

MICHIGAN UNARMED COMBAT REGULATORY ACT (EXCERPT)
Act 403 of 2004
CHAPTER 4

338.3640 Complaint; filing.

Sec. 40.

A complaint that alleges that a person has violated this act or a rule promulgated or an order issued under this act shall be submitted to 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 ;-- Am. 2015, Act 183, Eff. Feb. 10, 2016

Compiler's Notes: For creation of the Michigan unarmed combat commission within the department of licensing and regulatory affairs as type I agency, and the transfer of powers and duties of the department of licensing and regulatory affairs to the Michigan unarmed combat commission, see E.R.O. No. 2019-2, compiled at MCL 333.27001. For the transfer of powers and duties of the director of the department of licensing and regulatory affairs under the Michigan unarmed combat regulatory act, 2004 PA 403, to the chairperson of the Michigan unarmed combat commission, see E.R.O. No. 2019-2, compiled at MCL 333.27001.

338.3641 Complaint; investigation; procedures.

Sec. 41.

(1) When it receives a complaint under section 40, the department shall immediately begin an 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 it receives a complaint to the person that made the complaint. If a complaint is made by the department, the director shall designate 1 or more employees of the department to act as the person that made the complaint.

(2) The department shall conduct an investigation required under subsection (1). As part 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) After conducting an investigation under subsection (1), if the department does not find that a violation of this act or a rule promulgated or an order issued under this act occurred, the department shall close the complaint. The department shall notify the complainant and respondent of its reasons for closing the complaint, and the complainant or respondent may then provide additional information to reopen the complaint.

(4) If the department investigation under subsection (1) reveals 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(5).

(5) At any time during its investigation or after a formal complaint is issued, 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 settlement.

History: 2004, Act 403, Eff. Feb. 20, 2005 ;-- Am. 2015, Act 183, Eff. Feb. 10, 2016

338.3642 Summary suspension.

Sec. 42.

(1) After it conducts an investigation, the department may issue an order summarily suspending a license based on an affidavit by an individual who is familiar with the facts set forth in the affidavit, or, if appropriate, based on an affidavit made on information and belief, that an imminent threat to the integrity of the sport, the public interest, or the welfare and safety of a contestant exists.

(2) A person whose license is summarily suspended under this section may petition the department to dissolve the order. If it receives a petition to dissolve a summary suspension order under this subsection, the department may deny the request to dissolve the order, grant the request to dissolve the order, or immediately schedule a hearing to decide whether to grant or deny the request to dissolve the order.

(3) At a hearing described in subsection (2), an administrative law hearings examiner shall dissolve the summary suspension order, unless sufficient evidence is presented that an imminent threat to the integrity of the sport, the public interest, or the welfare and safety of a contestant exists that requires emergency action and continuation of the department's summary suspension order.

(4) The record created at a hearing described in subsection (2) to dissolve a summary suspension order shall become part of the record on the complaint at any subsequent hearing in a contested case on the complaint.

(5) A summary suspension of a contestant under section 48(5) for refusal or failure to submit to a drug test or for the presence of controlled substances, alcohol, enhancers, stimulants, performance enhancing drugs, or other drugs or substances prohibited by rules promulgated by the department, or derivatives or metabolites of controlled substances, alcohol, enhancers, stimulants, performance enhancing drugs, or other drugs or substances prohibited by rules promulgated by the department, shall proceed under this section.

History: 2004, Act 403, Eff. Feb. 20, 2005 ;-- Am. 2015, Act 183, Eff. Feb. 10, 2016

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 under this act.

(2) After an investigation is conducted and a formal complaint is prepared, the department shall serve the formal complaint on 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 before a contested case hearing is held.

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

(3) A respondent upon which service of a formal complaint is made under 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 the agreement of the parties and the department to a settlement. A settlement may include the revocation or suspension of a license; censure; probation; restitution; or a penalty under 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 which a complaint is 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, the department shall allow the respondent an administrative hearing. A member of the commission may attend a hearing under this section.

