

REGULATING THE SPORT OF BOXING— CONGRESS THROWS THE FIRST PUNCH WITH THE PROFESSIONAL BOXING SAFETY ACT

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I. INTRODUCTION

A boxer dies while fighting in the ring; a heavyweight champion dies penniless; the mob pays a fighter to take a dive—whether fact or fiction, all of these stories are considered just part of the sport of boxing.

Boxing is one of the oldest sports in the world and is viewed by many as the “red light district” of sports, having the worst reputation of any professional sport.¹ While the advent of pay-per-view television has enabled some boxers to join the ranks of the highest paid professional athletes,² the majority of boxing athletes today earn much less—as little as \$50 to \$100 a fight.³ From these meager earnings, the boxer must cover his expenses of preparing for the fight as well as the expenses generated by the match itself, including all equipment, training,⁴ and travel.

Often a boxer has no health insurance outside the boxing ring, and the insurance coverage he has inside the ring may be totally inadequate to cover his medical expenses for any injuries. For example, in Florida, where insurance inside the ring is mandated by statute, if a fighter is hurt in the ring, he is only covered for the expenses associated with his injury from that fight up to \$2,500⁵—an amount barely covering the cost of a basic emergency room visit for a broken nose, stitches, and

1. 139 CONG. REC. S13129, S13132 (1993) (statement of Sen. McCain) (citing author Damon Runyon).

2. In the 1995 rankings of athlete by pay, there were four boxers in the top 15, with Mike Tyson and Riddick Bowe ranked number two (at \$40 million) and three (at \$22.2 million) respectively. Randall Lane & Josh McHugh, *A Very Green* 1995, *FORBES*, Dec. 18, 1995, at 212. In 1994, there were five boxers in the top 20: Michael Moorer at \$13.5 million; Evander Holyfield at \$12 million; George Foreman at \$8.5 million; Julio Cesar Chavez at \$8.5 million; and Lennox Lewis at \$8.3 million. Randall Lane, *The Forbes All-Stars*, *FORBES*, Dec. 19, 1994, at 266.

3. 139 CONG. REC., S13129-01, S13134 (statement of Sen. Dorgan) (1993).

4. Unless a fighter is lucky enough to be considered a “prospect,” he pays out of his own pocket to train in the local boxing gym.

5. Fla. Admin. Code Ann., r.61K1-1.0035(1) (1995).

follow-up doctor's visits.⁶ Moreover, the fighter is fortunate to have this coverage only if he is fighting for a reputable promoter who carries fight insurance instead of one of the many fly-by-night promoters who do not pay their bills. In some states, there is no regulating body for boxing and no state mandated insurance requirements or medical standards for fighters.⁷ In virtually all states, mismatches and injuries are commonplace.⁸ What can be done to cure these ills?

At the state level today, over 40 states have a State Athletic Commission or some other state or municipal body that regulates boxing events staged in the state.⁹ These commissions differ significantly from one another in terms of the standards they impose on the boxing community. The states in which the majority of the "big fights" are held, Nevada, New York, Florida, California, and New Jersey, generally have very effective boxing commissions, strict medical regulations governing the fighter's condition and treatment, and requirements that boxing matches are officiated by well-trained officials, referees, inspectors, and judges.¹⁰ These states regulate the sport by monitoring all fights, registering all fighters, promoters, and managers, and keeping up with the fighters' injuries and suspensions.¹¹ Other states, such as Colorado, South Dakota, and Wyoming, do not regulate boxing.¹² The disparity in regulations among states who do regulate boxing matches within their borders and the lack of regulation in other states reinforces the idea expressed by many boxing enthusiasts that the federal government needs to step forward and accept the role of rulemaker and enforcer of standards in the boxing profession.

On the federal level, Congress has made several attempts to regulate the sport of boxing over the past 30 years.¹³ Its ef-

6. Senate Report 103-408, Permanent Subcommittee on Investigations, Corruption in Professional Boxing, at 4 (October 7, 1994) [hereinafter "Senate Report"].

7. *Id.* at 6.

8. *Id.* at 6-7.

9. *Id.* at 4.

10. *Id.* at 4-9.

11. *Id.*

12. *Id.* at 4.

13. See *infra* text accompanying notes 17-27. There are some minor constitutional complications for the federal regulation of boxing but they have not deterred any attempts by Congress to regulate the sport. Peter E. Millspaugh, *The Federal Regulation of*

forts have been to no avail.¹⁴ Within the last year, two pieces of legislation have been proposed addressing the need for federal regulation of boxing—the Professional Boxing Safety Act, which recently passed the Senate with several amendments,¹⁵ and the Professional Boxing Corporation Act.¹⁶ This note examines both pieces of legislation in detail, their current status, strengths and weaknesses, and their similarities and differences with recommendations for the most effective future action.

Part II begins with the history of boxing regulation on the state and federal level, examining past failures and successes in attempts to regulate the sport. Part III specifically examines both pieces of the proposed federal legislation to regulate boxing in detail. Part IV examines the strengths and weaknesses of the two proposed bills in addressing the problems of the boxing world today, looking at the following problem areas: controlling boxing matches in uncommissioned states, costs generated by federal regulation, problems in enforcement, health and medical standards, biased fighter rankings, sanctioning bodies, and existing conflicts of interest by the participants. Lastly, Part V makes a comparison of the two proposed bills and their different approaches to federal regulation of the sport of boxing with suggestions for possible legislative solutions or compromises necessary to effectively tackle the major problems that plague the sport.

II. HISTORY OF BOXING REGULATION

As early as 1860,¹⁷ England adopted written rules for the sport of boxing, the Marquis of Queensbury rules, which, *inter alia*, limited the length of rounds, made boxing gloves mandatory (to protect the fighter's hands), established a one-minute rest period between rounds and a ten second rule after knockdowns.¹⁸ These rules were adopted in the United

Professional Boxing: Will Congress Answer The Bell?, 19 SETON HALL LEGIS. J. 33, 43-48 (1994).

14. See Senate Report, *supra* note 6, at 1-4.

15. 141 CONG. REC. S16435 (daily ed. Oct. 31, 1995).

16. H.R. 2607, 103rd Cong., 1st Sess. (1993).

17. See Millspaugh, *supra* note 13, at 34-36 (for a complete history of boxing from ancient Rome and Greece in 688 B.C. through the early 1900's).

