



Although the new federal access requirements have not been finalized, California's State Building Standards Commission estimates that 20-30 minor modifications of current building accessibility regulations pertaining to public accommodations and related facilities will be needed to bring them into compliance. It is expected that a uniform method for handling appeals regarding access issues will have to be developed to assure consistency throughout the state.

#### LEGISLATION:

*AB 766 (Frazee)*, as introduced February 26, would officially change the California State Board of Architectural Examiners' name to the California Board of Architectural Examiners; change references from "architectural corporation" to "professional architectural corporation"; delete the requirement that examination questions regarding exterior and interior barrier-free design be reviewed by an ad hoc advisory committee of disabled persons appointed by the Department of Rehabilitation; and provide that a license which has expired may be renewed at any time within five years after its expiration, upon the filing of an application for renewal and payment of all accrued and unpaid renewal fees. This bill is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development.

#### RECENT MEETINGS:

At its January 18 meeting, BAE elected its officers for 1991. Lawrence Chaffin, Jr., was elected president; Betty Landess was elected vice-president; and Dick Wong was elected secretary. All three are architects and have been members of BAE since 1986.

#### FUTURE MEETINGS:

To be announced.

#### ATHLETIC COMMISSION

*Executive Officer: Ken Gray*  
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The Athletic Commission is empowered to regulate amateur and professional boxing and contact karate under the Boxing Act (Business and Professions Code section 18600 *et seq.*). The Commission's regulations are found in Division 2, Title 4 of the California Code of Regulations (CCR). The Commission consists of eight members each serving four-year terms. All eight members are "public" as opposed to industry representatives.

The current Commission members are Bill Malkasian, Raoul Silva, Ara

Hairabedian, P.B. Montemayor, M.D., Jerry Nathanson, Thomas Thaxter, M.D., Charles Westlund, and Robert Wilson.

The Commission has sweeping powers to license and discipline those within its jurisdiction. The Commission licenses promoters, booking agents, matchmakers, referees, judges, managers, boxers, and martial arts competitors. The Commission places primary emphasis on boxing, where regulation extends beyond licensing and includes the establishment of equipment, weight, and medical requirements. Further, the Commission's power to regulate boxing extends to the separate approval of each contest to preclude mismatches. Commission inspectors attend all professional boxing contests.

The Commission's goals are to ensure the health, safety, and welfare of boxers, and the integrity of the sport of boxing in the interest of the general public and the participating athletes.

#### MAJOR PROJECTS:

*Executive Officer Announces Retirement.* At the Commission's March 15 meeting, Executive Officer Ken Gray announced his plan to retire in July. Gray's announcement was apparently a surprise to the entire Commission; however, it follows allegations by Commissioner Jerry Nathanson of budget irregularities and Gray's lack of leadership on important issues. In fact, Nathanson had tried unsuccessfully to place a letter he had written to Gray containing the allegations on the March 15 agenda; Nathanson's charges are expected to be discussed at the Commission's May 17 meeting.

Commission Chair Charles Westlund stated that the Commission would begin a selection process to find Gray's successor; possible candidates include Steve English, the Commission's assistant executive officer in charge of its Los Angeles office, and Don Muse, a Washington boxing administrator who served briefly as California's assistant executive officer.

*Neurological Exam Causes Controversy.* Annual neurological examinations are presently required of all professional boxers competing in California. Although the tests are intended to protect the health and safety of boxers, they have been widely criticized as being culturally and educationally biased, and as being inadequate in detecting neurological injury. Executive Officer Ken Gray would like to establish more controls on the examination but, due to severe budget restraints facing the Commission, is unable to do so at this time. When asked about the possible bias of the exam, he

said that each question is thoroughly examined and if there are any signs of bias, the question is thrown out. A second examination is administered to fighters who fail the exam; the second exam attempts to determine whether other factors besides neurological impairment could be contributing to the results. The neurological exam requirement is the subject of several pieces of pending legislation (see *infra* LEGISLATION).

