

ACT 279

H.B. NO. 1866

A Bill for an Act Relating to Mixed Martial Arts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
MIXED MARTIAL ARTS CONTESTS**

§ **-1 Definitions.** As used in this chapter, unless the context otherwise requires:

“Amateur mixed martial arts contest” means a mixed martial arts contest in which no money, prize, purse, or other form of compensation is offered or given to contestants.

“Department” means the department of commerce and consumer affairs.

“Director” means the director of commerce and consumer affairs.

“Manager” means any person who:

- (1) Undertakes or has undertaken to represent in any way the interests of any mixed martial arts contestant in procuring, arranging, or conducting any contest in which the mixed martial arts contestant is to participate; provided that “manager” shall not include an attorney licensed to practice in this state in the attorney’s legal representation of a mixed martial arts contestant; or
- (2) Directs or controls the mixed martial arts activities of the mixed martial arts contestant.

“Mixed martial arts” means unarmed combat involving the use, subject to any applicable limits set forth in this chapter and any rules adopted to implement these limits, of a combination of techniques from different disciplines of martial arts, including grappling, kicking, and striking.

“Mixed martial arts contest” or “contest” means a contest or exhibition in a mixed martial arts event in which a mixed martial arts contestant competes with another mixed martial arts contestant, using mixed martial arts, and in which any contestant in the mixed martial arts event receives any money, prize, purse, or other forms of compensation; provided that the term does not include an amateur mixed martial arts contest.

“Mixed martial arts contestant” or “contestant” means a person who is trained in mixed martial arts and competes in a mixed martial arts contest.

“Mixed martial arts event” or “event” means one or more mixed martial arts contests held at the same location on the same date.

“No rules combat, extreme fighting, or similar contest” means a contest or exhibition performed in this state in which the contestants are permitted to use, with few or no rules or restrictions, a combination of combative contact techniques, including punches, kicks, chokes, joint locks, and other maneuvers, with or without the use of weapons, that place contestants at an unreasonably high risk of bodily injury or death whether or not for any money, prize, reward, purse, or other compensation, or promise thereof; provided that the term does not include a contest involving the exclusive use of boxing, wrestling, kickboxing, martial arts, or mixed martial arts.

“Promoter” means an individual, corporation, joint venture, partnership, limited liability corporation, limited liability partnership, or any other type of business entity that promotes, conducts, holds, or gives a mixed martial arts contest.

§ -2 **Assistants.** The director may appoint and remove assistants to assist the director in carrying out the director’s activities, duties, and other obligations under this chapter.

§ -3 **Authority to subpoena witnesses and administer oaths and penalties.** The director may issue subpoenas for the attendance of witnesses, with the same effect as if the subpoenas were issued in an action in the circuit court, and may administer oaths in all matters connected with the administration of this chapter. Disobedience of a subpoena and false swearing before the director shall be attended by the same consequences and be subject to the same penalties as if disobedience or false swearing occurred in an action in the circuit court.

§ -4 Powers and duties of the director. (a) In addition to any other powers and duties authorized by law, the director shall have the following powers and duties:

- (1) To adopt, amend, or repeal rules and forms necessary to effectuate this chapter. All rules shall be adopted pursuant to chapter 91 and shall have the force and effect of law. The rules may include, but not be limited to the following:
 - (A) An appropriate method of ensuring that all financial obligations are met by a promoter who conducts, holds, or gives a mixed martial arts contest;
 - (B) A public record accounting for the distribution of all tickets provided to the director by a promoter and anything else of value that is provided to the director;
 - (C) Clinics or seminars on health and safety for licensees deemed necessary by the director;
 - (D) Criteria for a mandatory neurological and eye examination of any mixed martial arts contestant;
 - (E) Criteria for and duration of an automatic medical suspension from mixed martial arts contests;
 - (F) Procedures to evaluate the professional records and physician's certification of each mixed martial arts contestant participating in a mixed martial arts contest in the state and to deny authorization to a mixed martial arts contestant to fight when the requirements of this chapter are not met;
 - (G) Procedures to ensure that no mixed martial arts contestant is permitted to compete while under suspension from any entity that regulates mixed martial arts due to:
 - (i) A recent knockout or series of consecutive losses;
 - (ii) An injury, any required medical procedure, or a physician's denial of certification to compete;
 - (iii) Failure of any drug test; or
 - (iv) The use of false aliases or falsifying or attempting to falsify official identification cards or documents relating to mixed martial arts contests;
 - (H) Procedures to review a suspension if appealed by a mixed martial arts contestant, including an opportunity for the contestant to present contradictory evidence;
 - (I) Procedures to revoke a suspension if a mixed martial arts contestant furnishes proof of sufficiently improved medical or physical condition or furnishes proof that the suspension was not, or is no longer, warranted by the facts; and
 - (J) Procedures to require updated medical and criminal background checks prior to a contest and at license renewal;
 - (2) To enforce this chapter and the rules adopted pursuant thereto;
 - (3) To discipline a person or entity who violates this chapter or the rules adopted pursuant thereto; and
 - (4) To appoint an advisory committee to assist with the implementation of this chapter and the rules adopted pursuant thereto.
- (b) The director may either establish a mixed martial arts registry or data bank on mixed martial arts contestants or use an established registry or data bank that is approved by the director, and issue license cards to mixed martial arts contestants.

§ **-5 Jurisdiction of director.** (a) The director is vested with the sole jurisdiction, direction, management, and control over all mixed martial arts contests to be conducted, held, or given within the state; provided that this excludes amateur mixed martial arts contests. No mixed martial arts contest shall be conducted, held, or given within the state except in accordance with this chapter and the rules adopted by the director pursuant thereto.

(b) No mixed martial arts event shall take place unless the director has granted a permit for the proposed event. In addition, the director shall not allow any mixed martial arts contest unless:

- (1) The contest consists of not more than five rounds of a duration of not more than five minutes each with an interval of at least one minute between each round and the succeeding round;
- (2) Each contestant is at least eighteen years of age, is not disqualified from competing in a similar mixed martial arts contest in another jurisdiction at the time of the contest, and does not use stimulants or banned substances before or during the contest;
- (3) Each mixed martial arts contestant is examined one hour prior to the contest by at least one physician licensed under chapter 453 or 460 who shall certify in writing to the referee of the contest that the contestant is physically fit to engage therein;
- (4) Each contestant furnishes to the director:
 - (A) A medical report of a medical examination completed not less than six months before the contest, at the sole expense of the promoter, including the results of HIV and hepatitis testing; and
 - (B) Previous fight records that establish the contestant's fitness to compete in the contest;
- (5) The contest is under the control of a licensed referee in the ring who has at least one year of experience in refereeing a match or exhibition involving mixed martial arts and who has passed a physical examination by a physician licensed under chapter 453 or 460, including an eye examination, within two years prior to the contest;
- (6) The promoter has complied with sections -6 and -7; and
- (7) All licensees have complied with the requirements of this chapter and rules adopted in accordance with chapter 91, including any rules or requirements that protect the safety of the contestants to the extent feasible.

§ **-6 Licenses; promoters.** (a) A promoter may apply to the director for a license that shall be required to promote, conduct, hold, or give mixed martial arts contests. The application shall be in writing, on a form prescribed by the director, and signed by the applicant, and shall include the following:

- (1) Evidence of financial integrity in accordance with rules adopted by the director pursuant to chapter 91; and
- (2) Proof that the applicant has currently satisfied all of the applicable requirements of the department's business registration division.

(b) The application shall contain a recital of the facts as may be specified by the director for the director to determine whether or not the applicant possesses the necessary physical, mental, moral, and financial qualifications to entitle the applicant to a license.

(c) The director shall not issue any license to conduct, hold, or give mixed martial arts contests unless the director is satisfied that the applicant has complied with the conditions of this chapter, possesses the necessary qualifications for a license, and is the real party in interest, and intends to conduct, hold, or give the mixed martial arts contest itself. The director shall not issue a promoter's license to

an applicant if the applicant or any of the applicant's officers, directors, partners, members, or associates has been convicted of any crime related to gambling or a crime that is directly related to the person's performance in the sport of mixed martial arts.

