

**CALIFORNIA STATE ATHLETIC COMMISSION
FINDING OF EMERGENCY
READoption**

**Procedures to Hold Combative Sporting Events
When an Infectious Disease Causes a State of Emergency**

SUBJECT MATTER OF PROPOSED REGULATIONS: Procedures to hold combative sporting events when an infectious disease causes a State of Emergency

SECTIONS AFFECTED: Title 4, California Code of Regulations (CCR), section 299.5

The California State Athletic Commission (Commission) hereby finds that an emergency, as defined in Government Code section 11342.545, continues to exist. As such, the Commission finds that immediate action to readopt the Commission’s amended regulations is required to maintain essential health and safety practices for the Commission’s licensees. The Commission specifically finds that a readoption of the emergency regulations is necessary for the immediate preservation of public health and safety, and general welfare of the citizens of California.

BACKGROUND:

The California State Athletic Commission is a state entity (part of the Department of Consumer Affairs) dedicated to the health, safety and welfare of competitors in regulated amateur and professional boxing, mixed martial arts and kickboxing, through ethical and professional service, throughout the State of California.

SPECIFIC FACTS DEMONSTRATING THE NEED FOR IMMEDIATE ACTION

On March 4, 2020, Governor Gavin Newsom declared a State of Emergency as part of the state’s response to address the global COVID-19 outbreak. Based on guidance issued by the Governor and the California Department of Public Health (CDPH) to protect Californians against the possible spread of COVID-19, the Commission canceled all combative sporting events.

On April 28, 2020, Governor Gavin Newsom announced a “Resiliency Roadmap” (Roadmap) that included four phases for California’s measured reopening process. Phase III of the Roadmap allows sporting events to begin without live audiences.

On July 22, 2020, the Office of Administrative Law (OAL) approved the Commission’s emergency regulations to establish procedures to hold combative sporting events during the state of emergency stemming from the infectious disease, Novel Corona Virus 19 (COVID-19), declared by the State of California as a public health emergency. This emergency regulation expires May 22, 2021.

This emergency regulation ensures that the Commission is following protocols necessary to operate businesses under specific Centers for Disease Control and Prevention (CDC) / CDPH criteria for COVID-19. It allows the Commission to hold future events during the COVID-19 crisis, when the State of California has declared a state of emergency, based upon the declaration of a public health emergency, as determined necessary by the Commission.

Although the regulation does not guarantee the 100% safety of all participants and Personnel under the regulation, since it is likely impossible to guarantee such with any set of procedures, this emergency regulation intends to help significantly reduce the health risks associated with the resumption of combative sporting events based on the most up-to-date medical and public health knowledge available on the date of any given event.

This regulation specifically outlines protocols and procedures to hold combative sporting events during the time period that COVID-19 will cause a State of Emergency. It includes physical distancing protocols, the use of personal protective equipment (PPE), infectious disease advance screening and testing, cleaning and disinfecting of hotel accommodation(s) and sporting venues, along with general event operations, etc., as determined necessary by the CDC, CDPH and/or the applicable county health officer in the jurisdiction(s) where the Event is being held and/or the Personnel are housed, in consultation with the Commission's own Advisory Committee on Medical and Safety Standards ["Medical Advisory Committee" (MAC)].

This regulation also delegates non-policy operational decisions for the application of procedures and protocols, during an Event, to the Executive Officer or the Commission personnel, so that the entire Commission will not need to meet to make these individual non-policy operational decisions. This was done for clarity, since it has always been the intent of the Commission that these determinations will be made by the Executive Officer and Commission personnel and not the entire Commission.

Using the aforementioned delegation of authority, the Executive Officer will be responsible to consider local health and CDC Guidelines, in consultation with the California Department of Public Health (CDPH) and the Advisory Committee on Medical and Safety Standards ["Medical Advisory Committee" (MAC), as defined in Business and Professions code section 18645], to identify the appropriate health and safety protocols and procedures necessary to implement this regulation to ensure that the health and safety of the Personnel at the Event are best protected.

