

Legislative Analysis



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BOXING REGULATORY ACT

House Bill 4335 as enrolled
Public Act 403 of 2004

House Bill 4336 as enrolled
Public Act 404 of 2004

Sponsor: Rep. David Robertson

House Committee: Regulatory Reform

Senate Committee: Economic Development, Small Business and Regulatory Reform

Second Analysis (12-31-04)

BRIEF SUMMARY: House Bill 4335 would create a new Michigan Boxing Regulatory Act and repeal Article 8 of the Occupational Code, which currently regulates amateur and professional boxing in the state. House Bill 4336 would amend the Michigan Penal Code to specify that Chapter LXVI of the code would not apply to contests held under the new act that House Bill 4335 would create.

FISCAL IMPACT: There would be no fiscal impact to the state. House Bill 4335 creates a revolving fund entitled the Michigan Boxing Fund. The Boxing Fund would receive money from a promoter's license fee of \$250, an event fee of \$125, a regulatory and enforcement fee equal to 3% of the gross receipts from the sale, lease, or other exploitation of broadcasting, television, and motion picture rights, but not to exceed \$25,000.00 per contract if the event is located in a venue with a seating capacity of over 5,000. An administration fee of at least \$250 to cover the cost of processing each boxing promoter's application will also be remitted to the Michigan Boxing Fund. Money in the fund would only be used for administration and enforcement of the act. Any money remaining in the fund at the end of the fiscal year will not revert to the General Fund, but be carried forward to the next fiscal year. House Bill 4336 would have no fiscal impact on the state or local governmental units.

THE APPARENT PROBLEM:

Michigan, particularly Detroit, has a storied tradition of producing great boxers and boxing matches. Among a host of others, the state has produced Joe Louis, Tommy Hearn, James Toney, and Floyd Mayweather, Jr. The state has also been home to Muhammad Ali's training camp and residence. While the state was long considered a good state for boxing, critics say that its status has been in decline for over two decades as state laws have failed to keep up with industry standards and the activities of other states, giving the state a somewhat notorious reputation within the boxing industry.

The inadequacy of the state's regulatory environment became evident during a recent fight in Muskegon between Emanuel Augustus and Courtney Burton, a fight in which Burton (a Benton Harbor native) won in a split decision. Unfortunately, most observers

of the fight, including those present in the arena and those watching the fight on ESPN 2, believed Augustus was the clear winner. Many blamed the result on poor judging and poor refereeing. Soon after the fight, amid an outcry of protests and complaints, the Department of Labor and Economic Growth and the Athletic Board of Control reviewed the fight; ultimately the department took no action, citing the dangerous precedent it would set by reversing the decision.

The state's regulation of the boxing industry dates back to Public Act 328 of 1919. The act created the five-member Athletic Board of Control, which ostensibly continues to oversee the industry to this day, although regulation is largely the province of the Department of Labor and Economic Growth. The board was given "the sole direction, management and control of and jurisdiction over, all boxing and sparring matches, all wrestling contests and exhibitions to be conducted, held or given within the State by any person, club, corporation or association." The 1919 law further specified that boxing matches could not be more than 10 rounds in length, with each round lasting no more than three minutes and rests between rounds lasting no less than one minute. Participants were required to wear gloves weighing at least six ounces each. The act also imposed a ten percent tax of the gross receipts from ticket sales, with the money being used to pay the expenses of the board.

Public Act 205 of 1939 repealed the 1919 law, though the 1939 law seems to provide few significant changes. Public Act 205 retained the same contest requirements from the 1919 law, although it did permit the board to issue a permit for a contest lasting up to 20 rounds "whenever such contest shall involve a national or international championship in any of the several weights." Since 1939, the state's boxing statute has undergone numerous changes, though the basic thrust of the law remains largely intact, which critics say leaves the state's regulatory structure antiquated and inadequate for today's boxing industry. For instance, Public Act 138 of 1952 added a provision that requires the promoter of any professional boxing contest to insure each participant for not less than \$1,000 for medical and hospital expenses for injuries sustained during the contest and not less than \$5,000 if a participant dies as a result of the injuries sustained during the contest. Other than recodification into the Occupational Code, this provision has gone unchanged since its enactment over 50 years ago.

