

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 351 (Chair, Economic Matters Committee)(By Request - Departmental - Labor, Licensing and Regulation) and Delegate Reznik

Economic Matters Education, Health, and Environmental Affairs

State Athletic Commission - Amateur Mixed Martial Arts and Amateur Kick Boxing - Licensing and Regulation

This departmental bill authorizes the State Athletic Commission within the Department of Labor, Licensing, and Regulation (DLLR) to directly regulate amateur mixed martial arts (MMA) and amateur kick boxing events and license associated contestants and staff. The bill also requires professional and amateur contestants to submit to a urine or blood test under specified conditions.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: General fund revenues increase by \$27,700 in FY 2014 from additional boxing and wrestling tax revenues and additional licensing revenues. General fund expenditures for DLLR increase by \$24,400 in FY 2014 from additional staffing and travel reimbursement costs and additional drug-testing costs. Future year revenues and expenditures reflect an increase in the number of events regulated and licensed by the commission.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
GF Revenue	\$27,700	\$27,700	\$33,100	\$33,100	\$41,200
GF Expenditure	\$24,400	\$24,400	\$29,200	\$29,200	\$36,500
Net Effect	\$3,300	\$3,300	\$3,900	\$3,900	\$4,700

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: DLLR has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services disagrees with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: A person may not participate as a contestant in a contest in the State unless the person has an appropriate license. A “contestant” means an individual who participates in a boxing, professional kick boxing, amateur kick boxing, professional MMA, or amateur MMA contest. License categories are created to separate “amateur” and “professional” kick boxing and MMA, and they authorize a licensee to participate solely in the applicable amateur or professional contest. Amateur licensees and amateur events are subject to the same requirements as professional events under current law (commission regulations differ for professional and amateur events).

The bill requires contestants to submit to a urine or blood test to detect the presence of specified performance-enhancing drugs if (1) there is reasonable cause to believe the contestant has used performance-enhancing drugs; (2) the contestant was randomly selected by lottery; or (3) the contestant has a documented or otherwise verified history of drug use within the five years immediately preceding the date of the contest. Similarly, the bill specifies that each contestant must submit to a urine *or* blood test (rather than *only* a urine test for each boxer, kick boxer, or MMA contestant, under current law) for controlled dangerous substances.

The bill also specifies that the commission *may*, subject to specified hearing requirements, suspend or revoke a boxing, kick boxing, or MMA license if a contestant either refuses to submit to a drug test or submits a urine or blood sample that tests positive for the presence of a controlled dangerous substance, including performance-enhancing drugs. Likewise, the commission *may* order the contestant to forfeit the purse or other compensation from the contest for refusing to submit to a drug test or submitting a positive sample.

Current Law: The State Athletic Commission has regulatory and licensing authority over all boxing, kick boxing, MMA, or wrestling contests held in the State, with the exception of some intercollegiate or amateur events. The commission licenses participants, managers, referees, judges, seconds, matchmakers, and promoters of these contests. Fees for a one-year license range from \$10 for a participant to \$150 for a promoter. A promoter also must execute a surety bond of no less than \$2,000. Licensees are required to meet all physical, testing, and medical requirements established by the commission.

Statutory licensing and other requirements do not apply to amateur boxing, kick boxing, or wrestling conducted under the supervision of a nationally recognized amateur organization. Similarly, the requirements do not apply to amateur MMA conducted under the supervision of an amateur kick boxing organization or MMA organization that:

- has been reviewed and approved by the commission;
- administers and enforces amateur MMA regulations adopted by the commission; and
- does not have a direct or indirect financial interest in an MMA contestant or the promotion of an MMA contest.

Statutory licensing and other requirements also do not apply to MMA events with limited contact or to exhibition events.

The commission must require a neurological examination, at the commission's expense, for an individual who competes in more than 12 contests, receives consecutive technical knock outs, or is knocked out in consecutive contests. A ringside physician can also require an examination.

