

**STORAGE NAME:** h1087.br.doc  
**DATE:** March 28, 2001

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
BUSINESS REGULATION  
ANALYSIS**

**BILL #:** HB 1087  
**RELATING TO:** Florida State Boxing Commission  
**SPONSOR(S):** Representative Pickens  
**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) TOURISM YEAS 6 NAYS 0
  - (2) BUSINESS REGULATION
  - (3) COUNCIL FOR COMPETITIVE COMMERCE
  - (4)
  - (5)
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I. SUMMARY:

The Florida State Boxing Commission [Commission] has authority for oversight of all pugilistic exhibitions in the state.

This bill amends and expands various provisions of Chapter 548, F.S., relating to boxing and kickboxing with added health safety measures, new regulatory and licensing provisions and increased penalty provisions. The bill clarifies conditions for filing reports and making tax payments.

The bill abolishes the Medical Advisory Council which has not met during the past year, requires one Commission member be a Florida licensed physician, and provides insurance benefits and immunity from personal liability for the attending ringside physician.

The bill expands general rulemaking authority of the Commission and authorizes rulemaking in other specific areas. Many of the changes will codify existing practices and/or pending administrative rules.

According to the Commission, the provisions of this legislation will not increase expenditures, nor will it result in increased revenue collections to the state.

The bill will take effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill expands existing regulatory provisions and creates new provisions including expanded rulemaking authority, additional licensure requirements, and mandatory insurance coverage for participants. Many of these provisions codify existing practices and/or pending administrative rules.

The bill abolishes the Medical Advisory Council; however, there is an insignificant fiscal impact associated with its abolition since the council has not met recently.

B. PRESENT SITUATION:

Chapter 548, F.S., governs pugilistic exhibitions in the state. The Florida State Boxing Commission has the statutory responsibility for carrying out the regulation of both persons participating in the exhibitions as well as the events themselves. Qualifications for Commission membership are not delineated in statute. The Commission is assigned to the Department of Business and Professional Regulation (DBPR) for administrative and fiscal accountability purposes only. Section 548.003, F.S., requires DBPR to provide all legal and investigative services necessary to implement Chapter 548, F.S.

The Commission's statutory responsibilities are wide ranging and include licensing and regulating all individuals involved in conducting professional boxing and kickboxing matches in the state, issuing permits for live matches and pay for view matches, establishing and administering medical guidelines, and collecting fees and taxes levied by Chapter 548, F.S. Personnel of the Commission supervise all aspects of all live bouts, including the licensing of participants not previously licensed, the weigh-in of participants, and also act as the official scorekeeper of all matches. The Commission maintains a database that contains all relevant information on all individuals licensed by the Commission. Prior to each event, Commission personnel verify that all participants are currently licensed, not under suspension in Florida or any other state, and meet all other requirements to be eligible to participate in boxing in Florida.

Toughman and badman competitions, whether amateur or professional, are prohibited by s. 548.008, F.S. The penalty for promoting or participating in this type of competition is a second degree misdemeanor.

Section 548.003, F.S., provides general rulemaking authority for the Commission and DBPR pursuant to ss. 120.536(1) and 120.54, F.S., to implement their respective duties and responsibilities in carrying out the provisions of the chapter. In a February 22, 1999, letter from the

Joint Administrative Procedure Committee (JAPC) to DBPR, several instances were noted by JAPC that DBPR's and the Commission's proposed rules regarding boxing lacked specific rulemaking authority. The proposed rules regarding certain sections of Chapter 548, F.S., are currently pending. If the Commission is granted specific rulemaking authority, the Commission and DBPR will proceed with the rule promulgation process.

Physicians selected by the Commission to attend matches are not protected by sovereign immunity. The Commission and DBPR have indicated that it is very difficult to find qualified individuals to be responsible at a match because of the exposure of liability to the individual.

Requirements for the reporting and payment of tax on gross receipts are included in ss. 548.06 and 548.061, F.S. According to the Commission and DBPR, there has been some confusion over which section applies to certain situations and under what circumstances.

### C. EFFECT OF PROPOSED CHANGES:

The bill amends and expands various provisions in Chapter 548, F.S., relating to boxing and kickboxing. Revisions address both the increases and the addition of penalties under certain circumstances related to unlawful matches and to providing fraudulent information related to licensure. Additionally, the bill expands provisions of rulemaking authority to address issues not specifically covered in general provisions. The bill provides for the addition of a definition of a "second" or "cornerman".

