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Senate Bill 152 (as introduced 2-19-15)
Senate Bill 154 (as introduced 2-24-15)
Sponsor: Senator Dave Robertson
Committee: Regulatory Reform

Date Completed: 3-25-15

CONTENT

Senate Bill 152 would amend the Michigan Unarmed Combat Regulatory Act to do the following:

- **Revise the responsibilities of the Michigan Unarmed Combat Commission, which the bill would rename the "Michigan Boxing and Mixed Martial Arts Commission", and the responsibilities of the Director of the Department of Licensing and Regulatory Affairs (LARA).**
- **Vest the Commission and LARA with jurisdiction over all professional boxing, professional or amateur mixed martial arts, and unarmed combat contests or events conducted in Michigan, and otherwise revise provisions relating to the scope of the Act.**
- **Revise and establish new regulations concerning the conduct of events.**
- **Revise and establish new requirements, including fee amounts, regarding licenses issued under the Act.**
- **Require a promoter to ensure the availability of a contestant for drug testing, rather than allowing the Commission or LARA to perform drug testing.**
- **Prohibit a promoter from conducting a professional boxing or professional or amateur mixed martial arts event unless at least one inspector was present at the event, and establish requirements for inspectors.**
- **Allow the LARA Director to adjust the amount of fees described in the Act biennially based on the Detroit consumer price index.**
- **Require LARA to initiate an action against an applicant or licensee under certain circumstances, and otherwise revise investigative procedures for LARA to follow in the event of a complaint alleging a violation of the Act.**
- **Specify new violations and penalties that would apply under the Act, including administrative sanctions and criminal penalties.**

The bill also would rename the Act the "Michigan Boxing and Mixed Martial Arts Regulatory Act".

Senate Bill 154 would amend the Code of Criminal Procedure to include a felony proposed by Senate Bill 152 in the sentencing guidelines.

Senate Bill 152 would define "unarmed combat" as any of the following:

- Professional boxing.
- Professional or amateur mixed martial arts.

-- Any other form of competition in which a blow is usually struck or another fighting technique is applied that may reasonably be expected to inflict injury.

"Contest" would mean an individual bout between two boxers, two mixed martial artists, or two individuals engaged in other unarmed combat that is subject to the Act. "Event" would mean a program of unarmed combat that is subject to the Act and is planned for a specific date and time by a promoter and includes one or more contests.

Senate Bill 154 is tie-barred to Senate Bill 152. Both bills would take effect 90 days after their enactment.

Senate Bill 152

Commission & Fund

Commission. The bill would rename the Michigan Unarmed Combat Commission the "Michigan Boxing and Mixed Martial Arts Commission". The Commission is within LARA and consists of the LARA Director and 11 voting members appointed by the Governor. Under the bill, the LARA Director would not be a member of the Commission.

The Act requires the Commission to meet at least four times per year. On the request and at the discretion of the chair, LARA must schedule additional interim meetings. The bill would allow the chair, in his or her discretion, to cancel one or more of the required annual meetings if he or she determined that there was no business to conduct at a meeting.

Under the Act, a person who has a material financial interest in a club, organization, or corporation, whose main object is the holding or giving of boxing or mixed martial arts contests or exhibitions, is not eligible for appointment to the Commission. The bill specifies instead that an individual who had a material financial interest in a club, corporation, or other organization would not be eligible for appointment to the Commission if the primary purpose of that organization was to conduct unarmed combat contests or events.

The Act allows the LARA Director to promulgate rules for the administration of the Act, after consulting with the Commission. The Act specifies topics for which the Department must promulgate rules. The bill also would require rules regarding the activities and responsibilities of licensees and standards to protect the health and safety of contestants participating in contests and events. The bill would allow the LARA Director to establish any additional rules that he or she considered necessary to administer and enforce the Act.

The Act requires the LARA Director, in consultation with the Commission, to 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 the Act and not otherwise provided for in the Act. The bill instead would allow the Director, after consultation with the Commission, to establish training requirements for promoters, contestants, and participants regulated under the Act and not otherwise provided for in it.

The bill would require the Director to review the rules of the Association of Boxing Commissions before he or she promulgated rules for the administration of the Act. The Director could adopt by reference any of the rules of that Association that were not inconsistent with the Act.

Fund. The Act created the Unarmed Combat Fund in the State Treasury, and requires it to be administered by the LARA Director. The bill would rename the Fund the "Boxing and Mixed Martial Arts Fund". The bill specifies that the Director would be the administrator of the Fund, including for auditing purposes.

