

6795

I N S E N A T E

March 11, 2014

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

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:

1 Section 1. Section 4 of chapter 912 of the laws of 1920 relating to
2 the regulation of boxing, sparring and wrestling, is amended by adding a
3 new subdivision 5-a to read as follows:
4 5-A. (A) THERE IS HEREBY CREATED IN THE DEPARTMENT OF STATE THE
5 AMATEUR MARTIAL ARTS ADVISORY COMMISSION. THE ADVISORY COMMISSION SHALL
6 CONSIST OF SEVEN MEMBERS TO BE APPOINTED AS FOLLOWS: THREE MEMBERS TO BE
7 APPOINTED BY THE GOVERNOR; TWO MEMBERS TO BE APPOINTED BY THE SENATE;
8 AND TWO MEMBERS TO BE APPOINTED BY THE ASSEMBLY. A CHAIR OF THE COMMIS-
9 SION SHALL BE APPOINTED BY THE GOVERNOR FROM AMONG HIS OR HER APPOINT-
10 EES. THE LENGTH OF THE TERMS OF SUCH MEMBERS SHALL BE FOUR YEARS. VACAN-
11 CIES SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENTS.
12 (B) (I) THE CHAIRMAN SHALL HAVE:
13 (A) A MASTER'S DEGREE FROM AN ACCREDITED UNIVERSITY IN EDUCATION OR
14 BUSINESS;
15 (B) AT LEAST TEN YEARS EXPERIENCE AS A MARTIAL ARTIST CERTIFIED AT THE
16 BLACK BELT LEVEL;
17 (C) AT LEAST FIVE YEARS PRIOR EXPERIENCE OFFICIATING AS A JUDGE AND/OR
18 REFEREE IN COMBATIVE SPORTS;
19 (D) PRIOR EXPERIENCE IN THE MEDICAL FIELD; EMERGENCY MEDICINE, FIRST
20 RESPONDER, SPORTS MEDICINE PREFERRED;
21 (E) A BACKGROUND IN BUSINESS DEVELOPMENT, HUMAN RESOURCES, PUBLIC
22 RELATIONS AND/OR COMMUNICATIONS CURRICULUM AND INSTRUCTION DESIRED;
23 (F) PAST BOARD MEMBER EXPERIENCE;

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

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1 (G) KNOWLEDGE OF LEGISLATIVE PROCESS;

2 (H) FAMILIARITY WITH OTHER STATES' RULES AND LAWS GOVERNING COMBATIVE
3 SPORTS;

4 (I) EXPERIENCE WITH PROMULGATING RULES FOR COMBATIVE SPORTS; AND

5 (J) KNOWLEDGE OF THE MARTIAL ARTS INDUSTRY AND COMMUNITY IN THIS
6 STATE.

7 (II) ONE MEMBER SHALL BE A DOCTOR OF OSTEOPATHIC MEDICINE OR A MEDICAL
8 DOCTOR LICENSED TO PRACTICE IN THIS STATE PURSUANT TO ARTICLE ONE
9 HUNDRED THIRTY-ONE OF THE EDUCATION LAW, IN GOOD STANDING, WHO HAS
10 COMPLETED RESIDENCY TRAINING AND HAS AT LEAST FIVE YEARS EXPERIENCE IN
11 SPORTS MEDICINE OR WORKING WITH A SPORTS TEAM, POST-CONCUSSION HEAD
12 INJURY, NEUROLOGY, NEURO-ONCOLOGY AND/OR NEURO AND SPINAL SURGERY;

13 (III) ONE MEMBER SHALL HAVE A JURIS DOCTOR DEGREE FROM AN ACCREDITED
14 LAW SCHOOL, ADMITTED TO THE NEW YORK STATE BAR IN GOOD STANDING, WITH
15 LITIGATION EXPERIENCE AND KNOWLEDGE OF SPORTS LAW AND NEGLIGENCE;

