

MISSOURI ATHLETIC COMMISSION: Sec. 12999, R.S. 1929 in using words "gross receipts" means receipts from all sources in connection with any boxing, sparring or wrestling exhibition.

April 9, 1935.



Athletic Commission of Missouri,
3132 Troost Avenue,
Kansas City, Missouri.

Attention: Mr. Garrett L. Smalley

Gentlemen:

This department is in receipt of your request for an opinion as to the following state of facts:

"We are writing you for a written opinion in regard to the money we are collecting from concessions being operated in the majority of wrestling and boxing shows throughout the State of Missouri.

We have successfully collected this fee ever since the Commission was organized in 1927, with one exception, and that is in one of the auditoriums in St. Louis. In Section 2 of the laws governing boxing and wrestling, it states that,

'The Commission is to collect five per cent of the gross receipts of every boxing, sparring or wrestling exhibition held, such funds to be accounted for by the said Athletic Commission of the State of Missouri.'

What we want to know is, whether the word 'gross' is to be construed to cover all moneys taken in from everything connected with the show or simply from the date. * * * * "

Section 12999, R.S. Mo. 1929 provides in part as follows:

"* * * Third, to collect fees for such license of ten dollars (\$10.00) for every license issued, and to collect five per cent. of the gross receipts of every boxing, sparring or wrestling exhibition held, such funds to be accounted for by the said athletic commission of the State of Missouri, and deposited monthly in the state treasury, and by the state treasurer set apart into a fund to be known as the athletic commission fund."

Statutes and ordinances imposing licenses and business taxes are generally to be construed liberally in favor of the citizens and strictly against the government. "The rule, however, does not compel an adherence to the mere letter of the law or to strict grammatical construction so as to defeat the plain legislative intent." Porter v. State, 58 Ala. 66.

Volume 37 Corpus Juris, page 249 states the general rule,

"Liability for a license fee or tax, and the nature and extent of such liability, depend upon the terms of the statute or ordinance by which the fee or tax is imposed."

By the plain terms of the statute, the Commission is to collect 5% of the gross receipts of every boxing, sparring or wrestling exhibition. Nothing is said in the statute limiting the source from which said gross receipts should be estimated. The receipts obtained from concessions, etc. are collected by reason of their being connected with the boxing, sparring or wrestling exhibition in conjunction with which they are established.

CONCLUSION

In view of the foregoing, it is the opinion of this department that it was the intention of the Legislature that the

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words "gross receipts", as used in Section 12999, R.S. Mo. 1929 should be taken to include the receipts from all sources obtained in connection or in conjunction with any boxing, sparring or wrestling exhibition.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.,
Assistant Attorney General

APPROVED:

ROY MCKITTRICK,
Attorney General