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# PROFESSIONS AND BUSINESSES Georgia Athletic and Entertainment Commission: Amend Articles 1 and 2 of Chapter 4B of Title 43 of the Official Code of Georgia Annotated, Relating to Professions and Businesses, so as to Substantially and Comprehensively Revise Provisions Relating to the Licensure and Regulation of Boxing, Wrestling, and Martial Arts; Change Provisions Relating to Unarmed Combat; Provide for Civil Regulation and Civil Penalties; Provide for the State Regulatory Body and its Officers, Agents, and Operations; Provide for Certain Taxes and Reporting; Repeal Provisions Regulating Martial

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# Arts and Wrestling; Provide for other Matters Related to the Foregoing; Repeal Conflicting Laws; and for Other Purposes

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## PROFESSIONS AND BUSINESSES

***Georgia Athletic and Entertainment Commission: Amend Articles 1 and 2 of Chapter 4B of Title 43 of the Official Code of Georgia Annotated, Relating to Professions and Businesses, so as to Substantially and Comprehensively Revise Provisions Relating to the Licensure and Regulation of Boxing, Wrestling, and Martial Arts; Change Provisions Relating to Unarmed Combat; Provide for Civil Regulation and Civil Penalties; Provide for the State Regulatory Body and its Officers, Agents, and Operations; Provide for Certain Taxes and Reporting; Repeal Provisions Regulating Martial Arts and Wrestling; Provide for other Matters Related to the Foregoing; Repeal Conflicting Laws; and for Other Purposes***

CODE SECTIONS:	O.C.G.A. §§ 43-4B-1 (amended), 43-4B-2 (amended), 43-4B-3 (amended), 43-4B-4 (amended), 43-4B-5 (amended), 43-4B-6 (amended), 43-4B-7 (amended), 43-4B-8 (amended), 43-4B-10 (amended), 43-4B-11 (amended), 43-4B-12 (amended), 43-4B-13 (amended), 43-4B-14 (amended), 43-4B-15 (amended), 43-4B-16 (amended), 43-4B-17 (amended), 43-4B-18 (amended), 43-4B-19 (amended), 43-4B-20 (amended), 43-4B-20.1 (new), 43-4B-20.5 (new), 43-4B-20.6 (new), 43-4B-20.7 (new), 43-4B-20.8 (new), 43-4B-20.9 (new)
BILL NUMBER:	SB 413
ACT NUMBER:	N/A
GEORGIA LAWS:	N/A
SUMMARY:	The bill attempts to substantially revise the provisions regarding the licensure and regulation of boxing, wrestling and martial arts. The primary goal of the bill is to clear up ambiguity regarding

the authority and jurisdiction of the Georgia Athletic and Entertainment Commission and to provide for clear penalties, standards and reporting measures with regard to the aforementioned sports.

EFFECTIVE DATE: n/a

### *History*

Between 1926 and 2001, the State of Georgia created various commissions that governed the licensing and regulation of boxing in Georgia.<sup>1</sup> On April 26 2001, Governor Roy Barnes signed into law House Bill 538, which officially changed the name of the regulatory body that governed boxing from the State Boxing Commission to the Georgia Athletic and Entertainment Commission (GAEC or the Commission).<sup>2</sup> The GAEC remains the current, sole regulator of professional boxing in Georgia pursuant to Code section 43-4B-3.<sup>3</sup> However, in addition to creating the GAEC, House Bill 538 also marked Georgia's first attempt to regulate mixed martial arts and professional wrestling.<sup>4</sup>

The original version of House Bill 538 created an uproar in the mixed martial arts community because it made certain forms of unarmed combat a crime.<sup>5</sup> Unarmed combat was defined by the bill, in part, as "any form of competition between human beings . . . in which: (i) One or more blows are struck which may reasonably be expected to inflict injury on a human being; and (ii) There is some compensation or commercial benefit arising from such competition."<sup>6</sup>

<sup>1</sup> Georgia Wrestling History, Regulating Wrestling in Georgia, (Dec. 12, 2007), <http://www.georgiawrestlinghistory.com/writers/articles/038.html>. As an aside, the editors deeply regret that the author was unable (or unwilling) to find a way to cite Carl Douglas's famous song *Kung Fu Fighting* in this Peach Sheet. To rectify this omission, see Carl Douglas, *Kung Fu Fighting* (20th Century Records 1974).