16 (IV) ONE MEMBER SHALL HAVE A DOCTOR OF EDUCATION DEGREE FROM AN
17 ACCREDITED UNIVERSITY WHO IS A CERTIFIED SCHOOL DISTRICT ADMINISTRATOR;

18 (V) ONE MEMBER SHALL HAVE A MASTER'S DEGREE IN PHYSICAL EDUCATION OR
19 OTHER SPORTS RELATED FIELD AND WHO IS A CERTIFIED COACH OR OTHER OFFI-
20 CIAL IN GOOD STANDING WITH SEVEN YEARS EXPERIENCE IN CONTACT SPORTS; AND

21 (VI) TWO MEMBERS SHALL BE MARTIAL ARTISTS, CERTIFIED AS BLACK BELT
22 INSTRUCTORS WITH A RANK OF AT LEAST FOURTH DEGREE, WITH BACHELOR'S
23 DEGREES FROM AN ACCREDITED SCHOOL OR UNIVERSITY RECOGNIZED BY THE NEW
24 YORK STATE DEPARTMENT OF EDUCATION.

25 (C) THE ADVISORY COMMISSION IS HEREBY AUTHORIZED AND DIRECTED TO
26 PROMULGATE RULES AND REGULATIONS SETTING STANDARDS, CRITERIA AND UNIFORM
27 PRACTICES FOR TRAINING FACILITIES FOR ALL FORMS OF AMATEUR MARTIAL ARTS
28 AND ORGANIZED AMATEUR MARTIAL ART EVENTS AND COMPETITIONS IN THIS STATE.
29 SUCH RULES AND REGULATIONS SHALL PROVIDE FOR THE FOLLOWING:

30 (I) A PARTICIPANT LOG COMMONLY KNOWN AS A PASSBOOK, WHICH SHALL BE
31 USED BY PARTICIPANTS, TRAINING FACILITIES AND LOCATIONS HOLDING AMATEUR
32 MARTIAL ARTS EVENTS AND COMPETITIONS; SUCH A LOG WILL BE KEPT FOR THE
33 SOLE PURPOSE OF RECORDING AND TRACKING THE MATCH OUTCOMES, AND INJURIES
34 SUSTAINED BY EACH AMATEUR MARTIAL ART COMPETITOR PARTICIPATING IN AN
35 ORGANIZED AMATEUR MARTIAL ART NON-PROFESSIONAL COMBATIVE SPORT COMPETI-
36 TION. ALL INJURIES MUST BE RECORDED AND REPORTED TO THE ADVISORY COMMIS-
37 SION. FAILURE TO KEEP RECORDS IN SUCH LOG OR KNOWINGLY PROVIDING FALSE
38 INFORMATION OR CONCEALING FOR THE PURPOSE OF MISLEADING, INFORMATION
39 CONCERNING ANY FACT MATERIAL THERETO WILL SUBJECT ANY OFFENDING PARTY
40 INCLUDING BUT NOT LIMITED TO: INSTRUCTOR, PROMOTER, SCHOOL, GYM, FITNESS
41 FACILITY, CLUB, MANAGER OR PARTICIPANT TO A CIVIL PENALTY OF ONE THOU-
42 SAND DOLLARS PER VIOLATION AND POSSIBLE SUSPENSION AND/OR REVOCATION OF
43 ALL APPLICABLE ASSOCIATED CERTIFICATION AND/OR LICENSES;