Following such consultation, the Executive Officer shall determine the appropriately restrictive health and safety protocols and procedures to be complied with by the Promoter and all Personnel to provide the best protection to all Personnel at the Event. Unless the Executive Officer determines otherwise, the following protocol and procedures shall apply. The Executive Officer shall provide the Promoter with any more restrictive health and safety protocols and procedures to operate the Event in a safe manner, as deemed necessary by the Executive Officer.

COMMISSION ACTIONS TAKEN SINCE INITIAL ADOPTION TO MAKE REGULATION PERMANENT

Since the adoption of 4 CCR 299.5, in July 2020, the Commission has successfully held the Events discussed, below, under the protocols and procedures outlined in the emergency regulation. Commission staff has worked with the DCA Legal Affairs Regulation Unit to draft the documents necessary to make this regulation section permanent with a Certificate of Compliance. This process was started in November 2020, and is ongoing.

Because the time necessary to complete the Certificate of Compliance was short, based upon the timelines of the process and the Commission's desire to revise some of the text within the emergency regulation to better meet the circumstances that the Commission will ultimately seek to work under, in the final regulation text, the Commission met on March 1, 2021, and unanimously voted to file and obtain a readoption of the current text and then file the Certificate of Compliance that would include the revised text.

Presently, the Commission anticipates that the readoption will be completed in late April or early May 2021, with the Certificate of Compliance being filed with the Office of Administrative Law (OAL), in June 2021, for publication. This will allow the notice and comment period to be completed, and the final documents to be filed and reviewed with OAL, after the the Final Statement of Reasons and other necessary documents have been drafted and finalized by the Commission.

AUTHORITY AND REFERENCE CITATION

Authority cited: Sections 18611 and 18725, Business and Professions Code. Reference cited: Sections 18640, 18700, 18705.5, 18706, 18711, and 18732, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to Business and Professions Code section 18611, the Commission shall adopt, amend, or repeal, in accordance with the Administrative Procedure Act, rules and regulations as may be necessary to enable it to carry out the laws relating to boxing and the martial arts. Business and Professions Code section 18725 allows the Commission to establish safety standards to protect the health and safety of contestants.

This rulemaking action readopts the Commission's regulations to address holding combative sporting events when the State of California declares a state of emergency based upon the declaration of a public health emergency. Therefore, in the interest of the health and safety of all participants and the public, regulations must be established to address these concerns.

Section 299.5: Procedures to Hold Combative Sporting Events When an Infectious Disease Causes a State of Emergency

This section governs procedures to hold combative sporting events during the COVID-19 pandemic state of emergency in 2020 and beyond, if necessary.

Proposed readopted subsection (a) specifies definitions for terms used throughout proposed section 299.5. The specific definitions are: Infectious Disease, Commission Staff, Disposable Gloves, Event, Executive Officer, Face Coverings, Host Accommodation or Accommodation, Isolation, Medical Personnel, Officials, Personnel, Traffic Area, Vehicle, and Venue, and are used to better describe words that may have real world meanings to avoid confusion and also allow the regulation's language to be more concise.

Proposed readopted subsection (b) specifies health and safety protocols for events when COVID-19 is subject of a state of emergency declared by the State of California. These health and safety protocols and procedures include physical distancing protocols that have been determined essential by the Executive Officer, following review of information from the CDC and/or consultation with the the CDPH, OSHA, and/or the applicable county health officer's guidance in the jurisdiction(s) where an Event is being held and/or where Event Personnel are housed, along with the Commission's own MAC; personal protective equipment, such as face coverings and gloves, that shall be used as deemed essential by the Executive Officer; infectious disease advance screening and testing protocols applicable to COVID-19; cleaning and disinfecting procedures of Host Accommodation(s) and event venue; along with other general event operations, etc., as determined essential by the Executive Officer.

Proposed readopted subsection (b)(3)(F) also specifies that 48 hours prior to any Personnel arriving at the Event's Host Accommodation(s), the Promoter must submit to Commission staff a completed "COVID-19 Pre-Event Screening Questionnaire" (New 7/2020) (Questionnaire) for all Personnel. This questionnaire is being updated "COVID-19 Pre-Event Screening Questionnaire" (Revised 10/2020) (Questionnaire), to include the questions whether or not a person has ever had COVID-19 and when, in order to determine if anyone would possibly need additional testing because it had been several weeks since they had COVID-19 and may have produced a false positive.