18. See Senate Report, *supra* note 6, at 4. The ten-second rule allows the referee, after a knockdown occurs, to send the standing opponent to the farthest neutral corner

States in 1880.¹⁹ Nevertheless, 30 years later, several states banned boxing matches within their borders due to the injuries sustained by fighters and the "unsavory activities" which accompanied the sport.²⁰ Despite these bans, many promoters continued to stage fights in these states. New York became the first state to create a commission to regulate boxing in 1920.²¹

The first time the sport of boxing was scrutinized on a federal level was in 1960 when a senator from Tennessee, Senator Kefauver, believing the existing state system of regulation was inadequate, began hearings on reforming the boxing industry.²² As a result of the hearings, Kefauver, who chaired the Senate Subcommittee on Antitrust and Monopoly, introduced federal legislation to regulate boxing in 1961 and 1963.²³

Kefauver proposed Senate Bill 1474 in the 87th Congress and Senate Bill 1182 in the 88th Congress to establish a United States Boxing Commission within the Department of Justice in order to establish standards and to regulate boxing on a national level.²⁴ Although the bills never came to a vote due to Kefauver's untimely death, the hearings he began resulted in the passage of a bill that makes bribery in a sporting contest a crime.²⁵

Currently, organized crime does not have as great an influence in boxing as it did in Kefauver's day.²⁶ Nevertheless, as long as boxing continues to involve large sums of money and to be ineffectively regulated, organized crime will remain one of the "unsavory activities" that surrounds the boxing world.²⁷

while giving the knocked-down fighter a ten second count. If the fighter doesn't stand after the ten-second count, the fight is over. See Fla. Admin. Code Ann., r.61Ki-1.035(2) (1995) (listing the scoring, criteria, knockdowns, and fouls as utilized in the state of Florida).

19. Senate Report, *supra* note 6, at 4.

20. *Id.*

21. *Id.* The commission was organized under the Walker Law, which limited contests to 15 rounds and mandated certain health and safety protections such as mandatory ringside physicians. Millsbaugh, *supra* note 13, at 36.

22. Senate Report, *supra* note 6, at 4, 17.

23. *Id.* at 3, 17.

24. *Id.* at 3.

25. This bill, P.L. 88-316, 78 Stat. 203, was codified at 18 U.S.C. §224 in 1964. It has been used largely for regulating the harness racing business. See *U.S. v. Gerry*, 515 F.2d 130 (9th Cir.), *cert. den.* 423 U.S. 832 (1975); *U.S. v. Walsh*, 544 F.2d 156 (9th Cir.), *cert. den.* 429 U.S. 1093 (1977).

26. Senate Report, *supra* note 6, at 17-26.

27. *Id.* The FBI undertook a investigation know as "Crown Royal" in 1980 to un-

III. PROPOSED LEGISLATION

After the controversial David Tiberi/James Toney world title fight²⁸ on February 8, 1992, Senator Roth of Delaware instructed the minority staff of the Permanent Subcommittee on Investigations to begin an inquiry into professional boxing.²⁹ The inquiry led to a full-blown investigation into the sport of boxing, with hearings in August of 1992, and March and April of 1993.³⁰

In September of 1993, another controversial fight took place which was to attract congressional attention—the Pernell Whitaker and Julio Caesar Chavez match. This fight was described by Sports Illustrated as “robbing” Whitaker of a win.³¹ The Subcommittee also looked into allegations of misconduct surrounding this fight as a part of its report.³²

cover organized crime's link to professional boxing. *Id.* at 18. The investigation found ties to three fighters: James “Buddy” McGirt, Iran Barkley, and Bobby Czyz. *Id.* at 20-26. McGirt, Barkley, some of their managers and investors, and various State Athletic Commission personnel were deposed by the Senate Subcommittee. S. Hearing 103-184, Committee on Governmental Affairs, Permanent Subcommittee on Investigations, Corruption in Professional Boxing: Part II, at (v) (March 10 and April 1, 1993) [hereinafter “Senate Hearings”]. Charts, photographs, contracts, and canceled checks were exhibited as part of the investigation. *Id.* at 163-67, 191-92, 250-66.

28. James Toney, the current International Boxing Federation (“IBF”) champion, beat Dave Tiberi of Delaware by split decision. The fight was described by the ABC ringside announcer as the “most disgusting decision I have ever seen.” 141 CONG. REC. S16513 (daily ed. Nov. 1, 1995). A lawsuit was filed by Tiberi after the fight and the case is currently being litigated. *See Kondrath v. Arum*, 881 F.Supp. 925 (Del. 1995) (suit filed for violations of federal RICO statute, New Jersey Racketeering statute, fraud, and breach of contract and fiduciary duties, is transferred to New Jersey court). The plaintiffs, Tiberi and his manager, allege that the IBF “fixes fights so the IBF champion will retain his title in order to increase popular interest in the current champion which, in turn, increases the profitability of fights involving that champion.” *Id.* at 927. Senator Roth acknowledged a debt of gratitude to Dave Tiberi in his comments to the Senate upon the passage of the legislation. 141 CONG. REC. S16513 (daily ed. Nov. 1, 1995).

29. *See* Senate Report, *supra* note 6, at 2.

30. *Id.*

31. Pernell Whitaker put on “one of the most dazzling ring performances in recent years,” yet two of the three judges scored the 12 round championship bout a draw. William Nack, *Beaten to the Draw: Pernell Whitaker Outboxed Julio Cesar Chavez, But Two Judges Denied Him the Win*, SPORTS ILLUSTRATED, Sept. 20, 1993, at 14. But Whitaker was definitely in “hostile territory” because two of the judges, Marti and Vann, were “fixtures at fights sanctioned by the WBC [who is] synonymous with Don King, Chavez's promoter.” *Id.* Whitaker was quoted as saying, “[D]eep down I know I won it.” *Id.*

32. Senate Report, *supra* note 6, at 3. Senator Roth introduced into the record several articles from the Washington Post and the New York Post detailing the behind-the-scenes sanctioning body politics which surrounded the Whitaker/Chavez fight. 139 CONG. REC., S13129-13132 (1993).

After interviewing 130 "boxing insiders," the Senate Subcommittee found that the state regulating bodies responsible for overseeing boxing matches turned over control of the matches to private sanctioning bodies with virtually no accountability.³³ The Subcommittee also turned up several examples of how the current state commission system can be manipulated in ways that may result in harm to the health of fighters. For example, a fighter who is knocked out during a match in one state may turn up two weeks later fighting in another state which does not have a regulating commission.³⁴ In some cases, the fighter merely assumes another name under which to fight.³⁵ In addition, the investigation also found evidence of organized crime's participation in the sport.³⁶

A. *The Professional Boxing Corporation Act*

In response to the inquiry made by the Permanent Subcommittee on Investigations, Senator Roth introduced Senate Bill 1189, the Professional Boxing Corporation Act of 1993 ("Boxing Corporation Act") in July of 1993.³⁷ The bill was also introduced on the same day in the House by Congressman Bill Richardson from New Mexico.³⁸ With no action on the bill by

33. Bill Brubaker, *Boxing Referees: Have Connections, Will Travel*, WASH. POST, October 3, 1993, at D1.

34. Senate Report, *supra* note 6, at 8. Fighter Ricky Stackhouse was suspended for life by the New York Athletic Commission for medical reasons. *Id.* He then fought in Florida where he also received a life suspension from the Florida State Athletic Commission. *Id.* Again, he fought—this time in the state of Michigan—this time against the then-current IBF champion, James Toney. *Id.*

35. On July 14, 1990, in Pensacola, Florida, Roy Jones, the former Olympic silver medalist, knocked out his opponent, Derwin Richards, in the first round. Bob Greene, *This Fight Takes the Prize*, CHICAGO TRIB., July 22, 1990, at C1. It was later revealed, however, that Derwin Richards, a security guard at a corrections center in Houston, Texas, was not the fighter who fought Roy Jones. *Id.* Jones actually fought Tony Waddles, a 19-year-old car dealer employee who was taken to Pensacola by his "manager," Elvis Belt. *Id.* Waddles had been working out in Belt's gym for two months. Amy Radabaugh, *Oklahoma Man Say Jones Knocked Him Out*, ST. PETERSBURG TIMES, July 21, 1990, at C2. Belt signed all documents and gave Waddles \$700.00 for the fight, for which he was paid a total of \$2000. *Id.* Elvis Belt was later arrested in his hometown in Oklahoma on charges of grand theft by fraud. And in *This Jail Cell*, CHICAGO TRIB., Aug. 1, 1990, at C3.

