

STORAGE NAME: h0617s1a.br.doc
DATE: February 7, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
BUSINESS REGULATION
ANALYSIS**

BILL #: CS/HB 617
RELATING TO: The Florida State Boxing Commission
SPONSOR(S): Committee on Tourism; Representative Pickens
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TOURISM YEAS 6 NAYS 0
- (2) BUSINESS REGULATION YEAS 9 NAYS 0
- (3) COUNCIL FOR COMPETITIVE COMMERCE
- (4)
- (5)

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The bill expands general rulemaking authority of the Florida State Boxing Commission (Commission) and authorizes rulemaking in the areas of background investigation, blood testing, and issuance of citations. The bill amends various provisions of Chapter 548, F.S., to provide greater protection for participants in matches through health safety measures and through improved regulatory provisions. Additionally, Chapter 548, F.S., is amended to provide regulation of professional mixed martial arts matches. Definitions of "mixed martial arts" and "participants" are added and regulatory provisions of the chapter are expanded to include mixed martial arts. The bill requires provisional certification of competitiveness of mixed martial arts and kickboxing matches by matchmakers and a \$5,000 minimum permit fee per mixed martial arts event.

In the area of licensure the following changes are made: (1) All promoters and concessionaires must file certain reports on matches held in the state and when a person sells the rights to telecast a match supervised by the Commission, such person is deemed to be a promoter and must be licensed. (2) A concessionaire is required to file a form of security with the Commission before their license can be issued or renewed. (3) A person seeking licensure by providing certain false or fraudulent information is guilty of a second degree misdemeanor. (4) The bill prohibits licensure of any person, business entity, trustee, partner, officer, director, or owner, who, has been convicted of or has been named in any information or indictment for any act that would violate the chapter. (5) The bill requires denial, suspension or revocation of a license for certain age, health, or other conditions.

In the area of health and safety, the bill requires the following: a Commission member to be an experienced Florida licensed physician; a ringside physician to be Florida-licensed with medical training or experience in boxing or both; an increase in insurance coverage for participants; conditions for weigh-ins, examinations, blood tests, and obtaining urine samples; increased physician authority; additional conditions regulating judges; clarification of weights and classes of participants and glove weights. For state insurance coverage and sovereign immunity protection, a ringside physician is considered an agent of the Commission.

The bill authorizes DBPR to administer oaths, take depositions, and issue subpoenas and requires that payments to the state and tax reporting requirements apply to boxing, kickboxing, and martial arts. The Commission and DBPR state the bill has a minimal impact which is offset by the new \$5,000 permit fee for mixed martial arts events.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill expands existing regulatory provisions and creates new provisions including mixed martial arts, expanded rulemaking authority, additional licensure requirements, and mandatory insurance coverage for participants. Some of these provisions codify existing practices and/or pending administrative rules.

The bill establishes a minimum permit fee of \$5,000 per event for mixed martial arts matches.

B. PRESENT SITUATION:

Chapter 548, F.S., governs pugilistic matches in the state which includes boxing and kickboxing. Currently, mixed martial arts matches are not permitted by law and, therefore, not regulated in the state. Mixed martial arts typically means unarmed combat involving the use, subject to any applicable limitations, of a combination of techniques from different disciplines of the martial arts, including, but not limited to, grappling, kicking, and striking. According to the Florida State Boxing Commission (Commission), Nevada, New Jersey, and Connecticut are the only states currently regulating mixed martial arts matches.

The Commission has the statutory responsibility for carrying out the regulation of persons participating in exhibitions and contests as well as the regulation of the events themselves. Qualifications for Commission membership are not delineated in statute. The Commission is assigned to the Department of Business and Professional Regulation (DBPR) for administrative and fiscal accountability purposes only. Section 548.003, F.S., requires DBPR to provide all legal and investigative services necessary to implement Chapter 548, F.S.