The bill expands the Florida State Boxing Commission's general rulemaking authority to include requirements for the following: facility and safety requirements for ring, floor plan and apron seating; emergency medical equipment and services and other equipment and services necessary for a program of matches; participant's apparel, bandages, hand wraps, gloves, mouthpiece and appearance; manager's participation, presence, and conduct during a match; duties and responsibilities of all licensees; qualifications for appointment of chief inspectors and inspectors and their duties; designation and duties of a knockdown timekeeper; and, setting fee and reimbursement schedules of referees and other officials. Additionally, the Commission is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., for background investigation of applicants for licensure for the purpose of ensuring accuracy of the application; ensuring that there are no active or pending criminal or civil indictments against the applicant; and ensuring satisfaction of all other requirements of the chapter. Background investigations may include, but are not limited to, criminal and financial history of the applicant.

The bill provides for an increase in the penalty of participating in or promoting a professional or amateur toughman or badman match from a misdemeanor in the second degree to a felony of the third degree. The bill also requires local law enforcement to take action against toughman or badman competitions upon certification of the Commission that a violation has or may occur. The Commission may delegate its certification authority to its executive director.

The bill provides that someone who seeks licensure by false or fraudulent information on Commission documents or who otherwise makes false statements concerning medical history, boxing record or other personal information is guilty of a second degree misdemeanor.

The bill provides for denial, suspension or revocation of a license if a participant is less than 18 years of age, has participated in an unsanctioned match, does not meet health criteria, or has been suspended in another state. Failure of a participant to appear at a match or to appear at the designated time, unless there is a valid reason or physician's certificate, shall result in suspension of the participant's license, a fine, or both, as determined by the Commission. License revocation is required for a participant intentionally striking, striking at, or threatening an official. The bill also

provides that a participant losing by a knockout as a result of being counted out in any jurisdiction will automatically be suspended for a period of time as determined by the attending physician or Commission representative, or 60 calendar days from the date of the knockout, whichever is longer. A participant shall not engage in any match, contact exhibition or contact sparring for training purposes during the suspension period. After the suspension period and prior to engaging in any match, contact exhibition or contact sparring for training purposes, the participant is required to be examined by a physician. The participant must advise the physician of the previous knockout or technical draw and provide medical records or permission for the physician to consult with the physician who treated him or her at the time of the previous knockout or technical draw. The examination results must be filed with the Commission prior to any further matches being approved for the participant. Further, the bill provides that a participant losing by technical knockout, technical draw or disqualification will be automatically suspended for a period of time determined by the physician or Commission representative or 30 calendar days from the date of the technical knock out, whichever is longer. Finally, a participant shall not engage in any match, contact exhibition or contact sparring for training purposes during the suspension period without approval of the physician.

The bill prohibits the licensure of any person or business entity who, or who has a trustee, partner, officer, director, or owner who, has been convicted of any act or has been named in any information or indictment for any act that would constitute a violation of Chapter 548, F.S., or a ground for suspension or revocation of a license.

Language is added to provide that participants in matches will be weighed on the same scale at a time and place to be determined by the Commission or the representative in the presence of the opponent and a Commission representative. Language also is added regarding the time and place for participants to have weigh-ins and consequences of failure to arrive or being late in arriving.

Language is added to provide that a Commission representative, as well as the Commission, must assign at least one physician to observe the physical condition of the participants and to advise the Commission or the Commission's representative on the participants' condition after the match as well as before and during, as is currently the requirement. The bill provides that the ringside physician must be licensed under Chapter 458, F.S., or Chapter 459, F.S., must maintain an unencumbered license in good standing, and must demonstrate satisfactory medical training or experience in boxing or a combination of both to the executive director prior to working as the ringside physician. The ringside physician is considered an agent of the Commission for purposes of state insurance coverage and sovereign immunity protection. The sovereign immunity protection is provided so that the ringside physician will not be held personally liable for her or his actions while working in the capacity as a ringside physician at a Commission sanctioned event.

The bill adds language to require the Commission to obtain urine samples of a participant in a sanctioned championship title fight or when the Commission representative has probable cause that a participant has ingested a prohibited drug or foreign substance. Consequences are delineated for failure of a participant to provide a sample or samples. The Commission may require random urine samples.

The bill increases the required amount of medical insurance to be maintained for participants in matches from not less than \$2,500 to \$20,000. Language is added to provide that any deductible associated with the insurance policy is to be paid by the promoter. The bill increases the amount of life insurance for participants that may be required by the Commission from \$5,000 to \$20,000.