36. Senate Report, *supra* note 6, at 17-26. See *supra* note 27 (discussing "Crown Royal" investigation).

37. 139 CONG. REC. 95 (July 1, 1993). This bill was sponsored by Senators Biden, McCain, and Dorgan.

38. H.R. 2607, 103rd Cong., 1st Sess. (1993). The bill, H.R. 2129, proposed the establishment of the United States Boxing Corporation, and was referred to the Committee on

Congress during that session, the Boxing Corporation Act was reintroduced to the House in 1995 by Rep. Richardson.³⁹

The highlights of Senator Roth's bill included establishing a self-funded government corporation, the Professional Boxing Corporation ("PBC"), to control and regulate professional boxing.⁴⁰ The Act proposed to establish a seven-member Professional Boxing Advisory Board, appointed by an Executive Director, who would make recommendations to the PBC.⁴¹ The PBC would set minimum standards for the sport and, through its licensing of all boxing personnel and events, would establish a unified national computer database of information on fighters, managers, physicians, promoters, and other fight personnel, known as the "National Registry."⁴²

The PBC would be empowered to: (1) prohibit fights that violate its standards, (2) issue subpoenas for records or witnesses, and (3) bring necessary action in the appropriate District Court to enjoin practices not in compliance with PBC regulations.⁴³ In addition, the PBC would be commissioned to review the role of the sanctioning bodies in the boxing industry.⁴⁴ Moreover, the Act contained a "sunset clause" that would terminate the PBC after seven years unless Congress prescribed its continuance.⁴⁵

Energy and Commerce, Subcommittee on Commerce, Consumer Protection, and Competitiveness, who held hearings on April, 26, 1994, with chairwoman, Cardiss Collins, presiding. H. Hearing 103-125, Committee on Energy and Commerce, Subcommittee on Commerce, Consumer Protection and Competitiveness, Professional Boxing Corporation, (April 26, 1994) [hereinafter "House Hearings"]. Lou Duva, ABC President James Hall, directors of the Florida and New York State Athletic Commissions, USBA and IBF President Bob Lee, Rep. Richardson, and Sen. McCain testified at the hearings. *Id.* Letters from several television networks were also part of the hearings. *Id.* Rep. Richardson had also introduced similar legislation in 1989 which received support in the House of Representatives. 139 CONG. REC. E1715-16 (1993).

39. H.R. 2212, 104th Cong., 1st Sess. (1995). The bill was referred to the House Commerce Committee, Subcommittee on Economic and Education Opportunities. 141 CONG. REC. H 8534 (daily ed. Aug. 4, 1995).

40. *Id.* Vice President Gore has encouraged the growth of federal government corporations often referred to as the "semiprivatization" of the government. See A. Michael Froomkin, *Reinventing the Government Corporation*, U. ILL. L. REV. 543 (1995).

41. Professional Boxing Corporation Act, S. 1189, 103rd Cong. 1st Sess. § 7 (1993). The Board was to consist of three State Athletic Commissioners, one physician, one representative of the United States Amateur Boxing Association, and two individuals knowledgeable and interested in the sport of boxing. *Id.*

42. *Id.* § 8(b).

43. *Id.* § 8(h)(1)-(6).

44. *Id.* § 8(d)(5)(B)(10).

45. *Id.* § 17.

B. *The Professional Boxing Safety Act of 1994*

Arguments opposing "big government" led to a compromise of Senator Roth's bill, the Professional Boxing Safety Act of 1994 ("Boxing Safety Act").⁴⁶ This bill is aimed at accomplishing the same goals of the Boxing Corporation Act, namely, regulating the health, safety, and welfare of the fighters, with one notable exception—no "federal takeover of the current system."⁴⁷ The bill was introduced by Senator McCain of Arizona, a Republican and longtime boxing fan, in October 1994.⁴⁸ The main thrust of the Boxing Safety Act is to create a nationwide alliance of state boxing commissions to accomplish the same goals set out in Senator Roth's bill without the need for a federal government corporation and its accompanying expenses.

Under the Boxing Safety Act, an alliance of commissioners would share information on fighters, managers, and promoters through a central boxing registry certified by the Association of Boxing Commissions ("ABC").⁴⁹ The Boxing Safety Act requires that all commissions must report boxing results and suspensions within 48 business hours following the match.⁵⁰ Amendments to the Act in the Senate require that boxing match results and suspensions be sent to each professional boxing registry certified by the ABC and to the Florida State Athletic Commission (or another state selected by the ABC if the state of Florida ceases to circulate the reports).⁵¹ Currently, reports are circulated on a limited basis by some of the

46. Professional Boxing Safety Act of 1994, S. 1991, 103rd Cong., 2d Sess. (1994).

47. Memorandum from Sen. McCain to John Morrison, Office of Rep. Richardson, Discussion of Issues Regarding A National Boxing Registry.

48. 140 CONG. REC. S3954-02, S3961. Senator McCain also boxed in college at the U.S. Naval Academy. 141 CONG. REC. S16514 (Nov. 1, 1995). The House companion of this bill was introduced by Rep. Robert Torricelli. Boxing Safety Act, Congressional Press Release (July 13, 1994). See also Jim Haynes, *No Joke-Retirement for Boxers?*, ARIZONA REPUBLIC, July 18, 1993, at C5 (questioning whether the regulation of boxing merits attention on "the pressing national agenda" of lawmakers); Dave Tiberi, *Those Who Mock Boxing Bill Should See Things From Inside Ring*, ARIZONA REPUBLIC, Aug. 13, 1993, at A20 (answering Haynes attack on lawmakers' attention to regulation of boxing).

49. Hearing on S. 1991, The Professional Boxing Safety Act (September 22, 1994) (statement of Sen. McCain). The ABC, a voluntary organization composed of 35 independent State Athletic Commission members, has already endorsed the bill. *Id.*

50. Professional Boxing Safety Act of 1994, S. 1991, 103rd Cong., 2d Sess., § 7(a)-(b) (1994).

51. Amend. 3039, 141 CONG. REC. S16429, S16430 (1995).

State Athletic Commissions.⁵²

The Act also provides that no boxer will be permitted to fight while on any suspension list for medical reasons or for using false identification in connection with a fight.⁵³ Where the fighter is on an administrative suspension, however, the fighter may obtain approval to fight after express notification and consultation with the director of the commission from the suspending state.⁵⁴

The Boxing Safety Act also sets up a nationwide registration system requiring all boxers to maintain a current identification card which contains a recent photograph of the boxer, his social security number (or similar identification for a foreign boxer), and any personal identification numbers assigned to the boxer by any of the certified state boxing commissions.⁵⁵ The card must be renewed every three years, and must be presented to the match officials "no later than the weigh-in" for any professional fight.⁵⁶ This type of fighter identification enables the governing body to keep track of the fighter's prior fights in a consistent and reliable manner.