The Commission's statutory responsibilities are wide ranging and include licensing and regulating all individuals involved in conducting professional boxing and kickboxing matches in the state, issuing permits for live matches and pay per view matches, establishing and administering medical guidelines, and collecting fees and taxes levied by Chapter 548, F.S. Personnel of the Commission supervise all aspects of all live bouts, including the licensing of participants not previously licensed and the weigh-in of participants, and also act as the official scorekeeper of all matches. The Commission maintains a database that contains all relevant information on all individuals licensed by the Commission. Prior to each event, Commission personnel verify that all participants are currently licensed, not under suspension in Florida or any other state, and meet all other requirements to be eligible to participate in boxing in Florida.

Toughman and badman competitions, whether amateur or professional, are prohibited by s. 548.008, F.S. The penalty for promoting or participating in this type of competition is a second degree misdemeanor.

Section 548.003, F.S., provides general rulemaking authority for the Commission and DBPR pursuant to ss. 120.536(1) and 120.54, F.S., to implement their respective duties and responsibilities in carrying out the provisions of the chapter. In a February 22, 1999, letter from the Joint Administrative Procedure Committee (JAPC) to DBPR, several instances were noted by JAPC that DBPR's and the Commission's proposed rules regarding boxing lacked specific rulemaking authority. Traditionally, rules are promulgated after specific rulemaking authority is granted. The proposed rules regarding certain sections of Chapter 548, F.S., are currently pending. If the Commission is granted specific rulemaking authority, the Commission and DBPR will proceed with the rule promulgation process. The Commission has sought specific rulemaking authority over the last three Sessions.

Physicians selected by the Commission to attend matches are not protected by sovereign immunity. The Commission and DBPR have indicated that it is very difficult to find qualified individuals to be responsible at a match because of the exposure of liability to the individual.

Requirements for the reporting and payment of tax on gross receipts are included in ss. 548.06 and 548.061, F.S. According to the Commission and DBPR, there has been some confusion over which section applies to certain situations and under what circumstances.

C. EFFECT OF PROPOSED CHANGES:

See the "Section-By-Section Analysis".

D. SECTION-BY-SECTION ANALYSIS:

Section 1. New subsections (4), (14), (15) and (18) are added to s. 548.002, F.S., to provide a definition for "concessionaire", "mixed martial arts", "participant", and "second" or "cornerman", respectively. The definitions of "contest", "exhibition", and "manager" are expanded to include mixed martial arts.

Section 2. Section 548.003, F.S., is amended to require that one member of the Commission must be a physician licensed pursuant to Chapter 458, F.S., or Chapter 459, F.S., who must maintain an unencumbered license in good standing, and who must, at the time of his or her appointment, have practiced medicine for at least five years. The section is also amended to expand the Commission's general rulemaking authority to include requirements for the following: facility and safety requirements for ring, floor plan and apron seating; emergency medical equipment and services, and other equipment and services necessary for a program of matches; participant apparel, bandages, hand wraps, gloves, mouthpiece and appearance; manager's participation, presence, and conduct during a match; duties and responsibilities of all licensees; qualifications for appointment of chief inspectors and inspectors as well as their duties; designation and duties of a knockdown timekeeper; and setting fee and reimbursement schedules of referees and other officials.

Section 3. Section 548.006, F.S., is amended to include certification of competitiveness of mixed martial arts and kickboxing matches. Specifically, as to mixed martial arts and kickboxing, until a central repository of match records for each exists and is approved by the Commission, the matchmaker shall certify the competitiveness of each match.

Section 4. Section 548.008, F.S., is amended to provide that the prohibition of toughman and badman competitions does not preclude mixed martial arts as regulated by this chapter.

Section 5. Section 548.015, F.S., is created to authorize the Commission to require that before any license is issued or renewed to a concessionaire, or before the holding of a match, the concessionaire must file a surety bond, a cash deposit, or some other form of security with the Commission in a reasonable amount as determined by the Commission.

Section 6. Section 548.017, F.S., is amended to require a concessionaire to be licensed before directly or indirectly acting in such capacity in connection with any match involving a participant. The section also requires that prior to working as a ringside physician, a physician must be licensed under Chapter 458, F.S., or Chapter 459, F.S., must maintain an unencumbered license in good standing, and must demonstrate satisfactory medical training or experience in boxing or a combination of both, to the executive director prior to working as a ringside physician. The bill removes the reference to "boxers" and adds "participants" and removes the reference to "professional."

