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Regulatory  
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## Proposed Regulation Agency Background Document

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| <b>Agency name</b>                                 | Department of Professional and Occupational Regulation |
| <b>Virginia Administrative Code (VAC) citation</b> | 18 VAC 120-40-50                                       |
| <b>Regulation title</b>                            | Professional Boxing and Wrestling Event Regulations    |
| <b>Action title</b>                                | Amending   |
| <b>Document preparation date</b>                   | 10/21/03   |

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://www.townhall.state.va.us/dpbpages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

The purpose of the proposed action is to adjust fees as necessary in accordance with § 54.1-113 of the Code of Virginia (Callahan Act).

## Basis

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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§ 54.1-113. (Callahan Act) Regulatory boards to adjust fees – Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

§ 54.1-201.4 describes each regulatory board's power and duty to “levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department...”

§ 54.1-304.3 describes the power and duty of the Director to "collect and account for all fees prescribed to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the Board, regulatory boards, and the Department shall be paid..."

§ 54.1-308 provides for compensation of the Director, employees, and board members to be paid out of the total funds collected. This section also requires the Director to maintain a separate account for each board showing moneys collected on its behalf and expenses allocated to the board.

§ 54.1-831. Powers and duties of the Department – Provides that the Department shall administer and enforce the provisions of Chapter 8.1 (Boxing and Wrestling Events) and “shall have direct oversight of events to assure the safety and well-being of boxers and wrestlers.” This section also gives the Director all powers of a regulatory board as contained in § 54.1-201, the power to promulgate regulations including the manner in which fees are to be accounted for and submitted to the Department, and the power to “charge each applicant for licensure and for renewals of licensure a nonrefundable fee subject to the provisions of § 54.1-113 and subdivision 4 of § 54.1-201.”

Fee adjustments are mandatory in accordance with these Code sections. The agency exercises discretion in how the fees are adjusted by determining the amount of the adjustment for each type of fee. The agency makes its determination based on the adequacy of the fees to provide sufficient revenue for upcoming operating cycles.

## Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

The intent of the proposed changes in regulations is to increase fees for applicants and regulants of the Professional Boxing and Wrestling Program. The program must establish fees adequate to support the costs of operations and a proportionate share of the Department's operations. By the close of the current biennium, fees will not provide adequate revenue for those costs.

The Department receives no general fund money, but instead is funded almost entirely from revenue collected for regulants and event licensure and gate fees. The Department is self-supporting, and must collect adequate revenue to support its mandated and approved activities and operations. The Professional Boxing and Wrestling Program is the only activity funded under Fund 0200 Special Revenue. Fees must be established at amounts that will provide sufficient revenue to continue the ability of the program to fulfill its statutory duty contained in subsection 1 of § 54.1-831 to "protect the public against incompetent, unqualified, unscrupulous or unfit persons engaging" in boxing and wrestling.

The Professional Boxing and Wrestling Program has no other source of revenue from which to fund its operations.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

Fees will be increased as necessary to comply with § 54.1-113 of the Code of Virginia (Callahan Act).

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

The primary issue for the proposed fee increase is the Department’s statutory requirement to comply with the Callahan Act.

The advantage of these changes is that the regulatory program will be able to continue to function in order to protect the public. The disadvantage is that these changes will increase the cost of the license to the regulated population; however, the impact of these changes on the income of the regulated population should not be of a great significance compared to level of income.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

|  |   |
|--|---|
| <b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b> | See table below.  |
| <b>Projected cost of the regulation on localities</b>  | None anticipated.   |
| <b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>  | Boxers, Wrestlers, Promoters and others engaged in boxing and wrestling events.   |
| <b>Agency’s best estimate of the number of such entities that will be affected</b>   | Approximately 1,100 individuals and 110 events.   |
| <b>Projected cost of the regulation for affected individuals, businesses, or other entities</b>  | Application and renewal costs will increase \$15 annually. Wrestling event license costs will increase \$25 and Boxing event license costs will increase \$200 per event. |

**Fiscal Impact of Proposed Regulation**

**Summary:**

The proposed regulations will increase fees for Boxing and Wrestling to ensure that revenues are sufficient but not excessive to cover its ongoing operating expenses.

All costs incurred in support of program activities and regulatory operations are paid by the department and funded through fees paid by applicants and licensees. All boards within the Department of Professional and Occupational Regulation must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201.

**Fiscal Impact:**

The proposed fee increase is expected to increase revenue sufficient to cover expenses. The fee increase will support ongoing direct costs of ensuring the safety of the participants in boxing and wrestling events. In order to regulate the boxing and wrestling events, the program must be able to cover the cost of services provided directly to regulants who pay the event fee.

|                    |            |            |            |            |
|--------------------|------------|------------|------------|------------|
|                    | FY 2003    | FY 2004    | FY2005     | FY2006     |
| Fund               | NGF (0200) | NGF (0200) | NGF (0200) | NGF (0200) |
| Program/Subprogram | 560 44     | 560 44     | 560 44     | 560 44     |

| Impact of Regulatory Changes: |      |      |      |      |
|-------------------------------|------|------|------|------|
| One-Time Costs                | 0    | 0    | 0    | 0    |
| Ongoing Costs                 | 0    | 0    | 0    | 0    |
| Total Fiscal Impact           | 0    | 0    | 0    | 0    |
| FTE                           | 0.00 | 0.00 | 0.00 | 0.00 |

**Description of Costs:**

One-Time: There are no one-time costs associated with the proposed regulations.

Ongoing: There are no ongoing costs associated with the proposed regulations.

