

REGULATION OF AMATEUR MIXED MARTIAL ARTS

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House Bills 4220, 4221 & 4222 as introduced
Sponsor: Rep. Harvey Santana
Committee: Regulatory Reform

Analysis available at
<http://www.legislature.mi.gov>

Complete to 3-4-15

SUMMARY:

House Bills 4220, 4221, and 4222 each relate to the regulation of amateur mixed martial arts.

House Bill 4220 would amend the Michigan Unarmed Combat Regulatory Act (MUCRA), while House Bill 4222 would create a new act entitled the Amateur Mixed Martial Arts Regulatory Act.

The text of HB 4222 is identical to the text of Article 3 in HB 4220, with the exception that references to "Article" found in HB 4220 have been replaced with "Act" in HB 4222 to reflect that HB 4222 would create a new act rather than just make changes to existing law.

House Bill 4221 would amend the Code of Criminal Procedure to include a new Class E felony for knowingly allowing a professional to participate as a contestant in an amateur mixed martial arts contest. The maximum term of incarceration for an individual found guilty of this felony is not more than three years. House Bill 4221 is tie-barred to HB 4222, meaning that if HB 4222 is not enacted, then HB 4221 would not go into effect.

Each of the bills would take effect 90 days after its enactment into law. A more detailed summary follows below.

House Bill 4220

The bill would, generally, amend MUCRA by regulating amateur Mixed Martial Arts (MMA). The act currently provides for the regulation of professional MMA, boxing, and other sports and activities where individuals compete against each other. Additions to the act that would govern amateur MMA are contained in a new Article, Article 3. The bill also would create a new Article 1 and renumber the current Article 1 as Article 2 in order to reflect the inclusion of the new regulations for amateur MMA.

[As noted earlier, the text of the new act created by HB 4222 is identical to the text of the new Article 3 in HB 4220.]

Definitions

The bill would add several definitions to the act. The new Article 1 would contain definitions that would apply to the entire act, while definitions that primarily apply to sports other than amateur MMA, such as boxing, would remain in a newly named Article 2.

- "*Amateur*" would mean an individual mixed martial artist who is not competing and has never competed in a mixed martial arts contest for a prize or who is not competing and has never competed with or against a professional.
- "*Medical professional*" would mean an individual who has a specialty certification as a nurse practitioner, a physician's assistant, or a physician.
- "*Mixed martial arts*" would mean the general term that describes the convergence of techniques from a variety of combative sports disciplines, including boxing, wrestling, judo, jujitsu, kickboxing, and other combination of techniques from different disciplines of the martial arts.
- "*Mixed martial arts exhibition*" would mean a performance or demonstration that is held at a promoter's gym, dojo, or similar training facility, or at a training center, and no fee is paid by a participant to participate in or by a spectator to attend the performance or demonstration.
- "*Professional*" would mean an individual who is competing or has competed in the past for a prize in any sport regulated under the Unarmed Combat Regulatory Act.
- "*Promoter*" would mean an individual who produces or stages an amateur mixed martial arts contest or event. It would not include the venue where a contest or event is held unless the venue contracts with the individual promoter to be a co-promoter.

Promoter's license

An individual would have to obtain a promoter's license before holding or conducting an amateur mixed martial arts contest or event or engaging in any other activity under the act. Individuals seeking a license would have to file an application in writing and under oath with the Department of Licensing and Regulatory Affairs (LARA), accompanied by a non-refundable application processing fee and an annual license fee.

A license would expire on September 30 of the calendar year following the year in which it was issued. The non-refundable application fee would be \$100 while the annual license fee would be \$300. Beginning one year after the bill goes into effect, the director of LARA would be able to adjust the fee amounts twice annually based on the changes for the immediately preceding six-month period in the Detroit Consumer Price Index.

By filing an application, the applicant would do both of the following:

- Certify his or her general suitability, character, integrity and ability to participate in, engage in, or be associated with amateur mixed martial arts contests or events. The burden of proof would be on the applicant to establish that he or she possesses suitability, character, and integrity, and is qualified to promote and participate in contests or events.
- Accept the risk of adverse public notice, embarrassment, criticism, financial loss, or other actions with respect to an application and expressly waive any claim for damages as a result of any adverse public notice, embarrassment, criticism, financial loss, or other action.