The Act also addresses the regulation of boxing matches in those states which do not have boxing commissions. In order to schedule a fight in a state or on an Indian reservation⁵⁷ that does not regulate the sport, the promoter must contract with "the chief administrative officer of a state that has a boxing commission to oversee the match."⁵⁸

52. "Some states do not share results for weeks." Gerard Shields, ORLANDO SENTINEL, Mar. 27, 1994, at A16. Presently, the Florida State Athletic Commission receives most state and world-wide reports and then distributes a current suspension list. House Hearings, *supra* note 39, at 61.

53. Professional Boxing Safety Act of 1994, S. 1991, 103rd Cong., 2d Sess., § 6(2)(D) (1994).

54. *Id.* § 6(2)-(3).

55. *Id.* § 5 (b). There is a computer service, run by "Citro," who compiles files and records on boxers all over the world. He can give information on some fighters under "three different names and four different Social Security numbers." Senate Hearings, *supra* note 27, at 51 (testimony of Dr. Jack Battalia, Chairman, Oregon Boxing Commission and Chairman, International Boxing Federation (IBF) Medical Commission). See also *supra* note 35 (detailing the Roy Jones fight with impostor Derwin Richards).

56. Professional Boxing Safety Act of 1994, S. 1991, 103rd Cong., 2d Sess., § 5(b) (1994).

57. Section 13 was added by Amendment number 3039 and specifies the requirements for professional boxing matches conducted on Indian reservations. 141 CONG. REC. S16429, S16430 (daily ed. Oct. 31, 1995)

58. Professional Boxing Safety Act of 1994, S. 1991, 103rd Cong., 2d Sess., § 4(1)(B) (1994).

Enforcement of the Act's provisions is effected through injunctions (temporary, permanent, or restraining order) obtained by the U.S. Attorney to stop a fight or prevent a fighter from engaging in a match.⁵⁹ There are also provisions in the Act that prescribe criminal penalties for any "managers, promoters, matchmakers, . . . [or] boxer" who "knowingly or willfully violates" the Act.⁶⁰

Recognizing the need to give fighters one of the benefits enjoyed by other professional athletes, the drafters of the Act also included provisions in the Act which provide for an investigation into the "feasibility and cost of a national pension system."⁶¹ Looking out for the future of professional athletes, who typically have short-lived careers and high earnings, has been the driving force behind the creation of player's unions in most other professional sports.⁶²

C. *The Professional Boxing Safety Act of 1995*

The Professional Boxing Safety Act of 1994 was favorably reported out of the Senate's Commerce Committee on September 23, 1994, but was not voted on by the 103rd Congress.⁶³ Accordingly, Senator McCain, along with the bill's co-sponsor, Senator Bryan, has reintroduced the Professional Boxing Safety Act of 1994 in its identical form to the 104th Congress as The Professional Boxing Safety Act, Senate Bill 187.⁶⁴ Although Senator Roth, sponsor of the Professional Boxing Corporation Act, believes that Senator McCain's legislation needs stronger enforcement provisions and broader national regulation,⁶⁵ the Professional Boxing Safety Act is considered the beginning of a healthy compromise, and one with a good

59. *Id.* § 8(a).

60. *Id.* § 8(b).

61. *Id.* § 9(b).

62. "[F]or the average players, planning for life off the field is even more important, because they won't be able to count on as much capital to finance their post-playing lives. . . . Most athletes know they can bank only on a short career, and they're scared to death about losing their security blanket. . . . Joe Louis . . . perhaps, the best boxer in history, squandered his money, got bad investment advice and wound up as a celebrity shill for a Las Vegas casino." Dyan Machan & Vicki Contavespi, *Compounded Interest Are our Favorite Words*, FORBES, Dec. 19, 1994, at 244.

63. LEXIS Bill Tracking Report.

64. 141 CONG. REC. S735-736 (daily ed. Jan. 10, 1995).

65. Conversation with Paul Feeney, Governmental Affairs Committee, March 20, 1995.

chance for enactment. With the Republicans in control of Congress, the bill cleared the Commerce Committee, shepherded by Senator McCain, and was passed by the Senate (with amendments) on October 31, 1995.⁶⁶ This passage could indicate that the bill will receive favorable reaction in the House.

Congressman Michael Oxley from Ohio, the current subcommittee chairman on the House Commerce Committee, has introduced the Professional Boxing Safety Act in the House.⁶⁷ Identical to the Senate bill, the House bill is expected to be heard this year by the full House.⁶⁸

D. Relevant Case Law

There are numerous cases that deal with the problems addressed by the proposed legislation. These claims generally deal with wrongful death, injuries, and pain and suffering.⁶⁹ The decisions in these cases rely on the standards set and maintained by the State Athletic Commissions, often finding

66. 141 CONG. REC. S 16435 (Oct. 31, 1995). The amendments to Senate Bill 187 mandate additional national standards for professional boxing matches. 141 CONG. REC. 16514 (Nov. 1, 1995). All promoters are required to carry medical insurance for each boxer in an amount left up to the state (§ 7). *Id.* A licensed, practicing physician and an ambulance service must be continuously present for all matches (§ 4(a)(B)-(C)). *Id.* Section 13 addresses conducting professional boxing matches on Indian reservations. 141 CONG. REC. S 16429, 16430 (1995).

67. H.R. 1186, 104th Cong. 1st Sess. (1995). On the same day, March 9, 1995, the bill was referred to the House Commerce Committee. LEXIS Bill Tracking Report.

68. Conversation with Paul Feeney, Governmental Affairs Committee, March 20, 1995. Conversation with John Mitchell, Rep. Richardson's office, April, 1995. On the wake of a serious head injury to an American fighter, Gerald McClellan, in a super-middleweight championship fight with English fighter Nigel Benn, Congressman James Traficant has introduced a bill with a similar name, the Professional Boxing Safety Act of 1995. This bill should not be confused with the bill being discussed in this article. Rep. Traficant's bill is a simple, one page bill which requires all professional boxers to wear headgear. 141 CONG. REC. E542 (March 7, 1995). This headgear is the same as worn by the amateur boxers, as per the regulations of the International Olympic Committee. *Id.* See also Ross Rosen, *In the Aftermath of McClellan: Isn't It Time for the Sport of Boxing to Protect Its Participants?*, 5 SETON HALL J. SPORT L. 611 (proposing boxing reform through the use of mandatory ID cards for fighters; training and education for referees and ringside physicians; the use of thumbless gloves to limit eye injuries and thicker canvas floors to limit brain trauma; limiting the number of years a boxer can fight; and the use of a new protective head gear device ("WIPSS") to protect against head injuries.)

