

Act No. 196
Public Acts of 2007
Approved by the Governor
December 20, 2007
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December 21, 2007
EFFECTIVE DATE: March 27, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2007**

Introduced by Reps. Farrah, Gaffney, Virgil Smith, Hildenbrand, Accavitti, Brandenburg, Wojno, Gillard, Johnson, Melton, Meadows, Hammel, Bauer, Agema, Ward, Acciavatti, Marleau and Meekhof

ENROLLED HOUSE BILL No. 4869

AN ACT to amend 2004 PA 403, entitled "An act to regulate certain forms of boxing; to create certain commissions and to provide certain powers and duties for certain state agencies and departments; to license and regulate certain persons engaged in boxing, certain persons connected to the business of boxing, and certain persons conducting certain contests and exhibitions; to confer immunity under certain circumstances; to provide for the conducting of certain tests; to assess certain fees; to create certain funds; to promulgate rules; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 1, 10, 11, 12, 20, 21, 22, 31, 32, 33, 34, 35, 47, 48, 51, 53, 54, 55, 56, 57, and 58 (MCL 338.3601, 338.3610, 338.3611, 338.3612, 338.3620, 338.3621, 338.3622, 338.3631, 338.3632, 338.3633, 338.3634, 338.3635, 338.3647, 338.3648, 338.3651, 338.3653, 338.3654, 338.3655, 338.3656, 338.3657, and 338.3658), sections 11, 31, 33, 34, 47, 48, and 54 as amended by 2005 PA 49.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "Michigan unarmed combat regulatory act".

Sec. 10. As used in this act:

(a) "Amateur" means a person who is not competing and has never competed for a money prize or who is not competing and has not competed with or against a professional for a prize. For a boxing contest, amateur is a person who is required to be registered by USA boxing.

(b) "Commission" means the Michigan unarmed combat commission created in section 20.

(c) "Complainant" means a person who has filed a complaint with the department alleging that a person has violated this act or a rule promulgated or an order issued under this act. If a complaint is made by the department, the director shall designate 1 or more employees of the department to act as the complainant.

(d) "Department" means the department of labor and economic growth.

(e) "Director" means the director of the department or his or her designee.

(f) "Employee of the department" means an individual employed by the department or a person under contract to the department whose duty it is to enforce the provisions of this act or rules promulgated or orders issued under this act.

(g) "Fund" means the Michigan unarmed combat fund created in section 22.

(h) "Good moral character" means good moral character as determined and defined in 1974 PA 381, MCL 338.41 to 338.47.

(i) "Mixed martial arts" means unarmed combat involving the use of a combination of techniques from different disciplines of the martial arts and includes grappling, kicking, jujitsu, and striking, subject to limitations contained in this act and rules promulgated under this act.

Sec. 11. As used in this act:

(a) "Physician" means that term as defined in section 17001 or 17501 of the public health code, 1978 PA 368, MCL 333.17001 and 333.17501.

(b) "Prize" means something offered or given of present or future value to a participant in a contest, exhibition, or match.

(c) "Professional" means a person who is competing or has competed in boxing or mixed martial arts for a money prize.

(d) "Promoter" means any person who produces or stages any professional contest or exhibition of boxing or mixed martial arts, or both, but does not include the venue where the exhibition or contest is being held unless the venue contracts with the individual promoter to be a co-promoter.

(e) "Purse" means the financial guarantee or any other remuneration for which professionals are participating in a contest or exhibition and includes the professional's share of any payment received for radio, television, or motion picture rights.

(f) "Respondent" means a person against whom a complaint has been filed who may be a person who is or is required to be licensed under this act.

(g) "Rule" means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(h) "School", "college", or "university" does not include an institution formed or operated principally to provide instruction in boxing and other sports.

Sec. 12. This act does not apply to any of the following:

(a) Professional or amateur wrestling.

(b) Amateur martial arts sports or activities.

(c) Contests or exhibitions conducted by or participated in exclusively by an agency of the United States government or by a school, college, or university or an organization composed exclusively of those entities if each participant is an amateur.

(d) Amateur boxing regulated by the amateur sports act of 1978, 36 USC 371.

