

2019 GENERAL AFFAIRS OCCUPATIONAL LICENSING REPORT

Mixed Martial Arts License

One Hundred Sixth Legislature, First Session

General Affairs Committee

Committee Members:

Senator Tom Briese, Chairperson

Senator John Lowe, Vice Chair

Senator John Arch

Senator Carol Blood

Senator Tom Brandt

Senator Megan Hunt

Senator Mike Moser

Senator Justin Wayne

Report Authored by: Senator Tom Briese, Chairperson
Loguen Blazek, Legal Counsel

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Memorandum

To: Clerk of the Legislature
From: Senator Tom Briese, Chairperson General Affairs
Date: December, 2019
Subject: Occupational Licensing Report required by Neb. Rev. Statute 84-948

Occupational Licensing Update: Committee Action

Nebraska Revised Statute 84-948 requires each committee to annually review and analyze approximately twenty percent of the occupational regulations within the jurisdiction of the committee and submit an annual report. Each committee shall complete this process for all regulations within its jurisdiction within five years and every five years after.

The General Affairs Committee completed reviews of the following occupational licenses within its jurisdiction in 2019: Electrician and Mixed Martial Artist. This report is compiled in accordance with Nebraska Revised Statute 84-948 by committee staff and personnel through research into each occupational license, surveys completed by the occupational board, related committee hearings, and meetings. No formal hearings were held on the specific occupational licenses.

The following report details the background and legislative history behind each studied occupational license, relevant information about the license and its occupational board, and the current recommendation by the committee regarding the license at this time.

Sincerely,

Senator Tom Briese, District 41
Chairperson, General Affairs Committee

**MIXED MARTIAL
ARTIST
OCCUPATIONAL
LICENSE**

Background/Legislative History

The Mixed Martial Artist licenses was created to ensure competitive and fair Mixed Martial Arts (MMA) bouts through regulation of mixed martial arts matches or exhibitions by the State Athletic Commission. The regulation was introduced by Senator Chambers with LB471 in 2007¹. The intent behind the regulation was to have some control and oversight over an activity that is inherently dangerous and ensure the proper safety and management steps are put in place to protect all involved and the State.

LB471 authorized the State Athletic Commissioner to regulate mixed martial arts. That authorization included the ability to: issue license and permits, require bonds for licenses, and require referees to be in attendance, grant licenses for judges, and require licenses to pay a tax of five percent of the gross receipts of any professional or amateur mixed martial arts match or exhibition. The bill allowed the State Athletic Commissioner to make rules and regulations for the administration and enforcement of mixed martial arts. LB471 set out in statute parameters for match and exhibitions of mixed martial arts. Mixed Martial arts is defined as unarmed combat sport in which two competitors seek to achieve dominance by utilizing a combination of permitted martial arts techniques, including, but not limited to, grappling, kicking and striking. LB471 also increased the Athletic Advisory Committee Membership from five to six persons and requires one member to be or have been active in mixed martial arts.

Prior to the passage of LB471 mixed martial arts was wholly unregulated in Nebraska. This led to issues of safety during mixed martial artist competitions/events, as well as, incidents of fraudulent promoters stealing money.² Without regulation events like this has no licensing, there no oversight, or state, local or athletic tax that is collected.³ This lack of regulation led to many of the aforementioned issues in Omaha and throughout the greater Nebraska area.

LB471 was passed by the legislature and signed into law by the Governor with an emergency clause attached and therefore went into effect immediately. Statutory authority for mixed martial artist licenses can be found in Nebraska Revised Statute 81-8, 133.01.

About the Board/License

Mixed Martial Arts are licensed and regulated by State Athletic Commissioner of the Nebraska Athletic Commission. The State Athletic Commissioner has sole discretion, management, control and jurisdiction over all professional mixed martial arts and all amateur mixed martial arts matches and exhibitions to be held within this state, except those conducted by Universities, colleges, high schools, the military and amateur association for contestants under sixteen years of age.

¹ LB471, One Hundredth Legislature, 1st Session (Chambers)

² Transcript Government Military and Veterans Affairs Committee Hearing, February 8, 2018, (page 14)

³ Id.

The State Athletic Commissioner is appointed by the Governor for a two year term in accordance with Nebraska Revised Statute 81-8, 218. The Governor may elect the commissioner's salary and that salary shall be bonded or insured as required by section 11-201. The Commissioner shall be under the general supervision of the Charitable Gaming Division of the Department of Revenue. The commissioner may employ assistants and fix their compensation in conjunction with the Charitable Gaming Division. The compensation of assistants and office expenses of the commissioner shall be paid through the State Athletic Commissioner's Cash Fund. In addition to the State Athletic Commissioner, The Athletic Commission has one full time employee.

Spending authority can be found in Neb. Rev. Stat. 81-8, 128. Additional funding sources can be found in Nebraska Rev. Stat. 81-8,135.

MMA licenses are good for one year. There have been 2, 676 MMA contestant licenses issued. For calendar year 2019, 170 persons are licensed as Mixed Martial Artists. No licenses have been revoked. On average the Nebraska Athletic Commission regulates about 25 events per year throughout the state.

MMA occupational licensure and regulations can be found in Nebraska Rev. Statutes 81-8, 129 to 81-8, 142.01. The State Athletic Commission may grant licenses to MMA referees, physicians, managers, matchmakers, judges, promoters, timekeepers, and contestants. The Commission sets rules and regulation for the administration and enforcement of granting and revoking licenses, setting of license fees, and the qualification requirements for such licenses.

The Board's Explanation of Effectiveness is as follows:

By requiring certain medical documentations prior to licensure, the ability to issue a license ensures each contestant has been certified by a medical professional as able to compete in mixed martial arts, that the contestant does not have hepatitis B, hepatitis C, or HIV, and that the contestant has adequate vision. Licensing contestants also allows the Athletic Commission to suspend contestants due to injuries received in a bout, to suspend contestants for unsportsmanlike conduct, and to suspend contestants for failing any anti-doping test administered by the Commission. Potential Harm if not regulated is: The Nebraska Athletic Commission would no longer be able to implement the various safeguards as described previously in this survey.

State Comparisons

The Board's Regulation Comparison:

To the best of our knowledge, all states that actively regulate mixed martial arts require licensure as a condition for competition. All states required bloodwork and most require an annual physical and the results of a vision examination.

At least 43 states have some form of regulation for MMA fights.⁴ At least 25 states regulate amateur MMA by a State Boxing or Athletic Commission.⁵ Several other states regulate MMA by a separate MMA sanctioning body. Of states where MMA is legal very few have little or no regulation of the sport, namely Alaska.⁶ Of the states which legalize and regulate MMA, Nebraska has similar safety and fraud related regulation such as requiring physical exam, drug testing, licensure and forms filled out prior to an MMA event taking place.⁷ Some states have stricter regulations including requiring EKG's for fighters.⁸

OBRA Policy Analysis

The Occupational Board Reform Act ("OBRA") makes several statements of policy which committees are instructed to apply as part of the regular OBRA review process.⁹

1. Does the occupational regulation protect the fundamental right of an individual to pursue a lawful occupation?

Analysis:

The current occupational regulation of MMA is limited in scope to protect the safety and welfare of those involved in MMA contests in Nebraska while still allowing those interested in this field to pursue this occupation in Nebraska. The regulations require those who wish to partake in MMA in Nebraska follow certain safety requirements such as being physically fit enough to participate in such an event and passing certain medical examinations to ensure the patient does not have certain conditions and diseases dangerous during such competitions. Though these regulations require an individual to meet certain steps and requirements to be licensed and participate in MMA events in Nebraska such regulations are necessary to protect the public health safety and welfare do not significantly hinder the ability for an individual to pursue an MMA occupation.

2. Does the occupational regulation use the least restrictive regulation necessary to protect consumers from undue risk of present, significant, and substantiated harms that clearly threaten or endanger the health, safety, or welfare of the public when competition alone is not sufficient and which is consistent with the public interest?

Analysis:

Committees completing their regular review of occupational regulations under OBRA shall determine whether an occupational regulation is the least restrictive regulation necessary to

⁴ <https://interactives.courier-journal.com/projects/mma-investigation-shows-amateur-regulations-differ-by-state/>

⁵ <http://www.ifightsports.com/USASates.htm>

⁶ Id.

⁷ State Athletic Commission Rules and Regulations (Chapter 6)

⁸ <https://interactives.courier-journal.com/projects/mma-investigation-shows-amateur-regulations-differ-by-state/>

⁹ See Neb. Rev Stat. §§84-946 and 84-948(7)

mitigate the risk of harms that might otherwise result from the practice of the occupation.¹⁰

Based on legislative record, the concern of the Legislature addressed by these occupational regulations is that without such licensure and oversight MMA events pose a threat to the health, welfare and safety of both contestants and spectators, as well as, subject contestants, businesses, and spectators to a greater risk of fraudulent contests. The legislative record indicates that competition alone is not sufficient to address these concerns and protect the public interest as evidenced by multiple incidents of fraud as well as dangerous and unsafe unregulated MMA events that occurred prior to the passage of LB471¹¹. These occupational regulations are limited in scope to ensure that the contests and the public are protected while still allowing for MMA contests in Nebraska.

3. Is the occupational regulation enforced only against individuals selling goods or services explicitly included in the governing statutes?

Analysis:

The occupational regulations involving MMA contests in Nebraska are those specified in statute such as MMA referees, physicians, managers, matchmakers, judges, promoters, timekeepers, and contestants. The regulations imposed on these individuals for purposes of licensure can be found specified within Nebraska Revised Statutes and under the purview of the State Athletic Commission. However, Nebraska Revised Statute 81-8,132 does require a licensee to obtain a bond of not less than a thousand dollars for amateur mixed martial arts and not less than five thousand dollars for professional mixed martial arts before a MMA license can be granted.

4. Is the occupational regulation construed and applied to increase opportunities, promote competition, and encourage innovation?

Analysis:

These regulations are created and applied in a manner to limit the chance of fraud and protect the contestants and the public health, safety and welfare while still allowing opportunities and competition to participate in MMA contests. There is no evidence that the occupational regulation of MMA as applied is a substantial obstacle to innovation, competition or opportunities for MMA in Nebraska. Commission regulations adopted a majority of the Uniform Rules of Mixed Martial Arts as part of its regulations of MMA providing consistency with regulation of other states. The Athletic Commission has limited statutory authority to permanently revoke a license though it can issue indefinite medical suspensions barring contestants from further competition until cleared by a doctor for safety purposes. As indicated

¹⁰ Neb. Rev. Stat. §§84-937 and 84-948(4)

¹¹ Transcript Government Military and Veterans Affairs Committee Hearing, February 8, 2018

by the occupational licensing survey completed by the State Athletic Commission there are no reported certificates permanently revoked by the Athletic Commission.

Conclusions/Recommendations

The Committee recommends that Mixed Martial Arts continue to be licensed and regulated in the State of Nebraska. The Committee does not recommend any changes to the current occupational license and regulatory scheme of Mixed Martial Arts at this time.

Survey Submitted 2019-11-07 16:09:45

General Information

Committee of Jurisdiction:

General Affairs

Occupation Regulated:

Mixed Martial Arts (MMA) contestants

Occupational Board:

Nebraska Athletic Commission

Contact:

Aaron Hendry, State Athletic Commissioner

Purpose:

To ensure competitive and fair MMA bouts. To permit the Athletic Commission to suspend contestants who have suffered injuries from competing until an appropriate time period has elapsed or until given medical clearance. Additionally, to permit the Commission

Regulated Professionals:

MMA licenses are good for one year. For calendar year 2019 to date, 170 persons are licensed as MMA

Year Created:

MMA became a regulated sport in 2007.

Year Active:

2007 to present

Sunset Date:

N/A

Authorization

Statutory Authorization:

Neb.Rev.Stat. § 81-8,133.01

Parent Agency:

Nebraska Athletic Commission

Memberships

Number of Members:**Who Appoints:**

Legislative Approval:

Qualifications of Members:

Per Diem:

Expense Reimbursement:

Term Length:

Terms Rotate or Expire at Once:

Meetings

Required FY 2018-2019:

0

Held FY 2018-2019:

0

Required FY 2017-2018:

0

Held FY 2017-2018:

0

Required FY 2016-2017:

0

Held FY 2016-2017:

0

Required FY 2015-2016:

0

Held FY 2015-2016:

0

Required FY 2014-2015:

0

Held FY 2014-2015:

0

Operations

Support Staff:

In addition to the State Athletic Commissioner, the Athletic Commission has one full time employee

Shared or Separate:

For accounting purposes, the Athletic Commission utilizes the finance and accounting staff of the D

FY 2018-2019 Budget:

96464

FY 2017-2018 Budget:

98876

FY 2016-2017 Budget:

94412

FY 2015-2016 Budget:

89665

FY 2014-2015 Budget:

82641

Other Funding Sources:

A tax of five percent of the gross receipts of any MMA or professional boxing event and a five per

Spending Authority:

Neb.Rev.Stat. § 81-8,128

Other**Government Certificates Issued:**

2676

Issued Certificate Descriptions:

MMA Contestant Licenses

Government Certificates Revoked:

0

Revoked Certificate Descriptions:

The Athletic Commission has limited statutory authority to permanently revoke a license. However, the Commission can issue indefinite medical suspensions barring contestants from further competition until cleared by a doctor. The Commission also requires

Government Certificates Denied:

0

Denied Certificate Descriptions:

If the requisite medical documentation is not provided by the applicant, the applicant is advised to obtain such documentation before the license application can be considered. If, in conjunction with the license application, the applicant submits the res

Government Certificates Penalties Against:

0

Penalty Certificate Descriptions:

N/A

Explanation of Effectiveness:

[Explanation PDF](#)

Potential Harm"

The Nebraska Athletic Commission would no longer be able to implement the various safeguards as described previously in this survey.

Regulation Comparison:

[Comparison PDF](#)

Subject to Regulations of Act(LB407):

No

Explanation

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Comparison

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