69. See *Collins v. Resto*, 746 F.Supp. 360 (S.D. N.Y. 1990) (promoter and referee not responsible for injuries resulting from the criminal alteration of opponent's boxing gloves); *Classen v. Izquierdo*, 520 N.Y.S.2d 999 (1987) (proprietor not vicariously liable for ringside physicians who have a duty to provide non-negligent medical care); but see *Rosenweig v. New York*, 146 N.Y.S.2d 589 (1955) (physicians as servants of State Athletic Commission should have discovered boxer's brain injury prior to the fight).

no liability if the promoters, doctors, and officials followed the state's regulations. Legislation mandating federal regulation of boxing or, at a minimum, uniform state standards, may help give fighters the protection they need and do not receive from the courts.

IV. STRENGTHS & WEAKNESSES OF PROPOSED LEGISLATION

A. *Strengths of the Professional Boxing Safety Act*

1. Uncommissioned States

The Boxing Safety Act effectively deals with boxing matches in uncommissioned states by prohibiting fights unless there is a certified state commission overseeing the match.⁷⁰ Currently, South Dakota, Wyoming, Oklahoma, and Colorado do not have boxing commissions.⁷¹ Moreover, in some states such as in North Carolina and Kansas, boxing is regulated through municipal organizations instead of state-wide commissions.⁷²

These states consistently show up on the fight records of what, in the boxing business, are known as a "journeymen." Journeymen are fighters who make a living taking a fight wherever they can find it, without regard to the skill level of the opponent, and generally without regard to their own training status or any current injuries. Boxing matchmakers and promoters take advantage of these fighters' willingness to risk serious injury in order to better the records of the matchmaker's or promoter's own young prospect, even using journeymen as last-minute fill-ins for scheduled match-ups that would otherwise have been canceled.⁷³

Moreover, the current trend of "toughman" battles⁷⁴ and

70. Professional Boxing Safety Act of 1994, S. 1991, 103rd Cong., 2d Sess., § 4 (1994).

71. Senate Hearings, *supra* note 27, at 25.

72. *Id.*

73. "[D]ue to limited communication among the various state boxing authorities, boxers suspended in one state can often subsequently be found boxing in another state." Senate Report, *supra* note 6, at 7.

74. These fights are defined by the state of Florida as "any contest or exhibition where participants compete by using a combination of fighting skills. Such skills may include, but are not limited to, boxing, wrestling, kicking, or martial arts skills. Notwithstanding the above, this section shall not preclude kickboxing" FLA. STAT. ch. 548.008 (1995). At the Senate hearings, a "grisly video" of such a competition in Colorado was shown to highlight the problems resulting from lack of regulation.

other unsanctioned brawls that pit ordinary men against each other in an all-out, no-rules fight have found homes outside this country or in states such as Oklahoma or Colorado where there are no regulating bodies to oversee the fights. Such fights are extremely dangerous, and are generally run by unscrupulous promoters interested in making money, without regard for the safety of the fight participants.⁷⁵

2. Costs

One of the benefits of the Boxing Safety Act is that it effectively provides for the policing of uncommissioned states without creating a new federal regulatory body, thus alleviating the public's fear that governmental regulation of boxing will involve greater costs and bureaucratic inefficiency.

State commissions are generally funded from the revenue generated through fees from promoters, managers, and boxers. In most states, taxes on tickets and television broadcast rights paid by promoters for matches held within the state also generate revenue for the state commissions.⁷⁶ Minimal costs are incurred by the state to maintain an office and staff and fund travel for those individuals who officiate at fights throughout the state. These costs are offset by the obvious economic benefits to the states. The fights generate local revenue, create employment opportunities, and provide national exposure for the state. The state also derives benefit from maintaining and insuring the health and safety of the state's boxers.

The only way in which the bill proposes any increased costs

Brian Hartman, *Senators Fight for Boxing Safety Bill*, STATE NEWS SVC., Jan. 11, 1995. In the video, the two men fought bare-fisted in a cage and when one lost consciousness, the other continued the beating. *Id.*

75. In the "1995 Toughman World Championships," the grandprize was \$50,000. Richard Sandomir, *Out of the Barroom Onto Pay-Per-View*, NEW YORK TIMES, Dec. 5, 1995, at B18. These fights are banned in many states, such as New York and Florida. *Id.* In Florida, for example, participants and promoters are guilty of a second degree misdemeanor. FLA. STAT. ch. 548.008 (1995). See also Johnathan Rand, *Toughman Ban Rates Applause*, KANSAS CITY STAR, Mar. 1, 1996, at D1 (after toughman participant with no previous fight experience dies from brain injury, Kansas Athletic Commission bans these type of fights).

76. For example, in Florida, promoters must pay five percent of total gross receipts of television rights, up to \$40,000, within 72 hours following the fight. Fla. Admin. Code Ann., r61K1-1.040(3) (1995). Florida also mandates that clubs and cable companies within the state which show closed circuit or pay-per-view broadcasts of any professional fight pay a tax of five percent of the gross receipts from ticket sales or, if there are no tickets sold, five percent of the broadcast costs. FLA. STAT. ch. 548.061 (1995).

to the states which currently have commissions is the requirement that those states comply with the National Registry system.⁷⁷ The majority of these states, however, currently employ some method of identification of the fighter, usually a passport or identification card.⁷⁸ Compliance with the bill's provisions should not substantially increase these costs.

In addition, the states will be required to send out fight results; however, this requirement should not result in any significant increase in the cost to the states that already have commissions. Most states already send out some form of fight results, even if it is just to the local paper or to private organizations that keep track of fighters' records. For those states that do not already have a reporting system in place, instituting a program tracking fight results should not overly burden the regulating body.

Because the legislation adequately addresses some of the problems that occur in unregulated states, does not require the expenditure of federal funds or an increase in the size of government staffing, it is a realistic and pragmatic way for Congress to address the problem endemic to the sport of boxing on a national level. The bill, however, does have some inherent weaknesses, and should not be viewed as a cure-all for boxing's problems without addressing these weaknesses.

B. Weaknesses of the Professional Boxing Safety Act

1. Enforcement

There are numerous areas where the Bill falls short of solving the problems plaguing the boxing profession. First, the bill has limited enforcement provisions. For example, section eight of the Boxing Safety Act provides that "whenever the U.S. Attorney has a reasonable cause to believe that a person or entity is engaged in a violation of this Act," the government can bring a civil action in district court for relief in the form of an injunc-

77. See *supra* text accompanying note 42.

78. "I think an ID card is necessary . . . This is far preferable to the passport/passbook system that is utilized in a few States . . . The failing of the passport/passbook is that if a boxer doesn't bring the book to each event, the result is not entered and, therefore, the book is useless." House Hearings, *supra* note 38, at 60-61 (testimony of Don Hazelton, Executive Director, Florida State Athletic Commission).

tion or restraining order.⁷⁹ Monitoring professional boxing matches to ensure compliance with the Act's requirements would probably not be given a high priority in a busy U.S. Attorney's office. Perhaps, the "big fights" would command the attention necessary to ensure compliance with the Act due to the celebrity status of the fighters, but it is the smaller "club fights" where many of the violations the proposed bill is intended to address occur. These fights are most likely to escape the attention of the U.S. Attorney's office.