THE CONTENT OF THE BILLS:

Article 8 of the Occupational Code regulates amateur and professional boxing matches in the state. House Bill 4335 would repeal that article and replace it with a new act, the "Michigan Boxing Regulatory Act." The act is divided into six chapters: (1) definitions and applicability; (2) Michigan Boxing Commission and Michigan Boxing Fund; (3) promoters' licensure; (4) complaints and due process; (5) licenses, contest requirements, and applicability to "Toughman" contests; and (6) enacting provisions. The new act would take effect 90 days after enactment.

House Bill 4336 would amend Chapter LXVI (Prize Fights) of the Michigan Penal Code (MCL 750.447) to specify that the chapter would not apply to contests held under the

new act to be created by House Bill 4335. The two bills were tie-barred to one another, meaning that neither could take effect unless both were enacted.

Following is a brief outline of provisions in the new Michigan Boxing Regulatory Act.

Chapter 1: Definitions and Applicability

The bill provides that it would not apply to the following: (1) wrestling; (2) amateur martial arts sports or activities; (3) contests conducted by and participated in exclusively by an agency of the U.S. government or by a school, college, university, or an organization composed exclusively of those entities if each participant is an amateur; (4) amateur boxing regulated under the federal Amateur Sports Act of 1978; and (5) boxing elimination contests regulated by section 50 (including so-called Toughman contests as described later).

Chapter 2: Michigan Boxing Commission; Michigan Boxing Fund

Boxing is currently regulated by the nine-member Athletic Board of Control. The bill, instead, would create a seven-member Michigan Boxing Commission that would, in conjunction with the Department of Labor and Economic Growth, have authority over the management and control of all boxing contests held in the state. The seven voting members would be appointed by the governor with the advice and consent of the Senate and would serve four year terms, except that initial members would serve terms between one and four years. A majority of the voting members would have to be licensees under the act. The director of the Department of Labor and Economic Growth would serve as a nonvoting ex-officio member of the commission. Five members of the commission would constitute a quorum, and the concurrence of at least four members (or a majority of those members not participating in an investigation or hearing regarding a matter before the commission) would be necessary to render a decision. The records and the meetings of the commission would be subject to the Freedom of Information Act and Open Meetings Act, respectively, except that certain contract information provided to the commission by a promoter would not be subject to FOIA.

Members of the commission would be prohibited from promoting or sponsoring any contest or exhibition or having any financial interest in the promotion or sponsorship of a contest or exhibition, and a person with a financial interest in any club, organization, or corporation whose main object was the holding or giving of boxing exhibitions would not be eligible for appointment to the commission.

The director of the department would be permitted to promulgate rules only after first consulting with the commission, and would have to promulgate rules pertaining to ring officials, licensure, license fees, federal mandates, and a list of enhancers and prohibited substances. In addition, the commission would be permitted to affiliate with another state or a national boxing commission or athletic authority.

The bill would create the Michigan Boxing Fund as a revolving fund in the department. Money in the fund would only be used for administration and enforcement of the act.

Money remaining in the fund at the close of the fiscal year would be carried forward to the next fiscal year. The fund would receive all money from license fees, event fees, and administrative fees.

Chapter 3: Promoter's License

A person could not be involved in a boxing contest without a license issued by the department, unless that person is exempt from licensure. A violation would be a misdemeanor punishable by a fine not exceeding \$500 and/or imprisonment not exceeding 90 days. Subsequent violations would be punishable by a fine not exceeding \$1,000 and/or imprisonment not exceeding one year. A person directly affected by the suspected violation of the act could maintain injunctive action in a court of competent jurisdiction to restrain or prevent another person from violating the act.

The bill provides that an application for licensure would be a request for a determination of the applicant's general suitability, character, integrity, and ability to participate, engage in, or be associated with a boxing contest. The burden of proof in establishing an applicant's qualifications would lie with the applicant, who would have to demonstrate "good moral character". If a license is denied for want of good moral character, the applicant could request an administrative hearing before a hearing officer designated by the commission.