Although there have been several other epidemic and/or pandemic threats over the past 15 years, these various protocols and procedures have been written to be specific to COVID-19. Moreover, by allowing these protocols to be utilized, in consultation with the MAC that has specific medical expertise in combat sporting events, the application of the protocol will be more specific to the combat sports regulated by the Commission, so that they can create and maintain a safer work environment for all involved in the subject sport to which they are being applied for the specific purpose that this regulation is intended to regulate.

Most important among these items is the Infectious Disease Advance Screening and Testing under item (b)(3). This proposed readoption will require the Commission to have all Personnel (as defined by the regulation) tested in various phases of the Event, so that depending upon what they are doing at the Event, whether they be an athlete who is involved in the actual combat sport or a part of the camera crew, they are all tested during a timeframe that will be determined to best protect them (and others at the Event) both before and during the Event. This will include being tested for COVID-19, as determined to be most effective by the entities named above, so that the risk of infecting others at the Event will be severely limited.

In addition, the amount of time that the Personnel will be at the Host Accommodation(s), tested, and placed in self-isolation will be dependent upon who those Personnel are and what task(s) they are performing at the Event. So, because the athletes and their seconds are required to attend the weigh-in, they will be required to appear, be tested, and self-isolated 24-hours prior to the weigh-in (48-hours prior to the start of the Event). Conversely, because the camera crews are only required to be at the actual event and do not participate in the weigh-in process, they will only be required and allowed to be at the Host Accommodation(s) 24-hours prior to the actual Event. This narrow tailoring of burdens of being tested, based on functions, has been deemed the least restrictive for the effective protection of all involved by the Commission.

By having these regulations in place, this will lessen the impact upon the lives of those that are not required to be at the Event at the earlier time, plus lessen the potential of infection that they would encounter were they to be present 24-hours earlier. The same would apply to those individuals that are required to be at the Event for weigh-in, since they could be infected by the individuals that appear 24-hours prior to the event.

This subsection also sets forth cleaning and disinfecting criteria for the various parts of the Event site, which are again determined by the Executive Officer, in consultation with the CPHD, the local jurisdiction and the MAC, using federal OSHA guidelines, so that combat sport specific cleaning requirements can be adopted and used to clean and disinfect the Venue both before and after the Event has concluded.

Proposed readopted subsection (c) provides additional general event operations including the identification of essential Commission and Promoter personnel present at an Event; testing standards for paramedic staff that will be present at an Event; transporting of injured athletes during an Event; and logistics of the Event set up as it relates to Personnel seating at ring/cage side. Again, these issues will be determined essential by the Executive Officer, in consultation with the CPHD, the local jurisdiction and the MAC, so that combat sport specific requirements can be adopted and used maintain the Venue in a safe condition, both before and after the Event has concluded, to ensure the safety of the regulated public and all Personnel in attendance at the Event.

ANTICIPATED BENEFITS OF THE PROPOSAL

This proposed readopted emergency regulation intends to protect Californians against the potential spread of COVID-19 based on the medical and public health knowledge and testing that are in effect at the time of any proposed Commission sponsored contest in the future. This regulation will also benefit the many people who participate in this industry in California, because without the regulation, combat sports will relocate to other states. Thus, this regulation preserves jobs and revenue within the State.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing this regulation, the Commission has conducted a search of any similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has also been advised that other jurisdictions and/or combat sports entities, across the United States, have copied these regulations due to their scope and effectiveness in preventing the spread of COVID-19.

DISCLOSURES REGARDING THE PROPOSED ACTION:

FISCAL IMPACT ESTIMATES

Mandate on local agencies or school districts: **None.**

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: **None**

Significant, Statewide Adverse Economic Impact Directly Affecting Businesses and Small Business:

The Commission has made an initial determination that the proposed action will directly affect businesses statewide, including small business and the ability of California businesses to compete with businesses in other states. The Commission projects that this will affect approximately six (6) Promoters in California during the next twelve (12) months. The Commission anticipates these six (6) Promoters will spend an additional \$36,860, for each event held during the Emergency.

