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House Bill 4335 (Substitute H-1 as passed by the House)  
House Bill 4336 (Substitute H-1 as passed by the House)  
Sponsor: Representative David Robertson  
House Committee: Regulatory Reform  
Senate Committee: Economic Development, Small Business and Regulatory Reform

Date Completed: 5-26-04

### **CONTENT**

**House Bill 4335 (H-1) would enact the Michigan Boxing Regulatory Act and repeal Article 8 of the Occupational Code, which regulates amateur and professional boxing matches. The bill would do the following:**

- Create the Michigan Boxing Commission.
- Require the Department of Labor and Economic Growth (DLEG), at the Commission's request, to promulgate rules, including rules that set license fees and licensee qualifications.
- Create the "Michigan Boxing Fund".
- Require the licensure of participants in boxing contests, and prescribe criminal penalties for violating the licensure requirement.
- Establish requirements for a promoter's license.
- Set promoters' license fees and event fees.
- Provide for complaints, investigations, and hearings regarding violations of the proposed Act.
- Prescribe sanctions for violations, including summary license suspension, an administrative fine, and the withholding of a purse.
- Provide for the drug testing of contestants.
- Increase boxers' insurance requirements.
- Reduce the number of rounds allowed in a national or international championship competition.

**The bill also would repeal Section 49 of the State License Fee Act, which sets application processing fees and license fees for people licensed or seeking licensure under Article 8.**

**House Bill 4336 (H-1) would amend the Michigan Penal Code to specify that Chapter LXVI, regulating prize fights, would not apply to contests held under the proposed Act (rather than under Article 8 of the Occupational Code).**

The bills are tie-barred to each other. House Bill 4335 (H-1) would take effect June 1, 2004.

A more detailed description of [House Bill 4335 \(H-1\)](#) follows.

The bill would vest the Michigan Boxing Commission and DLEG with management, control, and jurisdiction over all boxing contests or exhibitions to be conducted, held, or given within this State. (Currently, a boxing match or exhibition is subject to the direction, management, and control of DLEG.) Except for any contests or exhibitions exempt from the proposed Act, a contest or exhibition could not be conducted, held, or given within Michigan except in compliance with the Act. Any boxing or sparring contest conforming to the Act and to DLEG rules would be considered a boxing contest and not a prize fight.

The proposed Act would not apply to the following:

- Professional or amateur wrestling.
- Amateur martial arts sports or activities.
- Contests or exhibitions 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.
- Amateur boxing regulated under the Federal Amateur Sports Act.
- Boxing elimination contests regulated by Section 50 of the Act (so-called "toughman" contests).

(Article 8 of the Occupational Code contains exceptions for boxing matches or exhibitions conducted by or participated in exclusively by a department or agency of the United States government or by a school, college, or university, or by an association or organization composed exclusively of schools, colleges, or universities, if each contestant in the match or exhibition is an amateur.)

#### Michigan Boxing Commission; Fund

Boxing in Michigan is currently regulated by the nine-member Athletic Board of Control. The bill, instead, would create a seven-member Michigan Boxing Commission in the Department of Labor and Economic Growth. Budgeting, procurement, human resources, information technology, and the related management functions of the Commission would have to be performed by DLEG.

Six members of the Commission would be appointed by the Governor with the advice and consent of the Senate and would serve four-year terms, except initial members would serve terms of between one and four years. A majority of these members would have to be licensees. The DLEG Director would be appointed as an ex officio voting member. Five members of the Commission would constitute a quorum and the concurrence of at least four members would be necessary for a decision. The Commission would have to elect one of its members as the chair.

Members of the Commission, at any time during their service, would be prohibited from promoting or sponsoring any contest or exhibition of boxing, or a combination of those events, or having any financial interest in the promotion or sponsorship of those contests or exhibitions. A person who

had a material financial interest in any club, organization, or corporation, the main object of which was the holding or giving of boxing contests or exhibitions, would not be eligible for appointment to the Commission. (This restriction currently applies to board members.)

The Commission would be subject to the Freedom of Information Act and the Open Meetings Act.

The director of DLEG could adopt rules for the administration of the proposed Act, but only after first consulting with the Commission.