Section 7. Section 548.021, F.S., is amended to require that any person who seeks to obtain a license by means of false or fraudulent representation made in any application or who otherwise makes false statements concerning medical history, boxing record, or other personal information commits a misdemeanor of the second degree punishable as provided in ss. 775.082 or 775.083, F.S.

Section 8. Section 548.024, F.S., is created to authorize the Commission to adopt rules regarding background investigations of licensure applicants for the purpose of ensuring truthfulness and accuracy of the application; ensuring that there are no active or pending criminal or civil indictments against the applicant; and ensuring satisfaction of all requirements of the chapter. Background investigations may include, but are not limited to, criminal and financial history of the applicant.

In addition, language is added to s. 548.024, F.S., requiring a fingerprint card when a background criminal history investigation is required. The Division of Criminal Justice Information Systems with the Department of Law Enforcement and the Federal Bureau of Investigation will receive the card and determine if the applicant has a criminal history record. The information will then be sent to DBPR to determine if the applicant is statutorily qualified for licensure.

Section 9. Section 548.028, F.S., is amended to prohibit the licensure of any person or business entity who, or who has a trustee, partner, officer, director, or owner who, has been convicted of any act or has been named in any information or indictment for any act that would constitute a violation of this chapter or a ground for suspension or revocation of a license.

Section 10. Section 548.035, F.S., is amended to require a minimum fee of \$5,000 per event for mixed martial arts matches. An event is one or more matches comprising a show.

Section 11. Section 548.041, F.S., is substantially reworded to apply to all participants, not just boxers. Additionally, the section requires denial, suspension or revocation of a license if a participant is less than 18 years of age, has participated in an unsanctioned match, does not meet health criteria, or has been suspended in another state.

A participant losing by a knockout as a result of being counted out in any jurisdiction, will automatically be suspended for a period of time as determined by the attending physician or Commission representative, or 60 calendar days from the date of the knockout, whichever is longer. A participant shall not engage in any match, contact exhibition or contact sparring for training

purposes during the suspension period. After the suspension period and prior to engaging in any match, contact exhibition or contact sparring for training purposes, the participant shall be examined by a physician. The participant will advise the physician of the previous knockout or technical draw and provide medical records or permission for the physician to consult with the physician who treated him or her at the time of the previous knockout or technical draw. The examination results will be filed with the Commission prior to any further matches being approved for the participant.

Further, the section requires that a participant losing by technical knockout, technical draw or disqualification shall be automatically suspended for a period of time determined by the physician or Commission representative or 30 calendar days from the date of the technical knockout, whichever is longer. Finally, a participant is prohibited from engaging in any match, contact exhibition or contact sparring for training purposes during the suspension period without approval of the physician.

The section prohibits any participant who has been suspended in another state as a result of a knockout, consecutive losses, injury, medical procedure, physician denial of certification, failure of drug test, use of aliases, or falsifying identification cards from participating in this state until the suspension is removed. If the suspension is for other reasons than stated, the participant is allowed to participate in this state if the state in which the participant is suspended is notified and grants approval or the participant appeals to the Association of Boxing Commissions and certain decisions about the suspension have been made by the Association.

Failure of a participant to appear at a match or to appear at the designated time, unless there is a valid reason or physician's certificate, shall result in suspension of the participant's license, a fine, or both, as determined by the Commission. License revocation is required for a participant intentionally striking, striking at, or threatening an official.

Section 12. Section 548.043, F.S., is amended to conform to definitions and to establish weights for boxing and mixed martial arts gloves. The section also requires participants in matches to be weighed on the same scale at a time and place to be determined by the Commission or a Commission representative, in the presence of the opponent and a Commission representative. If a participant fails to arrive at the weigh-in at the scheduled time and place, the opponent of the late arriving participant will be permitted to be weighed without the late arriving participant present. The participant who arrived at the weigh-in on time does not lose his or her right of observing the weighing in of his or her opponent. The weigh-in has to occur no sooner than 4:00 p.m. the preceding day of the match or has to occur at another time designated by the Commission or Commission representative.