The bill also would require the State Treasurer to direct the investment of the Fund and credit to the Fund interest and earnings from Fund investments.

Scope of the Act

The Act does not apply to any of the following:

- Professional or amateur wrestling.
- Amateur martial arts sports or activities.
- Contests or exhibitions conducted by or participated in exclusively by an agency of the U.S. government or by a school, college, or university or an organization composed exclusively of those entities if each participant is an amateur.
- Amateur boxing regulated by the Federal Amateur Sports Act.
- Boxing elimination contest regulated under Section 50 of the Act.
- Amateur mixed martial arts.

The bill specifies, instead, that the Act would not apply to any of the following:

- Professional or amateur wrestling.
- An event conducted by or participated in exclusively by an agency of the U.S. government or by a school, college, or university or an organization composed exclusively of those entities if each contestant was an amateur.
- An event sponsored by or under the supervision of the U.S. Olympic Committee in which all of the contestants were amateur boxers.
- Boxing elimination contests regulated under Section 50 of the Act.

The Act also would not apply to an amateur boxing event that was sponsored by or under the supervision of USA Boxing or any of the following organizations affiliated with USA Boxing:

- Golden Gloves Association of America, Inc.
- National Association of Police Athletic League.
- National Collegiate Boxing Association.
- Native American Sports Council.
- Silver Gloves Association.

The Act specifies that the Commission and LARA are vested with management, control, and jurisdiction over all professional boxing and professional mixed martial arts contests or exhibitions conducted, held, or given within Michigan. Under the bill, the Commission and LARA would be vested with management, control, and jurisdiction over all professional boxing, professional or amateur mixed martial arts, and unarmed combat contests or events conducted in Michigan.

The bill would delete a provision that incorporates by reference the requirements and standards contained in standards adopted by the New Jersey State Athletic Control Board, except for license fees described in those rules.

Conduct of Events

The Act prohibits a person from engaging in or attempting to engage in an activity regulated under it unless the person possesses a license issued by LARA or is exempt from licensure. The bill instead would prohibit a person from conducting a contest or event that was regulated under the Act without a promoter's license, or engaging in or attempting to engage in any other activity regulated under the Act without the applicable license unless the person was exempt from licensure. The bill would delete penalties for violating the current provision.

Before LARA grants an approval for a contest or exhibition, the promoter must file with the Department a bond in an amount fixed by the Department but not less than \$20,000 or more than \$50,000. The Act specifies standards that the bond must meet. The bill would refer to a contest or event and would require the promoter to submit a bond to the Department. The bond also would have to meet the following standards:

- Be conditioned on the faithful distribution of all money owed by the promoter as a result of the event. Be for the benefit of any person that was damaged by the promoter's nonpayment of any liabilities associated with the event.
- Allow an affected person to bring an action on the bond.
- Remain in effect until all complaints properly filed with LARA for nonpayment of obligations covered by the bond were fully adjudicated.

A complaint would not be properly filed if it were not filed within 30 days following the event covered by the bond.

The bill specifies requirements with which a licensed promoter presenting an unarmed combat event in Michigan would have to comply. These include requirements for requesting approval of the event by LARA; submitting contestants' fight records; paying obligations related to promoting the event; arranging for a physician to attend; arranging for an ambulance and an alternate ambulance staffed by emergency medical technicians to be on the premises; arranging for a referee, judges, and timekeeper to attend; and maintaining records of the event for at least one year after the date of the event and making the records available to LARA or law enforcement officials upon request.

The bill also would require a promoter to comply with requirements regarding the length of contests; equipment to be used; weigh-ins and weight class designations; medical certifications; professional staffing of events; contestants' eligibility to participate; and reporting of results to the Department.

Licenses

Promoter's License. The Act requires a promoter to apply for and obtain an annual license in order to present a program of contests or exhibitions regulated under it. The bill would refer to a program of contests or events. Currently, the annual license fee is \$250. The bill would increase the fee to \$300.

Currently, a boxing promoter must pay an event fee of \$125. A mixed martial arts promoter must pay an event fee of \$125. The bill instead would require a promoter that conducted an event in Michigan to pay an event fee of \$500.

Contestant License. Under the bill, before an individual participated in a contest, he or she would have to obtain a contestant license from the Department. The bill specifies requirements for an application for a contestant license, including the payment of a nonrefundable application processing fee of \$45 and an annual license fee of \$45.