<sup>2</sup> See 2001 Ga. Laws 222, § 2, at 755 (codified at O.C.G.A. § 43-4B-1 (2001)).

<sup>3</sup> See O.C.G.A. § 43-4B-4 (2003).

<sup>4</sup> Regulating Wrestling in Georgia, *supra* note 1.

<sup>5</sup> See Cal Cooper, *Georgia Legitimizes MMA Competition: MMA Gains Respect on the East Coast With ISCF!*, INTERNATIONAL SPORT COMBAT FEDERATION (June 14, 2001), available at <http://www.iscfmma.com/GeorgialSCFLaw.htm>; see also 2001 Ga. Laws 222, at 755 (codified at O.C.G.A. § 43-4B-1 (2001)).

<sup>6</sup> HB 538 (LC 22 4305/a), as introduced, 2001 Ga. Gen. Assem.

That definition would have made mixed martial arts unlawful in Georgia because, although the bill provided exemptions for professional and amateur boxing and wrestling, no such exemption existed for mixed martial arts.<sup>7</sup> Eventually an amended version was passed that exempted mixed martial arts fighting so long as the competition was governed by the International Sport Combat Federation.<sup>8</sup>

While the original version of HB 538 also attempted to regulate professional wrestling, opponents of the bill were successful in their attempts to exclude professional wrestling from the jurisdiction of the GAEC, on the basis that professional wrestling was choreographed entertainment, as opposed to competitive sport.<sup>9</sup> The bill defined wrestling as “a staged performance of fighting and gymnastic skills and techniques by two or more human beings who are not required to use their best efforts in order to win and for which the winner may have been selected before the performance commences.”<sup>10</sup> The only mention of wrestling in the final version of HB 538 was to exempt professional and amateur wrestling from the unarmed combat definition that had plagued the mixed martial arts community.<sup>11</sup> Article 3 of the bill provided for certain regulations governing ticket brokers and ticket sales for all athletic events, concerts, exhibitions, and matches.<sup>12</sup> However, the final version of HB 538 made the GAEC the sole regulatory body of only professional boxing, leaving professional wrestling and mixed martial arts substantively unregulated by the State of Georgia.<sup>13</sup>

In 2002 the Georgia legislature again attempted to amend Code section 43-4B with House Bill 1592 which would have given the GAEC “jurisdiction over all professional athletes.”<sup>14</sup> The bill did not make it out of the House Industrial Relations Committee to which it was originally assigned.<sup>15</sup> In 2004, House Bill 558 attempted to

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<sup>7</sup> *Id.*

<sup>8</sup> See 2001 Ga. Laws 222, § 2, at 757 (codified at O.C.G.A. § 43-4B-1(20)(C)(vi) (2001)).

<sup>9</sup> Regulating Wrestling in Georgia, *supra* note 1.

<sup>10</sup> See 2001 Ga. Laws 222, § 2, at 757 (codified at O.C.G.A. § 43-4B-1(21) (2001)).

<sup>11</sup> See *id.* at 757 (codified at O.C.G.A. § 43-4B-1(20)(C)(ii) (2001)).

<sup>12</sup> See *id.* at 765 (codified at O.C.G.A. § 43-4B-25 (2001)).

<sup>13</sup> See *id.* at 764 (codified at O.C.G.A. § 43-4B-18 (2001)).

<sup>14</sup> HB 1592, as introduced, 2002 Ga. Gen. Assem.

<sup>15</sup> See Georgia General Assembly, HB 1592, Bill Tracking, [http://www.legis.state.ga.us/legis/2001\\_02/sum/hb1592.htm](http://www.legis.state.ga.us/legis/2001_02/sum/hb1592.htm).

amend O.C.G.A. Code section 43-4B, along with other provisions, by giving the GAEC the authority to charge licensing fees to organizations that governed mixed martial arts fights and wrestling matches.<sup>16</sup> The Senate read and referred the bill to the Regulated Industries and Utilities Committee, but the bill was not passed during the 2004 legislative session.<sup>17</sup> However, in 2005, Senate Bill 224, a bill that once again amended O.C.G.A. code section 43-4B, was signed into law.<sup>18</sup>

