

## AMATEUR MIXED MARTIAL ARTS REGULATORY ACT

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**House Bills 4166 and 4167**

**Sponsor: Rep. Harvey Santana**

**Committee: Regulatory Reform**

**Complete to 2-11-13**

### A SUMMARY OF HOUSE BILLS 4166 & 4167 AS INTRODUCED 1-31-13

House Bill 4167 would establish the Amateur Mixed Martial Arts Regulatory Act, a comprehensive new law regulating amateur mixed martial arts. Among other things, the bill would create an advisory commission, establish the Amateur Mixed Martial Arts Fund, require licensing for promoters and establish license fees, establish criminal penalties for violations, and provide for the investigation and remedy of complaints.

Currently, professional mixed martial arts (MMA) and boxing events are regulated under the Unarmed Combat Regulatory Act. However, that act does not apply to amateur MMA events.

The new act would **not** apply to (1) amateur wrestling; (2) amateur martial arts sports or activities held by and at a public or private training center; (3) a mixed martial arts exhibition; or (4) a contest or event conducted by or participated in exclusively by an agency of the U.S. Government, by a school, college, or university, or by an organization made up exclusively of those entities, provided each contestant is an amateur.

A section-by-section description of House Bill 4167 follows later.

House Bill 4166 would add the felony penalty to the sentencing guideline provisions in the Code of Criminal Procedure.

### FISCAL 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 \$34,000 per year per prisoner. Supervision of felony probationers averages around \$2,100 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.

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.

## **DETAILED SUMMARY OF HOUSE BILL 4167**

### **Section 1 - Name of the act**

The act would be known as the Amateur Mixed Martial Arts Regulatory Act.

### **Section 3 - Definition of key terms**

- "*Amateur*" would mean an individual mixed martial artist that 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.

#### **Section 5 - Exemptions from the act**

The act would **not** apply to (1) amateur wrestling; (2) amateur martial arts sports or activities held by and at a public or private training center; (3) a mixed martial arts exhibition; or (4) a contest or event conducted by or participated in exclusively by an agency of the U.S. Government, by a school, college, or university, or by an organization made up exclusively of those entities, provided each contestant is an amateur.

#### **Section 7 - Amateur Mixed Martial Arts Commission**

The bill would create the Amateur Mixed Martial Arts Commission to serve as an advisory body within LARA. The Commission would be tasked with establishing appropriate disciplinary sanctions against licensees and/or other individuals that violate the act or its promulgated rules.

#### Membership

The commission would consist of the LARA director, serving as a nonvoting ex officio member, and seven voting members appointed by the Governor and confirmed by the Senate. The Governor would have to appoint one voting member who is a former contestant, physician, referee, or judge, with experience in amateur mixed martial arts. Members would serve at the pleasure of the Governor. Generally, members would serve four-year terms and could not be appointed to or serve for more than two consecutive terms. Commission members would have to elect one of its members annually to serve as the chairperson.

The initial members of the Commission would serve the following terms of office: three of the members for four years; two of the members for three years; and two of the members for two years.

A majority of the members would constitute a quorum in conducting the business of the Commission. Members would be unable to cast votes by proxy and would have to meet as often as necessary to meet its duties.

Per diem compensation would be set by the Legislature each year for actual travel expenses to Commission meetings. Reimbursements could not exceed the allowable amounts under the standardized travel regulations of the Department of Technology, Management, and Budget.

#### Financial Interests

Commission members would be prohibited from promoting or sponsoring a contest or event or having any financial interest in an entity that promotes or sponsors events during time of service. Individuals with a material financial interest in a club, organization, or other entity would not be eligible for appointment if the primary purpose of that entity is conduction amateur or profession contests or events.

#### **Section 9 - LARA responsibilities and the Amateur Mixed Martial Arts Fund**

LARA would be responsible for administering and enforcing the act, by which both of the following would apply:

- LARA could initiate an administrative or court action against an applicant or licensee or take other action that is authorized under the action for a violation of the act.
- LARA could not take any action against an applicant, licensee, or license more than one year after a violation of the act occurred.

#### Amateur Mixed Martial Arts Fund

The Amateur Mixed Martial Arts Fund would be created within the Treasury Department to accept money from application fees, license fees, and administrative fines.