Moreover, under the Boxing Safety Act, enforcement takes place on a match-by-match basis. This narrow focus on a single match makes it difficult to prohibit the participation of repeated violators or to enforce sanctions for the unsafe or illegal practices that take place within the boxing community. Despite the new role of the U.S. Attorney's office in enforcing the provisions of the bill, executive directors of state commissions will still need to be vigilant in overseeing matches in order to effectively utilize the bill's enforcement power to ensure that members of the boxing community comply with the Act's provisions.⁸⁰

Allowing some minimal enforcement by the State Athletic Commissions themselves would result in more efficient enforcement because the state commission members are in closer proximity to the actors in the sport itself and, accordingly, are more aware than the U.S. Attorney of the violations and abuses that occur within the state. Failure to provide measures that promote diligent and efficient enforcement of the Act's provisions by state commissions takes away any meaningful impact the regulation is intended to have on unsafe conditions boxers currently face in the ring.

2. Health and Medical Standards

Each state commission has different health standards and required medical procedures for the boxers fighting in its state.⁸¹ There are no recognized uniform health standards or

79. Professional Boxing Safety Act of 1994, S. 1991, 103rd Cong., 2d Sess., § 8 (1994).

80. See *infra* note 86. If indeed the State Athletic Commissions are part of the problem, in that they allow promoters and officials to get away with illegal or unsafe practices, this enforcement provision will truly be ineffective.

81. New York and Nevada are generally considered to have the most thorough medical requirements: New York requires an "electroencephalogram(EEG), electrocardiogram

medical requirements for the sport of boxing as a whole which are consistent from state-to-state.⁸² The tragic stir in the boxing world surrounding celebrity heavyweight fighter Tommy Morrison testing positive for the HIV virus reminds us of the need for uniform standards. Only eight state commissions require mandatory HIV testing; several other states, in order to avoid attracting a fighter who knows he is HIV positive, are now considering implementing mandatory testing.⁸³ Creating uniformity in health standards and strengthening the minimum requirements on a national basis would result in making the sport safer and enhancing its reputation within the medical community.⁸⁴

Yet, even if appropriate health standards are set by a national organization or body of state commissioners, without any federal mandate, implementation of those standards by the states would be voluntary. Developing national medical and health standards necessary to effectively protect the fighters will require imposing mandatory state membership and participation in the organization, along with stringent governing and leadership rules directed toward ensuring the integrity of the organization is not compromised by recalcitrant states.

(EKG), a computerized axial topography (CT) scan, and a dilated eye exam by an ophthalmologist," while Nevada was the first state to have mandatory AIDS testing of fighters. Senate Report, *supra* note 6, at 9.

82. The Boxing Safety Act was amended, in the Senate's 1995 passage, to include two uniform medical requirements: (1) a licensed physician and ambulance must be continuously present at all boxing matches, and (2) all promoters must carry medical insurance on each fighter. 141 CONG. REC. S 16435 (Oct. 31, 1995).

83. Richard Hoffer, *I Have Never Been So Wrong in my Life*, SPORTS ILLUSTRATED, Feb. 26, 1996, at 50. Worldwide, at least seven other boxers have tested positive for the HIV virus. *Id.* Morrison received an "indefinite worldwide suspension" from the sport of boxing. George Kimball, *Sport in State of Alert*, BOSTON HERALD, Feb. 18, 1996, at B31.

84. As to the reputation of the sport of boxing in the medical community, the American Medical Association and most physicians condemn boxing, calling for a total ban on the sport. See Kevin M. Walsh, *Boxing: Regulating a Health Hazard*, 11 J. CONTEMP. HEALTH L. & POL'Y 63 (Fall 1994) (highlighting the health hazards of boxing such as "punch drunk" syndrome, chronic brain and skull damage, and eye injuries). Those physicians involved in the sport, however, find that "[w]e need uniform guidelines and we also need . . . enforcement of the guidelines." Senate Hearings *supra* note 27, at 46 (testimony of Dr. Barry Jhordan, Assistant Professor of Neurology and Public Health, Cornell Univ. Medical College; Medical Director, N.Y. State Athletic Commission; Team Physician, U.S.A. Amateur Boxing Federation).

3. Conflicts of Interest/Fighter Rankings/Sanctioning Bodies

The Professional Boxing Safety Act is completely lacking in any regulation of the numerous boxing sanctioning bodies such as the World Boxing Council ("WBC"), World Boxing Association ("WBA"), World Boxing Organization ("WBO"), North American Boxing Federation ("NABF"), and other organizations that rank fighters.⁸⁵ Rankings by these organizations often determine who can fight for which boxing title, where the fight is televised, and what amount of money the boxer can command in winnings. In other words, the rankings by these organizations control the flow of money and the livelihood of any fighter.⁸⁶

The ranking systems currently used in the sport are rife with self-interest and conflicts of interest by many of the managers and promoters, as well as state commissioners and officials.⁸⁷ Efforts to get a fighter a "shot at the title" create many of the unsafe practices discussed above. Fighters often fight too frequently against unequally matched opponents just for the sake of obtaining a ranking by one of the sanctioning bodies.⁸⁸

85. Boxing's "so-called sanctioning bodies" are often referred to as "the notorious alphabet bandits who rip-off fighters" and who classify themselves as "non-profit organizations." Pat Putnam, *The Hearings Impaired*, SPORT ILLUSTRATED, Aug. 24, 1992, at 11. Don Hazelton, Executive Director, Florida Athletic Commission, cautions against being forced to use the "alphabet officials" to officiate a fight. House Hearings, *supra* note 38, at 60. New Jersey Commissioner Larry Hazard agrees "[t]hat's what fans are clamoring for. . . [a] single, all-embracing organization is one of boxing's greatest needs, and its absence is a cause of criticism of the sport." Joseph Deitch, *New Jersey Q & A: Larry Hazard; Commissioner Keeps His Eye on Boxing*, NEW YORK TIMES, Oct. 24, 1993, at 13NJ, 3.

86. *U.S. v. Int'l Boxing Club of New York*, 348 U.S. 236, 246 (1955). "The most lucrative asset . . . is a designation as . . . 'world champion' in the division in which he competes . . . [this designation] affords to its holder financial returns from personal appearances and exhibitions throughout the United States, from endorsements and other activities, as well as a greater percentage of the receipts from his bouts." *Id.* It is noteworthy that in 1950, with 15,000 professional fighters, there were only eight who were world champions (one in 1,875). Richard O'Brien, *Devalued and Diluted*, SPORTS ILLUSTRATED, Oct. 18, 1993, at 23. Today, there are 8,000 professional fighters and 49 of them hold world titles (one in 163). *Id.*

87. It has been said that leaving control in the hands of the State Athletic Commissions is like letting "the fox guard the hen house" because the state commissions are often part of the problem—the "rubber stamps" of particular promoters and sanctioning bodies. Phone conversation with John Morrison, Rep. Richardson's office, April 17, 1994.