Except as otherwise provided, LARA would have to issue a contestant license to an individual who met the licensing requirements under the Act and rules promulgated under it. The Department would have to assign a license number to each license issued. In any notice, report, or other communication with LARA or the Commission that identified or referred to a specific contestant, a promoter would have to include the contestant's license number.

An individual could not receive a contestant license unless he or she passed a physical examination performed by a physician and submitted the results of the examination to LARA on a form prescribed by the Department.

Participant License. The bill would prohibit an individual from participating in a contest or event as a referee, judge, matchmaker, or timekeeper without a participant license from LARA. The bill specifies requirements for obtaining a participant license, including the payment of a nonrefundable application processing fee of \$30 and one of the following annual license fees, as applicable:

- \$150 for a referee license.
- \$70 for a judge license.
- \$150 for a matchmaker license.
- \$70 for a timekeeper license.

Failure to Renew. Under the bill, a person who failed to renew a promoter license on or before its expiration date could not conduct a contest or event or advertise, operate, or use the title "promoter" after the license expired.

An individual who failed to renew a contestant license on or before its expiration date could not participate in a contest or event or use the title "contestant" after his or her license expired.

An individual who failed to renew a participant license on or before its expiration date could not participate in an event or contest or use the various titles associated with participation in a boxing or mixed martial arts event.

A person who did not renew a license by its expiration date could renew the license within 60 days after that date by paying the required license fee and a late renewal fee of \$30. After the 60-day period, the person could obtain a license only by complying with the requirements for obtaining a new license, paying the required license fee, and paying a late renewal fee of \$30.

Federal or National ID Card. The bill would prohibit an individual from receiving a license as a professional contestant in boxing if he or she did not possess a Federal ID Card. A person who did not have a card, and who was a resident of Michigan or was not a resident of any state of the United States, would have to submit a request to LARA for a Federal ID Card. An individual who was a resident of another state would have to apply to that state.

An individual could not receive a license as a professional contestant in mixed martial arts if he or she did not possess a National ID Card. An individual who did not have a card would have to submit a separate request to LARA for a National ID Card.

Application to LARA for a Federal or National ID Card would require a nonrefundable application processing fee of \$20.

Drug Testing

The Act allows the Commission or LARA to perform drug testing on a professional before or after a contest or exhibition to detect the presence of alcohol, stimulants, or drugs. The bill instead would allow the Commission or LARA to require a promoter to ensure that a contestant was available for such drug testing.

Inspector

The bill would prohibit a promoter from conducting a professional boxing, professional mixed martial arts, or amateur mixed martial arts event in Michigan unless at least one inspector was present at the event.

An inspector could not have any relationship or business interest with a licensee involved in an event for which he or she was the inspector. An inspector would have to collect and submit all contestant drug tests as required by LARA to ensure the chain of custody of those tests. A Commission member could act as an inspector.

An inspector would have to receive reasonable compensation, and reimbursement of his or her actual and necessary travel expenses, for attending an event. The promoter of an event would be responsible for paying an inspector for that event.

The Department could promulgate rules to establish additional duties of inspectors.

Fee Adjustments

Beginning one year after the bill's effective date, the LARA Director could adjust the amount of the fees described in the Act every two years by an amount determined by the State Treasurer to reflect the cumulative annual percentage increase or decrease for the immediately preceding six-month period in the Detroit Consumer Price Index. An adjusted fee would have to be rounded to the nearest \$1 increment.

Complaints & Investigations

The Act requires a complaint alleging that a person has violated the Act or a rule promulgated or an order issued under it be submitted to LARA, and outlines procedures for the Department to investigate the allegations. The bill would delete a provision requiring the investigative unit of the Department to report to the Director within 30 days on the status of the investigation.

After conducting an investigation, LARA may issue an order summarily suspending a license. A person whose license is summarily suspended may petition the Department to dissolve the order. Upon receiving a petition, LARA must immediately schedule a hearing to decide whether to grant or deny the requested relief. Under the bill, if LARA received a petition to dissolve a summary suspension order, it could deny the request, grant the request, or immediately schedule a hearing to decide whether to grant or deny the request.