The commission may deny a boxer, kick boxer, or MMA contestant a license if the commission finds the applicant or licensee is not fit, based on the neurological examination required in specified circumstances related to contestant safety. Subject to specified hearing provisions, the commission *must* suspend or revoke a boxing, kick boxing, or MMA license and the contestant *must* forfeit the purse or other compensation from the contest if the boxer, kick boxer, or MMA contestant either refuses to submit to a drug test or submits a urine sample that tests positive for the presence of a controlled dangerous substance.

The commission may deny an application, reprimand a licensee, suspend or revoke a license, and/or impose a penalty of up to \$5,000 for a violation of statutory provisions. A person who violates licensing or other commission provisions is guilty of a misdemeanor and, on conviction, is subject to a maximum penalty of a \$2,000 fine and/or six months imprisonment.

In general, a 10% tax is imposed on gross receipts derived from admission or telecast charges for a boxing, kick boxing, sparring, wrestling, or MMA contest in the State. The commission is required to impose a penalty of up to \$5,000 for failure to pay this tax and enforce the bond of the promoter.

Amateur MMA Regulations

The Code of Maryland Regulations requires all amateur MMA events to be conducted under the supervision of an organization approved by the commission. Contestants must be age 18 or older. The organization must:

- ensure that all contests are conducted in accordance with commission regulations;
- have a commission-approved training and certification program for officials;
- ensure the presence of two commission-approved ringside physicians on-site and at ringside at all times during a contest;
- ensure specified medical equipment is located on-site at all times during a contest;
- ensure that no amateur MMA participant receives a purse payment or other similar compensation;
- obtain from each amateur MMA contestant a signed affidavit in which the contestant attests to proper training, sufficient skill and health, understanding of the risks involved, and waives any claim against the organization and the commission related to injury, among others;
- ensure each amateur MMA contestant has had a recent comprehensive physical; and
- meet additional specified safety requirements.

The organization must also provide the commission with evidence demonstrating a minimum of \$100,000 liability insurance coverage for the officials and a minimum of \$10,000 in medical insurance coverage for the amateur MMA contestants.

Background: Chapters 607 and 608 of 2008 (SB 649/HB 795) required an individual to be licensed by the commission as a condition of participating in a contest as an MMA contestant. They also established that general licensing requirements do not apply to amateur MMA conducted under the supervision of an amateur kick boxing or MMA organization reviewed and approved by the commission. The organization currently approved by the commission is American Amateur Mixed Martial Arts Incorporated. DLLR advises that there have been eight amateur MMA events since October 2008.

Chapters 607 and 608 were patterned after the law regulating amateur MMA in New Jersey and the regulations of the New Jersey Athletic Control Board. New Jersey has since amended its statutory and regulatory provisions so that the regulation of amateur MMA events is no longer left to an approved third party or a nationally recognized amateur organization. Instead, regulation is now under the sole jurisdiction of the New Jersey Athletic Control Board. Likewise, the bill moves sole jurisdiction of amateur MMA events in Maryland to the commission.

In addition, under current law, if a contestant submits a urine sample which tests positive for a controlled dangerous substance, the commission *must* suspend or revoke the contestant's license and the contestant *must* forfeit the purse earned for participating in the contest. DLLR advises that these provisions, which are applicable regardless of the nature or quantity of the controlled dangerous substance found, may be unnecessarily severe. The commission reports multiple instances where this has been the case; however, in absence of the commission being provided with discretion, the mandatory sanctions were imposed.

DLLR further advises that, as has become evident in other professional sports, it is believed that some boxing, kick boxing, and MMA contestants use and abuse performance-enhancing drugs, including anabolic steroids and human growth hormones. The urine test required under current law cannot detect the use of some substances which can be detected with a blood test. Further, a blood test can provide evidence of the use of a drug by analyzing the bodily functions that may have been altered, even though the particular drug is no longer present in a contestant's body. However, considering the costs of such testing, the commission believes that the mandatory testing of each contestant's blood would be cost-prohibitive. The bill *authorizes* a blood or urine test in limited circumstances, such as reasonable cause, as discussed above.