Current provisions in Chapter 548, F.S., relating to judges are amended to provide that:

- No judge licensed in this state shall act as a judge in any location without a state boxing commission unless the match is supervised by a state boxing commission or a Native American commission properly constituted under federal law.
- No judge shall also serve as a supervisor or serve on the ratings committee or recommend participants to the ratings committee for a sanctioning body.
- Any person whose application for a judge's license has been denied is not permitted to reapply for a judge's license for a period of six months. If the application for a judge's license is denied on three occasions, the applicant is not permitted to reapply.
- The number of unofficial judges at each event is limited to three.
- If there are not enough judges, a referee is to be selected to act as a judge for that specific program of matches.
- Judges shall be located in seats designated for them by the Commission representative.

The bill amends ss. 548.06 and 548.061, F.S., to clarify which provisions apply to the collection of taxes for in-state live matches and which covers pay-per-view events held within the state. The language specifically states that taxes will apply only to those matches held within Florida. The closed circuit tax clearly applies to those matches broadcast into the state and clarifies its application.

The bill amends Chapter 548, F.S., to authorize DBPR to administer oaths, take depositions, make inspections, issue subpoenas, compel witnesses, and produce documents during investigations. DBPR shall exercise this power on its own initiative or upon request by the Commission. Challenges will be handled as provided in s. 120.569, F.S. Language referring to subpoena powers is deleted.

The bill also authorizes rulemaking for the issuance of citations for any violation of this chapter in lieu of or in addition to any other punishment provided for such violation.

Finally, the bill repeals s. 548.045, F.S., establishing to the Medical Advisory Council, and removes language in s. 548.046, F.S., relating to the Council. Section 548.003, F.S., is amended to require one member of the Commission to be a physician who is licensed pursuant to Chapter 458, F.S., or Chapter 459, F.S., who maintains an unencumbered license, and who must, at the time of her or his appointment, have practiced medicine for at least five years.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Subsection (17) is added to s. 548.002, F.S., to provide a definition for "second" or "cornerman."

**Section 2.** Section 548.003, F.S., is amended to require that one member of the Commission must be a physician who is licensed pursuant to Chapter 458, F.S., or Chapter 459, F.S., who must maintain an unencumbered license in good standing, and who must, at the time of his or her appointment, have practiced medicine for at least five years. The section is also amended to expand the Florida State Boxing Commission's general rulemaking authority to include requirements for the following: facility and safety requirements for ring, floor plan and apron seating; emergency medical equipment and services, and other equipment and services necessary

for a program of matches; participant apparel, bandages, hand wraps, gloves, mouthpiece and appearance; manager's participation, presence, and conduct during a match; duties and responsibilities of all licensees; qualifications for appointment of chief inspectors and inspectors as well as their duties; designation and duties of a knockdown timekeeper; and setting fee and reimbursement schedules of referees and other officials.

**Section 3.** Section 548.008, F.S., is amended to increase the penalty for participation in or promotion of a professional or amateur toughman or badman match to a felony of the third degree instead of a misdemeanor in the second degree, to require local law enforcement to take action against toughman or badman competitions upon certification of the Commission that a violation has or may occur, and to permit the Commission to delegate its authority to certify a violation to the executive director.

**Section 4.** Section 548.017, F.S., is amended to require that prior to working as a ringside physician, a physician must be licensed under Chapter 458, F.S., or Chapter 459, F.S., must maintain an unencumbered license in good standing, and must demonstrate satisfactory medical training or experience in boxing or a combination of both to the executive director.

**Section 5.** Section 548.021, F.S., is amended to require that any person who seeks to obtain a license by means of false or fraudulent representation made in any application or who otherwise makes false statements concerning medical history, boxing record, or other personal information is guilty of a misdemeanor of the second degree punishable as provided in ss. 775.082 or 775.083, F.S.

**Section 6.** Section 548.024, F.S., authorizes background investigations for licensure applicants. The Commission is authorized to adopt rules regarding background investigations of licensure applicants for the purpose of ensuring truthfulness and accuracy of the application; ensuring that there are no active or pending criminal or civil indictments against the applicant; and ensuring satisfaction of all other requirements of the chapter. Background investigations may include, but are not limited to, criminal and financial history of the applicant.

In addition, language is added to s. 548.024, F.S., providing that a fingerprint card may be required in background checks. The Division of Criminal Justice Information Systems with the Department of Law Enforcement and the Federal Bureau of Investigation will receive the card and determine if the applicant has a criminal history record. The information will then be sent to DBPR to determine if the applicant is statutorily qualified for licensure.

