

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 538

SPONSOR: Regulated Industries Committee and Senator Lynn

SUBJECT: Stacy Young Act

DATE: March 18, 2004 REVISED: 03/26/04 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The CS, which may be cited as the Stacy Young Act authorizes the Florida State Boxing Commission (“commission”) to establish criteria for the approval, disapproval, suspension of approval, and revocation of amateur sanctioning organizations for amateur boxing and kickboxing matches. The CS defines the term “amateur sanctioning organization,” and amends the definitions for the terms “contest” and “exhibition.”

The CS also provides the commission with standards and requirements for the regulation of amateur matches and with emergency rulemaking authority; grants it exclusive jurisdiction over the approval, disapproval, suspension of disapproval, and revocation of approval of all amateur sanctioning organizations for amateur boxing matches held in this state; and requires it make periodic compliance checks and review at least biennially its approval of an amateur sanctioning organization.

Any member of the commission or the executive director of the commission may suspend the approval of a sanctioning organization if it fails to comply with health and safety standards, and may immediately stop a boxing or kickboxing match if it appears the match violates the health and safety standards required by rule. Law enforcement personnel may assist to enforce the order to stop the match.

The CS prohibits amateur matches and matches that utilize strikes to the head that are not sanctioned and supervised by an amateur sanctioning organization approved by the commission and any match that is not sanctioned and supervised by an amateur sanctioning organization approved by the commission. The CS also prohibits professional matches that do not meet the statutory and rule requirements for holding a professional match, and amateur mixed martial arts matches. Any person participating in any of these prohibited matches, knowing the match to be

prohibited, commits a second degree misdemeanor. Any person holding, promoting, or sponsoring any of these prohibited matches commits a third degree felony. The CS exempts matches conducted or sponsored for participants of a bona fide nonprofit boxing, kickboxing, or martial arts school or education program, and matches for members of the Florida National Guard conducted or sponsored by any company or detachment of the Guard.

The CS also deletes promoters from the list of persons restricted from having a financial interest in a match participant.

This bill substantially amends ss. 548.002, 548.003, 548.006, 548.007, 548.008, and 548.056, F.S., and creates s. 548.0065, F.S.

II. Present Situation:

The Florida State Boxing Commission (“commission”) is established within the Department of Business and Professional Regulation. The commission consists of five members who are appointed by the Governor. The commission is the agency responsible for the enforcement of ch. 548, F.S., regarding the regulation of pugilistic exhibitions.

Definitions

Section 548.002(1), F.S., defines the term “amateur” to mean:

... a person who has never received nor competed for any purse or other article of value, either for expenses of training or for participating in a match, other than a prize of \$50 in value or less.

Section 548.002(2), F.S., defines the term “boxing” to mean a competition with fists.

Section 548.002(5), F.S., defines the term “contest” to mean “...a boxing, kickboxing, or mixed martial arts engagement in which the participants strive earnestly to win.”

Section 548.002(7), F.S., defines the term “exhibition” to mean “...a boxing, kickboxing, or mixed martial arts engagement in which the participants show or display their skill without necessarily striving to win.”

Section 548.002(10), F.S., defines the term “kickboxing” to mean “... to compete with the fists, feet, legs, or any combination thereof, and includes “punchkick” and other similar competitions.”

Section 548.002(14), F.S., defines the term “mixed martial arts” to mean:

...unarmed combat involving the use, subject to any applicable limitations set forth in this chapter, of a combination of techniques from different disciplines of the martial arts, including, but not limited to, grappling, kicking, and striking.

Section 548.007, F.S., provides that, with the exception of s. 548.008, F.S., the provisions of ch. 548, F.S., do not apply to the following:

- (1) Any match in which the participants are amateurs;
- (2) Any match conducted or sponsored by a university, college, or secondary school if all the participants are students regularly enrolled in the institution;
- (3) Any match conducted or sponsored by a nationally chartered veterans' organization registered with the state;
- (4) Any match conducted or sponsored by any company or detachment of the Florida National Guard; or
- (5) Any official Olympic event.

The effect of the exemptions in s. 548.007, F.S., is to remove the listed types of matches from the regulatory jurisdiction of the commission.

Section 548.008(1), F.S., prohibits professional and amateur toughman or badman matches. This provision defines such matches as including:

...any contest or exhibition where participants compete by using a combination of skills. Such skills may include, but are not limited to, boxing, wrestling, kicking, or martial arts skills.