State Revenues: General fund revenues for DLLR increase by \$27,700 in fiscal 2014, increasing to \$41,200 by fiscal 2018, from additional tax and licensing revenue associated with additional amateur MMA and amateur kick boxing events. DLLR estimates that 10 additional events will occur in fiscal 2014, increasing to 15 additional events by fiscal 2018. DLLR estimates an average yield of \$2,500 in tax revenue per event. Thus, as shown in the table below, general fund revenues from additional boxing and wrestling taxes increase by \$25,000 in fiscal 2014 and increase to \$37,500 by fiscal 2018.

Under the bill, the commission must license additional contestants, managers, matchmakers, promoters, and seconds who will participate in the amateur events. Each license is issued on an annual basis. As depicted in **Exhibit 1** below, the bill results in additional licensing revenue ranging from about \$2,700 in fiscal 2014 to about \$3,700 in fiscal 2018 from licensing these additional individuals.

Exhibit 1
Projected Revenues

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
Number of Events	10	10	12	12	15
Tax Revenue	\$25,000	\$25,000	\$30,000	\$30,000	\$37,500
Licensing Revenue	2,675	2,675	3,075	3,075	3,675
Total Revenue	\$27,675	\$27,675	\$33,075	\$33,075	\$41,175

Source: Department of Labor, Licensing, and Regulation

The effect on general fund revenues from forfeited purses is anticipated to be minimal. Revenues may increase from additional events being held in the State, but there may be an offsetting decrease from the commission exercising discretion in determining purse forfeitures.

State Expenditures: General fund expenditures for DLLR increase by \$24,400 in fiscal 2014, increasing to \$36,500 by fiscal 2018, from staffing, travel, and drug-testing costs associated with additional amateur MMA and amateur kick boxing events. There is no anticipated delay in the implementation of this law in the first year as organizers and promoters will have several months before the effective date to plan new events.

Regulating additional events increases the number of per diem staff needed by the commission throughout the course of a given year. For each event that the commission staffs, the commission uses two referees, three judges, two physicians, and eight inspectors. The commission pays referees and judges \$101 per event, physicians \$220 per event, and inspectors \$78 per event. Thus, the total cost of per diem staff per event is \$1,569. **Exhibit 2** shows the anticipated additional staffing costs based on the projected number of additional events between fiscal 2014 and 2018.

Per diem staff are eligible for reimbursement for their travel costs. Based on prior experience, the commission expects to reimburse a total of \$264 to per diem staff per event. **Exhibit 2** also illustrates total anticipated travel reimbursement expenditures.

The commission pays a laboratory to test each contestant's urine for the presence of controlled dangerous substances or other prohibited substances. The bill authorizes the commission to test the urine or blood of a contestant, under specified circumstances, for the presence of performance-enhancing drugs. Tests cost between \$17 and \$200 per

contestant based on the type of test – *i.e.*, whether it is a urine or blood test and whether the commission is testing for controlled dangerous substances or performance-enhancing drugs. The commission estimates total drug-testing costs per new event will be \$602. Exhibit 2 displays the increased drug-testing costs for new events annually. This estimate does not include additional drug-testing costs associated with optional urine or blood tests for contests outside of amateur MMA and amateur kick boxing

Exhibit 2
Projected Expenditures

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
Number of Events	10	10	12	12	15
Staffing Expenditures	\$15,690	\$15,690	\$18,828	\$18,828	\$23,535
Travel Expenditures	2,640	2,640	3,168	3,168	3,960
Drug-testing Expenditures	6,020	6,020	7,224	7,224	9,030
Total Expenditures	\$24,350	\$24,350	\$29,220	\$29,220	\$36,525

Source: Department of Labor, Licensing, and Regulation

Small Business Effect: There is a meaningful impact for small businesses in the kick boxing and MMA industries to the extent that they benefit from additional events occurring in the State.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2013
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Athletic Commission – Amateur Mixed Martial Arts Amateur Kickboxing – Drug Testing

BILL NUMBER: HB 351

PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.