Section 13. Section 548.046, F.S., requires the Commission or the Commission representative to assign at least one physician to observe the physical condition of the participants and to advise the Commissioner or the Commission representative about the participants' condition before, during, and after the match. The physician is considered an agent of the Commission in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28, F.S.

The Commission may require, by rule, each participant to present to the Commission representative at the time of the weigh-in an original copy of blood test results which demonstrate whether the participant is free from any communicable disease. If required by the Commission and the blood test results are not presented as required by Commission rule or reveal the participant has a communicable disease, the Commission representative shall immediately cancel the match. The Commission may adopt, by rule, protocols and procedures for the blood test and the cancellation of

a match, a list of communicable diseases and a time period within which the blood test must be taken prior to the match.

The section also requires that in a match which is a sanctioned championship title fight or whenever the Commission representative has reason to believe that a participant has ingested a prohibited drug or foreign substance, the Commission representative must request and the participant must provide, under the supervision of the attending physician, Commission representative, or inspector, a urine sample no less than one hour before the commencement of the match or within one hour after the conclusion of the match. Failure or refusal to provide a sample when requested shall result in the revocation of the participant's license. Any participant, who is adjudged the loser of a match and subsequently refuses to or is unable to provide a sample, will forfeit his share of the purse to the Commission. Any participant who is adjudged the winner of a match and who refuses to provide a sample shall forfeit the win and not be allowed to engage in any future match in Florida.

The section requires the attending physician to provide medical assistance at the facility to the Commission representative and medical advice to the referee during the match. The physician is to receive cooperation of all present in performing her or his duties. If the referee has received an injury that prohibits the referee from continuing to officiate, the physician must notify the Commission representative who will temporarily halt the match. The physician is required to attend to the referee until no longer in danger or care has been transferred. The Commission representative is responsible for directing a match to continue and under what referee.

Section 14. Section 548.049, F.S., is amended to increase the Commission required medical insurance from \$2,500 to \$20,000. Any deductible associated with the insurance policy must be paid by the promoter. The section also increases the amount of life insurance for participants that may be required by the Commission from \$5,000 to \$20,000.

Section 15. Section 548.05, F.S., is amended to require that all contracts executed in this state between managers and professionals contain all provisions specifically worded as required by rules of the Commission. If they do not, they will be deemed to contain the provisions. A copy of all these contracts must be filed with the Commission within 7 calendar days of execution. The section also conforms to definitions.

Section 16. Section 548.052, F.S., is amended to conform terminology.

Section 17. Subsection (1), (2), and (4) of s. 548.057, F.S., are amended to conform to definitions. Subsections (6) through (11) are added to the section to require the following: no judge licensed in this state shall act as a judge at any match in any state or place without a state boxing commission unless the match is supervised by a state boxing commission or a Native American commission properly constituted under federal law; no judge can serve as a supervisor or serve on the ratings committee or recommend participants to the ratings committee for a sanctioning body; any person whose application for a judge's license has been denied is prohibited from reapplying for a judge's license for a period of six months; any person whose application for a judge's license has been denied on three occasions is prohibited from reapplying; the number of unofficial judges at each event is limited to three; the number of judges shall be assigned in accordance with rules of the Commission; if sufficient judges are not available, a referee will be selected to act as a judge for that specific program of matches; and judges must be in seats designated for them by the Commission representative.

Section 18. Subsection (1) of s. 548.06, F.S., is amended to require that a promoter holding a match must, within 72 hours after the match, file with the Commission a written report which

includes, along with other information, the face value of any seat or seating issued, provided, or given in exchange for advertising, sponsorships, or anything of value to the promotion of an event.

Subsections (2) and (3) are renumbered as subsections (5) and (6), respectively and new subsections (2) through (4) are added.

Subsection (2) provides where the rights to telecast a match or matches held in this state under the supervision of the Commission are in whole owned by, sold, acquired by, or held by any person who intends to or subsequently sells or, in some other manner, extends such rights in part to another, such person is deemed to be a promoter and must be licensed as such in this state. Within 72 hours after the sale, transfer, or extension of such rights in whole or in part, such person must file with the Commission a written report that includes the number of tickets sold, the amount of gross receipts, and any other required information.

