H.B. NO. 3108

A BILL FOR AN ACT

RELATING TO MIXED MARTIAL ARTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 440E-7, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(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;~~] For fiscal years 2009-2010 to 2012-2013, a license fee of four per cent of the first $50,000 of the total gross receipts and three per cent of the total gross receipts over $50,000 from admission fees to an event, exclusive of federal, state, and local taxes;

(2) For fiscal years beginning after June 30, 2013, a license fee that is six per cent of the total gross

receipts from admission fees to an event, exclusive of federal, state, and local taxes.

[~~(3) Two~~] In addition to the license fees established in paragraphs (1) and (2), a licensed promoter shall also pay two per cent of the gross sales price for the sale, lease, or other exploitation of broadcasting, television, Internet, and motion picture rights for a contest or 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~~] 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 or pay per view telecast of [~~an~~] a contest or event[~~; provided that payments~~]. Payments under this subsection shall be deposited into a separate account in the compliance resolution fund and shall be used for the costs of administering this chapter."

SECTION 2. At each promoter's license renewal period, each promoter shall pay an additional fee of $16,750, or any other amount determined by the department of commerce and consumer affairs to be appropriate, which shall be deposited into the

compliance resolution fund established pursuant to 26-9(o), Hawaii Revised Statutes. The department may adjust the additional fee to equitably apportion the cost among the promoters based on the number of licensed promoters. Upon the full repayment of $335,000, fiscal year 2007-2008 and fiscal year 2009 costs to implement this Act, thereafter, no surcharge shall be assessed, and any funds in excess of this amount shall remain in the compliance resolution fund.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2009.

INTRODUCED BY: Calvin K Y Say

BY REQUEST

JAN 22 2008

H.B. NO. 3108

Report Title:
Mixed martial arts (MMA)

Description:
Establishes a fee structure to fund mixed martial arts regulation.

HB 3108

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO MIXED MARTIAL ARTS.

PURPOSE: The purpose of this bill is to amend the law relating to the regulation of mixed martial arts by:(1) allowing the Department of Commerce and Consumer Affairs (Department) to impose an additional surcharge on promoters to cover projected start-up expenses for 2007-2008 and 2008-2009 fiscal years;(2) increasing the percentage imposed on gate receipts of professional mixed martial arts contests to cover the administrative costs of managing the program once regulation begins on July 1, 2009; and (3) clarifying that 2% of the gross receipts from subscription or admission fees for simultaneous telecasts of a contest or event allowed under Act 279 (2007) also includes pay per view telecasts and is not restricted to telecasts in Hawaii.

MEANS: Amend section 440E-7(d), Hawaii Revised Statutes (HRS).

JUSTIFICATION: As a result of a Legislative Auditor's sunrise analysis regarding the regulation of mixed martial arts contests, the Legislature passed Act 279 in 2007. While Act 279 outlined a new licensing regulatory scheme for mixed martial arts contests, promoters, and contest participants, and set forth numerous other provisions relating to regulating mixed martial arts (MMA), it failed to provide the Department with general funds to support effective start-up and implementation of this very complex licensing program. In the past, the Legislature has provided general funds to defray the start-up costs of new regulatory programs. Instead, Act 279 placed the

financial burden on licensees from other professional and vocational licensing programs for the start-up costs associated with implementing MMA regulation, an inappropriate use of Compliance Resolution Fund moneys. To remedy this inequity, this bill provides a mechanism to reimburse the Compliance Resolution Fund for the start-up costs incurred before program implementation on July 1, 2009. Section 2 of the bill authorizes the Department to collect an additional fee of $16,750 from each promoter at renewal to reimburse the Compliance Resolution Fund in the amount of $335,000 (the estimated upfront costs to establish the program during the current fiscal year and fiscal year 2008-2009).

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

Given the complex nature of the proposed regulation, license approval process, and pre-fight oversight activities, the department will need $169,000 per year commencing with implementation on July 1, 2009 and going forward. Consequently, an analysis was done of estimated revenues from MMA for a quadrennial period, and it was evident that the proposed licensing fees and other revenue streams provided in Act 279

would be insufficient to cover the cost of administering the program. Since the Department is self-funded, these costs must be paid for by the regulated group to break even, licensing fees could have been increased significantly beyond current levels, but the Department believes that the proposed fee structure, which is comparable to the licensing fees for Boxing, a program with a similar workload, resources, and regulatory structure, is reasonable. Instead, the Department believes that revenues from gross receipts allowed under the current language of section 440E-7(d), HRS, if increased, could be a means to make up the shortfall.

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

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

The effective date of this bill is July 1, 2009 to coincide with the effective date of Act 279.

Impact on the public: The regulation of MMA will protect the health and safety of the participants and spectators.

Impact on the department and other agencies: The amendments will allow the Department to generate additional funds to repay the Compliance Resolution Fund for start up costs of this regulatory program and ensure that the program is self sufficient.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-105

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: July 1, 2009.