(e) Boxing elimination contests regulated by section 50.

(f) Amateur mixed martial arts.

Sec. 20. (1) The Michigan unarmed combat commission, consisting of 11 voting members, appointed by the governor with the advice and consent of the senate, is created within the department. The director is appointed as a nonvoting ex officio member of the commission. A majority of the members appointed by the governor shall be licensees under this act. Four of the members shall be licensees in boxing, and 4 members shall be licensees in mixed martial arts. Three members shall be members of the general public. Budgeting, procurement, human resources, information technology, and related management functions of the commission shall be performed by the department.

(2) Except as otherwise provided in this subsection, the 11 members appointed by the governor shall serve a term of 4 years. Of the initial members appointed under this act, the terms of 2 of the members shall be 4 years, the term of 2 of the members shall be 2 years, and the term of 3 of the members shall be 1 year. When so designated by the director, any board action taken on only a boxing or mixed martial arts matter shall only be considered by the appropriately licensed members and members of the general public. The terms of members appointed by the governor are subject to the pleasure of the governor.

(3) Five members of the commission constitute a quorum for the exercise of the authority conferred upon the commission except that after all of the additional members appointed as a result of the 2007 amendatory act that added this clause, the quorum shall consist of 7 members. Subject to subsection (2), a concurrence of at least 4 of the members, or a concurrence of a majority of those members who have not participated in an investigation or administrative hearing regarding a matter before the commission, is necessary to render a decision by the commission. In the case of proposed board action to be taken on a matter involving only boxing or only mixed martial arts and where only the members of the board designated for the particular sport are eligible to confer, the quorum shall be 4 members, 2 of whom shall be licensed under the appropriate sport. Under those circumstances, a concurrence of 3 members is necessary to render a decision by the commission.

(4) A member of the commission shall not at any time during his or her service as a member promote or sponsor any contest or exhibition of boxing, or combination of those events, or have any financial interest in the promotion or sponsorship of those contests or exhibitions. The commission shall meet not less than 4 times per year, and upon request and at the discretion of the chair, the department shall schedule additional interim meetings.

(5) Except as otherwise provided in section 33(9), the records of the commission are subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) Meetings of the commission are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

Sec. 21. A person who has a material financial interest in any club, organization, or corporation, the main object of which is the holding or giving of boxing or mixed martial arts contests or exhibitions is not eligible for appointment to the commission.

Sec. 22. (1) The commission shall elect 1 of its members as the chair of the commission. The commission may purchase and use a seal. The director may promulgate rules for the administration of this act but only after first consulting with the commission. The commission may request the department to promulgate a rule under section 38 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.238. Notwithstanding the time limit provided for in section 38 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.238, the department shall respond in writing to any request for rule promulgating by the commission within 30 calendar days after a request. The response shall include a reason and explanation for acceptance or denial of the request.

(2) The department shall promulgate rules to include all of the following:

(a) Number and qualifications of ring officials required at any exhibition or contest.

(b) Powers, duties, and compensation of ring officials.

(c) Qualifications of licensees.

(d) License fees not otherwise provided under this act.

(e) Any necessary standards designed to accommodate federally imposed mandates that do not directly conflict with this act.

(f) A list of enhancers and prohibited substances, the presence of which in a contestant is grounds for suspension or revocation of the license or other sanctions.

(3) An unarmed combat fund is created as a revolving fund in the state treasury and administered by the director. The money in the fund is to be only used for the costs of administration and enforcement of this act and for any costs associated with the administration of this act, including, but not limited to, reimbursing the department of attorney general for the reasonable costs of services provided to the department under this act. Money remaining in the fund at the end of the fiscal year and interest earned shall be carried forward into the next fiscal year and shall not revert to the general fund. The department shall deposit into the fund all money received from the regulatory and enforcement fee, license fees, event fees, and administrative fines imposed under this act, and from any other source.

(4) Annually, the legislature shall fix the per diem compensation of the members of the commission. Travel or other expenses incurred by a commission member in the performance of an official function shall be payable by the department pursuant to the standardized travel regulations of the department of management and budget.