**Cost to Localities:** None anticipated.

**Description of Individuals, Businesses, or Other Entities Impacted:** Boxers, Wrestlers, Promoters and others engaged in boxing or wrestling events.

**Estimated Number of Regulants:** The Department currently regulates approximately 1,110 individuals and 110 events in the boxing and wrestling program annually.

**Projected Cost to Regulants:** Application and renewal costs will increase \$15 annually. Wrestling event license cost will increase \$25 and Boxing event license cost will increase \$200 per event.

**Financial Status and Projections**

**Current Fees**

| <u>Biennium</u> | <u>Beginning Cash Balance</u> | <u>Revenues</u> | <u>Expenditures</u> | <u>Ending Cash Balance</u> | <u>Percentage</u> |
|-----------------|-------------------------------|-----------------|---------------------|----------------------------|-------------------|
| 1998-00*        | 20,386                        | 256,559         | 234,278             | 42,667                     | 18.2%             |
| 2000-02*        | 42,667                        | 206,779         | 215,894             | 33,552                     | 15.65%            |
| 2002-04*        | 33,552                        | 221,683         | 242,344             | 12,891                     | 5.35%             |
| 2004-06         | 12,891                        | 211,200         | 253,760             | -29,669                    | -11.69%           |
| 2006-08         | -29,669                       | 212,790         | 262,720             | -79,599                    | -30.30%           |

\*Actual data thru FY2003

**Financial Status Projection with Proposed Fees**

| <u>Biennium</u> | <u>Beginning Cash Balance</u> | <u>Revenues</u> | <u>Expenditures</u> | <u>Ending Cash Balance</u> | <u>Percentage</u> |
|-----------------|-------------------------------|-----------------|---------------------|----------------------------|-------------------|
| 1998-00         | 20,386                        | 256,559         | 234,278             | 42,667                     | 18.2%             |
| 2000-02         | 42,667                        | 206,779         | 215,894             | 33,552                     | 15.65%            |
| 2002-04         | 33,552                        | 221,683         | 242,344             | 12,891                     | 5.35%             |
| 2004-06         | 12,891                        | 247,430         | 253,760             | 6,561                      | 2.59%             |
| 2006-08         | 6,561                         | 249,280         | 262,720             | -6,879                     | -2.62%            |

Revenue for the Boxing and Wrestling program is heavily dependent on major WWE events. Projecting how many of these events will occur annually is unreliable.

**Fee History**

| <u>Fee Type</u>                 | <u>1998</u> | <u>Current</u> | <u>Proposed Fees</u> | <u>Number of Regulators</u> |
|---------------------------------|-------------|----------------|----------------------|-----------------------------|
| Application/Renewal:            |             |                |                      |                             |
| Wrestler                        | 20          | 20             | 35                   | 510                         |
| Boxer                           | 20          | 20             | 35                   | 450                         |
| Manager                         | 30          | 30             | 45                   | 7                           |
| Matchmaker                      | 50          | 50             | 50                   | 1                           |
| Trainer/2 <sup>nd</sup> /Cutman | 20          | 20             | 35                   | 130                         |
| Promoter                        | 300         | 300            | 300                  | 20                          |
| Event:                          |             |                |                      |                             |
| Wrestling                       | 50          | 75             | 100                  | 100                         |
| Boxing <= 42 rounds             | 850         | 1,000          | 1,200                | 6                           |
| Boxing > 42 rounds              | 2,000       | 2,000          | 2,000                | 1                           |

**Expenditures by Type**

|                        | <u>1998-2000</u> | <u>2000-2002</u> | <u>2002-2004</u> | <u>2004-2006</u> | <u>2006-2008</u> |
|------------------------|------------------|------------------|------------------|------------------|------------------|
| Program Administration | 215,538          | 197,755          | 221,793          | 233,460          | 241,720          |
| Board Administration   | 9,370            | 8,325            | 9,640            | 10,150           | 10,500           |
| Agency Administration  | 9,370            | 8,327            | 9,640            | 10,150           | 10,500           |
| Other/Transfers        | 0                | 1,487            | 1,271            | 0                | 0                |

Total Expenditures                      234,278                      215,894                      242,344                      253,760                      262,720

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

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The Callahan Act requires that the fees for the Professional Boxing and Wrestling Program be sufficient to cover its expenses so no alternatives exist which would allow the agency to remain in compliance with the requirements of the Callahan Act.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

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No public comment was received.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

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These fee increases are not anticipated to have any significant impact on Virginia's families.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

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For changes to existing regulations, use this chart:

| Current section number | Proposed new section number, if applicable | Current requirement      | Proposed change and rationale                  |
|------------------------|--|--------------------------|--|
| 50                     |  | The application fees for | Raise the application fees for boxer, wrestler |

|    |  |  |   |
|----|--|--|---|
|    |  | boxer, wrestler and trainer, second and cutman are \$20.   | and trainer, second and cutman to \$35 to comply with § 54.1-113 of the Code of Virginia (Callahan Act).  |
| 50 |  | The application fee for a manager is \$30.   | Raise the application fee for a \$45 to comply with § 54.1-113 of the Code of Virginia (Callahan Act).  |
| 50 |  | The application fee for a boxing event of 42 rounds or fewer, with no more than one nontitle 10- or 12- round bout is \$1,000. | Raise the application fee for a boxing event of 42 rounds or fewer, with no more than one nontitle 10- or 12- round bout to \$1,200 to comply with § 54.1-113 of the Code of Virginia (Callahan Act). |
| 50 |  | The application fee for a wrestling event license is \$75.   | Raise the application fee for a wrestling event license to \$100 to comply with § 54.1-113 of the Code of Virginia (Callahan Act).  |