The Commission could request that DLEG promulgate a rule, and the Department would have to respond in writing within 30 calendar days. The response would have to include a reason and explanation for the acceptance or denial of the request. The rules would have to include all of the following:

- The number and qualifications of ring officials required at any exhibition or contest.
- Powers, duties, and compensation of ring officials.
- Qualifications of licensees.
- License fees not otherwise provided for under the Act.
- Any necessary standards designed to accommodate Federally imposed mandates that did not directly conflict with the Act.
- A list of prohibited substances, the presence of which in a contestant would be grounds for suspension or revocation of the license or other sanctions.

The bill specifies that, unless rescinded, any rules promulgated under Article 8 would retain authorization under the proposed Act.

The Michigan Boxing Fund would be created as a revolving fund in DLEG and administered by the Director. The money in the Fund would have to 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.

## Licensure Requirement

Under Article 8 of the Occupational Code, a promoter, boxing club, physician, referee, judge, matchmaker, timekeeper, announcer, professional boxer, professional wrestler, or a manager, or second of those persons, is required to obtain a license from DLEG before participating either directly or indirectly in a boxing contest. Under the bill, those persons would have to obtain a participant license from DLEG.

The bill would prohibit a person from engaging in or attempting to engage in an activity regulated under the proposed Act unless the person were in possession of a license issued by DLEG or were exempt from licensure under the Act. A person who violated this provision would be found guilty of a misdemeanor punishable by a maximum fine of \$500 or imprisonment for up to 90 days, or both. Subsequent violations would be punishable by a maximum fine of \$1,000 and/or imprisonment for up to one year. An affected person could maintain injunctive action in a court of competent jurisdiction to restrain or prevent a person from engaging in unlicensed activity and would be entitled to actual costs and attorney fees. ("Affected person" would mean a person directly affected by the actions of a person suspected of violating the prohibition and would include the Commission, DLEG, and a member of the general public.)

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 or exhibition. The burden of proof would be on the applicant to establish to the satisfaction of the Commission and DLEG that he or she was qualified to receive a license. The applicant would have to be of good moral character. If an application were denied due to lack of good moral character, the applicant could request an administrative hearing before the Commission. The Commission, after a hearing, could approve or recommend, and DLEG could issue, a license to him or her if the Commission determined that the applicant's background did not reasonably relate to the activity or occupation for which he or she sought licensure and that the applicant had the ability at the current time

and was likely to serve the public in a fair, honest, and open manner.

A person seeking a license or renewal could petition DLEG and the Commission for a review if he or she did not receive a license or renewal. In considering the petition, DLEG and the Commission could administer an alternative form of testing or conduct a personal interview. The Department could issue a license or renewal if, based on a review of the person's qualifications, DLEG and the Commission determined that he or she could perform the licensed activity competently.

Article 8 provides for the temporary licensure of a judge, referee, timekeeper, or announcer in an international, national, or regional amateur boxing tournament. The bill does not include these provisions.

## Promoter's License

A boxing contest or exhibition could not be held or conducted in the State except under a promoter's license. ("Promoter" would mean any person who produced or staged any professional boxing contest or exhibition, but would not include the venue where the exhibition or contest was being held unless the venue contracted with the individual promoter to be a co-promoter.)

An applicant for a promoter's license would have to file a bond with DLEG in an amount fixed by the Department, but not less than \$20,000, before the issuance of any license for a boxing contest or exhibition. The Department would have to adjust the amount of the bond based upon the Detroit consumer price index. In lieu of a bond, the applicant could deposit a like amount of money with DLEG. The bond would have to be purchased or the deposit made at least five days before the contest or exhibition, and could be used to satisfy payment for the professionals, costs to DLEG for ring officials and physicians, and drug tests.

The annual fee for a promoter's license would be \$250. As part of the license renewal process, the applicant would have to submit to the DLEG a credit report not more than 60 days old at the time of applying.

A promoter would have to pay an event fee for each event based upon the published

seating capacity of the venue. The fee would be \$250 for a seating capacity of 1,000 or less; \$500 for a seating capacity between 1,001 and 5,000; and \$2,500 for a seating capacity over 5,000. (Currently, under the State License Fee Act, the fee for a promoter's license is \$250 and the per-show fee for a professional boxing permit is \$50.)

