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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

Agency name	Department of Professional and Occupational Regulation
Virginia Administrative Code (VAC) citation	18VAC120-40
Regulation title	Virginia Professional Boxing and Wrestling Events Regulations
Date	March 24, 2016

This information is required pursuant to Executive Order 17 (2014).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

(1) Relevant Laws

[§ 54.1-201.A.5](#) of the *Code of Virginia* states that the Board has the power and duty "To promulgate regulations in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ [54.1-100](#) et seq.) and 3 (§ [54.1-300](#) et seq.) of this title.

The imperative form of the verb "shall" is used, making the Board's authority to regulate mandatory rather than discretionary.

Executive Order 17 (2014) states, in part, "Each existing regulation in the state shall be reviewed at least once every four years by the promulgating agency unless specifically exempted from periodic review by the Governor."

§ 54.1-831 of the Code of Virginia authorizes the Department as follows: "The Department shall administer and enforce the provisions of this chapter. In addition to the powers and duties otherwise conferred by law, the Director shall have the powers and duties of a regulatory board as contained in Board shall promulgate regulations not inconsistent with this chapter governing its own organization, the §54.1-201 and §54.1-202.

The imperative form of the verb "shall" is used, making the Department's authority to regulate mandatory rather than discretionary. Executive Order 17 (2014) states, in part, "Each existing regulation in the state shall be reviewed at least once every four years by the promulgating agency unless specifically exempted from periodic review by the Governor."

(2) Promulgating Entity

Director of the Department of Professional and Occupational Regulation

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

No viable alternative has been identified. The regulations are necessary for the Department to comply with §54.1-831 of the Code of Virginia.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Summary of comments received during periodic review period January 11 - February 1, 2016. During the public comment period, the Board received comments from 209 individuals. Of the comments received, 106 were in opposition to HB1228 that was before the 2016 session of the General Assembly and 18 comments were in favor of HB1228; 41 were in opposition to the existing statute which affects amateur boxing. None of these comments pertain to the existing regulations which are under periodic review. Further, there were additional comments in which it was unclear as to the commenter's intent – 4 comments just stated "oppose" and five comments "support MMA." 1 comment indicated "let it be" and 1 comment "strongly in Favo" [sic]. 2 comments "support" and 7 comments "support safety" with 4 "oppose the ban on amateur boxing" and 2 "agree with the ban" and 5 "oppose the ban." It is believed that most of these comments also related to HB1228 however the bill wasn't specifically mentioned. Some individuals commented on more than one specific topic in their commentary. There were four comments that actually referenced the regulations: one comment was to keep existing regulation, one comment indicating "don't change regulations" and two comments to deregulate professional wrestling. The Director determined to keep the requirements as they are at this time. No informal advisory committee was formed.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulations are consistent with the criteria of Executive Order 17 (2014) in that they are written clearly and are easily understandable. Further, they are necessary for the Department to comply with §54.1-831 of the Code of Virginia.

Result

Please state that the reason why the agency is recommending that the regulation should stay in effect without change.

The Director recommends that the regulations remain in effect and unchanged.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 3) the complexity of the regulation; 4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

1. The current regulations are necessary for the Department to comply with §54.1-831 of the Code of Virginia.
2. 209 individual comments were received during the public comment period.
3. The regulations are not complex in nature.
4. The regulations do not overlap, duplicate, or conflict with federal or state laws or regulations but instead work in concert with them.
5. The last periodic review concluded December 2011. The current regulations became effective October 1, 2015.

No small business impact has been identified.