An applicant would be ineligible to receive a promoter's license if one of the following applies:

- Applicant was convicted of a felony involving violence, theft, fraud, or an element of financial dishonesty in the five years preceding the application.
- Applicant had an unsatisfied tax lien greater than \$5,000 at the time of application.
- Applicant had submitted an application containing false information.

Individuals who fail to renew a license before it expires would be prohibited from holding or conducting an amateur mixed martial arts contest or event, and/or advertising, operating, or using the title "promoter" or "amateur promoter" after the expiration date printed on the license. Applicants could file a written petition with LARA and the Commission for a review if an initial or renewal license was not issued.

Individuals who fail to renew a license before it expires would be able to renew it within 60 days after the expiration by meeting all of the act's requirements for licensure, paying the required \$300 license fee, and by paying a late renewal fee of \$30. If a license is not renewed within 60 days after its expiration, the individual would have to reapply for a new license.

A license holder who is found in violation of the act could face disciplinary action, including the suspension or revocation of a license. Individuals could seek reinstatement of a license by filing an application, paying the \$100 application processing fee and \$300 annual license fee, and filing a petition with LARA stating why reinstatement of the license is appropriate. The petition would have to include "evidence that the individual can and is likely to serve the public in the regulated activity with competence and in conformance with all requirements prescribed by law, rule, or an order of the department."

Amateur MMA event requirements

Licenses who present amateur mixed martial arts events would have to comply with all of the following:

- Within five days prior to the event, pay a regulatory and enforcement fee of \$200 per participant and provide notice to LARA describing the event. [Note: A fee of \$125 is already in statute for boxing and professional MMA events.]
- Pay all obligations related to the normal course of promoting an event, including fees for renting a venue, paying a judge, hiring medical professionals, referees, and timekeepers.
- Maintain a record of an event for at least one year after the event took place and make the records available to LARA and law enforcement.

Licenses who present amateur mixed martial arts events would have to ensure that all of the following conditions are met:

- Each individual contest consists of no more than three rounds, with each round being no longer than three minutes long, and at least a one minute break between each round.

- Each individual national or international championship consists of no more than five rounds, with each round being no longer than five minutes, and at least a one minute break between each round.
- Each contestant wears gloves provided by the event promoter that weigh between four and eight ounces.
- Gloves worn by contestants are inspected by the referee before and during the contest and changed before a contest starts if a glove is found to be misplaced, lumpy, broken, roughed, or otherwise unfit.
- Each contestant is weighed and placed in the appropriate weight class before participating in a contest. The weight classes would consist of:

Name	Weight (in pounds)
Flyweight	125.9 or less
Bantamweight	126 - 135
Featherweight	135.1 - 145
Lightweight	145.1 - 155
Welterweight	155.1 - 170
Middleweight	170.1 - 185
Light heavyweight	185.1 - 205
Heavyweight	205.1 - 265
Super heavyweight	Greater than 265

- A contestant only participates in a contest with another contestant who is in the same weight class or, if the first contestant agrees to compete against a heavier contestant, in the next higher weight class.
- Professional mixed martial artists regulated under the Unarmed Combat Regulatory Act do not participate as contestants in a contest.
- Contestants do not compete unless they have submitted medical certification with negative results for hepatitis B and C, and HIV tests conducted within 180 days prior to the scheduled event.
- Female contestants do not participate unless they have submitted pregnancy test results within seven days prior to the event and the results are negative.
- Individuals are not allowed to participate without proper medical clearance.
- Events do not take place or continue without a medical professional in attendance.
- Events do not take place or continue without trained and competent referees.
- Individuals are not allowed to participate if there is any reason to suspect they are impaired, meaning the inability or immediately impending inability to safely participate in a contest or event due to substance abuse, chemical dependency, or the use of drugs or alcohol that does not constitute substance abuse or chemical dependency.
- Professionals are not allowed to compete as contestants.
- Individuals do not compete who lost a contest by a technical knockout (TKO) in the 30 days prior to the event, unless they submit the results of a physical exam indicating they are fit to compete.
- The medical professional at the event determines the status of a contestant who was knocked out in a contest or whose fight was stopped because of hard blows to the

head rendering the contestant defenseless or incapable of continuing. The medical professional can recommend post fight neurological exams.