In consultation with the Commission, the DLEG director would be permitted to promulgate rules for the application and approval process for promoters. The rules would have to include an application fee of at least \$250; a requirement for the disclosure of certain background information on the applicant, if an individual, or by the principal officers or members and individuals with at least a 10% ownership interest in the case of any other legal entity, including at least two years of Federal income tax returns and a credit report not more than 60 days old; information concerning past and present civil lawsuits, judgments, and filings under the Bankruptcy Code not more than seven years old; and any other relevant and material information considered necessary by the Director upon consultation with the Commission.

Article 8 requires each promoter or boxing club, after a contest, to give DLEG a report showing the number of tickets sold and the amount of gross proceeds. The bill does not include this requirement.

#### Complaints, Investigations, & Hearings

A complaint alleging that a person had violated the proposed Act or a rule or order issued under it would have to be filed with DLEG. The Department of Attorney General, DLEG, the Commission, or any other person could file a complaint.

Upon receiving a complaint, DLEG would have to begin its investigation immediately, make a written acknowledgment of the complaint within 15 days to the person filing it, and conduct an investigation within the time frame set forth in the bill. If the investigation did not disclose a violation, DLEG would have to close the complaint.

If the investigation disclosed evidence of a violation, DLEG or the Department of Attorney General would have to prepare the appropriate action against the respondent (the person against whom the complaint was

filed). The action would include a formal complaint, a cease and desist order, or a notice of summary suspension. At any time during its investigation or after a formal complaint was issued, DLEG could bring together the complainant and the respondent for an informal conference.

The Department could issue an order summarily suspending a license based on an affidavit that an imminent threat to the integrity of the sport, the public interest, and the welfare and safety of a professional existed. A person whose license was summarily suspended could petition DLEG to dissolve the order. The Department immediately would have to schedule a hearing, and an administrative law hearings examiner would have to dissolve the order unless there were sufficient evidence of an imminent threat that required emergency action and continuation of the summary suspension. A summary suspension of a professional for refusal or failure to submit to a test for the presence of controlled substances, enhancers, prohibited drugs, or other prohibited substances would have to proceed under these provisions.

A person ordered to cease and desist could request a hearing by filing a written request within 30 days after the effective date of the order. If a cease and desist order were violated, the Attorney General could apply to a court to restrain and enjoin, temporarily and/or permanently, a person from further violating the order.

If a formal complaint were prepared, DLEG would have to serve it upon the respondent and the complainant. The Department also would have to notify the respondent of the compliance conference and hearing process, and offer him or her an opportunity to do the following: meet with DLEG to negotiate a settlement; demonstrate compliance before a contested case hearing was held (if the respondent were a licensee or registrant); or proceed to a contested case hearing.

After a hearing, the administrative law hearings examiner would have to submit a determination of findings of fact and conclusions of law in a hearing report to DLEG, the Attorney General, and the Commission. A copy of the report would have to be given to the complainant and the respondent. Within 60 days after receiving the report, the Commission would have to

meet and determine the penalties to be assessed. If the Commission did not do so, the Director would determine the appropriate penalty and issue a final report.

A Commission member who participated in an investigation or attended an informal conference could not participate in making a final determination.

The bill would require DLEG to initiate action against an applicant or take any other allowable action against the license of any contestant, promoter, or other participant whom the Department determined had done any of the following:

- Entered into a contract for a boxing contest or exhibition in bad faith.
- Participated in any sham or fake boxing contest.
- Participated in a boxing contest or exhibition pursuant to a collusive understanding or agreement in which the contestant competed or terminated the boxing contest or exhibition in a manner not based upon honest competition.
- Failed to give his or her best efforts, compete honestly, or give an honest exhibition of his or her skills in a boxing contest or exhibition.
- Performed an act or engaged in conduct that was detrimental to a boxing contest or exhibition, including any foul or unsportsmanlike conduct in connection with a contest or exhibition.
- Gambled on the outcome of a boxing contest or exhibition in which he or she was a contestant, promoter, matchmaker, ring official, or second.
- Assaulted another licensee, a Commission member, or a DLEG employee while not involved in or while outside the normal course of a boxing contest or exhibition.

In consultation with the Commission, DLEG would have to promulgate rules to provide for the timing of drug tests for contestants and specific summary suspension procedures for boxing contestants and participants who tested positive for drugs or failed to submit to a drug test as mandated for professional boxers. The rules would have to include the following:

- A procedure to allow DLEG to place the licensee upon the national suspension list.
- An expedited appeal process for the summary suspension.

-- A relicensing procedure following summary suspension.

