

MICHIGAN UNARMED COMBAT REGULATORY ACT
Act 403 of 2004

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.

History: 2004, Act 403, Eff. Feb. 20, 2005.

The People of the State of Michigan enact:

338.3601 Short title.

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

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

CHAPTER 1

338.3610 Definitions; A to M.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3611 Definitions; P to S.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2005, Act 49, Imd. Eff. June 23, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3612 Applicability of act; exceptions.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

CHAPTER 2

338.3620 Michigan unarmed combat commission; creation; appointment; qualifications; terms; quorum; promotion or sponsorship of contest or exhibition; meetings; disclosure of records; public meetings.

Sec. 20. (1) The Michigan unarmed combat commission is created in the department. The commission shall consist of the director, serving as a nonvoting ex officio member of the commission, and 11 voting members, appointed by the governor with the advice and consent of the senate, as follows:

- (a) Four members who have experience, knowledge, or background in boxing.
- (b) Four members who have experience, knowledge, or background in mixed martial arts.
- (c) Three members who are members of the general public.

(2) The department shall provide the budgeting, procurement, human resources, information technology, and related management functions of the commission.

(3) Except as otherwise provided in this subsection, the 11 members appointed by the governor shall serve a term of 4 years. However, of the initial members appointed under this act, the governor shall appoint 2 of the members to terms of 4 years, 2 of the members to terms of 2 years, and 3 of the members to terms of 1 year. Members appointed by the governor serve at the pleasure of the governor.

(4) Subject to subsection (5), 7 members of the commission constitute a quorum for the exercise of the authority conferred on the commission under this act. Subject to subsection (5), approval by at least 4 of the members, or by a majority of those members who have not participated in an investigation or administrative hearing regarding a matter before the commission, is necessary for action by the commission.

(5) All of the following apply if a proposed action of the commission is designated by the director as related only to boxing:

(a) The proposed action shall only be considered by the commission members described in subsection (1)(a) and (c).

(b) The quorum requirement for consideration of the proposed action is 4 members who are eligible to consider the action under subdivision (a), 2 of whom are members described in subsection (1)(a).

(c) Approval by at least 3 of the members who are eligible to consider the action under subdivision (a) is required for the commission to take that action.

(6) All of the following apply if a proposed action of the commission is designated by the director as related only to mixed martial arts:

(a) The proposed action shall only be considered by the commission members described in subsection (1)(b) and (c).

(b) The quorum requirement for consideration of the proposed action is 4 members who are eligible to consider the action under subdivision (a), 2 of whom are members described in subsection (1)(b).

(c) Approval by at least 3 of the members who are eligible to consider the action under subdivision (a) is required for the commission to take that action.

(7) While serving as a member of the commission, an individual shall not promote or sponsor any contest or exhibition of boxing, or a 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 on the request and at the discretion of the chair, the department shall schedule additional interim meetings.

(8) Except as otherwise provided in sections 33(9) and 61a, the records of the commission are subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008;—Am. 2012, Act 546, Imd. Eff. Jan. 2, 2013.

338.3621 Person with financial interest ineligible for appointment.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3622 Chairperson; seal; rules; unarmed combat fund; creation; use; carrying forward remaining money; compensation of members; affiliation with other commissions or athletic authorities; duties of commission and department; incorporation by reference of certain standards.

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 under 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 February 20, 2005, 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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008;—Am. 2010, Act 100, Imd. Eff. June 22, 2010.

CHAPTER 3

338.3630 License required; violation as misdemeanor; penalty; injunction; enforcement; remedies.

Sec. 30. (1) A person shall not engage in or attempt to engage in an activity regulated under this act unless the person possesses a license issued by the department or unless the person is exempt from licensure under this act.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both.

(3) A person who violates subsection (1) a second or any subsequent time is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year, or both.

(4) Notwithstanding the existence and pursuit of any other remedy, an affected person may maintain injunctive action in a court of competent jurisdiction to restrain or prevent a person from violating subsection (1). If successful in obtaining injunctive relief, the affected person shall be entitled to actual costs and attorney fees. As used in this subsection, "affected person" means a person directly affected by the actions of a person suspected of violating subsection (1) and includes, but is not limited to, the commission, the department, or a member of the general public.

(5) An investigation may be conducted by the department to enforce this section. A person who violates this section is subject to the strictures prescribed in this section and section 43.