*Regulatory Update.* At the Commission's March 15 meeting, it held a public hearing on proposed amendments to section 282 and the proposed adoption of section 288, Title 4 of the CCR. (A previously-scheduled February 15 hearing was cancelled and postponed until the Commission's March 15 meeting.) The proposed amendments to section 282 would update the vision requirements for professional and amateur boxers and martial artists based upon the latest advancements in the field of ophthalmology; proposed new section 288 would establish specific criteria for the approval of ringside physicians. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 49 for detailed background information on these changes.) The Commission adopted both regulatory proposals; at this writing, the rulemaking package has not yet been submitted to the Office of Administrative Law for approval.

#### LEGISLATION:

*AB 649 (Floyd).* Existing law requires the Athletic Commission to establish a mandatory pension plan for professional boxers who engage in boxing contests in California. As introduced February 21, this bill would provide that the pension plan (and contributions thereto) is not mandatory but optional for professional boxers who voluntarily elect in writing to participate in the plan. The Commission supports this bill, which is pending in the Assembly Governmental Organization Committee.

*AB 647 (Floyd),* as introduced February 21, would delete existing licensure requirements for ring announcers; delete the Commission's authority to license doormen, ushers, and booking agents; repeal an existing provision prohibiting any person under the age of 16 years from attending any prizefight; and exempt professional wrestling exhibitions from provisions regulating corrupt practices in sporting events. This bill would also modify existing law which provides that at every contest, a licensed physician paid by the promoter shall be in attendance, and that the physician's fee shall be paid by the promoter to the Commission to be remitted to the physician. This bill would eliminate the



## REGULATORY AGENCY ACTION

requirement that fees for these physicians be paid through the Athletic Commission. At its March 15 meeting, the Commission decided to not support AB 647, which is pending in the Assembly Governmental Organization Committee.

**AB 648 (Moore).** Existing law requires the Commission to annually furnish a report to specified legislative committees indicating assessment and deposit information relative to the Boxer's Neurological Examination Account. As introduced February 21, this bill would instead require that report to indicate the number of boxers or fighters licensed, a tabulation of reported injuries, actions taken by the Commission's Advisory Committee on Medical and Safety Standards, a summary of the basis for each disciplinary action and denial of license, and brief descriptions of the reasons for the failure of any applicant or boxer to pass any required physical, medical, or neurological examination.

Existing law authorizes the Commission to accept whatever evidence is available to demonstrate the "ability to perform" of a boxer or fighter at the initial time of licensure. Evaluations or reevaluations are required to be recorded by the Commission and may be used by the Commission when approving bouts for not more than 120 days from the date of the evaluation. This bill would authorize the Commission to accept whatever information is available to determine the "ability to perform" without limitation as to initial time of licensure; this bill would also require all information utilized by the Commission to be recorded and would delete the authority of the Commission to use evaluations or reevaluations when approving bouts for not more than 120 days from the date of the evaluations.

Existing law provides that no professional boxer shall spar for training purposes with any person not licensed as a professional boxer, or who does not have a sparring permit. This bill would make that prohibition applicable without regard to whether or not the sparring is for training purposes.

This bill would also require the Commission to call meetings of the Advisory Committee on Medical and Safety Standards at least twice per year, and would require the Committee to develop the protocol to be used in conducting neurological examinations and a procedure for reporting and acting upon the results of those examinations. This bill would also eliminate the authority of the Committee to study and recommend medical and safety standards for the conduct of pro-

fessional wrestling (which was deregulated last year).

Also, this bill would delete existing law which provides that the cost of required neurological examinations shall be paid from assessments on promoters of professional boxing matches in California, and would delete the existing authority for the Boxers' Neurological Examination Account in the General Fund. At its March 15 meeting, the Commission decided not to support this bill, which is pending in the Assembly Governmental Organization Committee.

**AB 672 (Polanco),** as introduced February 21, is a Commission-sponsored bill that would require any Commission representative to be admitted to any place where a telecast of any current, live, or spontaneous contest or exhibition is shown or exhibited or to be shown or exhibited; require any licensed promoter or other specified persons to notify the Commission whenever the broadcasting or television rights to any contest or match are sold, leased, distributed, or otherwise made available; authorize the Commission, its executive officer, or its authorized representative to seek a temporary restraining order stopping a closed circuit telecast, and authorize the Commission to assess a fine against any unlicensed person; and make it a misdemeanor for any person to sell, lease, distribute, or make available to any other person or organization who does not possess a permit issued by the Commission, the broadcasting or television rights to any contest or match, regardless of locale, for showing, viewing, or exhibition of a closed circuit telecast. This bill is pending in the Assembly Governmental Organization Committee.