A boxing contest or exhibition could not be held in the state except under a promoter's license. An applicant for a promoter's license would have to file a bond with the department in an amount fixed by the department, but at least \$20,000 and purchased at least five days prior to the contest. (The bond requirement would be adjusted based on the Detroit Consumer Price Index.) The bill would define "promoter" to mean a person who produces or stages any professional boxing contest or exhibition, but not including the venue where the contest or exhibition is being held unless the venue contracts with the individual promoter to be a co-promoter.

The annual fee for a promoter's license would be \$250. As part of renewing a license, an applicant would have to the department information necessary to the department to determine the applicant's financial stability. In addition to the annual fee, the promoter would have to pay an event fee of \$125 and a "regulatory and enforcement fee" totaling three percent of the total gross receipts from the sale, lease, or other exploitation of broadcasting, television, and motion picture rights for an event. The regulatory and enforcement fee could not exceed \$25,000 and would only apply to events where the following apply: (1) the event is located in a venue with a seating capacity greater than 5,000, (2) the promoter proposes to televise or broadcast the event, and (3) the event is designed to promote professional contests in the state.

The director of LEG, in consultation with the new commission, could promulgate rules for the application and approval process for promoters. The rules would have to include, among other things, an application fee of at least \$250; the disclosure of certain background information on the applicant or by the principal officers or members and

individuals with at least a 10 percent ownership interest, including at least two years of federal income tax returns and other financial information; and the disclosure of information concerning past and present civil lawsuits, judgments, and filings under the bankruptcy code not more than seven years old.

Rules would also have to be promulgated pertaining to license fees imposed on individuals undertaking activities regulated by the bill, including physicians, physician's assistants, nurse practitioners, referees, judges, matchmakers, timekeepers, professional boxers, contestants, and managers. Until license fee rules are established, the department would charge fees set forth in the State License Fee Act.

Chapter 4: Complaints and Due Process

The chapter pertains to complaint procedures and due process for appeals. The provisions are similar to provisions currently contained in Article 5 of the Occupational Code (MCL 339.501 et al.). The chapter includes provisions pertaining to investigations, license suspension, informal conferences, findings of fact, petitions for review, and issuance of a license, among other topics.

Chapter 5: Applicability to Boxing Elimination Contests; Licenses; Contest Requirements

The provisions of this chapter largely mirror language currently in Article 8 of the Occupational Code. The bill has language that is virtually identical to language in Section 805a regarding the applicability of the act to boxing elimination contests (sometimes referred to as Toughman Contests). The boxing statute would not apply to boxing elimination contests if certain conditions are met, including a requirement that the promoter be insured for all medical and hospital expenses to be paid to the contestants to cover injuries sustain during the contest.

The bill also contains language pertaining to a license to participate in a boxing contest that is similar to language in Sections 806 and 806b of Article 8. The bill would require a physician, licensed physician's assistant, certified nurse practitioner, referee, judge, matchmaker, timekeeper, professional boxer, contestant, or manager to obtain a participant license from the department prior to participating either directly or indirectly in a boxing contest. [See Section 806]. The bill provides that a person seeking a license to serve as a judge or referee could be required to pass an examination or training program. [See Section 806b.]

The act requires a person seeking a license as a professional referee to referee at least 300 rounds of amateur competitive boxing. The bill would extend the same time requirement to judges and timekeepers. The bill does not, however, retain a requirement that a person seeking a referee license officiate a certain number of four-round, six-round, and eight-round contests. [See Section 806c.] The bill retains language from Section 806d regarding requirements for persons seeking a license as a professional judge.

The bill would require a professional participating in a boxing contest to be insured for at least \$50,000 for medical and hospital expenses sustained in the contest and for at least \$50,000 to be paid if the contestant were to die as a result of injuries sustained during the contest.

The bill would decrease the allowable length of a contest involving a national or international championship from a maximum of 20 rounds to a maximum of 12 rounds. All other matches would continue to have a 10-round limit. The bill would increase the minimum weight of a boxing glove from six ounces to eight ounces.