Other nondiscretionary cost or savings imposed on local agencies: **None.**

Cost or savings in federal funding to the state: **None.**

Business Reporting Requirements: The regulatory action does not require businesses to file a report with the Commission.

Effect on Housing Costs: **None.**

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The Commission concludes that this proposal will affect the State of California business environment as follows:

- Unlikely to eliminate any jobs
- Likely to create jobs performing the required additional cleaning and sanitation not required during times when COVID-19 is not a health issue
- Likely to create new cleaning and sanitation businesses to perform the additional services required under the regulation
- Unlikely to eliminate any existing businesses
- Potentially likely to expand current business in cleaning and sanitation

Benefits of the Proposed Action: This regulation package will allow the Commission to hold combat sporting events during the Emergency. This proposed regulation intends to protect Californians against the potential spread of COVID-19 based on the medical and public health knowledge and testing that are in effect at the time of any proposed Commission sponsored contest in the future.

This regulation will also benefit the many people who participate in this industry in California, because without the regulation, combat sports will relocate to other states. Thus, this regulation preserves jobs and revenue within the State. The proposed regulation is not expected to impact worker safety or the state's environment.

Cost or savings to any state agency:

FISCAL IMPACT

There are always costs associated with an event being held in California, such as hotel room accommodations, per diem, travel, and hourly wages for Commission personnel to attend and regulate events. During the initial approval of the emergency regulations, it was anticipated that the Commission would spend approximately \$4,000, in additional costs, per event. Since July 2020, the Commission has regulated 22 events under the emergency regulations and has spent approximately \$1,818 (\$40,000 total), in additional costs, per event. The Commission expects this readoption to be in effect for approximately twelve (12) additional months. During this time, the Commission expects to spend approximately \$1,818, in *additional* costs per event, for approximately thirty (30) additional events (\$54,540 total).

These additional costs would not have been incurred under normal circumstances because Commission staff working an event would typically return home after conducting the weigh in of athletes and the event. Under this proposal, any Commission personnel attending the event are required to stay and remain isolated at the Host Accommodation and Venue, during the event for either one or two nights, as specified. Conversely, other costs, such as Commission staff travel airfare or car mileage costs, would be incurred regardless of the proposed regulations and are not included with this estimate.

Revenue impact to state agencies:

The Commission typically receives event revenue from gate participation (ticket costs) and television contracts. Prior to the COVID-19 emergency, the Commission anticipated that it would hold 160 events in 2020-21, with total revenues of approximately \$2,750,000.

Under the emergency regulations and as of July 24, 2021, the Commission regulated 22 events with no ticket sales allowed. As a result, only television and minimum gate fees were generated for these events. These events generated revenues of approximately \$445,800 or less than 10% of the Commission's normal revenue.

The Commission anticipates an additional 5 events will be held in 2020-21 and an additional 30 events in 2021-22, where no or minimal ticket sales will be allowed. As a result, only television revenues will be generated for these events.

Current law authorizes the Commission to charge a fee of up to five percent of television rights with a minimum of fee of \$1,000, and a maximum fee of \$35,000, per event. Under this proposal, the Commission estimates 10 (Max) events will be charged the maximum amount of \$35,000 and 20 (Small) events will be charged \$7,500, which will generate revenues of \$500,000 as follows:

2021-22 EVENT (TELEVISION ONLY) REVENUES			
Max Event	10	\$ 35,000	\$ 350,000
Small Event	20	\$ 7,500	\$ 150,000
TOTAL:			\$ 500,000

Note: These events would have been charged these same amounts (\$35,000 and \$7,500) under normal circumstances.

The Commission estimates lost gate revenues for these 30 events as follows:

2021-22 EVENT (LOST GATE) REVENUES			
Max Event	10	\$ (50,000)	\$ (500,000)
Small Event	20	\$ (10,000)	\$ (200,000)
TOTAL:			\$ (700,000)

Note: These events would have been charged these same amounts (\$50,000 and \$10,000) under normal circumstances.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: **None**.

