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**PRESENTATION OF THE
PROFESSIONAL & VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Monday, March 17, 2008
3:30 p.m.

**TESTIMONY ON SENATE BILL NO. 3030, S.D. 2, H.D. 1, RELATING TO
MIXED MARTIAL ARTS.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Alan Taniguchi, Executive Officer with the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs ("Department"). The Department thanks you for the opportunity to submit testimony on S.B. No. 3030, S.D. 2, H.D. 1. The Department supports Sections 1 through 3 of the bill, the substance of which is the basis of our Administration bill. We do not support Section 4 of the bill and request the effective date be July 1, 2009, consistent with the date in our original Administration bill. However,

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should your committee wish to pass this bill out as is to encourage further discussion, we would not have any objections.

The purpose of this bill is to amend the law relating to the regulation of mixed martial arts ("MMA") by:

- (1) Increasing the percentage imposed on gate receipts of professional MMA contests to cover the administrative costs of managing the program once regulation begins on July 1, 2009;
- (2) Allowing the Department to impose an additional surcharge on promoters to cover projected start-up expenses for the 2007-2008 and 2008-2009 fiscal years; and
- (3) Clarifying that 2% of the gross receipts from subscription or admission fees for simultaneous telecasts of a contest or event allowed under Act 279 also includes pay per view telecasts and is not restricted to telecasts in Hawaii.

The Legislative Auditor conducted a sunrise analysis regarding the regulation of MMA contests, and as a result of the analysis, House Bill No. 1866 (now codified as Act 279, SLH 2007) became law on July 10, 2007. Given the complex nature of the proposed regulation for the license approval process and pre-fight oversight activities, it is likely that the costs to regulate MMA will be high once the law takes effect on July 1, 2009. Consequently, the Department believes that the regulation of MMA will require additional staffing and funding to administer. The Department conducted an analysis of the estimated revenues

from MMA, and it is evident that the proposed licensing fees and other revenue streams provided in Act 279 will be insufficient to cover the cost of administering the program. Since the Department is self-funded, these costs must be paid for by the program, and it will not be possible to recover all of the costs within the current fee structure. To "break even", licensing fees would have to be increased significantly beyond current levels. The Department believes that the current licensing fee structure is reasonable. The fees are comparable to the licensing fees for boxing, a program with a similar workload, resources, and regulatory structure. The quadrennial cost to run this program is \$676,000 (\$169,000 x 4). The Department estimates that the combined license fees and percentage of gross receipts allowed under the current language of Section 7(d) of Act 279 would result in a shortfall of \$46,000 after one quadrennial. The next quadrennial would result in a larger shortfall of \$203,550 because a majority of the license fees would be a result of license renewals and not a new revenue stream from new licensees. Therefore, this bill amends the current MMA fee structure provided in Act 279 by increasing the percentage of the gross receipts from contest admission fees collected by the Department to cover the projected shortfall in operating costs. The collection of a percentage of the gate receipts is standard practice in a majority of states that regulate boxing and MMA, and is a fair way to cover program expenses.

Section 7 of Act 279 requires promoters to pay a fee based on a sliding scale of gross receipts from admission fees to any MMA event. The bill proposes

to increase the fee from 3% to 4% of the first \$50,000 in gross receipts and from 2% to 3% of gross receipts over \$50,000 for fiscal years 2010-2013. After 2013, the fee will be 6% of total gross receipts. These increases will allow the program to collect sufficient revenues to meet its quadrennial expenses of \$676,000. This option appears to be the most viable solution to allow the Department to sustain the program and minimize the burden on licensees.

This bill also provides a mechanism to reimburse the Compliance Resolution Fund (CRF) for the start-up costs incurred before program implementation on July 1, 2009. Section 2 of the bill authorizes the Department to collect an additional fee from each promoter to reimburse the CRF in the amount of \$335,000 for fiscal years 2007-2008 and 2008 -2009 for the upfront costs to establish the program.

The Department, pursuant to Chapter 440D, Hawaii Revised Statutes, currently accepts and reviews applications for MMA contests. Data collected from these applications indicates there are approximately ten MMA promoters who regularly hold contests in Hawaii. The fee to reimburse the CRF will be assessed over a period of four years or two consecutive renewal periods beginning July 1, 2011. Language in this proposal will allow the Department to increase or decrease the assessment amount as the number of licensed promoters change. Once the \$335,000 amount to be reimbursed to the CRF is collected, the promoters' assessments would cease.

Another amendment clarifies that 2% of the gross receipts from subscription or admission fees for simultaneous telecasts of a contest or event allowed under Act 279 also includes pay per view telecasts. The MMA industry uses pay per view to broadcast their product around the world. This amendment makes clear that this section applies to pay per view.

We respectfully request your support for this Administration bill. Thank you for the opportunity to provide testimony.