



**GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE**
Washington D C 20230

March 9, 2005

The Honorable Ted Stevens
Chairman, Committee on Commerce, Science and Transportation
United States Senate
Washington, DC 20510-6125

Dear Mr. Chairman:

Thank you for the opportunity to present the views of the Department of Commerce on S. 148, the "Professional Boxing Amendments Act of 2005", as referred to the Committee on Commerce, Science, and Transportation.

The legislation would establish nationwide standards for the sport of boxing and require State boxing commissions to enforce those standards. The bill would also establish the United States Boxing Commission (Commission), a federal commission that would be housed within the Department of Commerce, to safeguard boxers through oversight, administration of federal laws, and issuance of new regulations in consultation with the State boxing commissions. The President would appoint the members of the Commission, subject to confirmation by the Senate.

As we have commented on previous proposals, we do not believe the case has been made as to the need for the Commission, as professional boxing has traditionally been a matter regulated by the States. In addition, we believe that the Department of Commerce is not well suited to carry out the responsibilities and functions of the Commission. The Department possesses no relevant experience or expertise that has a connection to professional boxing, and it administers no programs that would be suitable for regulating the sport. If the Commission were to be established within the Department, however, we believe that several revisions to the language in the bill would be necessary to allow the Department to achieve the purposes of the legislation. These proposed revisions are enclosed.

In addition, the Department of Justice has advised us that it has significant constitutional concerns regarding the bill, which it will be presenting separately.

The Department appreciates the opportunity to present these views on S. 148. The Office of Management and Budget has advised that there is no objection to the transmittal of these views from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in cursive script that reads "Jane T. Dana".

Jane T. Dana
Acting General Counsel

Enclosure

cc: The Honorable Daniel K. Inouye
Co-Chairman, Committee on Commerce, Science and Transportation

Additional Comments

Due to the unique character of the Commission which the legislation proposes be established within the Department, we suggest making explicit that the Commission's budget is subject to the approval of the Secretary of Commerce and that the Commission shall follow the Department's administrative policies and procedures. We suggest adding a sentence to the end of Section 202(c)(2) so that such section would read, "(2) DISCHARGE OF FUNCTIONS.-Subject to the authority, direction, and control of the Commission the Executive Director shall carry out the functions and duties of the Commission under this Act. In so doing, the Executive Director shall comply with all administrative policies and procedures of the Department of Commerce, and shall submit the Commission's budget request as part of the budget request of the Department of Commerce." We also suggest including language at the end of Section 212(a) to read, "Any request for appropriations shall be subject to the approval of the Secretary of Commerce and shall be included as part of the budget request of the Department of Commerce."

In addition, we suggest adding a provision addressing promulgation of implementing regulations by the Department. We suggest including language to read, "The Secretary of Commerce shall promulgate regulations to implement this Act."

We also suggest the deletion of Section 202(d) which provides for the employment of a General Counsel by the Commission. We prefer that the legislation not address this position specifically and that the Commission use its general staffing authority under Section 202(e) to employ a General Counsel. Based on the Department's experience with General Counsels that are statutorily established outside of the ordinary government scheme, we believe that such establishment unnecessarily creates enormous ambiguity in how such persons operate in the context of the Department's personnel system. We would prefer to avoid that ambiguity in the case of the Commission's General Counsel.

Furthermore, in order to clarify that the Commission is not an advisory committee, we suggest revising Section 203(a) to read, "PRIMARY FUNCTIONS.-The primary functions of the Commission are operational, not advisory, and include-".

Finally, we suggest that a provision be added to the end of Section 204(b)(3) (relating to the collection of fees) establishing that the Commission may retain collected fees and setting forth the purposes for which those fees may be used.