Current law, including the rules of the commission (Chapters 61K1-1 and 61K1-2, F.A.C) does not define the terms "toughman or badman matches."

Section 548.008(1), F.S., specifically exempts kickboxing or mixed martial arts as regulated by ch. 548, F.S., from this prohibition. A violation of this provision would constitute a second degree misdemeanor.

Chapter 548, F.S., requires the licensure or permits for promoters (s. 548.012, F.S.) and foreign co-promoters (s. 548.013, F.S.). A permit is also required for any participant, manager, trainer, second, timekeeper, referee, judge, announcer, physician, matchmaker, concessionaire, or booking agent or representative of a booking agent. s. 548.017, F.S.

Section 548.07, F.S., authorizes summary suspensions of licenses and permits if it is necessary to protect the public welfare and the best interests of the sport. The commission must hold a hearing within 10 days after the date on which the license or permit is suspended. Any member of the commission may issue the suspension order.

Preemption

Section 548.006, F.S., grants the commission exclusive jurisdiction over professional matches in this state. Current law does not provide for state preemption of amateur matches.

The Stacy Young Case

According to published reports, on June 14, 2003, Stacy Young, age 30, of Bradenton, Florida, competed in a toughman amateur bout in Sarasota, Florida. During the contest, Mrs. Young was repeatedly hit in the head by her bout competitor, another Sarasota woman. Mrs. Young, who

was a mother of two, had no prior fight experience. She suffered severe blunt trauma to the head, was declared brain dead, and subsequently died of her injuries. Mrs. Young was uninsured. Haas, Brown, "Bradenton Woman Dies Seeking Adventure," *The Bradenton Herald* (June 18, 2003). Her death was ruled an accident by the Pinellas County Medical Examiner's Office. Chachere, Vickie, "Report Filed in Boxing Death," *Tallahassee Democrat* (June 23, 2003). According to news reports four people died from injuries sustained in amateur toughman contests during the previous year. Zucco, Tom, "Fighting Fatality Ruled an Accident," *St. Petersburg Times*, August 12, 2003).

Regulation by Local Governments

In September, 2003, the Sarasota County Commission approved a new ordinance governing amateur fights as a result of the death of Mrs. Young. The Sarasota ordinance requires a permit for any amateur boxing, kickboxing, and martial arts match or exhibition conducted in any premises licensed to sell alcohol or where an admission fee is charged. The Sarasota ordinance requires that the match must be governed by a sanctioning body such as the USA Boxing, the Amateur Athletic Union, or another body approved by the county administrator. Promoters of amateur boxing, kickboxing, and martial arts matches are required to have a licensed doctor at ringside, and have a waiting ambulance with at least two emergency technicians on site. Contestants have to register and be matched with their opponent at least two days before the match. Contestants must receive a pre-match and post-match physical by a licensed physician.

In 2002, the Jacksonville City Council enacted an ordinance that prohibited "fight nights" or other similar events on premises that are licensed by the state to sell and serve alcoholic beverages. This ordinance was in response to the death of a 23 year old Jacksonville man, Nelson Land, who was knocked unconscious at a bar "fight night" on May 3, 2002, and died three days later on May 6, 2002. Galnor, Matt, "Boxing is Down for the Count – Jacksonville Bars Bar Patron Matches," *Florida Times-Union* (July 26, 2002).

The Jacksonville City ordinance prohibits a vendor from "encouraging, conducting, permitting or authorizing persons to fight, box, wrestle, kickbox, or use martial arts skills in a combative manner that creates a public display or is intended as entertainment." City of Jacksonville, Ordinance Code s. 154.113(a)(9). The ordinance excludes contestants that are amateurs if the contest is governed and authorized by USA Boxing, American Boxing and Athletic Association, International Sports Combat Federation, International Kickboxing Federation or the Jacksonville Fraternal Order of Police Consolidated Lodge 5-30. *Id.* at s. 154.113(c)(1). The ordinance does not apply to any match, contest, or exhibition governed by ch. 548, F.S. It provides that contestants have to register and be matched at least seven days before the match. It also provides other requirements, penalties, and the ability for law enforcement to stop the fight.

Preemption

Regulation of a subject may be expressly or impliedly preempted by the state. In order for a subject matter to be expressly preempted to the state, the express preemption language must be a specific statement. Express preemption cannot be implied or inferred. Implied preemption exists where the legislative scheme is so pervasive that it completely occupies the field. *Hillsborough County v. Florida Restaurant Association*, 603 So.2d 587 (Fla. 2nd DCA 1992). Moreover, the

Florida Constitution provides that county ordinances must not be inconsistent with general law. Article VIII, ss. 1(f) and (g), Fla. Const.