(d) A license may be revoked at any time if the director finds after a hearing that:

- (1) The licensee is not the real party in interest or has not complied with this chapter or the rules of the director; or
- (2) The licensee or any of the licensee's officers, directors, partners, members, or associates have been convicted of any crime related to gambling or a crime that is directly related to the person's performance in the sport of mixed martial arts.

(e) Every license shall be subject to this chapter and the rules of the director.

(f) The application for a license to promote mixed martial arts contests shall be accompanied by a fee as provided in rules adopted by the director pursuant to chapter 91.

§ -7 Permit required to hold each mixed martial arts event. (a) No mixed martial arts event shall be held unless the director issues a permit for the event. To obtain a permit to conduct, hold, or give a mixed martial arts event, a promoter shall:

- (1) Provide proof of medical insurance for mixed martial arts contestants in accordance with rules adopted by the director. All promoters shall be responsible for paying the medical insurance policy premiums and any deductible or copay amount of the medical insurance policy;
- (2) Submit all contracts with managers, mixed martial arts contestants, and venues, including any agreement of pre-contest training funds advanced to any contestant either by the promoter or manager or any party of interest, to the director for the director's review and approval;
- (3) Submit to the director, for the director's review and approval, all ring records of all mixed martial arts contestants scheduled to participate in the event;
- (4) Provide cashier's or certified checks made payable to each mixed martial arts contestant for the amount due the contestant or the contestant's manager, as the case may be, in accordance with the contracts approved by the director;
- (5) Provide to the director written confirmation that an ambulance with paramedics and appropriate security have been obtained and will be present at all times at the venue of the mixed martial arts event;
- (6) Provide evidence to the director that security personnel and resources will be present in sufficient number and force to exercise crowd control and to protect spectators at the mixed martial arts event;
- (7) Provide to the director evidence that the mixed martial arts event will be conducted in compliance with municipal fire codes; and
- (8) Maintain sanitary conditions at the site of the mixed martial arts event.

(b) Failure, refusal, or neglect of any licensed promoter to comply with this section shall result in the automatic denial of a permit to hold the mixed martial arts event.

(c) Licensed promoters may engage in promotions with other licensed promoters as long as each promoter holds a valid, unexpired license and has received the written approval of the director prior to the promotion.

(d) In addition to the payment of other fees and moneys due under this chapter, a licensed promoter shall pay:

- (1) A license fee of three per cent of the first \$50,000 of the total gross receipts from admission fees to an event, exclusive of federal, state, and local taxes;
- (2) A license fee of two per cent of the total gross receipts over \$50,000 from admission fees to an event, exclusive of federal, state, and local taxes;
- (3) Two per cent of the gross sales price for the sale, lease, or other exploitation of broadcasting, television, Internet, and motion picture rights for an event, without any deductions for commission, brokerage fee, distribution fees, advertising, contestants' purses, or any other expenses or charges, including federal, state, or local taxes; and
- (4) Two per cent of the gross receipts from subscription or admission fees, exclusive of federal, state, and local taxes, charged for viewing within the state of a simultaneous telecast of an event;

provided that payments under this subsection shall be deposited into a separate account in the compliance resolution fund and shall be used to cover the costs of administering this chapter.

(e) Within seven calendar days following a mixed martial arts contest, the promoter shall provide the director with an unedited video record of the contest in a format prescribed by the director.

(f) No mixed martial arts event shall be commenced without a permit from the director pursuant to this section.

§ -8 Licenses, participants. (a) Any person may apply to the director for a license to act as a physician, referee, judge, manager, second, or mixed martial arts contestant to participate, either directly or indirectly, in any mixed martial arts contest. The application shall be in writing, on a form prescribed by the director, and signed by the applicant. The application shall contain a recital of facts as specified by the director for the director to determine whether or not the applicant possesses the necessary licensure and physical, mental, and moral qualifications to entitle the applicant to a license. The director shall adopt rules for licensure in accordance with chapter 91.