88. See Walsh, *supra* note 83, at 74-75 (recognizing the deadly effects of sanctioning body mismatches). In 1982, a young Korean fighter died as a result of a mismatch with

It is a common occurrence for fighters who are handled and promoted by promoters with ties to a particular sanctioning body to fight for the big money titles in televised fights.⁸⁹ The promoter's ties to the sanctioning body that ranks the fighters—and therefore, controls the purse strings of the promoters as well as the boxer—creates a clear conflict of interest. For example, in the case of the Whitaker-Chavez fight,⁹⁰ the President of the WBC, who sanctioned the fight, is Jose Sulaman, “an acknowledged friend of Chavez and of Chavez's promoter, Don King.”⁹¹

Indeed, in the controversy resulting from the draw in the Whitaker/Chavez fight, the Texas Commission refused to accept any testimony from Whitaker's attorneys.⁹² The Whitaker/Chavez fight was judged according to the rules of the WBC, the sanctioning body for this welterweight title fight.⁹³ The Texas Commission had little control over the fight. All officials were chosen by the sanctioning body, with some input from each fighter. In light of this reality, State Athletic Commissions maintain that their authority is not usurped by these sanctioning bodies.⁹⁴

The lack of uniformity, continuity, and subjectivity in ranking fighters not only has the potential of resulting in injury to the fighters, but also serves to undermine the credibility of the sport. The ranking of the fighters needs to be done in an objec-

Ray “Boom-Boom” Mancini. *Id.* at 75. The fighter, Duk Koo Kim, was rated by the WBA as a top contender, yet was not listed among Korea's top 40 boxers by the Korean government's agency which regulates boxing. *Id.*

89. The “title fights” generally have a better chance of being televised, which usually means larger purse money for the fighters. The Senate hearings on Corruption in Boxing included discussions with several cable television network executives about the tremendous influence of the media on the sport of boxing. Senate Hearings, *supra* note 27, at 32-35. Currently, boxing matches are seen on a limited basis on “free TV” (ABC, CBS, and NBC), and more commonly on cable television networks such as ESPN and HBO, and on pay-per-view broadcasts. Television networks, which usually demand to televise a particular fight, do not generally deal with the fighters directly. *Id.* The networks typically deal with the promoters, who make the actual fight happen, negotiating with the promoter directly on all details and expenses of the event. *Id.* The network then pays the promoter a fee for the right to broadcast the fight. *Id.*

90. See *supra* notes 31 and 32 (describing the fight).

91. Colin Miner & Jack Newfield, “Puppet” Makes Off With Scorecards from Hotly Disputed Bout, Oct. 16, 1993, NEW YORK POST, at 6.

92. *Id.*

93. 139 CONG. REC. S13129 (1993).

94. Bill Brubaker, *Boxing Referees: Have Connections, Will Travel*, WASH. POST, October 3, 1993, at D1.

tive fashion by an objective, disinterested organization, namely, one whose financial interests are not vested in the outcome of the fights.⁹⁵

Moreover, to insure the fair judging of a match, officials for title fights should be selected in a non-biased fashion. One way to accomplish this would be to randomly select officials for a match from a pool of officials used by the state commissions on a regular basis. These randomly selected officials would receive a set fee for their services. A minimally increased fee would be paid for officiating at a broadcasted match, instead of the outrageous fees demanded by the sanctioning bodies.⁹⁶

The United States cannot exercise jurisdiction over many of the private sanctioning bodies because they are headquartered and operated from foreign-based offices.⁹⁷ They could, however, regulate fights taking place in the United States. Moreover, if an objective ranking system existed that was compiled from mandatory state boxing reports, the resulting rankings would have more credibility with the public. With objective rankings to guide their choice of where they spend their money, boxing fans will attend fights featuring the best matched fighters, and the promoters, managers, and sports television producers will follow.⁹⁸

95. Seth Abraham, President of Time Warner Sports, when questioned during the Senate investigations, suggested that the rankings should be done by someone "[n]ot only independent, but somebody who has absolutely no fiduciary involvement in who wins or who loses or where the fight takes place, [who] is absolutely pristine in ranking the fighter." Senate Hearings, *supra* note 27, at 62. A veteran boxing promoter, Russel Peltz, was quoted during the Senate's investigation, as saying "[L]ess is based on talent than at any time in boxing history. It's not whether your fighter has kayoed 20 straight opponents, but how many [sanctioning body] conventions you've been to." Senate Report, *supra* note 6, at 13.

96. Bill Brubaker, *Boxing Referees: Have Connections, Will Travel*, Oct. 3, 1993, WASH. POST, at D1. Most ring officials for sanctioning bodies such as the WBC, stay in luxury hotels paid for by the promoter and receive fees, again paid by the promoter, ranging from \$1000-8000 for one fight. *Id.* The fighters have to pay for their own championship belts in the form of sanctioning fees to the organizations. Senate Report, *supra* note 6, at 11. In Evander Holyfield's championship fight with Larry Holmes in 1992, he paid the WBC a sanctioning fee of \$290,000, and an additional \$150,000 in sanctioning fees to the WBA and the IBF in order to "unify" the title. *Id.* at 10.

97. The WBC is headquartered in Mexico and the WBA is headquartered in Venezuela. Senate Hearings, *supra* note 27, at 26. Both organizations are operated as non-profit businesses. *Id.*

98. Sen. McCain is quoted as stating that the "problem will take time. We don't have sovereignty over other countries, but if we clean up our own act maybe others will follow. The leverage to get it done is the money they can fight for here in the U.S." Doug

Moreover, if the titles that accompany the best fighter in each weight class are fairly won and defended in title fights officiated by reputable, state-regulated officials paid reasonable and fair fees, the cost of a championship belt would undoubtedly be lowered in the market. Fees would pay for reasonable expenses of the match in addition to fairly rewarding the efforts of the fighter, instead of subsidizing the costs of a privately-run sanctioning body.

C. Strengths of the Professional Boxing Corporation Act

The Boxing Corporation Act sets up a government corporation, overseen by an executive director and board of directors, to regulate the sport of boxing. The Act has numerous regulatory strengths but also has the negative impact of large start-up costs.

1. Uncommissioned States

The Professional Boxing Corporation Act effectively deals with the staging of boxing matches in uncommissioned states by providing for a total prohibition of such matches within three years of the bill's enactment.⁹⁹ The bill requires each state to submit a "state boxing plan" to the PBC for approval within sixty days of the bill's enactment.¹⁰⁰ If a state's plan is not approved and implemented, boxing matches would be prohibited altogether in that state.¹⁰¹

2. Enforcement

Senator Roth's bill is also effective in the area of enforcement. The bill gives the governing body, the PBC, the power to withdraw licenses of those individuals failing to comply with the regulations, or to prohibit any boxing event that violates the regulations from taking place.¹⁰² Moreover, the PBC is vested with investigatory powers, which include the right to subpoena witnesses and documents relating to a specific box-

McConnell, *McCain Hopes to Help Boxing: National Panel Sought to Focus on Health, Pension, Legal Issues*, PHOENIX GAZETTE, July 8, 1993, at D1.