(6) The remedies under this section are independent and cumulative. The use of 1 remedy by a person shall not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3631 Application for licensure.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2005, Act 49, Imd. Eff. June 23, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3632 Promoter's license required.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3633 Promoter's license; application; good moral character; bond; fees; submission of contract; deposit of money; delivery and disclosure of contract; drug tests; rules.

Sec. 33. (1) An application for a promoter's license must be in writing and shall include the legal name, street address, and telephone number of 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 the department grants an approval for a contest or exhibition, the promoter must file a bond with the department in an amount fixed by the department but not less than \$20,000.00 or more than \$50,000.00. The applicant shall execute the bond as principal, and the bond shall be issued by a corporation qualified under the laws of this state as surety, payable to the state of Michigan, and conditioned on the faithful performance by the applicant of the provisions of this act. The bond must be purchased at least 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 under this act. The annual license fee is \$250.00. The department shall request, and the applicant shall provide, any information that the department determines is necessary to ascertain the financial stability of the applicant. Section 61a applies to any information provided by an applicant under this subsection.

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

(6) Each promoter shall pay a regulatory and enforcement fee to assure the integrity of the sports of boxing and mixed martial arts, the public interest, and the welfare and safety of the professionals. The amount of the fee is 3% of the total gross receipts from the sale, lease, or other exploitation of broadcasting, television, and motion picture rights for an event, or \$25,000.00, whichever is less, for a boxing or mixed martial arts event to which any of the following apply:

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

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

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

(7) For purposes of subsection (6), 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 for the event. However, this subsection does not apply to a promoter that agrees to pay a regulatory and enforcement fee for the event in the amount of \$25,000.00, and the department receives that payment from the promoter at least 1 business day before the event.

(8) The department shall deposit the money received from the proceeds of the regulatory and enforcement fee into the fund created in section 22 and use those proceeds for the purposes described in that section.

(9) Within 1 business day before a boxing or mixed martial arts contest or exhibition, the promoter shall deliver to the department an executed copy of all of the executed contracts between the promoter and the professionals participating in that contest or exhibition. The copies of the contracts are 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 if information regarding identifiable individuals or categories is not revealed.

(10) The commission or department may perform drug testing on a professional before or after a contest or exhibition to detect the presence of alcohol, stimulants, or drugs, including, but not limited to, performance enhancing drugs. A professional shall submit to a urinalysis or chemical test before or after a contest or exhibition if the commission, the department, or a designated representative of the commission or department directs him or her to do so. If a professional fails or refuses to submit to a urinalysis or chemical test under this subsection, or the results of the urinalysis or chemical test confirm or demonstrate the professional has violated this act, he or she is subject to disciplinary action by the commission under this act. In addition to any other disciplinary action by the commission, if the professional won the contest or exhibition or the contest or exhibition was a draw, the commission may change the result of that contest or exhibition to a no decision. The department may promulgate rules to define the terms "stimulants" or "performance enhancing drugs."

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2005, Act 49, Imd. Eff. June 23, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008;—Am. 2012, Act 546, Imd. Eff. Jan. 2, 2013.

338.3634 Rules; determination of applicant's financial stability; presence of applicant at commission meeting.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2005, Act 49, Imd. Eff. June 23, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3635 Rules; fees.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

CHAPTER 4

338.3640 Complaint; filing.

Sec. 40. A complaint which alleges that a person has violated this act or a rule promulgated or an order issued under this act shall be lodged with the department. The department of attorney general, the department, the commission, or any other person may file a complaint.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3641 Complaint; investigation; procedures.

Sec. 41. (1) The department, upon receipt of a complaint, immediately shall begin its investigation of the allegations of the complaint and shall open a correspondence file. The department shall make a written acknowledgment of the complaint within 15 days after receipt of the complaint to the person making the complaint. If the complaint is made by the department, the director shall designate 1 or more employees of the department to act as the person making the complaint.

(2) The department shall conduct the investigation required under subsection (1). In furtherance of that investigation, the department may request that the attorney general petition a court of competent jurisdiction to issue a subpoena requiring a person to appear before the department and be examined with reference to a matter within the scope of the investigation and to produce books, papers, or documents pertaining to the investigation.

(3) The investigative unit of the department, within 30 days after the department receives the complaint, shall report to the director on the status of the investigation. If, for good cause shown, an investigation cannot be completed within 30 days, the director may extend the time in which a report may be filed.