(8) The department or the department of the attorney general may petition a court of competent jurisdiction to issue a subpoena that requires 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 ;-- Am. 2015, Act 183, Eff. Feb. 10, 2016

338.3645 Hearing report; determination by commission; basis; penalties; final determination.

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 under section 48.

(2) A copy of a hearing report shall be submitted to the person that made the complaint and to the person against which the complaint was filed.

(3) Within 60 days after it receives 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 on 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 the commission receives the transcript or portion of the transcript.

(4) If the parties and the department agree to a settlement, and that settlement requires imposition of a penalty under section 48 but does not specify that penalty, the commission shall make a determination of the penalties within 60 days after it receives the settlement. The commission shall make its determination of the appropriate penalty based on the terms of the settlement.

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

(6) 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 ;-- Am. 2015, Act 183, Eff. Feb. 10, 2016

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 provided to commission member.

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 participant if the department determines that the applicant or licensee does any of the following:

(a) Engages in fraud, deceit, or dishonesty in obtaining a license.

(b) Engages in fraud, deceit, or dishonesty in performing the duties of a promoter, if applicable, or otherwise practicing that person's licensed occupation.

(c) If the licensee or applicant pays a fee under this act with a check, money order, or similar instrument or with a credit card or debit card and that payment is dishonored or otherwise refused when presented by the department for payment, fails to pay that fee and reimburse the department for any charges incurred by the department in connection with that dishonored or refused payment. If a payment is dishonored or refused, the license is immediately suspended and remains suspended until the fee and the related charges are paid. As used in this subdivision, "dishonored" means that term as described in section 3502 of the uniform commercial code, 1962 PA 174, MCL 440.3502.

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

(e) Participates in any sham or fake contest or event.

(f) Participates in a contest or event under a collusive understanding or agreement in which the contestant competes or terminates the contest or event in a manner that is not based on honest competition or the honest exhibition of the skill of the contestant.

(g) 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.

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

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

(j) Assaults another licensee, outside of or while not involved in a contest, a commission member, or a department employee.

(k) Engages in false advertising.

(l) Fails to comply with a subpoena issued under this act.

(m) Fails to provide a requested document or records to the department.

(n) Violates or fails to comply with a settlement with or final order issued by the department or commission.

(o) Fails to pay any obligation that is related to the normal course of promoting an event, including, but not limited to, venue rent or judge, physician, referee, or timekeeper fees.

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

(q) Gambles on the outcome of a contest or event of which the person is a promoter.

(r) Fails to file current address information with the department within 30 days after a change occurs.

(s) Tampers with or coerces a contestant.

(t) Aids or abets another person to act as a promoter, contestant, or participant or conduct an event without a license under this act.

(u) Violates any other provision of this act or a rule promulgated under this act for which a penalty or remedy is not otherwise prescribed.

(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) For purposes of section 48(5), specific summary suspension procedures for contestants who fail to submit to a drug test or who test positive for controlled substances, alcohol, enhancers, stimulants, performance enhancing drugs, or other drugs or substances prohibited by rules promulgated by the department, or derivatives or metabolites of controlled substances, alcohol, enhancers, stimulants, performance enhancing drugs, or other drugs or substances prohibited by rules promulgated by the department. The rules shall include all of the following:
 - (i) A procedure to allow the department to place the licensee on the national suspension list maintained by the designated recordkeeper authorized by the Association of Boxing Commissions.
 - (ii) An expedited appeal process for the summary suspension.
 - (iii) A relicensing procedure following summary suspension.
- (3) Each promoter shall furnish each member of the commission present at a contest or event a seat in the area immediately adjacent to the contest or event. An additional seat shall be provided in the venue.

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. 2015, Act 183, Eff. Feb. 10, 2016 ;-- Am. 2017, Act 146, Eff. Jan. 31, 2018

338.3648 Reinstatement; disciplinary action; administrative fine; costs; grounds for summary suspension.

Sec. 48.