(5) The commission may affiliate with any other state or national boxing or mixed martial arts commission or athletic authority. The commission, upon approval of the director, may enter into any appropriate reciprocity agreements.

(6) The commission and department are vested with management, control, and jurisdiction over all professional boxing and professional mixed martial arts contests or exhibitions to be conducted, held, or given within the state of Michigan. Except for any contests or exhibitions exempt from this act, a contest or exhibition shall not be conducted, held, or given within this state except in compliance with this act.

(7) The requirements and standards contained in standards adopted by the New Jersey state athletic control board, N.J.A.C. 13:46-24A and 24B, as they may exist on the effective date of this act, entitled the mixed martial arts unified rules, dated 2000, except for the license fees described in those rules, are incorporated by reference. Any requirements and standards incorporated by reference in this subsection that are in conflict with the requirements and standards of this act are considered superseded by the provisions of this act. The director, in consultation with the commission, may promulgate rules consistent with section 35 to alter, supplement, update, or amend the standards incorporated by reference under this subsection. Any references to the commission in the mixed martial arts unified rules shall mean the department. The standards contained in 13:46-24B.3 are not incorporated by reference.

(8) Any boxing, mixed martial arts, or sparring contest conforming to the requirements of this act and to the rules of the department is not considered to be a prize fight for purposes of chapter LXVI of the Michigan penal code, 1931 PA 328, MCL 750.442 to 750.447.

Sec. 31. By filing an application for a license, an applicant does both of the following:

(a) Certifies his or her general suitability, character, integrity, and ability to participate, engage in, or be associated with boxing or mixed martial arts contests or exhibitions. The burden of proof is on the applicant to establish to the satisfaction of the commission and the department that the applicant is qualified to receive a license.

(b) Accepts the risk of adverse public notice, embarrassment, criticism, financial loss, or other action with respect to his or her application and expressly waives any claim for damages as a result of any adverse public notice, embarrassment, criticism, financial loss, or other action. Any written or oral statement made by any member of the commission or any witness testifying under oath that is relevant to the application and investigation of the applicant is immune from civil liability for libel, slander, or any other tort.

Sec. 32. A contest or exhibition regulated by this act and not exempt from this act shall be held or conducted in this state only under a promoter's license issued by the department as provided for in section 33.

Sec. 33. (1) An application for a promoter's license must be in writing and correctly show and define the applicant.

(2) An applicant for a promoter's license must demonstrate good moral character. If an applicant for a promoter's license is denied a license due to lack of good moral character, the applicant may petition the commission for a review of the decision under section 46.

(3) Before an approval for a contest or exhibition is granted, a promoter must file a bond with the department in an amount fixed by the department but not less than \$20,000.00, which bond shall be executed by the applicant as principal and by a corporation qualified under the laws of this state as surety, payable to the state of Michigan, and conditioned upon the faithful performance by the applicant of the provisions of this act. The department shall annually adjust the amount of the bond based upon the Detroit consumer price index. The bond must be purchased not less than 5 days before the contest or exhibition and may be used to satisfy payment for the professionals, costs to the department for ring officials and physicians, and drug tests.

(4) A promoter must apply for and obtain an annual license from the department in order to present a program of contests or exhibitions regulated by this act. The annual license fee is \$250.00. The department shall request, and the applicant shall provide, such information as it determines necessary to ascertain the financial stability of the applicant.

(5) A boxing promoter shall pay an event fee of \$125.00. A mixed martial arts promoter shall pay an event fee of \$2,000.00.

(6) There is imposed a regulatory and enforcement fee upon the promoter to assure the integrity of the sports of boxing and mixed martial arts, the public interest, and the welfare and safety of the professionals in the amount of 3% of the total gross receipts from the sale, lease, or other exploitation of broadcasting, television, and motion picture rights, but not to exceed \$25,000.00 per contract, for boxing or mixed martial arts events to which the following apply:

(a) If the event is a boxing event, the event is located in a venue with a seating capacity of over 5,000.

(b) The promoter proposes to televise or broadcast the event over any medium for viewing by spectators not present in the venue.