(4) If the report of the investigative unit of the department does not disclose a violation of this act or a rule promulgated or an order issued under this act, the complaint shall be closed by the department. The reasons for closing the complaint shall be forwarded to the respondent and complainant, who then may provide additional information to reopen the complaint.

(5) If the report of the investigative unit made pursuant to subsection (3) discloses evidence of a violation of this act or a rule promulgated or an order issued under this act, the department or the department of attorney general shall prepare the appropriate action against the respondent which may be any of the following:

- (a) A formal complaint.
- (b) A cease and desist order.
- (c) A notice of summary suspension subject to sections 42 and 48(7).

(6) At any time during its investigation or after the issuance of a formal complaint, the department may bring together the complainant and the respondent for an informal conference. At the informal conference, the department shall attempt to resolve issues raised in the complaint and may attempt to aid the parties in reaching a formal settlement or stipulation.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3642 Summary suspension.

Sec. 42. (1) After an investigation has been conducted, the department may issue an order summarily

suspending a license based on an affidavit by a person familiar with the facts set forth in the affidavit, or, if appropriate, based upon an affidavit on information and belief, that an imminent threat to the integrity of the sport, the public interest, and the welfare and safety of a professional exists. Thereafter, the proceedings described in this chapter shall be promptly commenced and decided.

(2) A person whose license has been summarily suspended under this section may petition the department to dissolve the order. Upon receiving a petition, the department immediately shall schedule a hearing to decide whether to grant or deny the requested relief.

(3) An administrative law hearings examiner shall grant the requested relief dissolving the summary suspension order, unless sufficient evidence is presented that an imminent threat to the integrity of the sport, the public interest, and the welfare and safety of a professional exists that requires emergency action and continuation of the department's summary suspension order.

(4) The record created at the hearing to dissolve a summary suspension order shall become part of the record on the complaint at a subsequent hearing in a contested case.

(5) A summary suspension of a professional for refusal or failure to submit to a drug test or for the presence of controlled substances, enhancers, prohibited drugs, or other prohibited substances, as described in section 48(7), shall proceed under this section.

History: 2004, Act 403, Eff. Feb. 20, 2005.

Compiler's note: In subsection (5), the reference to "section 48(7)" evidently should read "section 48(6)."

338.3643 Cease and desist order.

Sec. 43. (1) After an investigation has been conducted, the director may order a person to cease and desist from a violation of this act or a rule promulgated or an order issued under this act.

(2) A person ordered to cease and desist may request a hearing before the department if a written request for a hearing is filed within 30 days after the effective date of the order.

(3) Upon a violation of a cease and desist order issued under this act, the department of attorney general may apply to a court of competent jurisdiction to restrain and enjoin, temporarily or permanently, or both, a person from further violating a cease and desist order.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3644 Formal complaint.

Sec. 44. (1) A summary suspension order, cease and desist order, or injunctive relief issued or granted in relation to a license is in addition to and not in place of an informal conference; criminal prosecution; or proceeding to deny, revoke, or suspend a license; or any other action authorized by this act.

(2) After an investigation has been conducted and a formal complaint prepared, the department shall serve the formal complaint upon the respondent and the complainant. At the same time, the department shall serve the respondent with a notice describing the compliance conference and hearing process and offering the respondent a choice of 1 of the following opportunities:

(a) An opportunity to meet with the department to negotiate a settlement of the matter.

(b) If the respondent is a licensee or registrant under this act, an opportunity to demonstrate compliance prior to holding a contested case hearing.

(c) An opportunity to proceed to a contested case hearing.

(3) A respondent upon whom service of a formal complaint has been made pursuant to this section may select, within 15 days after the receipt of notice, 1 of the options described in subsection (2). If a respondent does not select 1 of those options within the time period described in this section, then the department shall proceed to a contested case hearing as described in subsection (2)(c).

(4) An informal conference may be attended by a member of the commission, at the discretion of that commission, and may result in a settlement, consent order, waiver, default, or other method of settlement agreed upon by the parties and the department. A settlement may include the revocation or suspension of a license; censure; probation; restitution; or a penalty provided for in section 48. The commission may reject a settlement and require a contested case hearing.

(5) An employee of the department may represent the department in any contested case hearing.

(6) This chapter does not prevent a person against whom a complaint has been filed from showing compliance with this act or a rule promulgated or an order promulgated or issued under this act.

(7) If an informal conference is not held or does not result in a settlement of a complaint, the department shall allow the respondent an administrative hearing. A hearing under this section may be attended by a member of the commission.