Subsection (3) requires a concessionaire, within 72 hours after the match, to file with the Commission a written report that includes the number of tickets sold, the amount of gross receipts, and any other information required.

Subsection (4) requires that any written report required to be filed with the Commission must be postmarked within 72 hours after the conclusion of the match, and an additional 5 days is allowed for mailing.

Section 19. Section 548.061, F.S., is amended to require tax reporting and payment of tax from the sale of tickets for closed circuit telecasts to apply to any match.

Section 20. Section 548.074, F.S., is amended to authorize DBPR to administer oaths, take depositions, make inspections, issue subpoenas, compel witnesses, and produce documents. DBPR can exercise this power on its own initiative or upon request of the Commission. Challenges are to be handled pursuant to s. 120.569, F.S. Language referring to the powers of subpoena is deleted.

Section 21. Subsections (1) and (2) of s. 548.075, F.S., are amended to authorize the Commission to adopt rules to permit the issuance of citations for any violation of the chapter in lieu of or in addition to any other punishment for the violation.

Section 22. The act takes effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Florida State Boxing Commission and the Department of Business and Professional Regulation state that the bill will be revenue positive because of the \$5,000 fee for mixed martial arts events; however, the revenue cannot be determined at this time because it is not known how many events will be held in the state next year. There will be no impact this fiscal year.

2. Expenditures:

There will be a minimal impact on expenditures because of the addition of mixed martial arts regulation; however, according to the Commission and DBPR, any expenditures are anticipated to be more than offset by the \$5,000 fee.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The increased medical insurance from \$2,500 to \$20,000 and the requirement that any deductible be paid by the promoter will be a significant economic benefit to participants requiring medical attention.

In addition to the deductible to be paid by the promoter, there is also a minimum permit fee of \$5,000 per mixed martial arts event to be paid by the promoter or someone else associated with the event.

D. FISCAL COMMENTS:

The bill is stated to be revenue positive with any expenditures being more than offset by the \$5,000 fee for mixed martial arts events.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Currently, Chapter 548, F.S., provides general rulemaking authority. The bill provides the Commission with specific statutory authority to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement the provisions of Chapter 548, F.S., and to implement each of the duties and responsibilities conferred upon the Commission. The Commission is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., which provide for background investigations of applicants for licensure under the chapter. Additionally, the Commission may adopt rules pursuant to ss. 120.54 and 120.536(1), F.S., to permit the issuance of citations for any violation of the chapter.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Tourism

On January 23, 2002, the Committee on Tourism reported the bill favorably as a committee substitute by a 6-0 vote. The Committee substitute incorporated eleven amendments most of which were technical. The Committee Substitute differs from the original bill in the following ways:

- **Amendment 1:** Expands the definitions of “contest”, “exhibition”, and “manager” to include mixed martial arts. Defines “mixed martial arts” and adds a definition of “participant”. Subdivides s. 548.006, F.S., and creates subsection (2) to require certification of competitiveness of mixed martial arts and kickboxing matches until central repositories of match records of each exists and is approved by the commission. Amends s. 548.008, F.S., to provide that the prohibition of toughman and badman competitions shall not preclude mixed martial arts.
- **Amendment 2:** Removes language requiring the Commission to conduct a review and analysis of boxing competitions not currently regulated or sanctioned.
- **Amendments 3 and 5 through 11:** Change regulations to apply to mixed martial arts as well as boxing and kickboxing.
- **Amendment 4:** Amends s. 548.035, F.S., to require a minimum \$5,000 fee for mixed martial arts events.

Committee on Business Regulation

On February 7, 2002, the Committee on Business Regulation adopted one technical amendment which is traveling with the bill and voted the bill favorably, 9 Yeas and 0 Nays.

Technical Amendment: On page 17, line 11 of the CS/HB 617, the coding that strikes a reference to the medical advisory council implies that the language is current statute. In fact, the reference to the medical advisory council was repealed last year by section 35 of Chapter 2001-89.

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VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Monique H. Cheek

Staff Director:

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AS REVISED BY THE COMMITTEE ON BUSINESS REGULATION:

Prepared by:

Janet Clark Morris

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