



SMALL BUSINESS & NONPROFIT CLINIC

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**New Business Opportunities
Under Michigan's Unarmed Combat Regulatory Act**

A Brief History of Mixed Martial Arts Law in America

The United States was introduced to mixed martial arts on November 12th, 1993, by a pay-per-view television single-day fighting tournament. The event, promoted by Bob Meyrowitz's Semaphore Entertainment Group (SEG), was hailed as The Ultimate Fighting Championship (UFC). Realizing the event could have legal ramifications, SEG opted to hold its first event in Colorado, a venue with no boxing commission in place at the time.¹ There were no rounds, time limits, weight classes, or required protective equipment. A match could be won in three ways: (1) knockout; (2) referee's stoppage; or (3) submission, which was signaled by the competitor tapping his hand on the mat three times, commonly called "tapping out."² The winner of the tournament was Royce Gracie, a 170lb Brazilian Jiu-Jitsu practitioner.³ Despite being considerably outsized in all of his matches, Royce easily won the tournament by ending every fight with an early submission. He credited the victories to the technical superiority of the art of Brazilian Jiu-Jitsu.⁴ The event was largely popular and SEG began to market the contests to an eager American audience. At one point during SEG's ownership of the UFC, there were

¹ Clyde Gentry III, No Holds Barred: Ultimate Fighting and the Martial Arts Revolution 32 (2001).

² *Id.*

³ Kid Peligro, The Gracie Way: History of the World's Greatest Martial Arts Family 5 (2003)

⁴ Choke. (Polygram Film Entertainment 1999) (explaining Brazilian jiu-jitsu's techniques nullify most martial arts predicated on striking techniques by "closing the gap," taking the fight to the ground, and applying a submission often without throwing a single punch or kick).

literally no rules, with only two suggestions, no biting and no eye gouging.⁵ SEG utilized this sensationalized style with even more sensationalized advertising, holding the sport out as a no-holds-barred bare knuckle cage fight where anything can happen, even death.⁶ Marketing the events as a shocking spectacle was effective in generating interest in the events, but not all of this interest was favorable.

This kind of sensational marketing garnered Arizona Senator John McCain's attention and spurred a successful nationwide campaign, which nearly sent the sport back to obscurity. In the mid to late nineties McCain began a campaign against the UFC, seeking to have the sport banned and criminalized.⁷ Speculation exists as to McCain's motives for the campaign, but no one can refute the campaign's success.⁸ While serving in the Senate, McCain sent a letter to the governor of every state chastising mixed martial arts events and calling for legislatures to act in the sport's prohibition.⁹ McCain's campaign touted mixed martial arts as a "blood-sport" and the equivalent to "human cock fighting" that had no place in "American lifestyle." As a result, approximately forty states had banned mixed martial arts events by 1996, making promotion or participation in an event a criminal misdemeanor or even a felony.¹⁰ Additionally, McCain successfully used his position as Chairman of the Senate Commerce Committee to put pressure on the UFC's two main pay-per-view providers, TC and Time Warner, to drop the events.¹¹ MMA adversaries effectively achieved their objective by removing the sport from public

⁵ Gentry III, *supra* note 1, at 61 (chronicling early UFC events that involved inexperienced fighters losing teeth, utilizing vicious groin punches, and disregarding the no eye gouging rule).

⁶ Amy Silverman, *John McCain Breaks Up a Fight*. Phoenix New Times, Feb. 12, 1998, <http://www.phoenixnewtimes.com/1998-02-12/news/john-mccain-breaks-up-a-fight/1>.

⁷ Silverman, *supra* note 27.

⁸ *Id.* (explaining that McCain is a fervent boxing enthusiast with substantial ties to the sport, who boxed himself during his career in the Navy. It has been alleged that "McCain oppose[d] extreme fighting because it threaten[ed] the boxing industry's hold on the pay-per-view TV audience[s]; boxing's largest corporate sponsor is Anheuser-Busch, whose second largest wholesaler in the country is owned by Jim Hensley, the father-in-law of Senator John McCain." A 1996 financial-disclosure form of McCain's acknowledges owning between \$1 million and \$5 million in Anheuser-Busch Company stock and his wife is listed on Hensley Co.'s salary report as receiving an annual salary of "more than \$1'000." Additionally, Hensley Co. and its sponsors are significant contributors to McCain's campaigns).