(b) In addition, the applicant for a referee, judge, manager, or second license shall take and pass an examination or evaluation as provided by the director. The director may exempt an applicant for a manager, referee, judge, or second license from taking the examination or evaluation, if the applicant holds a valid manager, referee, judge, or second license in another jurisdiction with comparable mixed martial arts regulations.

(c) Any license to act as a physician, referee, judge, manager, second, or mixed martial arts contestant may be suspended or revoked, or the person otherwise disciplined by the director after a contested case hearing held in accordance with chapter 91.

(d) No license shall be granted to a promoter unless the promoter has submitted a criminal abstract on the promoter to the director.

§ -9 License fees. License fees shall be paid biennially to the State by every applicant to whom a license is issued to participate in the conduct of mixed martial arts in any of the following capacities set forth in this chapter: promoter, physician, referee, judge, manager, second, and mixed martial arts contestant. The charge for a duplicate license and all fees required by this chapter shall be as provided in rules adopted by the director pursuant to chapter 91 and shall be deposited with the director to the credit of the compliance resolution fund.

§ **-10 Licenses, limitations, renewals.** (a) No mixed martial arts contest shall be conducted, held, or given unless all the parties participating, as designated in this chapter, are licensed by the director, and it shall be unlawful for any individual or promoter to participate in a contest in any capacity designated in this chapter unless the person is licensed to do so.

(b) The director may limit the number of licenses issued for any purpose as specified in this chapter and may limit the number of mixed martial arts contests conducted, held, or given in any county.

(c) All licenses shall be for a period of not more than two years and all licenses shall expire on June 30 of each odd-numbered year.

(d) The director, at the director's discretion and upon application and payment of fees by the licensee, may renew a license for the following biennium. Failure to timely apply for renewal of any license shall result in the automatic forfeiture of the license. Any applicant whose license has been forfeited shall file an application for a new license and meet all current requirements, including successful passage of the examination, as the case may be, for the license.

(e) Every individual or promoter licensed under this chapter shall be subject to the rules adopted by the director.

§ **-11 Receipts and reports from promoters.** (a) Within three business days after the conclusion of every contest for which admission fees are charged and received, every promoter holding a license to conduct, hold, or give mixed martial arts contests, shall furnish to the director a written report, duly verified, showing the number of tickets sold for the contest, the amount of the gross receipts or proceeds thereof, and other matters as the director prescribes in rules adopted in accordance with chapter 91.

(b) For purposes of this chapter, "gross receipts" includes income received from the sale of print, internet, broadcasting, television, and motion picture rights.

§ **-12 Failure to report receipts.** Whenever any promoter holding a license to conduct, hold, or give mixed martial arts contests fails to timely submit a report of any contest or comply with the requirements of this chapter, or whenever the report is unsatisfactory to the director, the director at the licensee's expense, may examine or cause to be examined, the books and records of the promoter.

§ **-13 Admission tickets.** All tickets of admission to any mixed martial arts contest for which admission fees are charged and received shall have printed clearly upon the face thereof the purchase price of same, and no ticket shall be sold for more than the price as printed thereon.

§ **-14 Inspectors; duties.** The director shall appoint inspectors, each of whom shall receive from the director a card or badge authorizing the person to act as inspector whenever the director may designate the person to so act.

§ **-15 Judges; duties.** The director, in the director's discretion may appoint two licensed judges to act with the referee in rendering a decision, or three licensed judges to act with a nonvoting referee in rendering a decision.

§ **-16 Physician; duties.** Every promoter holding a license to conduct, hold, or give mixed martial arts contests shall have in attendance at every contest at least two physicians licensed to practice medicine in the state under chapter 453 or 460, who shall observe the physical condition of the mixed martial arts contestants and advise the referee with regard thereto and, one hour before each contestant enters the ring, certify in writing as to the physical condition of the contestant to

engage in the contest. A report of the medical examination shall be filed with the director not later than forty-eight hours after the conclusion of the contest. If a contestant is knocked down or severely injured during a contest, or for any other reasons as provided in rules adopted by the director pursuant to chapter 91, at least one physician shall immediately examine the contestant and file a written medical opinion with the director within forty-eight hours of the contest.