Other nondiscretionary cost or savings imposed on local agencies: **None**.

Cost or savings in federal funding to the state: **None**.

BUSINESS IMPACT

Cost impacts on a representative private person or business:

The Commission projects that this will affect approximately six (6) Promoters in California and approximately 30 events, during the next twelve months, under Phase III of the Roadmap.

Under this regulation, the additional costs to Promoters will be associated with COVID-19/infectious disease testing and other health and safety measures including hotel costs, on-site test collection, transporting samples, personal protection equipment, disinfection, security, and ringside protective barriers and equipment.

Promoters shall be responsible for paying for all COVID-19/infectious disease associated costs for all Event Personnel, including, but not limited to, Commission personnel, Promoter's personnel, all athletes and their cornermen, all officials assigned to the event, television crew and media. These costs will include an additional night's food and lodging at the Host Accommodation(s) necessary to allow testing for COVID-19 for each person who must attend the weigh-in and a single additional night for those that will only attend the Event. The proposed regulations limit the number of Event Personnel; therefore, the Commission expects approximately 100 Event personnel will be tested, per event.

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The Commission anticipates Promoters will spend an additional \$36,860, for each event held during Phase III of the Roadmap, as follows:

PROMOTER EXPENSES PER EVENT	QTY	COST	TOTAL COST
Hotel Costs (2 nights)	50	\$ 300	\$ 15,000
COVID-19 Collection	100	\$ 30	\$ 3,000
COVID-19 Lab Testing	100	\$ 150	\$ 15,000
Transport of Samples (airfare)	1	\$ 500	\$ 500
Personal Protection Equipment - Masks	200	\$ 7	\$ 1,400
Personal Protection Equipment - Gloves	600	\$ 0	\$ 200
Hand Sanitizer	Various	\$ 200	\$ 200
Hotel Security	Various	\$ 500	\$ 500
Ringside Plexiglass Barrier	Various	\$ 1,000	\$ 1,000
Ringside Face Protection	3	\$ 20	\$ 60
Health and Safety Training Costs	2 hours	Various	Various
TOTAL:			\$ 36,860

Additionally, Promoters shall be required to pay television contract fees ranging from \$7,500 to \$35,000, per event. The Commission anticipates 30 events will be held over the next twelve months, which will generate revenues of \$500,000.

The Commission has made an initial determination that unless this regulation is readopted, there will be a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Specifically, should this regulation not be enacted, on an emergency basis, the loss of business and its related revenue, to California, will be significant, since the combat events that are currently scheduled to operate in California will be forced to relocate to other states. If this occurs, there will be a significant loss of business and associated revenue both now and potentially well into the future.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Since there are no alternatives that the Commission could have considered that would have allowed combat sports to be held, in California during the Emergency, no other

reasonable alternatives to the present regulations were feasible. Any text or other regulations that would have contained lesser regulation, protocols and/or procedures than those contained in the current regulation would have meant that no combat sports sponsored by the Commission would have been held.

TEXT OF PROPOSAL

Copies of the exact language of the readopted regulations, any document incorporated by reference and all of the information upon which the proposal is based, may be obtained upon request from the California State Athletic Commission, located at 2005 Evergreen Street, Suite 2010, Sacramento, California 95815, or at the Commission's website at listed below.

Document(s) Relied Upon:

- **State of California Resiliency Roadmap, Phase III (April 28, 2020).**
- **CDC Guidance for Cleaning and Disinfecting, available online at www.cdc.gov.**
- **Office of Administrative Law File Number 2020-0721-02E – Resiliency Procedures**

Documents Incorporated by Reference:

- **List N for COVID-19 from the United States Environmental Protection Agency (EPA) (Revised 4/2021).**
- **COVID-19 Prescreening Questionnaire (Revised 10/2020)**

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WEBSITE ACCESS: Materials regarding this proposal can be found at:
https://www.dca.ca.gov/csac/stats_regs/prop_regs.shtml