⁹ Jeremy Pelzer, *Law may sanction mixed martial arts: Senate considers bill already passed*, Senate Journal Register Online, May 17, 2007, <http://www.sj-r.com/sections/news/stories/114690.asp>.

¹⁰ Silverman, *supra* note 27. *See e.g.*, MCL 750.442-47; Cal. Penal Code § 412; IN ST 35-45-18-1.

¹¹ *Id.*

purview and criminalizing it in a majority of states. This made promoting mixed martial arts competitions a failing business endeavor and at that time essentially killed the sport.

The Ultimate Fighting Championship shifted mixed martial arts from spectacle to sport when purchased by Zuffa, LLC, forcing the public and many state legislators to make a shift as well. Zuffa was a media management company out of Las Vegas owned by two brothers, Lorenzo and Frank Fertitta, and President Dana White.¹² Lorenzo Fertitta had previously worked on the Nevada Athletic Commission and immediately worked toward that goal of legitimizing the sport.¹³ Knowing that the New Jersey Athletic Commission and the boxing industry were experiencing turbulent times in their affiliation, Fertitta focused his efforts there.¹⁴ Soon the New Jersey Athletic Commission drafted the [Unified Rules of Mixed Martial Arts](#).¹⁵ The rules instituted weight classes, durational rounds, and required safety equipment such as gloves and mouth guards.¹⁶ The new UFC also implemented a set of rules that included thirty-one different fouls that would be considered illegal in the “octagon.”¹⁷ Some notable rules include: no strikes to the back of the head or spine, no kicking or kneeing of a downed opponent, no striking downward using the point of the elbow, and no small joint manipulation.¹⁸ Thus, the new UFC rules took considerable steps in shifting mixed martial arts from spectacle to sport when compared the UFC under SEG promotion. Even Senator McCain has withdrawn much of his criticism stating, “[t]hey have cleaned up the sport to the point, at least in my view, where it is not human cockfighting any more. I think they've made significant progress. They haven't made me a fan, but they have made progress.”¹⁹ As a result of the men of Zuffa’s advocacy, 31 state athletic commissions provided regulation for

¹² Gentry III, *supra* note 1, at 201 (explaining White’s and Fertitta’s lifetime friendship as well as Zuffa meaning “to fight” or “to scrap” in Italian).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ New Jersey State Athletic Control Board, *Mixed Martial Arts Unified Rules of Conduct: Additional Mixed Martial Arts Rules*, <http://www.state.nj.us/lps/sacb/docs/martial.html> (last visited April 9, 2009).

¹⁶ *Id.*

¹⁷ Ultimate Fighting Championship Official Website, *History*, <http://www.ufc.com/index.cfm?fa=LearnUFC.History> (the “octagon” is the term used for the trademarked eight sided ring in which UFC competitors compete).

¹⁸ *Id.*

¹⁹ National Public Radio, *npr.org, Mixed Martial Arts: Sport or Spectacle?*, <http://www.npr.org/templates/story/story.php?storyId=13901908> 24 Aug. 2007, (last visited April 9, 2009).

sanctioned mixed martial arts events and corresponding legislatures have appropriately amended state penal codes to free mixed martial arts competitors of potential criminal charges.²⁰ This tutorial will examine one such state, Michigan.

Michigan's Legislative Analysis

Michigan's 97th legislature examined House Bill 4869 on November 19, 2007 as follows:

The largest MMA organization, the UFC (Ultimate Fighting Challenge), has expressed interest to promote several professional shows in Michigan, but the sport is currently prohibited under the Michigan Penal Code as a prize fight. Many consider MMA to be an economic development opportunity for Michigan, but because promoters find themselves in conflict with state authorities, the UFC has refrained from conducting the events. The bill covered only professional MMA and not amateur. Below is a summary of the arguments.

For:

- Regulation of this dangerous sport is necessary to ensure the well-being of the fighters.
- With department oversight, viewers and contestants can be assured that the fights are appropriately regulated.
- By bringing mixed martial arts into Michigan, money from out of state fans would infuse much-needed revenue into the state.
- If Michigan fails to regulate the sport, many fans will be disappointed. Trainers, promoters, fighters, and enthusiasts may leave the state, along with the economic clout they wield.

Against:

- Some may feel that MMA is a barbaric sport that is better off prohibited.

²⁰ Kevin Iole, *Time to Bring MMA to the Big Apple*, Yahoo Sports, Nov. 18, 2007, <http://sports.yahoo.com/mma/news?slug=ki-ufcmain111707&prov=yhoo&type=lgns>.

■ By exempting amateur MMA from regulation and the Penal Code, amateur fighters are left unprotected. Some form of regulation must be enacted to ensure that individual in Michigan who train and fight in the sport with the hopes of reaching the professional ranks can do so with consistency and appropriate safety mechanisms in place.

■ More amateur fighters may go professional, so they can fight in their home state before they are ready for the professional status.

Impact on the State

State revenues are expected to increase by an indeterminate amount as out of state fans come to Michigan to watch their favorite fighters. Other taxes and income may stay in Michigan as Michigan fighters are able to practice their occupation here.

For comparison, the State of Ohio estimates roughly that the economic impact of 2 large UFC fights in Ohio brought an additional \$6,000,000 in revenue, and had an additional \$24,000,000 economic impact on the cities in which the events were held. An event in Akron, Ohio, drew more people from out of state than from inside the state and set a new record gate at the venue where the event was held.

Current State of Michigan Mixed Martial Arts Law

On March 27, 2008, Michigan's legislature passed 2007 PA 196, the Unarmed Combat Regulatory Act, which amends 2004 PA 403, formerly known as the Boxing Regulatory Act. The Unarmed Combat Regulatory Act adopts by reference the previously discussed New Jersey Unified Rules of Mixed Martial Arts. The Department of Energy, Labor & Economic Growth (Department) is responsible for promulgating the administrative rules under the new legislation.

Currently, the Department is in the process of effecting this legislation. In order to do so, the Department is in the process of establishing Michigan's Unarmed Combat Commission. The Unarmed Combat Commission will aid in amending the New Jersey Rules to a Michigan specific form, establishing license fees, and determining licensure requirements. At this time, application forms for mixed martial arts licenses are not available. Therefore, it is technically still unlawful to participate in or even invite others to a MMA event in Michigan and could result in felony and/or misdemeanor charges.²¹ However, the Department and law enforcement are not currently enforcing this portion of

²¹ See 750.442 (Participating in prize fights); 750.443 (Training party for prize fight aiding and abetting); 750.444 (Attending prize fights); 750.445 (Aiders and abettors); 750.446 (Compulsion of testimony or evidence; use of testimony or evidence)

the Michigan Penal Code, similar to other still existing, but unenforced Michigan laws.²²
As soon as the licensure forms are available, they will appear on this website:

http://www.michigan.gov/dleg/0,1607,7-154-35299_35414_35453---,00.html.

Although the Department and Unarmed Combat Commission has not yet created the licensure forms, the Rule Revisions of the Unarmed Combat Regulatory Act made by the State Office of Administrative Hearings and Rules (SOAHR) already lay out the state licensing fees in Part 3, R 339.303, License Fees:

(a) Application processing fees:

(i) Professional boxer license and passport	\$45.00
(ii) Mixed Martial artist license and passport	\$45.00
(iii) Promoter	\$500.00
(iv) Judge, Referee, Timekeeper, Manager, Matchmaker, Second, Physician, Physician's Assistant / Nurse Practitioner	\$30.00

(b) License fee, per year:

(i) Professional boxer or mixed martial artist	\$25.00
(ii) Judge	\$70.00
(iii) Referee	\$150.00
(iv) Timekeeper	\$70.00
(v) Manager	\$125.00
(vi) Matchmaker	\$150.00
(vii) Promoter	\$250.00
(viii) Second	\$30.00
(ix) Physician	\$150.00
(x) Physicians Assistant / Nurse Practitioner	\$70.00
(c) Duplicate passport	\$30.00

Examples of other States' forms, which vary in appearance & structure:

²² See MCL 750.338 (Gross indecency; between male persons); MCL 750.338a (Gross indecency; between female persons); MCL 750.338b (Gross indecency; between male and female persons); MCL 750.158 (Crime against nature or sodomy).

■ [Texas](#)

■ [Oregon](#)

■ [Nevada](#)

■ [New Mexico](#)

■ [Montana](#)

■ [New Jersey](#)

Business Opportunities

Despite all of the legal and legislative troubles the sport has experienced, mixed martial arts continues to grow at an exponential rate within the United States and internationally. The sport has also seemed to defy the economic times, with continued growth throughout the recession, while other sports suffer.²³ This section will discuss potential areas of business that have opened in Michigan since the passing of the Unarmed Combat Regulatory Act.

Promotion: The most obvious choice to examine is a mixed martial arts promotion similar to the Ultimate Fighting Championship, which is currently

²³ Nick Jahbvala, *MMA (or is it UFC?) continues to defy odds with yearly growth*, Sports Illustrated, Nov. 11, 2008, http://sportsillustrated.cnn.com/2008/writers/nicki_jhabvala/11/10/mma-business-economy/index.html?eref=writers (explaining “[i]n sports, the cater-to-the-wealthy PGA Tour is struggling as its top advertisers die off. FIFA, the governing body for international soccer, the most expansive sport in the world, has warned that levels in debt have become unsustainable (Manchester United is swimming in US\$1.3-plus billion of debt.) College and high school athletic departments are making cuts to even their top sports, the NBA has made major staff cuts and has eliminated the middlemen for much of its marketing ventures”).

experiencing an increase in profits every year.²⁴ Unfortunately, the administrative rules may make it difficult for a small business promoter to compete in Michigan. According to the State Office of Administrative Hearings and Rules (SOAHR), promoter costs are estimated to run approximately \$20,000-\$30,000 for an average size MMA event. Some of these costs are related to requirements in the rules, such as requiring the promoter to provide physicians and minimum amounts of insurance for all fighters. However, most of the costs are attributable to advertising, rental fees of the venue, and payment to the fighters. Therefore, a smaller promoter may find the fees and expenses a greater financial burden than larger promoters, simply because a smaller promoter may not have the level of revenue brought in by larger events that sell more tickets at a higher price. The SOAHR did consider making accommodations for small business promoters; however, any lesser standard based upon a promoter's ability to pay could jeopardize the health and safety of the public and the participants. Therefore, costs and requirements for physical examination, drug testing and other safety requirements at the events are fixed. Though, smaller or mid-sized promoters may not achieve the level of success as the UFC has recently experienced, there is still significant potential to operate a profitable enterprise when one considers the exponential growth of the sport.

Other Business Opportunities: The passing of this legislation opens the door for many different business opportunities. The secondary benefits will be with other services that will be purchased in order to hold mixed martial arts events, such as advertising, food and beverages, security personnel, and rental equipment. These sorts of businesses could provide services to smaller promotions and larger promotions like the UFC. It is anticipated that a single UFC event can bring in approximately \$4.3 million in additional tax revenues, which was testimony offered at legislative hearings to the Department of Treasury. One with [general mixed martial arts knowledge](#), could start a service based business such as a gym with a training facility for mixed martial artists or training services for other licensees like referees, matchmakers, or managers.

²⁴ Jahbvala, supra note 23, (stating "gate receipts for pay-per-view UFC events have averaged \$3.25 million per an event, an increase of nearly half a million from last year and Zuffa LLC, the parent company of both the UFC and World Extreme Cagefighting, is reining in \$300 million in annual revenue profits").

Individual Opportunities: One could take advantage of new opportunities in an individual capacity under the new Unarmed Combat Statutory scheme. For example, there are a number of other licenses one could apply for within the act. The positions and requirements are as follows:

Mixed Martial Artist: All competitors who are Michigan residents are required to obtain a boxer's "Passport" with their initial license and must come into our office in Okemos to do so. Out-of- state competitors may be licensed at the show in which they are to box.

Judge: An applicant for a judge's license is required to be of good moral character, pass a physical examination and unofficially score not less than 200 rounds of competition as approved by the Bureau of Commercial Services.

Manager: A manager is prohibited from also holding a license as a referee, judge, timekeeper, matchmaker or promoter.

Matchmaker: A matchmaker is prohibited from also holding a license as a referee, judge, timekeeper, manager or boxer.

Physician: In addition to being licensed with the Athletic Board, a physician must be an MD or DO fully licensed under section 17001 and section 17501 of the Public Health Code, PA 368 Of 1978, as amended.

Referee: An applicant for a referee's license is required to be of good moral character, pass a physical examination and have unofficially refereed a minimum of 300 rounds of amateur competitive or noncompetitive boxing as well as a specified number of professional preliminary contests.

Seconds: Usually, seconds are licensed at the shows in which they are working.

Timekeeper: Must be licensed prior to an event and is assigned by the Department.

Unfortunately, compensation for these positions is rather nominal and based on event size. The compensation schedule is as follows:

Gross Purses Contracted	Referees	Judges	Timekeepers	Physicians	Physician's Assistant	Nurse Practitioner
\$0.00 to \$7,500	\$100	\$75	\$50	\$150	\$100	\$100
\$7,501 to \$20,000	\$150	\$100	\$75	\$200	\$100	\$100
\$20,001 to \$50,000	\$250	\$150	\$100	\$250	\$100	\$100
\$50,001 to \$100,000	\$350	\$250	\$150	\$300	\$100	\$100
Over \$100,000	\$700	\$450	\$200	\$400	\$100	\$100

One could also attempt to secure a position with The Department of Energy, Labor & Economic Growth (Department) or the Unarmed Combat Commission. The statute

requires the Department to provide and compensate inspectors to attend all events. At a non-title event there is typically a Department Representative, an inspector-in-charge, and four to five inspectors. Additional inspectors may be needed depending on whether the show is televised or the size of the event. The estimated compensation schedule is as follows:

- \$300 for the Department Representative
- \$400 for the Inspector-In-Charge (\$100 is for attending the weigh-in)
- \$200 per inspector
- \$400-\$500 in additional compensation provided for travel costs

SOAHR anticipates that additional staffing may be needed in the future for rule administration.

One could also apply for an appointment to the Unarmed Combat Commission. The statute states, “[t]he Unarmed Combat Commission will be comprised of 11 voting members; 4 boxing licensees, 4 mixed martial arts licensees and 3 public members.” Currently, the board may not be filled. The DLEG’s website only lists the 7 former Boxing Commission board members [here](#), though the Unarmed Combat Commission has already officially met once. The meeting schedule can be found [here](#).

GETTING APPOINTED TO A BOARD

Occupational Boards or Commissions assist the State in regulating an occupation. Board members consist of both licensees and private citizens. If you are interested in applying for a board, please visit the [Governor's Appointment Division](#) page. This site contains information on appointments as well as an [application form](#).

CONCLUSION

The sanctioning of mixed martial arts in Michigan brings our state up to speed with over two-thirds of the rest of our nation. Reasons to avoid sanctioning the sport may have existed in the past; however, this legislation implements a system of unified rules with strong administrative and medical oversight, which eliminates the validity of most criticisms in today’s context. In fact, recent studies support the relative safety of

sanctioned mixed martial arts competition.²⁵ In providing rules for sanctioned competition, our state has created a system that will not only protect those involved in the sport, but also created a potential for significant beneficial state economic impact. Additionally, the legislation calls for amending the Michigan Penal Code, which criminalized participating or spectating the sport. Now, innovative Michigan entrepreneurs can take advantage of the economic benefits associated with our nation's fastest growing sport, without being subject to criminal prosecution. This sort of legislation is in-line with a number of initiatives in Michigan that seek to modernize our economy by diversifying opportunities from manufacturing to professional and service based businesses. One can capitalize under the new legislation through business or individually, as administrative positions for the sport's oversight develop.

²⁵ See Gregory H. Bledsoe, et al., Incidence of Injury in Professional Mixed Martial Arts Competitions, 5 J. SPORTS SCI. & MED. (COMBAT SPORTS SPECIAL ISSUE) 132, 132-137 (July 2006) available at <http://www.jssm.org/combat/1/18/v5combat-18.pdf> (explaining the growing concern over repetitive head injuries and the risks associated with concussions are reduced in MMA competitions, because there is a possibility of extended periods of grappling and a opportunity to attack the extremities with joint submissions, combining to lessen the risk of traumatic brain injury.)