(8) The department or the department of the attorney general may petition a court of competent jurisdiction to issue a subpoena which shall require the person subpoenaed to appear or testify or produce relevant

documentary material for examination at a proceeding.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3645 Hearing report.

Sec. 45. (1) At the conclusion of a hearing conducted under section 44(7), the administrative law hearings examiner shall submit a determination of findings of fact and conclusions of law to the department and the department of the attorney general and the commission, in a hearing report. The submitted hearing report may recommend the penalties to be assessed as prescribed in section 48.

(2) A copy of a hearing report shall be submitted to the person who made the complaint and to the person against whom the complaint was lodged.

(3) Within 60 days after receipt of an administrative law hearings examiner's hearing report, the commission shall meet and make a determination of the penalties to be assessed under section 48. The commission's determination shall be made on the basis of the administrative law hearings examiner's report. A transcript of a hearing or a portion of the transcript shall be made available to the commission upon request. If a transcript or a portion of the transcript is requested, the commission's determination of the penalty or penalties to be assessed under section 48 shall be made at a meeting within 60 days after receipt of a transcript or portion of the transcript.

(4) If the commission does not determine the appropriate penalty or penalties to be assessed within the time limits prescribed by subsection (3), the director may determine the appropriate penalty and issue a final order.

(5) A member of the commission who has participated in an investigation or administrative hearing on a complaint filed with the department or who has attended an informal conference shall not participate in making a final determination in a proceeding on that complaint.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3646 Issuance of license or renewal; petition to review.

Sec. 46. (1) A person seeking a license or renewal under this act may petition the department and the commission for a review if that person does not receive a license or renewal.

(2) A petition submitted under subsection (1) shall be in writing and shall set forth the reasons the petitioner feels the licensure or renewal should be issued.

(3) In considering a petition submitted under subsection (1), the department and the commission may administer an alternative form of testing to the petitioner or conduct a personal interview with the petitioner, or both.

(4) The department may issue a license or renewal if, based on a review of the qualifications of the person who submitted a petition under subsection (1), the department and the commission determine that the person could perform the licensed activity with competence.

(5) Notwithstanding any other provision of this act, if a written grievance was lodged before the effective date of this act against a person licensed under an act repealed by this act, the proceedings on that grievance shall be conducted in the manner prescribed in the repealed act.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3647 Action against license; rules; seat; final decision-making authority.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2005, Act 49, Imd. Eff. June 23, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3648 Reinstatement; fine; penalties; grounds for summary suspension.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2005, Act 49, Imd. Eff. June 23, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

CHAPTER 5

338.3650 Boxing elimination contests.

Sec. 50. (1) Boxing elimination contests in which all of the following apply are exempt from this act:

(a) The contestants compete for prizes only in elimination contests and are not also professional boxers competing in 4 or more rounds of nonelimination boxing.

(b) Each bout is scheduled to consist of 3 or fewer 1-minute rounds, with contests conducted on no more than 2 consecutive calendar days.

(c) Competing contestants are prohibited from boxing for more than 12 minutes on each contest day.

(d) The contestants participating in the elimination contest are insured by the promoter for all medical and hospital expenses to be paid to the contestants to cover injuries sustained in the contest.

(e) A physician is in attendance at ringside and the physician has authority to stop the contest for medical reasons.

(f) All contestants pass a physical examination given by a physician, a licensed physician's assistant, or a certified nurse practitioner before the contest.

(g) A preliminary breath test is administered to each contestant which indicates a blood alcohol content of .02% or less.

(h) The promoter conducts the elimination contest in compliance with the following:

(i) A contestant who has lost by a technical knockout is not permitted to compete again for a period of 30 calendar days or until the contestant has submitted to the promoter the results of a physical examination equivalent to that required of professional boxers.

(ii) The ringside physician examines a contestant who has been knocked out in an elimination contest or whose fight has been stopped by the referee because he or she received hard blows to the head that made him or her defenseless or incapable of continuing immediately after the knockout or stoppage. The ringside physician may recommend post-fight neurological examinations, which may include computerized axial tomography (CAT) scans or magnetic resonance imaging (MRI), to be performed on the contestant immediately after the contestant leaves the location of the contest. The promoter shall not permit the contestant to compete until a physician has certified that the contestant is fit to compete. If the physician recommended further neurological examinations, the promoter shall not permit the contestant to compete until the promoter receives copies of examination reports demonstrating that the contestant is fit to compete.