§ **-17 Referees; duties.** (a) At each mixed martial arts contest there shall be in attendance a duly licensed referee designated by the director, who shall direct and control the contest. The referee shall render a decision for each contest, except as otherwise provided under this section.

(b) The referee may recommend and the director, in the director's discretion, may terminate the mixed martial arts contest or order the forfeiture of any prize, purse, or remuneration, or any part thereof, to which one or both of the mixed martial arts contestants may be entitled, or any part of the gate receipts for which the contestants are competing, if in the director's judgment one or both of the contestants are not honestly competing.

(c) Each referee shall warn contestants of the referee's power to terminate the contest or to recommend the forfeiture of any purse or purses, should there be any violation of contest rules.

(d) In any case where the referee decides that the contestants are not honestly competing and that under the law the contest should be terminated or that the prize, purse, or remuneration of one or both of the contestants should be forfeited, the contest shall be stopped before the end of the last round, and no decision shall be given. A contestant earns nothing and shall not be paid for a contest in which there is stalling, faking, dishonesty, or collusion. The director, independently of the referee or the referee's decision, may determine the merits of any contest and take whatever action the director considers proper. In any case, the director may order the purse of the contestant violating any rules or statutes held up for investigation and action.

(e) The referee shall stop the contest when, in the referee's judgment, either of the contestants shows a marked superiority or is apparently outclassed.

§ **-18 Drug test; withholding of wages; penalty.** (a) On the advice of one or both of the physicians in attendance at every contest, a post-contest drug test may be administered to any contestant, at the sole expense of the promoter, to determine whether the contestant has consumed any illegal drugs or drugs banned by the director.

(b) Any money, prize, purse, or other form of compensation due to a contestant shall be withheld by the director until the director, in consultation with the two attending physicians, is satisfied that the contestant did not have the presence of any illegal or banned drugs in the contestant's system.

(c) Any contestant who fails a drug test shall have the contestant's license suspended by the director for not less than twelve months from the date of the offense and, in the discretion of the director, may have the contestant's license permanently revoked.

§ **-19 Sham mixed martial arts contest; forfeiture of license.** Any promoter who conducts, holds, gives, or participates in any sham or fake mixed martial arts contest, knowing the same to be a sham or fake, shall forfeit the license issued in accordance with this chapter, and the license shall be automatically terminated by the director. The promoter and any officers, partners, or members of the promoter shall not thereafter be entitled to receive and shall not be given another license.

§ **-20 Sham mixed martial arts contest; penalty against contestant.** The license of any mixed martial arts contestant who knowingly participates in any

sham or false mixed martial arts contest shall be automatically suspended and the mixed martial arts contestant shall be suspended from further participation in any contest held or given under this chapter for not less than twelve months from the date of the offense and may be permanently disqualified from further participation in any contest held or given under this chapter.

§ -21 Financial interest in mixed martial arts contestant prohibited.

(a) The director shall not receive any compensation from any person who sanctions, arranges, promotes, conducts, holds, or gives mixed martial arts contests; nor shall the director have, either directly or indirectly, any financial interest in any contestant competing in any mixed martial arts contest.

(b) For the purposes of this section, "compensation" shall not include funds held in escrow for payment to another person in connection with a mixed martial arts contest. The prohibition set forth in this section shall not apply to any contract entered into, or any reasonable compensation received, by the director to supervise a mixed martial arts contest in this state or another state.

§ -22 Wages of contestant; prepayment prohibited. All moneys paid to a mixed martial arts contestant for services, as money prize, reward, compensation, or otherwise, shall be considered wages. No contestant shall be paid for services before a mixed martial arts contest; provided that with the approval of the director, a promoter may advance sums of money for training purposes.

§ -23 No rules combat, extreme fighting, or similar contest; prohibited. No person shall promote, conduct, hold, give, or participate in any no rules combat, extreme fighting, or similar contests. The director shall enforce the prohibition on no rules combat, extreme fighting, or similar contests, and may adopt rules, pursuant to chapter 91, to enforce the prohibition. In addition to any applicable judicial remedy, a person who violates this section shall be subject to the penalties, fines, and other disciplinary provisions of this chapter.