(c) The event is designed to promote professional boxing or mixed martial arts contests in this state.

(7) At least 10 days before the boxing or mixed martial arts event, the promoter shall submit the contract subject to the regulatory and enforcement fee to the department, stating the amount of the probable total gross receipts from the sale, lease, or other exploitation of broadcasting, television, and motion picture rights.

(8) The money derived from the regulatory and enforcement fee shall be deposited into the fund created in section 22 and used for the purposes described in that section.

(9) A promoter shall, within 5 business days before a boxing or mixed martial arts contest or exhibition, convey to the department an executed copy of the contract relative to that contest or exhibition. The copy of the contract is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except that the department may disclose statistical information on the number, types, and amounts of contracts so long as information regarding identifiable individuals or categories is not revealed.

(10) Beginning June 23, 2005, a promoter's license is subject to revocation unless at least 10% of the purse in a contest or exhibition, but not more than \$10,000.00 per contestant, is withheld or escrowed until such time as the results of the postcontest drug test, as required by this act, are available to the department. If the drug test results confirm or demonstrate compliance with this act, the department shall issue an order allowing the promoter to forward to the professional the amount withheld or escrowed. If the results do not confirm or demonstrate compliance with this act, the department shall serve a formal complaint on the professional under section 44(2), and the department shall issue an order to the promoter requiring the promoter to forward the amount withheld or escrowed to the department. Upon receipt, the department shall deposit the money into the fund. If after a hearing the professional is found in violation of the act, the professional shall forfeit the amount withheld from the purse and the professional is subject to the penalties prescribed in section 48. However, if the formal complaint is dismissed or any final order issued as the result of the complaint is overturned, the department shall issue a refund to the professional for the amount withheld.

(11) Subsection (10) does not prohibit a licensed promoter from including a provision in a contract with a professional that requires the promoter to withhold 10% of the purse in a contest or exhibition until such time as the postcontest drug test results are available to the department.

Sec. 34. (1) The director, in consultation with the commission, may promulgate rules for the application and approval process for promoters. Until the rules are promulgated, the applicant shall comply with the standards described in subsection (2).

(2) The rules regarding the application process shall include at least the following:

(a) An initial application processing fee sufficient to cover the costs of processing a boxing or mixed martial arts promoter's license, but not less than \$250.00.

(b) A requirement that background information be disclosed by the applicant who is an individual or by the principal officers or members and individuals having at least a 10% ownership interest in the case of any other legal entity, with emphasis on the applicant's business experience.

(c) Information from the applicant concerning past and present civil lawsuits, judgments, and filings under the bankruptcy code that are not more than 7 years old.

(d) Any other relevant and material information considered necessary by the director upon consultation with the commission.

(3) The department may consult with the commission on issues related to the determination of an applicant's financial stability and shall refer the application to the commission if clear and convincing grounds for approval of the financial stability aspect of the application do not exist.

(4) As part of the approval process for promoters, the commission may require the applicant or his or her representative to be present at a commission meeting in which the application is considered.

Sec. 35. The director, in consultation with the commission, shall promulgate rules to set standards for boxing and mixed martial arts exhibitions and participants and to provide for license fees for all participants in the activities regulated by this act not otherwise provided for in this act, including, but not limited to, license fees for a physician, physician's assistant, nurse practitioner, referee, judge, matchmaker, timekeeper, professional, contestant, or manager or a second of those persons.

Sec. 47. (1) The department shall initiate an action under this chapter against an applicant or take any other allowable action against the license of any contestant, promoter, or other participant who the department determines has done any of the following:

(a) Enters into a contract for a contest or exhibition in bad faith.

(b) Participates in any sham or fake contest or exhibition.

(c) Participates in a contest or exhibition pursuant to a collusive understanding or agreement in which the contestant competes or terminates the contest or exhibition in a manner that is not based upon honest competition or the honest exhibition of the skill of the contestant.

(d) Is determined to have failed to give his or her best efforts, failed to compete honestly, or failed to give an honest exhibition of his or her skills in a contest or exhibition.