**Section 7.** Section 548.028, F.S., is amended to prohibit the licensure of any person or business entity who, or who has a trustee, partner, officer, director, or owner who, has been convicted of any act or has been named in any information or indictment for any act that would constitute a violation of Chapter 548, F.S., or a ground for suspension or revocation of a license.

**Section 8.** Section 548.041, F.S., is amended to require denial, suspension or revocation of a license if a participant is less than 18 years of age, has participated in an unsanctioned match, does not meet health criteria, or has been suspended in another state.

The bill also requires that a participant losing by a knockout as a result of being counted out in any jurisdiction, will automatically be suspended for a period of time as determined by the attending physician or Commission representative, or 60 calendar days from the date of the knockout, whichever is longer. A participant shall not engage in any match, contact exhibition or contact sparring for training purposes during the suspension period. After the suspension period and prior to engaging in any match, contact exhibition or contact sparring for training purposes, the participant shall be examined by a physician. The participant will advise the physician of the

previous knockout or technical draw and provide medical records or permission for the physician to consult with the physician who treated him or her at the time of the previous knockout or technical draw. The examination results will be filed with the Commission prior to any further matches being approved for the participant.

Further, the section provides that a participant losing by technical knockout, technical draw or disqualification shall be automatically suspended for a period of time determined by the physician or Commission representative or 30 calendar days from the date of the technical knockout, whichever is longer. Finally, a participant shall not engage in any match, contact exhibition or contact sparring for training purposes during the suspension period without approval of the physician.

The section prohibits any participant who has been suspended in another state as a result of a knockout, consecutive losses, injury, medical procedure, physician denial of certification, failure of drug test, false alias, or falsifying identification cards from participating in this state until the suspension is removed. If the suspension is for other reasons than stated, the participant is allowed to participate in the state if the state in which the participant is suspended is notified and grants approval or the participant appeals to the Association of Boxing Commissions.

Failure of a participant to appear at a match or to appear at the designated time, unless there is a valid reason or physician's certificate, shall result in suspension of the participant's license, a fine, or both, as determined by the Commission. License revocation is required for a participant intentionally striking, striking at, or threatening an official.

**Section 9.** Subsection (4) is added to s. 548.043, F.S., to require that participants in matches be weighed on the same scale at a time and place to be determined by the Commission or a Commission representative, in the presence of the opponent and a Commission representative. If a participant fails to arrive at the weigh-in at the scheduled time and place, the opponent of the late arriving participant will be permitted to be weighed without the late arriving participant present. The participant who arrived at the weigh-in on time does not lose his or her right of observing the weighing in of his or her opponent. The weigh-in has to occur no sooner than 4:00 p.m. the preceding day of the match or has to occur at another time designated by the Commission or Commission representative.

**Section 10.** Section 548.046, F.S., requires the Commission or the Commission representative to assign at least one physician to observe the physical condition of the participants and to advise the Commissioner or the Commission representative about the participants' condition before, during, and after the match. The physician is considered an agent of the Commission in determining the state insurance coverage and sovereign immunity protection applicability of ss. 248.31 and 768.28, F.S.

The section also requires that in a match which is a sanctioned championship title fight or whenever the Commission representative has reason to believe that a participant has ingested a prohibited drug or foreign substance, the Commission representative must request and the participant must provide, under the supervision of the attending physician, Commission representative, or inspector, a urine sample no less than one hour before the commencement of the match or within one hour after the conclusion of the match. Failure or refusal to provide a sample when requested shall result in the revocation of the participant's license. Any participant, who is adjudged the loser of a match and subsequently refuses to or is unable to provide a sample, will forfeit his share of the purse to the Commission. Any participant who is adjudged the winner of a match and who refuses to provide a sample shall forfeit the win and not be allowed to engage in any future match in Florida.

The section requires the attending physician to provide medical assistance at the facility, to the Commission representative, and medical advice to the referee during the match. The physician is

to receive cooperation of all present in performing her or his duties. If the referee has received an injury that prohibits the referee from continuing to officiate, the physician must notify the Commission representative who will temporarily halt the match. The physician is required to attend to the referee until no longer in danger or care has been transferred. The Commission representative is responsible for directing a match to continue and under what referee.

Finally, the section is amended to remove language referring to the Medical Advisory Council.

**Section 11.** Section 548.049, F.S., is amended to increase the Commission required medical insurance from \$2,500 to \$20,000. Language is added to provide that any deductible associated with the insurance policy shall be paid by the promoter. The section is also amended to increase the amount of life insurance for participants that may be required by the Commission from \$5,000 to \$20,000.