Amateur Sanctioning Organizations

United States Amateur Boxing, Inc. (USA Boxing) is a national governing body for Olympic-style boxing. It is the United States' member organization of the International Amateur Boxing Association. USA Boxing administers, develops, and promotes Olympic-style boxing in the United States. USA Boxing is a non-profit organization and is overseen by a Board of Directors. Formerly known as the United States Amateur Boxing Federation, it has governed men's amateur boxing in the United States since 1888. Its headquarters is in Colorado Springs, Colorado.

The following organizations are USA Boxing-approved member organizations that abide by USA Boxing's official rules, regulations, and policies (United States Amateur Boxing, Inc., *Official Rules 2002*):

- Golden Gloves Association of America, Inc.
- National Association of Police Athletic Leagues
- National Collegiate Boxing Association
- Native American Sports Council
- Silver Gloves Association

Moreover, USA Boxing recognizes each branch of the U.S. Armed Forces as a member. *Id.*

International Sport Kickboxing Association (ISKA) is an international governing body for amateur and professional kickboxing. ISKA administers, develops, and promotes kickboxing in the United States. It has been sanctioning and regulating events in men's and women's amateur kickboxing in the United States since 1986. It maintains its headquarters in Gainesville, Florida.

III. Effect of Proposed Changes:

Provided is a section-by-section analysis of the CS:

Section 1 provides that this act may be cited as the Stacy Young Act.

Section 2 creates s. 548.002(2), F.S., to provide a definition for the term "amateur sanctioning organization," which it defines as "any business entity organized for sanctioning and supervising matches involving amateurs."

Definitions in ss. 548.002(5) and (7), F.S., for the terms "contest" and "exhibition," are amended, respectively, to include in each definition a reference to the use of strikes and blows to the head by contest or exhibition participants. (The CS also renumbers the definitions for the terms "contest" and "exhibition" as ss. 548.002(6) and (8), F.S., respectively). Further, it is clarified that boxing, kickboxing, or mixed martial arts contest or exhibition participants are not necessarily limited to using strikes and blows to the head.

Section 3. The bill amends s. 548.003(2), F.S., to provide rule making authority to the commission for the establishment of criteria for approval, disapproval, suspension of approval, and revocation of amateur sanctioning organizations for amateur boxing and kickboxing matches held in this state. The rulemaking authority includes health and safety standards used by the sanctioning organizations, including the number and qualifications for health care personnel required to be present at matches.

The bill authorizes the commission to adopt by rule, or incorporate by reference into rule, the health and safety standards of USA Boxing and the International Sport Kickboxing Association for their respective sports. It requires that the commission review these rules at least every two years. The bill also provides the commission with emergency rulemaking authority to administer this provision.

The rules of USA Boxing are extensive (in the hundreds of pages). All rules that may relate to health are not grouped under section headings indicating they are health-related, and all rules that may relate to safety are not grouped under section headings indicating they are safety-related. While there are ordered groupings of some rules that appear to be health-related, other rules, such as a requirement for carrying medical insurance, may be viewed as health-related but are not part of any health-related grouping. The same situation pertains to safety-related rules. Because of these factors, the substance of the rules are not detailed in this analysis, but may be viewed by going to the following web site: <http://www.usaboxing.org/>.

The International Sport Kickboxing Association only provides an abbreviated version of its rules on its website (http://www.iska.com/kickboxing_rules.htm), which are approximately 12 pages in length. It is unknown how extensive the complete version of the rules is, since those rules must be requested by mail. Also, the abbreviated version of the rules appears to consist mostly of rules relating to equipment and how bouts are conducted. The ISKA rules that may relate to health or safety are not grouped under section headings indicating rules that are health-related or safety-related. Because of these factors, the substance of the rules is not detailed in this analysis.

Section 4 amends s. 548.006, F.S., to provide that the commission shall have exclusive jurisdiction over the approval, disapproval, suspension of disapproval, and revocation of approval of all amateur sanctioning organizations for amateur boxing matches held in this state.

This provision is more narrowly drawn than the provision in s. 548.006, F.S., which establishes the commission's exclusive jurisdiction over professional matches in this state. As written, this provision does not expressly preempt to the state the regulation of amateur matches. However, the regulatory scheme established under this act for amateur matches may establish an implied preemption to the state for regulation of such matches.