§ -24 Disposition of receipts. Except as otherwise provided for in this chapter, all fees and other moneys received by the director shall be deposited into the compliance resolution fund.

§ -25 Summary disciplinary action. In addition to other disciplinary actions provided in this chapter, the director may fine, withhold purse money or fees, and issue immediate temporary suspensions of not more than sixty calendar days against a licensee for violations of this chapter or rules adopted pursuant thereto. The director shall notify the licensee in writing of any temporary suspension, fine, or withholding of purse money within five calendar days of the director's action. The licensee shall have a right to a hearing in accordance with chapter 91; provided that the licensee notifies the director in writing of the request for a hearing within thirty calendar days after the director notifies the licensee in writing, by mail or personal service, of the director's order.

§ -26 Chapter does not apply to active duty armed forces, national guard, armed forces reserve, or Police Activities League. This chapter shall not apply to any mixed martial arts contest held as a recreational activity by active duty armed forces, armed forces reserve, or national guard personnel, or the Police Activities League, when the contest is held under the supervision of a recreational officer of the active duty armed forces, armed forces reserve, national guard, or a Police Activities League staff member.

§ -27 **Revocation; suspension.** (a) In addition to any other acts or conditions provided by law, the director may refuse to renew, reinstate, or restore or may deny, revoke, suspend, fine, reprimand, or condition in any manner, the license of any person or entity issued for this chapter, for any cause authorized by law, including but not limited to the following:

- (1) Violation of any provision of this chapter or the rules adopted by the director, or any other law or rule that applies to those persons licensed under this chapter;
- (2) Manifest incapacity, professional misconduct, or unethical conduct;
- (3) Making any false representations or promises through advertising or other dissemination of information;
- (4) Any fraudulent, dishonest, or deceitful act in connection with the licensing of any promoter under this chapter or in connection with any mixed martial arts contest;
- (5) Making any false or misleading statement in any application or document submitted or required to be filed under this chapter;
- (6) Revocation or suspension of a license or other disciplinary action against the licensee by any other regulatory entity over mixed martial arts contests;
- (7) Failure to report any disciplinary action, including medical and mandatory suspensions, or revocation or suspension of a license in another jurisdiction not less than fifteen calendar days preceding any mixed martial arts match in which the licensee participates or within thirty calendar days following the disciplinary decision, whichever is earlier; or
- (8) Participation in any sham or false mixed martial arts contest.

(b) A manager may be held responsible for all violations of this chapter by a mixed martial arts contestant whom the manager manages and may be subject to license revocation or suspension, or a fine, or any combination thereof, irrespective of whether any disciplinary action is taken against the mixed martial arts contestant.

§ -28 **Penalties.** (a) Any person in violation of this chapter or the rules adopted pursuant thereto shall be fined not more than \$5,000 for each violation. Each day's violation or failure to comply shall be deemed a separate offense.

(b) In addition to the penalties provided in this chapter, any person in violation of this chapter may be prohibited from engaging in any mixed martial arts activities in the state for a period in conformity with that set forth in section 92-17.

§ -29 **Cumulative penalties.** Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

§ -30 **Injunctive relief.** The director may, in addition to any other remedies available, bring an action in any court of this State to enjoin a person from continuing any violation of this chapter or doing any acts in furtherance thereof, and for any other relief that the court deems appropriate."

SECTION 2. Chapter 440D, Hawaii Revised Statutes, is repealed.

SECTION 3. There is appropriated out of the compliance resolution fund the sum of \$130,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$205,000 or so much thereof as may be necessary for fiscal year 2008-2009 to fund the operational and administrative expenses in implementing this Act and regulating mixed martial arts contests.

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act, which shall include the hiring of a regulatory boards and commissions administrative assistant, secretary, and clerks.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. This Act shall take effect on July 1, 2009; provided that:

- (1) Section -4 in section 1 of this Act shall take effect upon its approval; and
- (2) Section 3 of this Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)