(e) Is determined to have performed an act or engaged in conduct that is detrimental to a contest or exhibition, including, but not limited to, any foul or unsportsmanlike conduct in connection with a contest or exhibition.

(f) Gambles on the outcome of a contest or exhibition in which he or she is a contestant, promoter, matchmaker, ring official, or second.

(g) Assaults another licensee, commission member, or department employee while not involved in or while outside the normal course of a contest or exhibition.

(h) Practices fraud or deceit in obtaining a license.

(2) The department, in consultation with the commission, shall promulgate rules to provide for both of the following:

(a) The timing of drug tests for contestants.

(b) Specific summary suspension procedures for contestants and participants who test positive for drugs or fail to submit to a drug test, under section 48(4). The rules shall include the following:

(i) A procedure to allow the department to place the licensee upon the national suspension list.

(ii) An expedited appeal process for the summary suspension.

(iii) A relicensing procedure following summary suspension.

(3) An employee of the department must be present at all weigh-ins, medical examinations, contests, exhibitions, and matches to ensure that this act and rules are strictly enforced.

(4) Each promoter shall furnish each member of the commission present at a contest or exhibition a seat in the area immediately adjacent to the contest or exhibition. An additional seat shall be provided in the venue.

(5) The commission chair, a commission member assigned by the chair, or a department official designated by the commission chair shall have final authority involving any conflict at a contest, exhibition, or match and shall advise the chief inspector in charge accordingly. In the absence of the chair, an assigned member, or a department official designated by the commission chair, the chief inspector in charge shall be the final decision-making authority.

Sec. 48. (1) Upon receipt of an application for reinstatement and the payment of an administrative fine prescribed by the commission, the commission may reinstate a revoked license or lift a suspension. If disciplinary action is taken against a person under this act that does not relate to a contest or exhibition, the commission may, in lieu of suspending or revoking a license, prescribe an administrative fine not to exceed \$10,000.00. If disciplinary action is taken against a person under this act that relates to the preparation for a contest or an exhibition, the occurrence of a contest or an exhibition, or any other action taken in conjunction with a contest or an exhibition, the commission may prescribe an administrative fine in an amount not to exceed 100% of the share of the purse to which the holder of the license is entitled for the contest or exhibition or an administrative fine not to exceed \$100,000.00 in the case of any other person. This administrative fine may be imposed in addition to, or in lieu of, any other disciplinary action that is taken against the person by the commission.

(2) If an administrative fine is imposed under this section, the commission may recover the costs of the proceeding, including investigative costs and attorney fees. The department or the attorney general may bring an action in a court of competent jurisdiction to recover any administrative fines, investigative and other allowable costs, and attorney fees. The filing of an action to recover fines and costs does not bar the imposition of other sanctions under this act.

(3) An employee of the department, in consultation with any commission member present, may issue an order to withhold the purse for 3 business days due to a violation of this act or a rule promulgated under this act. During that 72-hour time period, the commission may convene a special meeting to determine if the action of the employee of the department was warranted. If the commission determines that the action was warranted, the department shall offer to hold an administrative hearing as soon as practicable but within at least 7 calendar days.

(4) A professional or participant in a professional contest or exhibition shall submit to a postexhibition test of body fluids to determine the presence of controlled substances, prohibited substances, or enhancers. The department shall promulgate rules to set requirements regarding preexhibition tests of body fluids to determine the presence of controlled substances, prohibited substances, or enhancers.

(5) The promoter is responsible for the cost of the testing performed under this section.

(6) Either of the following is grounds for summary suspension of the individual's license in the manner provided for in section 42:

(a) A test resulting in a finding of the presence of controlled substances, enhancers, or other prohibited substances as determined by rule of the commission.

(b) The refusal or failure of a contestant to submit to the drug testing ordered by an authorized person.

Sec. 51. (1) A physician, licensed physician's assistant, certified nurse practitioner, referee, judge, matchmaker, timekeeper, professional boxer, contestant, or manager, or a second of those persons, shall obtain a participant license from the department before participating either directly or indirectly in a contest or exhibition.

(2) An application for a participant license shall be in writing, shall be verified by the applicant, and shall set forth those facts requested by and conform to the rules promulgated by the department.