99. Professional Boxing Corporation Act, S. 1189, 103rd Cong., 1st Sess., § 9 (1993).

100. *Id.*

101. *Id.*

102. 139 CONG. REC. S8639 (1995).

ing match.¹⁰³ The PBC can also obtain injunctive relief, if necessary, or intervene in any civil matter "on behalf of the public interest in any case relating to professional boxing."¹⁰⁴

3. Health and Medical Standards

The Boxing Corporation Act includes federally mandated compliance with uniform minimum standards for physical and mental examinations of boxers as well as medical services for the boxers at all boxing events.¹⁰⁵ These provisions ensure uniformity in health standards among the states and a safer environment for the fighters in the ring.¹⁰⁶ Moreover, because the states can enact standards and requirements that exceed those mandated by the PBC, the bill cannot be viewed as interfering with the states' power and duty to regulate boxing events that take place within their borders.¹⁰⁷

4. Conflicts of Interest/Fighter Rankings/Sanctioning Bodies

Because the PBC would function as a more independent and objective organization than many of the state commissions, it is likely that the fighter rankings that they compile would be more objective than the rankings currently available through the sanctioning bodies. This would loosen the stranglehold that the sanctioning bodies currently have on the rankings. The National Registry of fighters prepared by the PBC would likely reflect a more accurate profile of the fighters and their records than is currently available.¹⁰⁸ Championship or "title" fights would be fought by fighters who are more evenly matched, resulting in fairer and less expensive fights.¹⁰⁹ Moreover, with the uniformity of one set of rules, there would no longer be an advantage to promoters in moving from state to

103. Professional Boxing Corporation Act, S. 1189, 103rd Cong., 1st Sess., §§ 8(h)(1)-(6) (1993).

104. *Id.* § 8(h)(5), (I).

105. *Id.* §§ 5, 8.

106. *See* Walsh, *supra* note 83 (rejecting a ban on boxing due to health hazards and espousing reform as outlined in the Boxing Corporation Act).

107. Professional Boxing Corporation Act, S. 1189, 103rd Cong., 1st Sess., § 11 (1993).

108. Professional Boxing Corporation Act, S. 1189, 103rd Cong., 1st Sess., § 8(b) (1993); *see supra* text accompanying note 42.

109. *See supra* note 9 (regarding costs of heavyweight championship belt for Holyfield fight).

state in search of the most favorable commission or the most favorable medical standards for their fighters.¹¹⁰

D. Weaknesses of Professional Boxing Corporation Act

Because the Boxing Corporation Act sets up an entirely new federal governmental body, there are much larger costs associated with its implementation. Currently, boxing is loosely regulated in forty-two states at no cost to the federal government.¹¹¹ This bill could be viewed as taking revenue from the states because the costs of implementation and operation of the PBC would be funded from revenue from the boxing industry—revenue that normally flows into the states' coffers through the State Athletic Commissions.¹¹² The bill does require an initial start-up loan,¹¹³ after which time the PBC requires that the majority of the on-going funding come from the boxing industry.¹¹⁴

V. COMPARISON OF THE PROPOSED LEGISLATION

Both bills address the problem of states with unregulated boxing matches. Yet the real problems in the sport of boxing are the lack of health and medical standards for fighters and the conflicts of interest created and furthered by the current system of sanctioning bodies. These problems are more effectively addressed by the Professional Boxing Corporation Act. The federal takeover of the sport outlined in the Act provides competition for the sanctioning bodies by requiring state officials to officiate at title fights, establishing a National Registry of fighters, and maintaining stronger enforcement abilities. Yet, the costs associated with creating a new federal body make the Act less attractive and certainly less likely to pass today's more conservative Congress.

On the other hand, the Boxing Safety Act merely advocates

110. This eliminates what Sen. McCain refers to as "rent-a-commission," where promoters take fights to states with the most favorable commission rules for their fighter's condition or to a state with no boxing commission. Brian Hartman, *Senators Fight for Boxing Safety Bill*, STATE NEWS SVC., Jan 11, 1995.

111. Gerard Shields, ORLANDO SENTINEL, Mar. 27, 1994, at A16.

112. 139 CONG. REC. S 8639 (1993).

113. The bill, however, is viewed as being self-funded through a trust. See Professional Boxing Corporation Trust Fund, Professional Boxing Corporation Act, S. 1189, 103rd Cong., 1st Sess., § 13 (1993).

114. 139 CONG. REC. S 8639 (1993).

stronger coordination and cooperation among the state commissions without the need to fund a new federal regulatory body. This is undoubtedly an improvement from the status quo. Moreover, the Act has passed in the Senate.¹¹⁵ To be effective, however, the Act needs to be amended to address the problems with the current sanctioning bodies and to require all states to adhere to uniform, federally mandated health and medical standards. These standards could be decided upon by the state commissions as a whole, with annual updates and reviews, under federal statutory authority. The Act should also be reformed to require all title fights to be run by the state commissions. Just like any other fight, a title fight should be officiated by individuals selected by the state and governed by the state's health and medical standards.

Additionally, the Act needs to incorporate provisions establishing some type of mandatory ranking system that can compete with the questionable rankings of the private sanctioning bodies. In its current form, the Act suggests that one state, designated by the ABC, will collect information on fighters on a nationwide basis and maintain a record of each fighter's professional history.¹¹⁶ While one state would collect this information, any ranking system based on data from these records needs to be controlled outside the commission system in order to assure the objectivity of the ranking system. The state commissions could have input in deciding who is responsible for the rankings. Membership in an association such as the ABC must be mandatory if it is given the power to establish a mandatory record collection system and minimum health and medical standards.

VI. CONCLUSION

In his testimony before the Senate during its investigation of professional boxing, Seth Abraham, President of Time-Warner Sports, quoted author Joyce Carol Oates, "Life is like boxing in many unsettling respects. But boxing is only like boxing."¹¹⁷ In legislating the regulation of the sport of boxing, the government must be careful to address the special needs presented by the uniqueness of boxing.

115. 141 CONG. REC. S 16513 (daily ed. Nov. 1, 1995).

116. See *supra* text accompanying notes 49-51.

117. Senate Hearings, *supra* note 27, at 155.

With the Senate's passage of the Professional Boxing Safety Act, this legislation is on its way to reality. It is important to note, however, that this legislation does not address several integral and dysfunctional areas of the sport of boxing. By making some necessary amendments, Congress can help cure the ills of boxing without the need to create a new federal governmental body as outlined in the Boxing Corporation Act. These changes must include federally mandated minimum uniform health and medical standards for all fighters, appropriate enforcement powers for the State Athletic Commissions, and a centralized, unbiased, and mandatory system for the collection of fighter records and rankings. Given these additional powers, the Professional Boxing Safety Act would be a strong voice in regulating a sport that is in dire need of reform.

It is time for the federal government to require tighter control of the sport by providing a vehicle for effective enforcement of boxing regulations, uniform health and medical standards, and regulation of the sanctioning bodies and fighter rankings in order to successfully regulate professional boxing. Congress must take a stand to protect the health, safety, and welfare of the fighters by passing national legislation to regulate professional boxing. With the passage of the Professional Boxing Safety Act by the Senate, this bill stands a greater chance of being enacted than the Professional Boxing Corporation Act. Yet despite the addition of several amendments prior to its Senate passage,¹¹⁸ the legislation does not adequately address the key issues creating the problems for the sport of boxing. In its current form, the Professional Boxing Safety Act leaves boxing in the "red light district."

118. See *supra* note 66 (listing the 1995 Senate amendments to the bill).