- Contestants described above do not compete until receiving proper medical clearance.
- If further neurological exams are recommended, the contestant does not compete in another contest until providing copies of the exam reports to the promoter that demonstrate the contestant is fit to compete.
- Contestants who receive severe injuries or knockouts in a contest are examined by a medical professional and not allowed to compete again until a full recovery is certified.
- Individuals do not compete in the contest if they participated in a contest in the 60 days prior to the event and were knocked out or the contest was stopped because of excessive hard blows to the head.
- Individuals do not compete in the contest if one of the following applies:
 - The individual participated in multiple contests before the event
 - The individual was knocked out twice or two or more of their contests were stopped because of excessive hard blows to the head.
 - The second knockout or stoppage occurred in the 120 days prior to the event.
- Individuals do not compete in the contest if they have participated in multiple contests before the event, were knocked out in three consecutive contests or had three consecutive contests stopped because of excessive blows to the head in any 12-month period, and the third knockout or stoppage occurred in the one-year period prior to the event.
- If an individual was not allowed to participate in an earlier event because of the requirements above at the time of the earlier event, he or she does not participate until providing the promoter with proper medical clearance.
- Each contestant is insured for at least \$10,000 for any medical and hospital expenses, including deductibles paid by the contestant, to cover injuries from a contest and at least \$10,000 to be paid according to the laws of descent and distribution of individual property if the contestant dies as a result of injuries sustained during a contest.

Violations of the act

Individuals who violate the act or a rule promulgated under the act, practice fraud or deceit in obtaining a license or performing duties as a promoter, practice false advertising, fail to comply with subpoenas or requested documents, gamble on the outcome of an event, or commits any of the other violations as specified in the act would be subject to a penalty.

LARA could limit, suspend, deny issuance or renewal, censure, or revoke the license of an individual or require that individual pay restitution if found in violation of the act or a rule promulgated under the act.

Violations of the act would be a misdemeanor punishable by up to 93 days imprisonment and/or a maximum fine of \$500. Second or subsequent violations would be misdemeanors with up to one year imprisonment and/or a maximum fine of \$1,000. Any individual who

knowingly allows a professional to compete in an amateur mixed martial arts contest would be guilty of a felony punishable by up to three years imprisonment and/or \$10,000 fine per incident.

LARA could bring an injunctive action to prevent a violation of the act and if successful, would be entitled to its costs and reasonable attorney fees. LARA could also undertake investigations to enforce the act. Penalties imposed under the act would not prevent another individual to pursue a lawful remedy against the violator.

Anyone who suspects someone to be in violation of the act could file a written complaint with LARA. Upon receiving a complaint, LARA would have to immediately begin an investigation and acknowledge the complaint in writing within 15 days of receiving it. LARA could utilize the processes specified in the bill in conducting its investigation.

If an investigation yields sufficient evidence of a violation, LARA or the Attorney General's office would have to take appropriate action against the accused, which could include:

- A formal complaint
- A cease and desist order
- An order of summary suspension or injunctive relief

LARA would be able to meet with the person filing the complaint and the accused to attempt to reach a formal settlement. Complaints would have to be closed if an investigation yielded insufficient evidence of a violation. LARA would have to provide reasons for closing its investigation to the person filing the complaint and to the accused.

A summary suspension, cease and desist order, or injunctive relief would be in addition to, and not in place of, an informal conference, criminal prosecution, or any other action authorized under the act.

If LARA conducts an investigation and prepares a formal complaint, it would have to serve the complaint both to the person filing the complaint and the accused, and provide the accused with a notice describing the compliance conference and hearing process, and offering the accused the option of (1) a meeting with LARA to negotiate a settlement, (2) an opportunity to demonstrate compliance if the accused is a licensee, (3) or an opportunity to proceed to a contested case hearing. The accused would have 15 days after receiving the notice to select one of the options and a contested case hearing would proceed if no option is selected.