44 (II) THE AMOUNT OF LIABILITY INSURANCE COVERAGE DEEMED NECESSARY FOR
45 EACH TRAINING FACILITY WHERE AMATEUR MARTIAL ARTS ARE PRACTICED. VALID
46 PROOF OF INSURANCE MUST BE SENT TO THE COMMISSIONER FOR VERIFICATION.
47 FAILURE TO SUBMIT VALID PROOF OF INSURANCE OR KNOWINGLY PROVIDING FALSE
48 INFORMATION OR CONCEALING FOR THE PURPOSE OF MISLEADING, INFORMATION
49 CONCERNING ANY FACT MATERIAL THERETO WILL RESULT IN ANY OFFENDING PARTY
50 INCLUDING BUT NOT LIMITED TO: INSTRUCTOR, PROMOTER, SCHOOL, GYM, FITNESS
51 FACILITY, CLUB, MANAGER OR PROPERTY MANAGER TO A CIVIL PENALTY OF ONE
52 THOUSAND DOLLARS PER VIOLATION AND SUSPENSION AND POSSIBLE REVOCATION OF
53 ALL APPLICABLE ASSOCIATED CERTIFICATIONS AND LICENSES;

54 (III) ANY INDIVIDUAL, GROUP, SCHOOL, GYM, FITNESS FACILITY, CLUB OR
55 PROMOTER HOSTING OR WHICH INTENDS TO HOST AN ORGANIZED AMATEUR MARTIAL
56 ARTS EVENT OR COMPETITION SHALL SUBMIT VALID PROOF OF LIABILITY INSUR-

1 ANCE FOR THE ORGANIZED EVENT OR COMPETITION TO THE COMMISSION FOR
2 VERIFICATION WITHIN NO LESS THAN ONE WEEK OF A SCHEDULED ORGANIZED
3 AMATEUR MARTIAL ARTS EVENT OR COMPETITION. FAILURE TO SUBMIT VALID PROOF
4 OF INSURANCE OR KNOWINGLY PROVIDING FALSE INFORMATION OR CONCEALING FOR
5 THE PURPOSE OF MISLEADING INFORMATION CONCERNING ANY FACT MATERIAL THERE-
6 TO WILL RESULT IN ANY OFFENDING PARTY INCLUDING BUT NOT LIMITED TO:
7 INSTRUCTOR, PROMOTER, SCHOOL, GYM, FITNESS FACILITY, CLUB, MANAGER
8 AND/OR PARTICIPANT TO A CIVIL PENALTY OF FIVE THOUSAND DOLLARS PER
9 VIOLATION AND SUSPENSION AND POSSIBLE REVOCATION OF ALL APPLICABLE ASSO-
10 CIATED CERTIFICATIONS AND LICENSES;

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

13 (V) LICENSE FOR ALL AMATEUR MARTIAL ARTS COMPETITORS;

14 (VI) ESTABLISH APPLICABLE BACKGROUND CHECKS, CERTIFICATION AND REGIS-
15 TRATION FEES, AND PENALTIES FOR VIOLATIONS;

16 (VII) ESTABLISH APPLICATION PROCESS AND TRAINING FOR SCHOOLS, INSTRU-
17 TORS, OFFICIALS, PARTICIPANTS, MANAGERS AND OTHER ANCILLARY PERSONNEL;

18 (VIII) ESTABLISH APPLICABLE CERTIFICATION AND LICENSING FEES FOR
19 SCHOOLS, INSTRUCTORS, OFFICIALS, PARTICIPANTS, MANAGERS AND OTHER ANCIL-
20 LARY PERSONNEL; AND

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

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

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

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

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

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

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

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

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

1 (C) ANY RECREATIONAL POSITION SUCH AS A COACH, MARTIAL ARTS INSTRU-
2 TOR, BOY SCOUT OR GIRL SCOUT LEADER, CAMP COUNSELOR, LIFEGUARD, INSTRU-
3 TOR OR ANY OTHER RECREATIONAL AREA THAT WOULD PRESENT A SUBSTANTIAL
4 CONTACT WITH CHILDREN;

5 (D) ANY POSITION IN A PARK, PLAYGROUND, AMUSEMENT PARK, POOL, GYMNASI-
6 UM, SPORTS OR FITNESS CENTER, MARTIAL ARTS TRAINING FACILITY OR ANY
7 OTHER FACILITY, COMPETITION CENTER OR AREA WHERE CHILDREN HAVE A PROPEN-
8 SITY TO INHABIT;

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

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

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

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

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

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

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

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