Senate Bill 224 provided the GAEC with the authority to license promoters and organizations that governed martial arts and wrestling, to prohibit licensure of these entities in certain circumstances, and the authority to exempt certain organizations from the licensure provisions.<sup>19</sup> Prompted again by complaints from the professional wrestling community,<sup>20</sup> the bill went on to explicitly exclude any organization which was both registered under the Federal Securities Exchange Act of 1934 and had total assets of not less than \$25 million.<sup>21</sup> The only organization currently meeting the standards for the latter exclusion is World Wrestling Entertainment (WWE), the largest organization dealing in the governance of professional wrestling.<sup>22</sup>

SB 224 did, however, succeed in making the GAEC the sole regulatory body of boxing, mixed martial arts and wrestling organizations, except for the WWE.<sup>23</sup> Around 2005, the landscape of mixed martial arts had changed as ultimate fighting had become an extremely popular sport, mainly due to the Ultimate Fighting Championship (UFC).<sup>24</sup> Now, no longer under the threat of being outlawed, mixed martial artists wanted the same regulations and protections given to boxers.<sup>25</sup> The UFC embraced the stricter rules

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<sup>16</sup> HB 558 (HCS), 2004 Ga. Gen. Assem.

<sup>17</sup> See Georgia General Assembly, HB 558, Bill Tracking, [http://www.legis.state.ga.us/legis/2003\\_04/sum/hb558.htm](http://www.legis.state.ga.us/legis/2003_04/sum/hb558.htm).

<sup>18</sup> See 2005 Ga. Laws § 1, at 984 (codified at § O.C.G.A. 43-4B-1 (2005)).

<sup>19</sup> O.C.G.A. § 43-4B-50 (2005).

<sup>20</sup> Regulating Wrestling in Georgia, *supra* note 1.

<sup>21</sup> See O.C.G.A. § 43-4B-2(b)(2) (2005).

<sup>22</sup> Regulating Wrestling in Georgia, *supra* note 1.

<sup>23</sup> See O.C.G.A. § 43-4B-50 (2005).

<sup>24</sup> See Telephone Interview with Sen. Eric Johnson (R-1st) (Mar. 24, 2008) [hereinafter Johnson Interview].

<sup>25</sup> *Id.*

and desired sanctioning by state athletic commissions.<sup>26</sup> In addition to licensing and fee provisions, the bill gave the GAEC:

“the duty to safeguard the public health, to protect competitors, and to provide for competitive matches by requiring licensed organizations to abide by rules promulgated by the commission for basic minimum medical and safety requirements based on the nature of the activity and the anticipated level of physical conditioning and training of competitors.”<sup>27</sup>

Thus, the GAEC gained some authority over the substance of boxing, mixed martial arts, and in some part, professional wrestling.<sup>28</sup> However, the extent of that authority and the ability to regulate these events was ambiguous.<sup>29</sup>

Some felt that the law promulgated under SB 224 was so vague and weak that, as Senator Eric Johnson (R-1st) remarked on his blog, “Georgia [can’t] host a championship boxing match even though we are home to Evander Holyfield.”<sup>30</sup> The UFC will not fight in Georgia because the current regulations do not protect the fighters or the purse.<sup>31</sup> The purse is the prize money the fighters are competing for. Thus, SB 413 represents the latest attempt by the Georgia legislature to amend the ever-changing Code Section 43-4B by creating concise definitions and clear regulations “to protect the physical safety and welfare of participants and serve the public interest by closely supervising all professional boxing, professional kickboxing, professional mixed martial arts, professional wrestling, and ticket brokers in Georgia.”<sup>32</sup>

### *Bill Tracking of SB 413*

Senators Eric Johnson (R-1st), David Shafer (R-48th), Ross Tolleson (R-20th), Steve Henson (D-41st), and Doug Stoner (D-6th)

<sup>26</sup> *Id.*

<sup>27</sup> O.C.G.A. 43-4B-50 (2005).

<sup>28</sup> *Id.*

<sup>29</sup> See Johnson Interview, *supra* note 24.

<sup>30</sup> See Sen. Eric Johnson’s 2008 Session Blogs (Apr. 4, 2008), <http://www.votejohnson.com/default.asp?pt=newsdescr&RI=266> (Day 17).

<sup>31</sup> See Johnson Interview, *supra* note 24.