**AB 699 (Polanco),** as introduced February 25, is a Commission-sponsored bill that would authorize the Commission to order a boxer or martial arts fighter to take a chemical test before or after a contest for the detection of substances which are prohibited under rules adopted by the Commission.

Under existing law, the Commission must require, as a condition of licensure and as a part of the application process, each applicant for a license as a professional boxer or for the renewal of a license if the boxer has boxed within the preceding year to be examined by a licensed physician who specializes in neurology or neurosurgery. This bill would permit examination by a psychologist under the supervision of such a physician, require the physician or psychologist to be approved by the Commission, and provide that the physician or psychologist is an official.

Under existing law, the cost of neurological examinations is paid from assessments on promoters of professional boxing matches in California. This bill would provide that 50% of the cost of the first examination administered for a boxer each year shall be paid by professional boxers and their managers; and give the Commission discretion to require the assessments to be made at the time of application for licensure, at the time of the approval of a contest, or to be withheld from gross receipts or the boxer's purse.

Under existing law, it is a misdemeanor for a person under the age of 16 years to attend a prizefight or a cockfight, or to admit such a minor to such a fight. This bill would eliminate that prohibition if the minor is accompanied by a parent or legal guardian. This bill is pending in the Assembly Governmental Organization Committee.

**AB 2133 (Polanco),** as introduced March 8, would define a booking agent to mean any person who books a licensed professional boxer or martial arts fighter to fight in a contest inside or outside of this state; it would not include a licensed manager who books fights for a boxer or martial arts fighter pursuant to a boxer-manager contract approved by the Commission.

Existing law prohibits a professional boxer from sparring for training purposes with any person not licensed as a professional boxer or who does not have a sparring permit. This bill would make that prohibition generally applicable, whether or not the sparring match is for training purposes. This bill would also provide that a professional fighter is not liable for the payment of the cost of any medical or neurological examination required pursuant to the Boxing Act. Finally, this bill would provide that failure of any person licensed pursuant to the Boxing Act to report to the Commission an injury or knockout of a licensed boxer or martial arts fighter or the holder of a sparring permit shall subject that person to fine or disciplinary action pursuant to the Act. This bill is pending in the Assembly Governmental Organization Committee.

### RECENT MEETINGS:

At its January 18 meeting, Commission staff reported on the budget problems facing the Commission, noting that \$52,000 is expected to be cut from the budget for fiscal year 1991-92. Further, staff noted that allocations for items such as postage and printing have not been increased to cover inflation.



At the Commission's January 18 meeting in Los Angeles, the eighteen-month-old Martial Arts Advisory Committee was disbanded. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 55 for background information.) The nine-member Advisory Committee had met six times; two of the members had never attended a meeting and three others have been involved in violations of the Commission's laws and regulations. The Commission appointed a new six-member committee to develop a proposal for regulatory changes to assure safe and fair competition in the martial arts.

Also at the January 18 meeting, representatives of the referee and promoter associations reported to the Commission that the groups had reached an interim agreement concerning a raise for referees and judges. Commission staff had previously recommended a 30% pay increase for the referees and judges, since they have not received an increase in twelve years. The coalition recommended a 12% increase for referees and judges. At its March 15 meeting, the Commission adopted the recommendation as an interim measure while the parties work out a final agreement.

Also at its January meeting, the Commission elected Charles Westlund as chair for 1991; P.B. Montemayor was selected as vice-chair.

At its January 18 and March 15 meetings, the Commission discussed whether the referee or ringside physician should be required to call time out when the physician goes to a corner during a rest period to examine a boxer, and whether the ringside physician in fact has the authority to call such a time out. The Commission agreed that at the present time, ringside physicians do have the authority to call time out to examine a boxer, but that this authority needs to be emphasized as a Commission policy. Staff was instructed to notify officials regarding the Commission's position and draft any regulatory or legislative changes necessary to clarify the policy.