#### Administrative Fine; Purse Withholding

Upon receiving an application for reinstatement and the payment of an administrative fine, the Commission could reinstate a revoked license or lift a suspension. If disciplinary action unrelated to a boxing contest or exhibition were taken against a person, the Commission could prescribe an administrative fine instead of suspending or revoking a license. If disciplinary action related to the preparation for a boxing contest or exhibition were taken, or any other action were taken in conjunction with a contest or exhibition, the Commission could prescribe an administrative fine in an amount up to 100% of the purse to which the license holder was entitled, or a fine of up to \$100,000 in the case of any other person. This administrative fine could be imposed in addition to, or in lieu of, any other disciplinary action taken against the person by the Commission.

A DLEG employee, in consultation with the Commission, could issue an order to withhold the purse for up to three business days due to a violation of the proposed Act or a rule promulgated under it. During that period, the Commission could convene a special meeting to determine if the employee's action was warranted. If the Commission determined that the action was warranted, DLEG would have to offer to hold an administrative hearing.

("Purse" would mean the financial guarantee or any other remuneration for which professionals were participating in a contest or exhibition, and would include the professional's share of any payment for radio, television, or motion picture rights.)

#### Drug Testing

A professional or participant in a professional boxing contest or exhibition would have to submit to a test of body fluids to determine the presence of controlled substances, enhancers, or drugs. The promoter would be responsible for the cost of the testing.

The Director would have to withhold 10% of the purse in a contest or exhibition until the

postcontest drug tests were available to DLEG. If the results did not confirm or demonstrate compliance with the Act, the money withheld would have to be deposited into the Michigan Boxing Fund.

A positive drug test, or a contestant's refusal or failure to submit to drug testing, would be grounds for summary suspension of an individual's license (in the manner described above).

#### Contests; Contestants; Other Provisions

The provisions of the bill covering boxing elimination contests (commonly referred to as "toughman" contests) would largely mirror the current language of Section 805a of Article 8. The section states that Article 8 does not apply to boxing elimination contests that meet specific criteria and that the promoter conducts in compliance with particular requirements.

Currently, contestants in boxing or sparring matches must be insured for at least \$1,000 for their medical bills and \$5,000 in case of accidental death. Under the bill, a professional participating in a boxing contest or exhibition would have to be insured for at least \$50,000 for medical and hospital expenses to cover injuries sustained in the contest and for at least \$50,000 to be paid in accordance with the statutes of descent and distribution of personal property if the contestant were to die as the result of injuries received in the boxing contest or exhibition. ("Professional" would mean a person who was competing or had competed in boxing for a money prize.)

Under Article 8, professional boxing contests or exhibitions may not be more than 10 rounds in length, except that a contest involving a national or international championship may last up to 20 rounds, at the determination of DLEG. The bill would limit those contests or exhibitions that involved a national or international championship to 12 rounds, at the determination of the Department. The bill would increase the minimum weight for the gloves worn during contests from six ounces to eight ounces.

As currently required, the physician in attendance at each boxing contest or exhibition would have to file with the Commission the report of the physical

examination of a contestant within 24 hours after the termination of the boxing contest or exhibition, a physician appointed by DLEG would have to examine a contestant who lost consciousness because of a contest before the boxer would be eligible to participate in another boxing contest in the State.

The bill would require a person seeking a license as a professional referee, judge, or timekeeper to referee, judge, or keep time for a minimum of 300 rounds of amateur competitive boxing. (Currently, a person seeking licensure as a professional referee must unofficially referee at least 300 rounds of amateur competitive or noncompetitive boxing, and a person seeking a license as a professional judge must score, unofficially, at least 200 rounds of professional boxing.) The bill does not include current provisions for the issuance of a limited license to a referee.

MCL 750.447 (H.B. 4336)

Legislative Analyst: J.P. Finet

#### **FISCAL IMPACT**

##### **House Bill 4335 (H-1)**

This bill would create the Michigan Boxing Fund which would receive deposits from venue, licensing, and application fees. Current costs associated with the regulation of this profession are approximately \$100,000. According to the Department, the additional costs associated with licensing and enforcement as outlined in the bill would be approximately \$300,000. The fee structure established in the bill would not sufficiently support these costs and would therefore be required to be paid out of the General Fund or through licensing fees from other occupations.

##### **House Bill 4336 (H-1)**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Marie Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.