OR HER DUTIES OR DEALINGS IN SUCH POSITION. THIS SECTION SHALL ALSO APPLY TO ANY PERSON SEEKING A PERMIT OR PERMISSION TO EXECUTE ANY ACTIVITY OR PERFORMANCE THAT WOULD PRESENT A DIRECT CONTACT WITH CHILDREN.

2. THE DEFINITION OF "POSITION" AS USED IN THIS SECTION, SHALL APPLY TO ANY PERSON SEEKING EMPLOYMENT EITHER PAID OR UNPAID, ANY PERSON SEEKING TO VOLUNTEER, OR ANY PERSON SEEKING A PERMIT OR PERMISSION THAT WOULD PRESENT A SUBSTANTIAL CONTACT WITH CHILDREN.

3. EXAMPLES OF SUCH EMPLOYMENT SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO:

(A) ANY POSITION IN A SCHOOL INCLUDING TEACHERS, TEACHER-AIDES, ADMINISTRATORS, ASSISTANTS, CAFETERIA WORKERS, JANITORS, NURSES OR ANY OTHER PERSON WORKING IN A SCHOOL THAT WOULD HAVE CONTACT WITH THE CHILDREN ATTENDING SAID SCHOOL;

(B) ANY POSITION IN A CHILD-CARE FACILITY;

(C) ANY RECREATIONAL POSITION SUCH AS A COACH, MARTIAL ARTS INSTRUCTOR, BOY SCOUT OR GIRL SCOUT LEADER, CAMP COUNSELOR, LIFEGUARD, INSTRUCTOR OR ANY OTHER RECREATIONAL AREA THAT WOULD PRESENT A SUBSTANTIAL CONTACT WITH CHILDREN;

(D) ANY POSITION IN A PARK, PLAYGROUND, AMUSEMENT PARK, POOL, GYMNASIUM, SPORTS OR FITNESS CENTER, MARTIAL ARTS TRAINING FACILITY OR ANY OTHER FACILITY, COMPETITION CENTER OR AREA WHERE CHILDREN HAVE A PROPENSITY TO INHABIT;

(E) ANY STORE OR RESTAURANT THAT IS SPECIFICALLY TARGETED TOWARDS CHILDREN SUCH AS A TOY STORE OR CHILDREN'S THEME RESTAURANT;

(F) ANY POSITION WHEREIN A PERSON WOULD BE EMPLOYED IN AN AREA THAT SPECIFICALLY IS TARGETED TOWARDS CHILDREN INCLUDING BUT NOT LIMITED TO AN ICE CREAM TRUCK OPERATOR;

(G) ANY PERSON APPLYING FOR A PERMIT OR PERMISSION THAT WOULD GRANT SAID PERSON THE ABILITY TO CARRY OUT ANY ACTIVITY OR ACTION THAT IS DIRECTED TOWARDS OR WOULD INVOLVE SUBSTANTIAL CONTACT WITH CHILDREN.

4. EMPLOYERS, ORGANIZATIONS AND GOVERNMENT ENTITIES SHALL HAVE ACCESS TO THE STATEWIDE CENTRAL REGISTRY OF CHILD ABUSE AND MALTREATMENT FOR THE PURPOSE OF PERFORMING A BACKGROUND CHECK FOR ANY CONVICTIONS OF SEXUAL ABUSE OF A CHILD. EVERY EMPLOYER, ORGANIZATION AND GOVERNMENT ENTITY SHALL CHECK ANY POTENTIAL EMPLOYEES SEEKING TO ASSUME A POSITION THAT WILL BE IN SUBSTANTIAL CONTACT WITH CHILDREN AGAINST BOTH THE STATEWIDE CENTRAL REGISTRY OF CHILD ABUSE AND MALTREATMENT AND THE REGISTERED SEX OFFENDERS DATABASE TO ASCERTAIN IF SAID PERSON HAS A CONVICTION FOR SEXUAL ABUSE OF A CHILD.

5. "SUBSTANTIAL CONTACT WITH CHILDREN" AS USED IN THIS SECTION MEANS WORKING WITH CHILDREN, HAVING ACCESS TO CHILDREN, HAVING OPPORTUNITY TO BE ALONE WITH CHILDREN, SPENDING TIME WITH CHILDREN, PERFORMING FOR CHILDREN OR ANY OTHER ACTIVITY THAT INVOLVES CHILDREN.

6. (A) ANY SEX OFFENDER WHO APPLIES FOR OR ACCEPTS EMPLOYMENT IN VIOLATION OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR UPON THE FIRST CONVICTION THEREOF, AND UPON A SECOND OR SUBSEQUENT CONVICTION THEREOF SHALL BE GUILTY OF A CLASS D FELONY.

(B) ANY EMPLOYER WHO KNOWINGLY EMPLOYS A SEX OFFENDER IN VIOLATION OF THIS SECTION SHALL, UPON CONVICTION, BE GUILTY OF A CLASS A MISDEMEANOR.

S 3. This act shall take effect immediately, provided however, that section two of this act shall take effect on the first of November next succeeding the date on which it shall have become a law, provided further that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.