At its March 15 meeting, the Commission noted the expiration of the six-month trial period in which scoring officials were instructed to avoid scoring rounds even, if at all possible. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 55 for background information.) Executive Officer Ken Gray commented that while a substantial reduction of even rounds had been scored, it was difficult to analyze the results. The Commission agreed to return to the method of scoring set forth in section 357, Title 4 of the CCR.

#### FUTURE MEETINGS:

July 19 in Los Angeles.

August 16 in Los Angeles.  
September 20 in Sacramento.  
October 18 in Los Angeles.  
November 15 in Los Angeles.  
December 13 in Sacramento.

### BUREAU OF AUTOMOTIVE REPAIR

Chief: John Waraas

(916) 366-5100

Toll Free Complaint Number:

1-800-952-5210

Established in 1971 by the Automotive Repair Act (Business and Professions Code sections 9880 *et seq.*), the Department of Consumer Affairs' (DCA) Bureau of Automotive Repair (BAR) registers automotive repair facilities; official smog, brake and lamp stations; and official installers/inspectors at those stations. The Bureau's regulations are located in Division 33, Title 16 of the California Code of Regulations (CCR). The Bureau's other duties include complaint mediation, routine regulatory compliance monitoring, investigating suspected wrongdoing by auto repair dealers, oversight of ignition interlock devices, and the overall administration of the California Smog Check Program.

The Smog Check Program was created in 1982 in Health and Safety Code section 44000 *et seq.* The Program provides for mandatory biennial emissions testing of motor vehicles in federally designated urban nonattainment areas, and districts bordering a nonattainment area which request inclusion in the Program. BAR licenses approximately 16,000 smog check mechanics who will check the emissions systems of an estimated eight million vehicles this year. Testing and repair of emissions systems is conducted only by stations licensed by BAR.

Approximately 80,000 individuals and facilities—including 40,000 auto repair dealers—are registered with the Bureau. Registration revenues support an annual Bureau budget of nearly \$34 million. BAR employs approximately 600 staff members to oversee the Automotive Repair Program and the Vehicle Inspection Program.

Under the direction of Chief John Waraas, the Bureau is assisted by a nine-member Advisory Board which consists of five public and four industry representatives. They are Herschel Burke, Carl Hughett, Joe Kellejian, Louis Kemp, William Kludjian, Vincent Maita, Alden Oberjurgue, Gilbert Rodriguez, and Jack Thomas.

#### MAJOR PROJECTS:

*Rulemaking Update.* Despite public hearings and extensive agency drafting efforts, BAR recently withdrew several proposed regulatory changes from the rulemaking process. Two of the withdrawn changes had shown particular promise for protecting the public. First, the proposed amendment of regulatory section 3356 would have prohibited dealers from billing on an invoice for items generically described as "shop supplies," "miscellaneous parts," or the like. The withdrawal of this proposed change allows dealers to continue to charge for items not specifically itemized on invoices. Second, the amendment of section 3362.1 would have prohibited degrading the effectiveness of a vehicle's original emission control system in the course of rebuilding an engine or installing a replacement engine. The withdrawal of this proposed change allows the continued risk of tampering with emission control systems designed to ensure cleaner air. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 50 and Vol. 10, No. 4 (Fall 1990) p. 56 for background information on these regulatory proposals.)

The Bureau plans to repropose these regulatory changes in the near future.

*SB 1997 Implementation and Progress Report.* Among other things, SB 1997 (Presley) (Chapter 1544, Statutes of 1988) requires Smog Check stations to purchase new equipment to perform emissions testing. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 56; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 70; and Vol. 9, No. 4 (Fall 1989) p. 44 for background information on SB 1997.) Since July 1990, when the new BAR-90 test analyzer system machines became available, 7,250 licensees have purchased the equipment necessary to conduct vehicle emissions inspections pursuant to SB 1997. However, approximately 300 stations still have not complied with the equipment requirement. Thus, while technically licensed, these establishments may not legally perform emissions tests. BAR is currently visiting these "pending" stations to determine why they have not yet complied with SB 1997 and whether their licenses should be revoked.

*Testimony on Complaint Procedures Offered to Assembly.* In January, BAR representatives testified before the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development, delivering an overview of the Bureau's complaint handling procedures and the results of a consumer satisfaction survey.