<sup>32</sup> See SB 413 (LC 14 9802), as introduced, 2008 Ga. Gen. Assem.

sponsored SB 413.<sup>33</sup> On February 6, 2008, the Senate first read SB 413 and assigned it to the Regulated Industries and Utilities Committee.<sup>34</sup> On February 13, 2008, the committee held its first hearing on the bill.<sup>35</sup> Because the mixed martial arts community supported stricter regulations, the primary debate regarding SB 413 was the issue of whether to regulate professional wrestling, and if so, by how much.<sup>36</sup>

In support of the bill, representatives from the GAEC, including Deputy Secretary of State Robb Simms, testified that the Commission understood that professional wrestling is choreographed for entertainment purposes and thus inherently different from boxing or mixed martial arts.<sup>37</sup> Simms went on to say that although the GAEC recognized these differences, the Commission still had a genuine concern over the lack of any medical screening or blood tests, due to the risk of the spread of communicable diseases during professional wrestling events.<sup>38</sup> According to the *Atlanta Journal-Constitution*, SB 413 in its original form would have removed the WWE exemption and authorized the GAEC to regulate professional wrestlers by requiring random drug tests, blood tests, background checks, physical exams prior to matches, doctors and medical personnel ringside during matches, and licenses for managers, promoters, trainers, timers, judges and announcers, among other things.<sup>39</sup> Simms testified that these regulations were based on professional wrestling regulations already in force in twenty-five other states.<sup>40</sup>

Almost eighty members of the professional wrestling community, along with John Taylor, the lawyer representing the WWE in Atlanta, attended the Senate hearing.<sup>41</sup> Many of the wrestlers argued that SB

<sup>33</sup> *Id.*

<sup>34</sup> State of Georgia Final Composite Status Sheet, SB 413, Apr. 4, 2008.

<sup>35</sup> John Hollis, *Legislature 2008: Bill Before Panel Would Regulate WWE*, ATLANTA J.-CONST., Feb. 13, 2008, at D6, available at <http://www.ajc.com/search/content/metro/stories/2008/02/13/wrestling0213.html>.

<sup>36</sup> Johnson Interview, *supra* note 24.

<sup>37</sup> Larry Goodman, *Wrestling with the Senate*, PRO WRESTLING DAILY, Feb. 12, 2008, available at <http://www.prowrestlingdaily.com/2008/02/18/nwa-notebook-%E2%80%93-bill-behrens-5/>.

<sup>38</sup> *Id.*

<sup>39</sup> Hollis, *supra* note 35.

<sup>40</sup> John Hollis, *Critics Call Pro Wrestling Legislation 'Heavy Handed'*, ATLANTA J.-CONST., Feb. 13, 2008, available at [http://www.ajc.com/metro/content/metro/stories/2008/02/13/wrestling\\_0214.html](http://www.ajc.com/metro/content/metro/stories/2008/02/13/wrestling_0214.html).

<sup>41</sup> *Id.*

413 was a knee-jerk reaction to recent news stories regarding steroid use in professional wrestling and one even called it “big government at its most evil.”<sup>42</sup> Mr. Taylor argued that the intention of wrestling is to entertain the audience, not to physically injure the opponent in order to win, as it is in boxing and mixed martial arts.<sup>43</sup> Opponents therefore believed that this regulation was misguided and “heavy-handed.”<sup>44</sup> One professional wrestler, Eddie Chastain (aka “Iceberg”), offered to “give the Committee members a worked punch of the type that are used in pro wrestling and a shoot punch like in boxing and let them judge which needed to be regulated.”<sup>45</sup> The WWE, which accounted for around \$2 million in tax revenue for Georgia in 2007, suggested they might no longer perform in Georgia if the bill passed in its original version.<sup>46</sup>

On March 5, 2008, the committee favorably reported a substituted version of SB 413, which added Article 2A to regulate professional wrestling separately from martial arts and boxing.<sup>47</sup> The new version of the bill protected professional wrestling from the stricter regulations, such as random drug testing and mandatory physicals, that governed martial arts and boxing, while still giving the GAEC the authority to regulate licensure of professional wrestling events.<sup>48</sup> Under the bill, in order to obtain a license, professional wrestling organizations would have to pay licensing fees, provide blood test documentation demonstrating that the wrestlers did not have any communicable diseases, allow regulators into the dressing and locker rooms up until one hour before a performance, and comply with certain standards regarding public safety when conducting a match.<sup>49</sup>

Proposed Code section 43-4B-4 would have regulated ticket sales and ticket brokers for athletic events.<sup>50</sup> Furthermore, the original version of SB 413 would have allowed for online ticket sales for wrestling and mixed martial arts matches.<sup>51</sup> Due to concerns

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Larry Goodman, *supra* note 37.