The act requires a promoter or boxing club to file with the department the report of the physical examination of a contestant within 24 hours after completion of the contest. The bill would require the report to be filed by the physician and file with the commission.

The act requires a physician appointed by the department to examine a contestant who loses consciousness because of a contest before that contestant can participate in a contest in the state again. The bill would require the commission to appoint the physician.

Chapter 6: Enacting Provisions

The bill would repeal Article 8 of the Occupational Code and Section 49 of the State License Fee Act. Unless rescinded, any rules promulgated under Article 8 would retain authorization under the new act. The bill would take effect 90 days after it is enacted.

ARGUMENTS:

For:

House Bill 4335 provides numerous improvements over current law. Proponents say these improvements are necessary for the state to regain its status as a state where boxing can flourish. Critics of the current statute say that it is antiquated to the point where boxers and promoters take their business elsewhere. When top-notch championship and televised events have occurred in the state, they have merely served to highlight the glaring inadequacies in state law. Absent any meaningful changes, say supporters of the sport, it is not likely the state will host many important bouts.

First, the bill replaces the Athletic Board of Control with the Michigan Boxing Commission. Under current law, the board is said to be largely a non-player in regulating the state's boxing industry. When the board was originally established, it was granted the sole authority over the control and management of boxing in the state. That authority was reaffirmed in the 1939 law. However, over the years the statute was amended to specify that boxing matches in the state are "subject to the direction, management, and control of the department [of commerce/consumer and industry services/labor and economic growth]." Indeed, one promoter was quoted in the *Grand Rapids Press* (1-18-04) stating, "[f]or all intents and purposes, the Athletic Board of Control is a meaningless entity empowered to act only on penalty phases." Now, much of the administration of the boxing industry comes from the Department of Labor and Economic Growth.

The bill would provide the boxing commission with greater authority than its predecessor in that it provides the commission with more input in the promulgation of rules. Under the bill, the department would promulgate rules only after it first consults the commission. In addition, the commission would be permitted to request the department to promulgate rules. The bill also permits the commission to affiliate with outside boxing authorities. Finally, the bill provides that the commission and the department, together, would be responsible for the management and control of boxing matches held in the state.

Second, the bill increases the medical insurance premiums for boxers. The act currently requires promoters to provide each boxer with insurance coverage totaling at least \$1,000 for medical and hospital expenses, and at least \$5,000 should the participant die from injuries sustained in a match. This provision was first added in 1952 and has not been materially altered since then. The minimum amounts are clearly inadequate to cover the expenses of a boxer. The bill would raise the minimum insurance coverage required to \$50,000 for both medical and hospital expenses and for death benefits.

Third, the bill requires promoters to post a bond in an amount (at least \$20,000) set by the department as a condition of receiving a license. This provision is necessary to ensure that boxers, among others, get paid the promised amount. In a recent case, Christy Martin, a female boxer from Florida, was set to fight in a match held at the Pontiac Silverdome. Ms. Martin signed a contract for a \$300,000 purse and advance of \$100,000 with a first-time promoter from Ann Arbor. The fight attracted 300 people to the 80,000 seat stadium, and Ms. Martin wasn't paid, although she recently settled with the promoter. Ms. Martin was quoted in the *Grand Rapids Press* as stating "[w]e probably could've covered ourselves a little bit better. But we were used to fighting in Florida, New York and Nevada, where the promoters are required to be bonded."

Finally, the bill's supporters say it would require drug testing both before and after a fight. Under current rules, drug testing is only required to take place prior to a fight. This would help to ensure the safety of the fighters and the integrity of the sport, as pre-fight testing does not disclose any prohibited substances a fighter may take after the test or during the fight.

Response:

Any revision of the state boxing statute should be accompanied by revisions of the corresponding rules. For instance, one of the oft-cited arguments in favor of the bill is that it would allow for two-minute rounds between female contestants (the industry standard) rather than require three minute rounds. But this does not appear to be a problem caused by statute but instead by state rules. State boxing statutes have stated for over 80 years that rounds shall be "no longer than" three minutes. However, the department's rule (R. 339.204) provides that a round of boxing shall be three minutes. In this instance, the problem is not the statute, but the rule.

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