(iii) The promoter requires that a contestant who has sustained a severe injury or knockout in an elimination contest be examined by a physician. The promoter shall not permit the contestant to compete until the physician has certified that the contestant has fully recovered.

(iv) The promoter does not permit a contestant to compete in an elimination contest for a period of not less than 60 days if he or she has been knocked out or has received excessive hard blows to the head that required the fight to be stopped.

(v) A contestant who has been knocked out twice in a period of 3 months or who has had excessive head blows causing a fight to be stopped is not permitted by a promoter to participate in an elimination contest for a period of not less than 120 days from the second knockout or stoppage.

(vi) A contestant who has been knocked out or had excessive hard blows to the head causing a fight to be stopped 3 times consecutively in a period of 12 months is not permitted by a promoter to participate in an elimination contest for a period of 1 year from the third knockout.

(vii) Before resuming competition after any of the periods of rest prescribed in subparagraphs (iv), (v), and (vi), a promoter requires the contestant to produce a certification by a physician stating that the contestant is fit to take part in an elimination contest.

(2) As part of the physical examination given before the boxing elimination contest, the physician, licensed physician's assistant, certified nurse practitioner, or other trained person shall administer a preliminary breath test in compliance with standards imposed in rules promulgated by the department of state police regarding equipment calibration and methods of administration. The promoter shall keep a log of preliminary breath test results of contestants on file at its place of business for at least 3 years after the date of administration of the test. These results shall be made available to law enforcement officials upon request.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3651 Participant license.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3652 Examination or training program.

Sec. 52. (1) A person seeking a license under this act as a judge or referee may be required to satisfactorily pass an examination or training program acceptable to the department.

(2) A person seeking a license under this act as a judge, referee, or contestant shall pass a physical examination that is performed by a licensed physician, a licensed physician's assistant, or a certified nurse practitioner acceptable to the department and the commission.

(3) Until the expiration of 1 year after the effective date of this act, the department shall issue an equivalent license without an examination to a person who is licensed in any capacity under former article 8 of the occupational code, 1980 PA 299, on the effective date of this act upon application on a form provided by the department.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3653 Licensure as professional referee, judge, or timekeeper.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3654 Unofficial scoring; rules; completion of standardized evaluation sheet by licensee.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2005, Act 49, Imd. Eff. June 23, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3655 Medical or hospital insurance.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3656 Number of rounds; weight of contest gloves; certification of physical condition.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3657 Duties of physician.

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.

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

338.3658 Loss of consciousness; physical examination required; cost.

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).

History: 2004, Act 403, Eff. Feb. 20, 2005;—Am. 2007, Act 196, Eff. Mar. 27, 2008.

CHAPTER 6

338.3660 Repeal of Article 8 of 1980 PA 299, MCL 339.801 to 339.814 and MCL 338.2249.

Sec. 60. (1) Article 8 of the occupational code, 1980 PA 299, MCL 339.801 to 339.814, is repealed 90 days after the date this act is enacted.

(2) Section 49 of the state license fee act, 1979 PA 152, MCL 338.2249, is repealed on the effective date of the rules promulgated under sections 22(2)(d) and 35.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3661 Retention of rules.

Sec. 61. Except as rescinded, rules promulgated under former article 8 of the occupational code, 1980 PA 299, MCL 339.801 to 339.814, retain authorization under this act.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3661a Trade secret or commercial, financial, or proprietary information; definition.

Sec. 61a. A record or portion of a record, material, information, or other data received, prepared, used, or retained by the department or commission under this act that includes a trade secret or commercial, financial, or proprietary information of a licensee or license applicant, and that the licensee or applicant requests in writing be treated as confidential by the department or commission, is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. As used in this section, "trade secret or commercial, financial, or proprietary information" means information that has not been publicly disseminated or that is unavailable from other sources, the release of which might cause the licensee or applicant significant competitive harm.

History: Add. 2012, Act 546, Imd. Eff. Jan. 2, 2013.

338.3662 Effective date.

Sec. 62. This act takes effect 90 days after the date it is enacted.

History: 2004, Act 403, Eff. Feb. 20, 2005.

338.3663 Conditional effective date.

Sec. 63. This act does not take effect unless House Bill No. 4336 of the 92nd Legislature is enacted into law.

History: 2004, Act 403, Eff. Feb. 20, 2005.