After completing a contested case hearing, the administrative law hearings examiner would have to submit a hearing report to LARA, the Attorney General's office, and the Commission, which may contain recommendations concerning the assessment of a penalty or a potential remedy. Copies of the report would also have to be provided to person filing a complaint and the accused.

Within 60 days of receiving the report, the Commission would have to meet and decide on an appropriate penalty or remedy based on the report. The Commission could request a transcript of the hearing and would then have to issue a determination within 60 days of receiving the transcript. The LARA director could issue a determination if the Commission does not do so in the required time period. Any commission member that has participated in an investigation or hearing or who has attended an informal conference could not participate in making a determination.

LARA could impose an administrative fine of up to \$10,000 per violation on any licensee found in violation of the act or a promulgated rule. The Commission could impose the fine in addition to, or in lieu of, any other penalty under the act based on proof submitted to and the findings made by the hearings examiner.

LARA could also recover the costs of the proceeding (investigative, court, and attorney fees). LARA or the Attorney General's office could bring legal action to recover any administrative fines and other costs. The filing of a court action would not prevent preclude the imposition of other penalties.

Exclusions to scope of Article 3

The provisions of Article 3 would not apply to any of the following:

- Amateur wrestling
- Martial arts sports and/or activities held by and at a public or private training center
- An MMA exhibition. *However, Section 74(3) would require the director of LARA to promulgate rules to set health and safety standards for MMA exhibitions.*
- A contest or event conducted by, or participated in, exclusively by a U.S. government agency, school, college, university, or an organization composed exclusively of those entities, if each contest is an amateur.

FISCAL IMPACT:

Corrections Impact

The bill's provisions establish a misdemeanor penalty for violating the act and a felony penalty for knowingly allowing a professional to participate as a contestant in an amateur mixed martial arts contest. To the extent that persons are convicted under these new provisions, the bill could increase local incarceration costs in county jails and/or state incarceration costs in state prisons. County jail costs vary by jurisdiction. State prison costs average around \$35,600 per year per prisoner. Costs for probation supervision average about \$3,600 per supervised offender per year. Any increase in penal fine revenues resulting from the bills would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

Regulatory Impact

The bill would create a new fund, the Amateur Mixed Martial Arts Fund, which would receive all application fees, license fees, and administrative fines imposed under the bill, as well as any common cash earnings. The bill would require promoters of amateur MMA events to pay a nonrefundable application fee of \$100 and an annual license fee of \$300.

According to the Department of Licensing and Regulatory Affairs (LARA), there are currently 22 licensed promoters of professional MMA events (regulated under the Michigan Unarmed Combat Regulatory Act), with the department anticipating that many of those promoters will also choose to be licensed as promoters of amateur MMA events under the bill. Accordingly, in the first year, the application fee would be expected to generate \$2,200 in revenue, with the license fee generating an additional \$6,600 in revenue. Additionally, the bill provides that, beginning one year after the bill's effective date, the amount of the application fee and annual license fee would be adjusted biannually (every 6 months) based on changes in the CPI.

The bill would also credit to the fund revenue from the \$200 per event regulatory and enforcement fee. The department and industry experts estimate that approximately 240-500 amateur MMA events occur in the state each year. Accordingly, regulatory and enforcement fee revenue would generate a \$48,000 to \$100,000 annually.

The Amateur Mixed Martial Arts Fund would be expended only to administer and enforce the new act, and would not lapse to the General Fund at the close of the fiscal year. The department's expenditures would include paying the per diem and travel expenses (as permitted by the Department of Technology, Management, and Budget) of members of the Amateur Mixed Martial Arts Commission. The bill provides that the commission may meet "as often as necessary to fulfill its duties" under the bill. The per diem would be established in a boilerplate section included in the annual LARA budget. Given that the department's budget has not included per diem payments for members of any of the several occupational and professional licensing boards and commissions in many years, it doesn't appear likely that amateur mixed martial arts commission members would receive a per diem payment.

Other costs incurred by the department include the costs related to processing license applications, investigating complaints alleging violations of the bill and any administrative rules, and otherwise ensuring compliance with the bill. These expenses would be covered by the available resources (annual revenue and carried-forward funds) in the fund. The department does not foresee the need to hire any additional staff to administer and enforce the bill.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.