Section 548.006(2), F.S., is amended to include the qualifying term "professional" in reference to mixed martial arts and kickboxing and record keeping requirements of this provision.

Section 5 creates s. 548.0065, F.S., to provide standards and establish requirements for the regulation of amateur matches by the commission.

Subsection (1) of s. 548.0065, F.S., prohibits amateur matches in this state, unless the match is sanctioned and supervised by an amateur sanctioning organization approved by the commission. The provision specifies that an amateur sanctioning organization may only sanction and supervise a contest or exhibition in the particular sports or sports in which it has expertise and for which it is approved by the commission.

Subsection (2) of s. 548.0065, F.S., provides that the commission may not approve any amateur boxing organization unless it has adopted and agreed to enforce a set of standards that applies to all matches. Those standards must adequately protect the health and safety of the amateur participants and the public. The organization must also demonstrate to the commission that it has sufficient background, training, and experience in sanctioning and supervising matches for which the organization is approved.

Subsection (3) of s. 548.0065, F.S., provides for periodic compliance checks by the commission to ensure enforcement of approved health and safety standards and supervision of matches by approved amateur sanctioning organizations.

Subsection (4) of s. 548.0065, F.S., provides that any member of the commission may suspend the approval of a sanctioning organization for failure to supervise the amateur matches or to enforce the approved health and safety standards. The suspension must comply with the suspension procedures in s. 120.60(6), F.S. The commission must hold a hearing within 10 days after the date on which the approval is suspended.

It is further provided that any member of the commission, or commission representative, may immediately stop a boxing or kickboxing match if it appears the match violates the health and safety standards required by rule as required by ch. 548, F.S. Law enforcement personnel may assist any member of the commission, or commission representative, to enforce the order to stop the match.

Subsection (5) of s. 548.0065, F.S., provides that the commission shall review at least biennially its approval of an amateur sanctioning organization. It may also review the organization more frequently if it determines that it is necessary based upon periodic compliance checks or complaints to the commission. This provision also authorizes the commission to continue an approval or to suspend or revoke approval based upon the organization's compliance with the approved sanctioning standards and its ability to supervise matches in this state.

Section 6 amends s. 548.008, F.S., to delete the provisions of the current subsection (1), which ban amateur toughman or badman matches. In its place, the CS provides that no match that utilizes strikes to the head may be held in this state unless it is sanctioned and supervised by an amateur sanctioning organization approved by the commission.

It is further provided that no professional match may be held unless it meets the statutory and rule requirements for holding the match. The CS also prohibits amateur mixed martial arts matches.

Any person participating in any of these prohibited matches, knowing the match to be prohibited, commits a second degree misdemeanor. Any person holding, promoting, or sponsoring any of these prohibited matches commits a third degree felony.

Section 7 amends s. 548.007, F.S., to exempt from the provisions of ch. 548, F.S., matches conducted or sponsored by a bona fide nonprofit boxing, kickboxing, or martial arts school or education program. The match must be limited to participants who are students of the school or instructional program.

Matches conducted or sponsored by any company or detachment of the Florida National Guard are exempted. The match participants must be members of the Florida National Guard.

The CS would subject the following matches to the commission's jurisdiction and the applicable provisions of ch. 548, F.S., which are not subject to such jurisdiction under current law:

- Any match conducted or sponsored by a university, college, or secondary school if all the participants are students regularly enrolled in the institution;
- Any match conducted or sponsored by a nationally chartered veterans' organization registered with the state; and
- Any official Olympic event.

The CS does not bar these organizations from conducting or sponsoring amateur boxing or kickboxing matches. According to the representative for the commission, to the extent that any of these organizations conducts or sponsors amateur boxing matches, they are either associated with USA Boxing or utilize health and safety standards that are as stringent as those of USA Boxing.

Section 8 amends s. 548.056, F.S., to delete promoters from the list of persons restricted from having a financial interest in a match participant.

Section 9 provides that the CS takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the commission, this legislation would have a minimal fiscal impact and require no additional appropriations or employees.

The Criminal Justice Impact Conference has not yet reviewed the third degree felony provision in Section 6 of the CS to determine if it would likely have a prison bed impact. However, staff notes that the offense is unranked and an unranked third degree felony defaults to a Level 1 ranking. For a first-time offender convicted of only this offense a Level 1 ranking would not score a lowest permissible sentence of imprisonment, although the sentencing court is free to impose a sentence within the sentencing range, which would be the lowest permissible sentence up to and including the maximum penalty for a third degree felony, which is 5-years imprisonment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.