

STATE ATHLETIC COMMISSION: Rule of commission is superior to rule of city commission

February 23, 1939 24



Honorable Russell Murphy
Chairman of State Athletic Commission
Mississippi Valley Trust Company Building
St. Louis, Missouri

Dear Sir:

This will acknowledge receipt of a letter under date of February 20, 1939 from H. T. Dawson, Commission Secretary requesting in your behalf our opinion on the following:

"Do the rulings of a State Commission created by State law take precedence over the rulings of a city commission, created by a city ordinance or city office, where the State and City Commissions here to referred to might be different on the same question."

Chapter 92 R. S. Mo. 1929 and the amendments thereto is the law of this state regulating boxing, sparring and wrestling exhibitions. Such legislation has been held to be a valid exercise of a state's police powers. *Fitzsimmons vs. New York State Athletic Commission* 146 N. Y. S. 117.

Section 12999 of Chapter 92 R. S. Mo. 1929 provides in part:

"That the athletic commission of the State of Missouri shall have general charge and supervision of all boxing, sparring and wrestling exhibitions held in the State of Missouri, and it shall have the power, and it shall be its duty: First, to make and publish rules and regulations governing in every particular the conduct of boxing, sparring and wrestling exhibitions, the time and place thereof, and the prices charged for admission thereto. * * *"

February 23, 1939

We assume, that the city has, under the police powers delegated to it by the state, enacted an ordinance similar to the above statute, that both the rule of the state and the city commissions are reasonable but are irreconcilably in conflict. These assumptions leave the bare question: Which is superior?

In order to determine the answer to this question we must look to the authority behind the rules of the state and city commission. In one it is the state and its statutes and in the other it is the city and its ordinance. Thus the question really is: "Is a statute of a state superior to an ordinance of a city?" Ascertaining this makes the question simple and one which has been decided numerous times. In *St. Louis vs. Ameln* 235 Mo. 1.c. 684 and 685 it is stated:

"As the voice of the State lawmaker is paramount to that of the municipal lawmaker, and as the duty of the latter is to conform to the former, in a field where the right to legislate is concurrent, in case of conflict between a State law and a municipal ordinance, the latter must give way."

All cities of the state are subject to the rule laid down in the above case including those cities with special charters adopted under Sections 16 and 20 of Article 9 of the Mo. Constitution. *State ex rel vs. Jost* 265 Mo. 51; Section 23 Article 9 Mo. Constitution; *State ex rel vs. St. Louis City* 2 S. W. (2d) 713.

CONCLUSION

Therefore, it is the opinion of this department that administrative rulings of the state athletic commission are superior to and take precedence over an inconsistent administrative ruling of the Athletic Commission of an incorporated city of this state.

Respectfully submitted,

LAWRENCE L. BRADLEY
Assistant Attorney General

APPROVED:

Russell Murphy

(Acting) Attorney General

LLB:WW