**Section 12.** Section 548.05, F.S., is amended to require that all contracts executed in this state between managers and professionals contain all provisions specifically worded as required by rules of the Commission. If they do not, they will be deemed to contain the provisions. A copy of all these contracts must be filed with the Commission within 7 calendar days of execution.

**Section 13.** Subsections (6) through (11) are added to s. 548.057, F.S., to require that: no judge licensed in this state shall act as a judge at any match in any state or place without a state boxing commission unless the match is supervised by a state boxing commission or a Native American commission properly constituted under federal law; no judge can serve as a supervisor or serve on the ratings committee or recommend participants to the ratings committee for a sanctioning body; any person whose application for a judge's license has been denied is prohibited from reapplying for a judge's license for a period of six months; any person whose application for a judge's license has been denied on three occasions is prohibited from reapplying; the number of unofficial judges at each event is limited to three; the number of judges shall be assigned in accordance with rules of the Commission; if sufficient judges are not available, a referee will be selected to act as a judge for that specific program of matches; and judges must be in seats designated for them by the Commission representative.

**Section 14.** Section 548.06, F.S., is amended to clarify that payment of taxes under this section applies to matches held within the State of Florida and that the section does not apply to the sale of tickets sold for viewing of matches via closed circuit telecast.

**Section 15.** Section 548.061, F.S., is amended to clarify that the taxes collected under this section apply to the sale of tickets within the state for the showing within the state of any boxing matches broadcast on closed circuit television in the State of Florida, whether originating within this state or not.

**Section 16.** Section 548.074, F.S., is amended to authorize DBPR to administer oaths, take depositions, make inspections, issue subpoenas, compel witnesses, and produce documents. DBPR can exercise this power on its own initiative or upon request of the Commission. Challenges are to be handled pursuant to s. 120.569, F.S. Language referring to the powers of subpoena is deleted.

**Section 17.** Subsections (1) and (2) of s. 548.075, F.S., are amended to authorize the Commission to issue citations to its licensees for failure to comply with rules and regulations and to authorize rulemaking to permit the issuance of citations.

**Section 18.** Section 548.045, F.S., establishing the Medical Advisory Council, is repealed.



**Section 19.** Provides that the bill becomes effective upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of Business and Professional Regulation and the State Boxing Commission both report that the provisions of this bill will not increase expenditures.

The bill abolishes the Medical Advisory Council which will reduce expenditures minimally.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The increased medical insurance requirements provided for in this legislation, from \$2,500 to \$20,000 and a requirement that any deductible be paid by the promoter, will be of significant economic benefit to participants requiring medical attention.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action that requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Currently, Chapter 548, F.S., provides general rulemaking authority. The Joint Administrative Procedures Committee in a February 22, 1999 letter advised the department and the Commission that the Commission's proposed rules lacked specific rule-making authority.

This bill provides the Commission with specific statutory authority to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement the provisions of Chapter 548, F.S., and to implement each of the duties and responsibilities conferred upon the Commission. The Commission is authorized to adopt rules, which provide for background investigations of applicants for licensure under the chapter which permit the issuance of citations for any violation of the chapter.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Tourism

On March 26, 2001, the Committee on Tourism reported the bill favorably with four amendments.

Amendment 1:

- Adds the word "knowingly" when referring to false or fraudulent representation made on an application and when referring to false statements concerning medical history, boxing record, or other personal information.

Amendment 2:

- Defines the words "concessionaire" and "second" or "cornerman". Authorizes the Commission to require the posting of a bond or other form of security by a concessionaire.

Amendment 3:

- Requires that when a person sells the rights to telecast a match, such person is deemed to be a promoter; must be licensed; and must within 72 hours after the match, file with the Commission a written report which includes the number of tickets sold, the amount of gross receipts, and any other facts the Commission may require.
- Requires that a concessionaire must also within 72 hours after the match, file with the Commission a written report which includes the number of tickets sold, the amount of gross receipts, and any other facts the Commission may require.
- Provides that any written report required to be filed with the Commission can be postmarked within 72 hours of the conclusion of the match and an additional five days are allowed for mailing.

Amendment 4:

- Requires that a concessionaire be licensed by the Department of Business and Professional Regulation.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Staff Director:

Monique H. Cheek

Judy C. McDonald

AS REVISED BY THE COMMITTEE ON BUSINESS REGULATION:

Prepared by:

Staff Director:

Janet Clark Morris

M. Paul Liepshutz