The State Treasurer would be in charge of directing the Fund and would have to credit all the interest and earnings from the fund investments back into the Fund. Money in the Fund at the close of the fiscal year would remain in the Fund and not lapse to the General Fund. LARA would be the administrator of the Fund for auditing purposes and could expend money, upon appropriation by the Legislature, to administer and enforce the act and for expenditures under the act.

#### Promulgation of Rules

The LARA director would be authorized to promulgate rules to administer and enforce the act.

#### **Section 11 - 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 LARA, accompanied by a non-refundable application processing fee and an annual license fee.

### Expiration

Annual licenses issued under the act would expire on September 30 of the calendar year following the year in which they were issued.

### Fees

The non-refundable application fee would be \$100 and the annual license fee would be \$300. Beginning one year after the bill goes into effect, the LARA director could adjust the fee amounts twice annually based on the changes for the immediately preceding 6-month period in the Detroit Consumer Price Index.

### **Section 13 - Certification and acceptance**

By filing an application, applicants 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.

### **Section 15 - Promoter's license ineligibility**

Applicants would be ineligible to receive a promoter's license if they (1) were convicted of a felony involving violence, theft, fraud, or an element of financial dishonesty in the five years preceding the application, (2) had an unsatisfied tax lien greater than \$5,000 at the time of application, or (3) had submitted an application containing false information.

Applicants could file a written petition with LARA and the Commission for a review if an initial or renewal license was not issued.

### **Section 17 - Failure to renew license & license reinstatement**

Individuals who fail to renew a license before it expires would be prohibited from (1) holding or conducting an amateur mixed martial arts contest or event; or (2) advertising, operating, or using the title "promoter" or "amateur promoter" after the expiration date printed on the license.

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 license fee (\$300), 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 under Section 11.

### Reinstatement of a license

Under Section 21, license holders 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 application processing fee

(\$100) and annual license fee (\$300), 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.*"

Section 17 also provides authority to LARA to reinstate revoked licenses and lift suspensions upon receiving the required application and full payment of any administrative fines levied by the Commission.

### **Section 19 - Regulatory and enforcement fee & requirements for event presentation**

Promoters would have to pay a regulatory and enforcement fee of \$200 for every amateur mixed martial arts event he or she presents (this is in addition to the application and license fees of Section 11). The fee revenue would be deposited into the Amateur Mixed Martial Arts Fund.

#### Report to the Legislature

By December 1 of each year, LARA would be required to provide a report to the Legislature detailing the amount of revenue generated by the regulatory and enforcement fee in the preceding fiscal year.

#### Requirements for event presentation

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

- Within five days prior to the event, pay the regulatory and enforcement fee and provide notice to LARA describing the event.
- 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 record of an event for at least one year after the event took place and make the records available to LARA and law enforcement.

Licensees 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 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:



| <b>Name</b>       | <b>Weight (in pounds)</b> |
|-------------------|---------------------------|
| 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 they (1) participated in multiple contests before the event, (2) were knocked out twice or two or more of their contests were stopped because of excessive hard blows to the head, (3) and 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.

## **Section 21 - Violations of the act**

Individuals who violate the act or a promulgated rule, 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.

### Misdemeanor violations

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.

### Felony violation

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.



### **Section 23 - Complaint process**

Anyone could file a written complaint with LARA if he or she suspects someone to be in violation of the act. 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 (1) a formal complaint, (2) a cease and desist order, (3) 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.

### **Section 25 - Summary suspension of a license**

After conducting an investigation, LARA could issue an order summarily suspending a license based on an affidavit from a person familiar with the facts or information and belief that an imminent threat exists to the integrity of the sport, the public interest, or the safety of a contestant. Promoters whose licenses are summarily suspended could petition LARA to dissolve the order. Pending a hearing, an order would be dissolved unless sufficient evidence is presented to show an imminent threat exists that necessitates the continuation of the suspension order.

### **Section 27 - Cease and desist order**

LARA could order a person to cease and desist from a violation the act after conducting its investigation. Individuals ordered to cease and desist could request a hearing by filing a written request within 30 days of receiving the order. Continued violation of a cease and desist order would result in the Attorney General's office applying to a court to restrain and enjoin the person from committing further violations.

### **Section 29 - Formal complaint and contested case hearings**

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.

### **Section 31 - Hearing report and penalty determination**

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.

### **Section 33 - Administrative fines**

LARA could impose a \$10,000 maximum administrative fine 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.

### **Enacting Section 1**

The bill would take effect 90 days after it was enacted into law.

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