- (1) If it receives an application for reinstatement and the payment of any administrative fine assessed by the commission under this section, the commission may reinstate a revoked license or lift a suspension.
- (2) All of the following apply if disciplinary action is taken against a person under this act:
 - (a) If the disciplinary action does not relate to a contest or event, the commission may, in lieu of suspending or revoking a license, assess an administrative fine in an amount that does not exceed \$10,000.00.
 - (b) If disciplinary action is taken against a person under this act that relates to the preparation for a professional contest or event, the occurrence of a professional contest or event, or any other action taken in conjunction with a professional contest or event, the commission may assess an administrative fine in an amount that does not exceed 100% of the share of the purse to which the holder of the license is entitled for the contest or event.
 - (c) If disciplinary action is taken against a person under this act that relates to the preparation for an amateur contest or event, the occurrence of an amateur contest or event, or any other action taken in conjunction with an amateur contest or event, the commission may assess an administrative fine in an amount that does not exceed \$10,000.00.
 - (d) If disciplinary action is taken against a person, other than a contestant, that relates to the preparation for a contest or event, the occurrence of a contest or event, or any other action taken in conjunction with a contest or event, the commission may assess an administrative fine in an amount that does not exceed \$100,000.00.
- (3) The commission may assess an administrative fine under subsection (2) in addition to, or in lieu of, taking any other disciplinary action against the person.
- (4) If an administrative fine is assessed 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 penalties or remedies under this act.
- (5) Either of the following is grounds for summary suspension of the individual's license under section 42:
 - (a) A test resulting in a finding of the presence of controlled substances, alcohol, enhancers, stimulants, performance enhancing drugs, or other drugs or substances prohibited by rules promulgated by the department, or derivatives or metabolites of controlled substances, alcohol, enhancers, stimulants, performance enhancing drugs, or other drugs or substances prohibited by rules promulgated by the department.
 - (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 ;-- Am. 2015, Act 183, Eff. Feb. 10, 2016 ;-- Am. 2017, Act 146, Eff. Jan. 31, 2018

338.3649 Violation of act, rule, or order; actions by department; reimbursement for expenses; injunctive action; other remedies.

Sec. 49.

(1) If a person that holds a license under this act violates this act or a rule or order promulgated or issued under this act, the department may take 1 or more of the following actions:

- (a) Suspend the person's license.
- (b) Deny the renewal of the person's license.
- (c) Revoke the person's license.
- (d) Assess an administrative fine.
- (e) Censure the licensee.

(2) If the department finds that a person that is subject to subsection (1) has violated this act or a rule promulgated under this act, that person is responsible for the department's expenses that are related to the investigation and any disciplinary proceeding for that violation and shall reimburse the department for those expenses. For purposes of this subsection, the department's expenses include, but are not limited to, salaries and benefits of personnel, travel and any other expenses of those personnel, and any other expenses incurred by the department in conducting the investigation and any disciplinary proceeding.

(3) The department may bring an injunctive action in a court of competent jurisdiction to restrain or prevent a person from violating this act. If successful in obtaining injunctive relief, the department is entitled to its costs and reasonable attorney fees.

(4) The penalties and remedies under this section and section 49a are independent and cumulative. The imposition of a remedy or penalty against a person under this section or section 49a does not bar the pursuit of any lawful remedy by that person or the pursuit of a lawful remedy by any other person against that person.

History: Add. 2015, Act 183, Eff. Feb. 10, 2016

338.3649a Violation as misdemeanor; violation as felony; penalty; costs.

Sec. 49a.

(1) A person that engages in or attempts to engage in an activity for which a license is required under this act, or uses a title designated in this act, without the appropriate license issued by the department under this act is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(2) A person that knowingly allows a professional in mixed martial arts or boxing to participate as a contestant in an amateur mixed martial arts contest with an amateur is guilty of a felony punishable by imprisonment for not more than 3 years or a fine of \$10,000.00 per incident, or both.

(3) If a court finds in an action under this section or section 49(2) that a person has violated this act or a rule promulgated under this act, that person shall be assessed costs related to the investigation of the violation and costs related to the prosecution of the action. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney general's office and other personnel working on the action, and any other expenses incurred by the department for the action.

History: Add. 2015, Act 183, Eff. Feb. 10, 2016