

**CALIFORNIA STATE ATHLETIC COMMISSION
FINDING OF EMERGENCY AND
NOTICE OF EMERGENCY REGULATIONS
[AMENDED]**

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

The California State Athletic Commission (Commission) hereby finds that the adoption of regulations on an emergency basis is required to maintain essential health and safety practices for the Commission's licensees. The Commission specifically finds that these emergency regulations are necessary for the immediate preservation of public health and safety, and general welfare of the citizens of California.

AUTHORITY AND REFERENCE CITATION

**Note: 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.**

SPECIFIC FACTS DEMONSTRATING THE NEED FOR IMMEDIATE ACTION

There have been numerous infectious diseases that have been deemed highly likely to become epidemics or even pandemics, including H1N1 Influenza, SARS, MERS, Ebola, Tuberculosis and, in 2019, the Novel Corona Virus 19 (COVID-19). Although it was thought, when each of these were still in their infancy, that they could each become epidemics or even a pandemic, only COVID-19 became a true pandemic.

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 includes four phases for California's measured reopening process. Phase III of the Roadmap allows sporting events to begin without live audiences. This regulation is written to allow the Commission to hold combat sporting events during Phase III of the Roadmap, and beyond.

As with all amateur and professional athletic events, in the sports regulated by the Commission, the competitors have spent years, if not their entire lives, training, conditioning and preparing to participate in their chosen sport, whether it be boxing, mixed martial arts (i.e. The Ultimate Fighting Championship (UFC), Bellator MMA, etc.), etc. In so doing, these athletes have dedicated their lives to perfecting their sport to, literally, be the best in the world at what they do.

When an infectious disease, such as COVID-19, causes combat sports to come to a standstill, athletes lose not only their livelihoods, but the precious time during which their bodies and skills are at their finest. Thus, losing days, weeks and months can destroy an entire career. In combat sports, like any other professional sport, the condition of an athlete's body, along with their skills, has only a certain shelf-life. Thus, it is imperative that the fights must proceed, but as safely possible.

Along with the athletes, there is an entire industry that depends upon these combat sports being up and running; including everyone from the licensed seconds, to the crew that films each fight, to the Promoters that produce each fight and event. Moreover, the fans of these events have the desire to support their favorite athletes, not only in-person, but online, through television, and on pay-per-view. The ability to broadcast protects against congregated audiences spreading infection, which meets the "shelter-in-place" orders of many areas. Therefore, holding events without audiences generally satisfies the public's desire to watch the sporting event while keeping the public safe. This regulation provides a means for this to happen in a way that protects the athletes, who are in their prime and ready to compete, as well as those involved in producing the event itself.

This regulation ensures that the Commission is following protocols necessary to operate businesses under specific Centers for Disease Control and Prevention (CDC) / California Department of Public Health (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.

In drafting this regulation, the Commission worked with numerous other state entities, including the CDPH and the Department of Industrial Relations – Division of Occupational Safety and Health (DOSH), to obtain their input and expertise. As noted in the text of the regulation, the Commission will continue to work in consultation with the CDPH to ensure that the procedures used in this regulation remain compliant with the CDC, CDPH, and other entities' procedures related to the COVID-19 pandemic, for which a California emergency declaration has been issued. It was also determined that if there is a conflict between two agencies' protocols necessary to protect the regulated public and Event Personnel, that the stricter of the two policies would be applied by the Commission and/or the Promoter.

In this case, the Commission is not a subject matter expert in infectious control or disease prevention, but the Federal CDC is world-renowned in this subject area. It, therefore, is appropriate to defer to the CDC in determining the manner and methods to control the spread of infectious diseases. Similarly, CDPH leads California in determining public health issues and, therefore, it is appropriate to defer to them for social distancing guidelines or disinfection procedures to protect the health and safety of all Californians. Additionally, List N for COVID-19 from the United States Environmental Protection Agency (EPA) is incorporated by reference, since it is the standard in the United States that tests cleaning and disinfection products for safety to the public and

environment, including providing recommended usage guidelines for many products that it tests.

Although this 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 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 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, 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], in order to identify health and safety protocol 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 more 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.

For the aforementioned reasons, the Commission found that it is immediately necessary for the Commission to amend its regulations, as an emergency, to allow the Commission to hold combat sporting events during Phase III of the Roadmap, and beyond, for the COVID-19 heath emergency. This is necessary to maintain essential

health and safety practices for all event participants and to allow the fights to begin again.

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.

Presently, there is no statute or regulation that addresses 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. The proposed regulation seeks to fill the void that currently exists and is discussed herein.

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 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 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 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 Advisory Committee on Medical and Safety Standards ["Medical Advisory Committee" (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.

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 part of the regulation 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 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 they are and what task 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. And, 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, 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 subsection (c) provides additional general event operations including 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 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.

DISCLOSURES REGARDING THE PROPOSED ACTION:

FISCAL IMPACT ESTIMATES

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

Cost or savings to any state agency:

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. The Commission expects this emergency regulation to be in effect for approximately twelve (12) months. During this time, the Commission expects to spend approximately \$4,000 in *additional* costs, per event, for approximately thirty (30) events (\$138,000 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.

The additional costs associated with the requirement of approximately ten (10) Commission personnel staying at the Host Accommodations for one (1) and two (2) nights, staff per diem, and two (2) additional Athletic Inspectors specifically assigned to COVID-19/infectious disease related tasks are as follows:

COMMISSION EXPENSES PER EVENT	QTY	COST	TOTAL COST PER EVENT
Hotel Costs (1 nights)	6	\$ 150	\$ 900
Hotel Costs (2 nights)	4	\$ 300	\$ 1,200
Per Diem	20	\$ 41	\$ 820
Screening during hotel arrival (Inspector Hours)	16	\$ 32	\$ 512
2 - COVID-19 Inspector's Wages (Inspector Hours)	16	\$ 32	\$ 512
TOTAL:			\$ 3,944

The Commission will also be required to receive, review, and approve a pre-screening questionnaire from approximately 100 Event Personnel. Any workload and costs are anticipated to be minor and absorbable within existing resources.

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 160 events occurring in 2020-21 with total revenues of approximately \$2,750,000.

Under the proposed regulations, the Commission anticipates only 30 events will be held in 2020-21 and no ticket sales are 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:

2020-21 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:

2020-21 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**.

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.

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 immediately approved, 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. This has already occurred with several high visibility fights that were scheduled to be held in California which relocated to other states specifically because this regulation was not in place.

Significant effect on housing costs: **None.**

Document(s) Relyed Upon:

- State of California *Resiliency Roadmap, Phase III* (April 28, 2020).
- CDC *Guidance for Cleaning and Disinfecting*, available online at www.cdc.gov.

Documents Incorporated by Reference:

- List N for COVID-19 from the United States Environmental Protection Agency (EPA). (Rev. 7/2020).
COVID-19 Prescreening Questionnaire (New 7/2020)