The Department must initiate an action against an applicant or take any other allowable actions against the license of any contestant, promoter, or participant if it determines the applicant or licensee has done certain things. The bill would include the following among those activities:

- Engaging in fraud, deceit, or dishonesty in obtaining a license.
- Engaging in fraud, deceit, or dishonesty in performing the duties of a promoter, if applicable, or otherwise practicing that person's licensed occupation.
- Engaging in false advertising.
- Failing to comply with a subpoena issued under the Act.
- Failing to provide a requested document or records to the Department.
- Violating or failing to comply with a stipulation or settlement agreement with, or final order issued by, the Department or the Commission.
- Failing to pay any obligation related to the normal course of promoting an event, including venue rent or fees for a judge, physician, referee, or timekeeper.
- Entering into a contract for a contest or event in bad faith.
- Gambling on the outcome of a contest or event of which the person was a promoter.
- Failing to file current address information with the Department.
- Tampering with or coercing a contestant.
- Aiding or abetting another person to act as a promoter, contestant, or participant or conducting an event without a license.
- Violating any other provision of the Act or a rule promulgated under it for which a penalty or remedy was not otherwise prescribed.

The Department also would have to initiate an action if it determined that an applicant or licensee failed to pay a fee and reimburse the Department for any charges incurred if he or she paid a fee under the Act with a check, money order, or similar instrument or with a credit card or debit card, and that payment were dishonored or otherwise refused when presented by the Department for payment. If a payment were dishonored or refused, the license would be immediately suspended and would remain suspended until the fee and related charges were paid.

Violations & Penalties

Under the bill, if a person licensed under the Act violated the Act or a rule promulgated or an order issued under it, the Department could take one or more of the following actions:

- Suspend the person's license.
- Deny the renewal of the person's license.
- Revoke the person's license.
- Assess an administrative fine.
- Censure the licensee.

The person who committed the violation would be responsible for the Department's expenses related to the investigation and any disciplinary proceeding for the violation, and would have to reimburse the Department for those expenses.

The Department could bring an injunctive action to restrain or prevent a person from violating the Act.

A person who engaged in or attempted to engage in an activity for which a license was required, or used a title designated in the Act, without the appropriate license, would be guilty of a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000.

A person who knowingly allowed a professional in mixed martial arts or boxing to participate as a contestant in an amateur mixed martial arts contest with an amateur would be guilty of a felony punishable by up to three years' imprisonment and/or a maximum fine of \$10,000 per incident.

If a court found in an action initiated by the Department that a person violated the Act or a rule promulgated under it, the person would have to be assessed costs related to the investigation and the prosecution of the action.

Senate Bill 154

Under the bill, knowingly allowing a boxing or mixed martial arts professional to participate as a contestant in an amateur mixed martial arts contest with an amateur would be a Class E public safety felony with a statutory maximum sentence of three years.

MCL 338.3601 et al. (S.B. 152)
777.13p (S.B. 154)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Administrative Impact

Senate Bill 152 would have an indeterminate, but likely positive fiscal impact on the Department of Licensing and Regulatory Affairs, and no fiscal impact on local units of

government. The bill would increase certain fees paid by people participating in boxing or mixed martial arts contests, require that a person found to be in violation of the Act reimburse LARA for its costs in conducting the investigation, and allow for administrative fines of up to 100% of the person's share of the purse for a contest to be assessed in certain situations.

A number of license fees for individuals who participate in boxing or mixed martial arts are currently established by administrative rule. The bill would put a number of those fees into statute at their current level, except that the bill would raise the fee for promoters from \$250 to \$300, and the fee paid per event from \$125 to \$500, and would create a new fee of \$20 for issuance of a Federal identification card. According to the Department, 19 promoters currently operate in Michigan, so the increased annual promoter fee would generate an additional \$950 in revenue each year. Data to estimate the amount that would be raised by the increase in the event fees and the Federal identification fees are currently not available.

The bill would not appear to significantly increase LARA's costs related to the regulation of boxing and mixed martial arts, but according to a report from LARA, in fiscal year 2012-13, the revenue generated by the program totaled approximately \$75,300, and program costs totaled \$167,200. Additional revenue generated under the bill would serve to offset some of the difference between program revenue and costs.

Other than renaming the Unarmed Combat Fund, the bill would not significantly change the restricted fund into which the revenue generated from the regulation of boxing and mixed martial arts is deposited.

Corrections Impact

Senate Bills 152 and 154 could result in a cost to the State's corrections budget. For any new felony convictions resulting from the proposed offense, in the short term, the marginal cost to State government would be approximately \$4,100 per additional prisoner per year. Over the long term, the marginal cost to State government would be approximately \$31,100 per additional prisoner per year. With any increase in the number of felony cases, costs to local courts and law enforcement could increase. Any increase in collected fine revenue would be dedicated to public libraries. To the extent that courts were able to collect assessed costs from an offender, costs to the State and local government could be offset.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.