(3) The department shall issue a passport with each professional contestant's license.

(4) The commission, or a member of the commission, has standing to contest the issuance or nonissuance of an exhibition or other license by written or electronic communication to the department.

Sec. 53. (1) In addition to the requirements of section 52, a person seeking a license as a professional referee, judge, or timekeeper shall referee, judge, or keep time for a minimum of 300 rounds of amateur competitive boxing. To the extent standards are not contained in the mixed martial arts unified rules incorporated by reference under section 22(7), the department shall promulgate rules establishing standards for a person seeking licensure as a mixed martial arts professional referee, judge, or timekeeper.

(2) After a person has successfully completed the requirements of section 51(2) and subsection (1), the department may issue the person a license.

Sec. 54. (1) In addition to the requirements of section 53, a person seeking a license as a professional judge shall score, unofficially, not fewer than 200 rounds of professional boxing. In order to fulfill the requirements of this subsection, an applicant shall only unofficially judge contests that are approved by the commission for that purpose. An applicant shall not receive compensation for judging boxing contests or exhibitions under this subsection. Scorecards shall be transmitted to the department and the commission for review and evaluation.

(2) To the extent standards are not contained in the mixed martial arts unified rules incorporated by reference under section 22(7), the department shall promulgate rules establishing experience standards for a person seeking licensure as a mixed martial arts professional judge.

(3) An employee authorized by the department or the commission shall complete a standardized evaluation sheet for each contest or exhibition judged by a licensee. The commission shall annually review the evaluation sheets. A commission member attending a contest or exhibition may also submit to the department a standardized evaluation sheet.

Sec. 55. (1) A professional participating in a contest or exhibition shall be insured by the promoter for not less than \$50,000.00 for medical and hospital expenses to be paid to the contestant to cover injuries sustained in the contest and for not less than \$50,000.00 to be paid in accordance with the statutes of descent and distribution of personal property if the contestant should die as a result of injuries received in a boxing contest or exhibition.

(2) A promoter shall pay the policy premium and deductible regarding any medical or hospital expenses for a contestant's injuries.

Sec. 56. (1) A professional boxing contest or exhibition shall be of not more than 10 rounds in length, except a boxing contest or exhibition which involves a national or international championship may last not more than 12 rounds in the determination of the department. The contestants shall wear during a contest gloves weighing at least 8 ounces each. Rounds shall be not longer than 3 minutes, with not less than 1-minute rest between rounds.

(2) A professional or participant in a contest or exhibition shall be certified to be in proper physical condition by a licensed physician, a licensed physician's assistant, or a certified nurse practitioner before participating in a contest or exhibition. The department shall designate any medical test that may be required to determine if the individual is in proper physical condition.

Sec. 57. (1) A licensed physician shall be in attendance at each contest or exhibition. The physician shall observe the physical condition of the contestants and advise the referee or judges with regard to the health of those contestants. The physician shall examine each contestant before entering the ring.

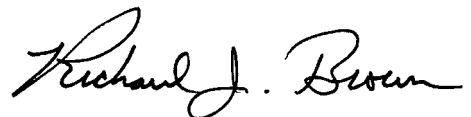
(2) The licensed physician shall file with the commission the report of the physical examination of a contestant not later than 24 hours after termination of the contest or exhibition.

(3) If, in the opinion of the physician, the health or safety of a contestant requires that the contest or exhibition in which he or she is participating be terminated, the physician shall notify the referee. The referee shall terminate the contest or exhibition.

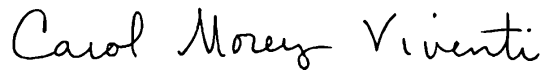
Sec. 58. (1) If a contestant or participant loses consciousness during or as a result of a contest or exhibition in which he or she participates, he or she shall not again be eligible to participate in a contest or exhibition in this state unless examined by a physician appointed by the commission and unless the physician certifies the contestant's or participant's fitness to participate.

(2) The contestant or participant shall pay the cost of the examination conducted under subsection (1).

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4870 of the 94th Legislature is enacted into law.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor