

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

2012 JUL 17 AM 11:49

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IRRC

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency: Department of State, State Athletic Commission

(2) Agency Number:

Identification Number: 16-53

IRRC Number: 2958

(3) PA Code Cite: 58 Pa. Code Chapter 29

(4) Short Title: Amateur Mixed Martial Arts Waiver

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Gregory P. Sirb, Executive Director - 717-787-5720 - gsirb@pa.gov

Secondary Contact: Martha H. Brown, Assistant Counsel - 717-783-0736 - martbrown@pa.gov

(6) Type of Rulemaking (check applicable box):

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Proposed Regulation | <input type="checkbox"/> Emergency Certification Regulation    |
| <input type="checkbox"/> Final Regulation               | <input type="checkbox"/> Certification by the Governor         |
| <input type="checkbox"/> Final Omitted Regulation       | <input type="checkbox"/> Certification by the Attorney General |

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The State Athletic Commission proposes to amend Chapter 29, Subchapter B (relating to amateur mixed martial arts) in order to permit the Commission to waive two rules for amateur mixed martial arts contestants in certain cases: the rule against striking to the head while on the ground and the rule requiring contestants to wear shin and instep pads.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The proposed amendments are authorized under sections 103(b)(1) and 302 of the State Athletic Code, 5 Pa. C.S. §§ 103(b)(1) and 302, which authorize the Commission to establish policy and promulgate rules and regulations regarding professional and amateur boxing contests and exhibitions and all matters pertaining thereto. The Athletic Code broadly defines boxing to include all variations of the sport permitting or using other parts of the human body, including, but not limited to, the foot, knee, leg, elbow or head.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

This regulation is not mandated by any federal or state law or court order, or federal regulation. There are no relevant state or federal court decisions.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The Commission has regulated amateur and professional mixed martial arts competition in the Commonwealth of Pennsylvania, since Chapter 29 became effective on February 27, 2009. Mixed martial arts (MMA) is a sport using a combination of boxing, kickboxing, wrestling, karate, taekwondo, jujitsu, muay thai and other martial arts techniques, including grappling, kicking and striking. The popularity of mixed martial arts has continued to surge in recent years, both nationwide and in Pennsylvania. The progression from amateur to professional competition is one made by dozens of contestants each year.

Current § 29.29 (relating to acts constituting fouls) sets forth the acts which constitute fouls in amateur competition and how a contestant using foul tactics in a contest or exhibition will be disqualified or have points deducted from his score. Fouls include any act prohibited by section § 29.12 (relating to acts constituting fouls in professional competition), as well as additional specified techniques while standing and while on the ground. Striking to the opponent's head while on the ground (commonly known as "pound and ground") is an act which constitutes a foul for amateur contestants under current § 29.29(b)(3)(i). Striking to the head while on the ground is not a foul under the professional rules at § 29.12 (relating to acts constituting fouls). In addition, amateur contestants are required to wear shin/instep pads pursuant to current § 29.27(c) (relating to equipment), while professional contestants are not. See § 29.7 (relating to proper attire of contestants).

In order to provide a transition for amateur fighter to professional competition, proposed § 29.30 (relating to waiver of rule for contestants with three or more amateur bouts) would permit the Commission to waive the "striking to the head while on the ground" rule and the shin/instep pad rule for certain amateur contestants. This change has been requested by many of the more experienced amateur contestants as a bridge to their professional debuts, where the conduct is not prohibited.

The waiver is at the discretion of the Commission and must be requested by both amateur contestants to a particular contest who agree to conduct the contest with a waiver of the two enumerated rules. In reviewing waiver requests, the Commission will take into account several factors, including the win-loss records of both the participants and the individual conditioning, training, experience and skill level of the contestants. Because only experienced amateurs, with three or more sanctioned bouts, will be permitted to request a waiver, chances for injury in practicing the techniques are lessened.

In 2011, there were 592 licensed amateur MMA contestants and 241 licensed professional MMA contestants in Pennsylvania. There were 52 sanctioned MMA events which included amateur fights. The Commission anticipates that up to 20% of amateur licensees will apply for a waiver annually.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking is not based upon any scientific data, studies or reports.

(12) Describe who and how many people will be adversely affected by the regulation. How are they affected?

The Commission has not identified any particular groups that will be adversely affected by the regulation. Those amateur fighters who do not request or qualify for the waiver will be subject to the current amateur rules.

(13) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

All licensed amateur mixed martial arts contestants who request a waiver to the 'striking to the head while on the ground' rule and shin/instep pad rule would have to comply with the regulation. In 2011, there were 592 licensed amateur MMA contestants in Pennsylvania. The Commission anticipates that up to 20% of those licensees may apply for a waiver.

(14) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The proposed amendment will present no costs or savings to the regulated community. Any additional paperwork requirements upon amateur licensees will be limited to amateur contestants applying for the waiver, but there is no fee to request the waiver. No legal, accounting or consulting procedures will be implicated in complying with the regulations and therefore, no other additional costs are estimated.

(15) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to local governments associated with compliance with the rulemaking.

(16) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to state government associated with the implementation of the rulemaking. The State Athletic Commission is self-supporting and uses no General Fund monies. The Commission's 5% tax on gross gate receipts on sanctioned events is deposited into the Athletic Commission Augmentation Account. The Commission will incur minimal additional costs in enforcing the regulation, which will include the Executive Director's time in reviewing each waiver request.

(17) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	<b>Current FY Year</b>	<b>FY +1 Year</b>	<b>FY +2 Year</b>	<b>FY +3 Year</b>	<b>FY +4 Year</b>	<b>FY +5 Year</b>
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>	n/a	n/a	n/a	n/a	n/a	n/a
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>	n/a	n/a	n/a	n/a	n/a	n/a
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>	n/a	n/a	n/a	n/a	n/a	n/a

(17a) Provide the past three year expenditure history for programs affected by the regulation.

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY (2011-2012) (budgeted)</b>
State Athletic Commission	\$416,657.71	\$444,781.28	\$434,477.53	\$509,000.00 (budgeted)

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The benefit of the regulation will be to amateur contestants who will be able to transition safely and effectively to professional competition. There are no costs or adverse affects to be outweighed.

(19) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

This change has been requested by many of the more experienced amateur contestants and their trainers as a bridge to their professional debuts, where the conduct is not prohibited. The Commission discussed this rulemaking at its meetings on December 20, 2010, April 26, 2011, December 19, 2011 and March 6, 2012.

(20) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory provisions were considered and rejected, other than to leave the regulations as they are currently, which does not accomplish the objective. The least burdensome acceptable alternative has been selected.

(21) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no federal standards for mixed martial arts contests, therefore no provisions of this rulemaking are more stringent than federal standards.

(22) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

Presently, 45 states and tribal organizations permit or regulate professional mixed martial arts. Forty-four states and tribal organizations permit or regulate amateur mixed martial arts. Amateur MMA is legal but unregulated in 13 of those states, and directly regulated by the Athletic Commissions of 21 states.

Of the six states surrounding the Commonwealth, the boxing commissions of two states (Ohio and New Jersey) affirmatively regulate amateur mixed martial arts and have permitted amateurs striking to the head while on the ground. The commissions of two states (New York and West Virginia) do not permit professional or amateur mixed martial arts. Amateur mixed martial arts are permitted in Maryland, but regulated through an amateur sanctioning group, which permits amateurs to strike to the head while on the ground. Delaware has no boxing commission.

Of the states surveyed that regulate amateur MMA competitions, four allow strikes to the head while on the ground (CO, GA, KY, and OH), and three do not (MD, NJ, and NC). The state of Georgia has

provisions similar to those proposed that permit contestants seeking to turn professional to compete under "advanced amateur" rules (including strike to the head) after at least three verifiable bouts.

With regard to the proposed waiver for shin pads, the following states do not require that they be worn by amateur contestants: KY, LA, MN, NE, OH, SC, UT, and WI. Four states require shin pads be worn by amateurs (GA, MD, NJ, and NM). North Carolina allows competitors the option to wear shin pads, but they are not required.

The rulemaking will not put Pennsylvania at a competitive disadvantage with other states.

(23) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation will not affect any other regulations of the State Athletic Commission or other state agencies.

(24) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

No specific form is required to request the waiver. However, the Commission will make a form available to assist requesters. Waiver requests will be evaluated on a case-by-case basis as they are submitted.

(25) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

This regulation has been developed to meet the particular needs of amateur mixed martial arts contestants who are seeking to develop professional mixed martial arts skills, in order to safely compete as a professional contestant. There is no other affected group or persons.

(26) Include a schedule for review of the regulation including:

- |   |                                      |
|---|--------------------------------------|
| A. The date by which the agency must receive public comments:                               | <u>30 days after publication</u>     |
| B. The date or dates on which public meetings or hearings will be held:                     | <u>n/a</u>                           |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>within 2 years of publication</u> |

- |  |   |
|--|---|
| D. The expected effective date of the final-form regulation:                         | <u>upon publication<br/>of final rulemaking</u> |
| E. The date by which compliance with the final-form regulation will be required:     | <u>effective date</u>                           |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>effective date</u>                           |

(27) Provide the schedule for continual review of the regulation.

The Commission continually reviews the efficacy of its regulations annually. The Commission provides an opportunity for public input into its activities, including its rulemaking proposals, at its regularly scheduled meetings. The dates, times and places of the Commission's meetings are available from the State Athletic Commission, 2601 North 3rd Street, Harrisburg, PA 17110; phone (717) 787-5720 and [www.dos.state.pa.us/sac](http://www.dos.state.pa.us/sac).

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FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

*[Signature]*

BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

JUL 11 2012

DATE OF APPROVAL

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

State Athletic Commission  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16-53

DATE OF ADOPTION: \_\_\_\_\_

BY: *[Signature]*  
Charles P. Bednarik

TITLE: Chairman, State Athletic Commission  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is approved as to form and legality. Executive or Independent Agencies

BY: *[Signature]*  
Shawn E. Smith

6/15/12

DATE OF APPROVAL

(Deputy General Counsel  
(Chief Counsel,  
Independent Agency  
Strike inapplicable  
title)

- Check if applicable  
Copy not approved.  
Objections attached.
- Check if applicable. No Attorney  
General approval or  
objection within 30 day  
after submission.

PROPOSED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
STATE ATHLETIC COMMISSION  
58 Pa. Code Chapter 29  
AMATEUR MMA WAIVER



The State Athletic Commission (Commission) proposes to amend Chapter 29, Subchapter B (relating to amateur mixed martial arts), to read as set forth in Annex A.

**A. Effective Date**

The amendments would be effective upon publication of the final-form rulemaking in the Pennsylvania Bulletin.

**B. Statutory Authority**

The amendments are authorized under section 103(b)(1) of the State Athletic Code (Code) (5 Pa.C.S. § 103(b)(1)), which authorizes the Commission to establish policy and promulgate rules and regulations regarding professional and amateur boxing contests and exhibitions and all matters pertaining thereto. The amendments are further authorized by section 302 of the Code (5 Pa.C.S. §302), which defines boxing as “the act of attack and defense with the fists, practiced as a sport. The term includes all variations of the sport permitting or using other parts of the human body, including, but not limited to, the foot, knee, leg, elbow or head.”

**C. Background and Purpose**

The Commission has regulated amateur and professional mixed martial arts competition in this Commonwealth since Chapter 29 became effective on February 27, 2009. Mixed martial arts (MMA) is a sport using a combination of boxing, kickboxing, wrestling, karate, taekwondo, jujitsu, muay thai and other martial arts techniques, including grappling, kicking and striking. Presently, 45 states and tribal organizations permit or regulate professional mixed martial arts. Forty-four states and tribal organizations permit or regulate amateur mixed martial arts. Amateur MMA is legal but unregulated in 13 of those states, and directly regulated by the Athletic Commissions of 21 states.

**D. Description of the Proposed Amendments**

Current § 29.29 (relating to acts constituting fouls) sets forth the acts which constitute fouls in amateur competition and how a contestant using foul tactics in a contest or exhibition will be disqualified or have points deducted from his score. Fouls include any act prohibited by § 29.12 (relating to acts constituting fouls in professional competition), as well as additional specified techniques while standing and while on the ground. Striking to the opponent’s head while on the ground (commonly referred to as “pound and ground”) is an act which constitutes a foul for amateur contestants under current § 29.29(b)(3)(i). Striking to the head while on the ground is not a foul

under the professional rules at § 29.12 (relating to acts constituting fouls). In addition, amateur contestants are required to wear shin/instep pads under current § 29.27(c) (relating to equipment), while professional contestants are not. See § 29.7 (relating to proper attire of contestants).

Proposed § 29.30 (relating to waiver of rule for contestants with three or more amateur bouts) would permit the Commission to waive the “striking to the head while on the ground” and shin/instep pad rules for amateur contestants. This change has been requested by many of the more experienced amateur contestants as a bridge to their professional debuts, where striking to the head while on the ground is permitted and shin and instep pads are not required. The waiver is at the discretion of the Commission and must be requested by both amateur contestants to a particular contest who agree to conduct the contest with a waiver of the “striking to the head while on the ground” rule and the shin/instep pad rule. In reviewing waiver requests, the Commission will take into account several factors, including, but not limited to, the win-loss records of both participants and the individual conditioning, training, experience and skill level of the contestants. Because only experienced amateurs, with three or more sanctioned bouts, will be permitted to request a waiver, chances for injury are lessened in practicing the technique of striking to the head while on the ground and kicking while not wearing shin/instep pads.

**E. Fiscal Impact and Paperwork Requirements**

The proposed amendment will have no adverse fiscal impact on the Department of State or the Commission, because the Commission is self-supporting and uses no General Fund monies. The Commission will incur no additional costs in enforcing this regulation. The proposed amendment will also have no adverse fiscal impact on the Commonwealth or its political subdivisions. Any additional paperwork requirements upon the Commonwealth or the private sector will be limited to amateur contestant applying for the waiver. There is no fee to request the waiver. The proposed amendment will have no adverse fiscal impact on the mixed martial artists, boxers, promoters, referees, judges and timekeepers which the Commission currently regulates.

**F. Sunset Date**

The Commission and the Department monitor the regulations of the Commission on a continuing basis. Therefore, no sunset date has been assigned.

**G. Regulatory Review**

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Commission submitted a copy of this proposed regulation on July 17, 2012, to the Independent Regulatory

Review Commission (IRRC), the Senate State Government Committee and the House State Government Committee. In addition to submitting the proposed rulemaking, the Commission has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), if IRRC has comments, recommendations or objections regarding any portion of the proposed rulemaking, it will notify the Commission within 30 days of the close of the public comment period. The notification will specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Commission, the General Assembly, and the Governor prior to publication of the regulations.

#### **H. Public Comment**

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Gregory P. Sirb, Executive Director of the State Athletic Commission, 2601 North 3rd Street, Harrisburg, PA 17110, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16-53 (Amateur Mixed Martial Arts waiver) when submitting comments.

CHARLES BEDNARIK  
Chairman, State Athletic Commission

ANNEX

**TITLE 58. RECREATION**

**PART I. STATE ATHLETIC COMMISSION**

**Subpart B. BOXING**

**CHAPTER 29. MIXED MARTIAL ARTS**

\* \* \*

**Subchapter B. AMATEUR MIXED MARTIAL ARTS**

\* \* \*

§ 29.30. Waiver of rule for contestants with three or more amateur bouts.

(a) An amateur contestant who has completed at least three amateur bouts may petition the Commission to waive the “striking to the head while on the ground” provision in § 29.29(b)(3)(i) (relating to acts constituting fouls) and the shin/instep pad requirement in § 29.27(c) (relating to equipment).

(b) The waiver will include only bouts in which both contestants have the required three-bout experience and both have agreed to conduct the contest with a waiver of the “striking to the head while on the ground” and the shin/instep pad rules.

(c) Grant of the waiver shall be at the discretion of the Commission. In reviewing waiver requests, the Commission will consider factors including the win-loss record, conditioning, training, experience and skill level of each individual contestant.



**COMMONWEALTH OF PENNSYLVANIA**

July 17, 2012

The Honorable Silvan B. Lutkewitte, III  
Chairman  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harestown 2  
333 Market Street  
Harrisburg, PA 17101

Re: Proposed Rulemaking of the State Athletic Commission  
Amateur MMA Waiver (16-53)

Dear Chairman Lutkewitte:

Enclosed is a copy of the proposed regulation of the State Athletic Commission pertaining to amateur mixed martial arts.

The State Athletic Commission, as always, will be pleased to provide the Commission with any assistance it may require during the course of its review of this regulation.

Sincerely,

A handwritten signature in black ink that reads "Martha H. Brown".

Martha H. Brown  
Counsel, State Athletic Commission

MHB/kmw  
Enclosures

cc: Steven V. Turner, Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Gregory Sirb, State Athletic Commission

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 16-53  
 SUBJECT: AMATEUR MMA WAIVER  
 AGENCY: DEPARTMENT OF STATE

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

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**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
7/17/12	<i>Margaret Plapp</i>	HOUSE COMMITTEE ON STATE GOVERNMENT
7/17/12	<i>J. Hill</i>	MAJORITY CHAIRMAN <u>METCALFE</u>
		SENATE COMMITTEE ON STATE GOVERNMENT
		MAJORITY CHAIRMAN <u>MCILHINNEY</u>
7/17/12	<i>K. Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
7/17/12	<i>Samatha Hendon</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)