<sup>46</sup> *Id.*

<sup>47</sup> See SB 413 (SCS), §§ 43-4B-20.5 to -20.8, 2008 Ga. Gen. Assem.

<sup>48</sup> See SB 413 (SCS), § 43-4B-18, 2008 Ga. Gen. Assem.

<sup>49</sup> *Id.* at §§ 43-4B-4(a)-(h), 43-4B-10(b), 43-4B-13(a)(3), 43-4B-16.

<sup>50</sup> See SB 413, as introduced, 2008 Ga. Gen. Assem.

<sup>51</sup> See Johnson Interview, *supra* note 24; see also SB 413, §§ 43-4B-28(a)(4), as introduced, 2008 Ga. Gen. Assem.

regarding increases in ticket prices because of scalping, this provision was eliminated from the bill.<sup>52</sup> On March 11, 2008, the Senate passed their final version of the bill that included only a few minor amendments from the floor.<sup>53</sup>

On March 12, 2008, the House read SB 413 for the first time.<sup>54</sup> The bill was referred to the Judiciary Non-Civil Committee on March 18, 2008, after the second read.<sup>55</sup> The Committee conducted a hearing on the bill on March 31, 2008.<sup>56</sup> There were several major concerns regarding the bill that were voiced during this hearing.<sup>57</sup> Additionally, it was clear that the mixed martial arts community had not fully escaped concerns questioning the legitimacy of the sport, similar to those that had plagued them in 2001 when SB 538 attempted to outlaw “unarmed combat.”<sup>58</sup> For example, during the Committee meeting, Representative Abdul-Salaam (D-74th) stated “I guess, from what I know about the ultimate fighting, which is not very much[,] [is that] [i]t didn’t really seem to fit into any of these categories. I mean there’s [sic] basically no skills required, you just get out there and duke it out.”<sup>59</sup> Deputy Secretary of State Robb Simms, speaking on behalf of the GAEC, countered that ultimate fighting is a type of mixed martial arts and that there are unique skills required for this kind of competition.<sup>60</sup> Representative Abdul-Salaam voted against the passage of the bill when it went to the House floor.<sup>61</sup>

During the hearing Mr. Simms stated that the GAEC was going to impose rules further regulating mixed martial arts, boxing and wrestling regardless of whether or not the bill was passed.<sup>62</sup> Because current law provides that the GAEC is the sole regulatory body for boxing in Georgia, and gives the GAEC sole regulatory power over

<sup>52</sup> See Johnson Interview, *supra* note 24.

<sup>53</sup> See SB 413 (CSFA), as passed Senate, 2008 Ga. Gen. Assem.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> See Video Recording of House Judiciary Non-Civil Committee Proceedings, March 31, 2008, [http://www.legis.state.ga.us/legis/2007\\_08/house/Committees/judiciaryNonCivil/judyncArchives.htm](http://www.legis.state.ga.us/legis/2007_08/house/Committees/judiciaryNonCivil/judyncArchives.htm) [hereinafter 2008 Judiciary Non-Civil Committee Video].

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at 15 min., 56 sec. (Remarks by Rep. Roberta Abdul-Salaam (D-74th)).

<sup>59</sup> *Id.*

<sup>60</sup> See *id.* at 16 min., 17 sec. (Remarks by Robb Simms on behalf of the GAEC).

<sup>61</sup> Georgia House of Representatives Voting Record, SB 413 (April 4, 2008).

<sup>62</sup> 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 8 min., 18 sec. (Remarks by Robb Simms on behalf of the GAEC).

licensing and exemptions for wrestling and mixed martial arts promotions<sup>63</sup>, the GAEC felt that they were in a position to regulate certain aspects of these events even if SB 413 did not pass.<sup>64</sup> Mr. Simms explained that the GAEC was hoping for the passage of SB 413 so they could effectively exercise their jurisdiction without ambiguity regarding the extent of their authority.<sup>65</sup>

Several other representatives voiced their concerns over certain provisions of the bill. Representative Bobby Franklin (R-43rd) moved for three amendments during the course of the hearing; only one of which passed. Representative Franklin engaged in a debate regarding the makeup of the GAEC.<sup>66</sup> Under SB 413, and under current law, the five board members of the GAEC are appointed by the Governor, similar to the way the board members of the other thirty-five professional organization licensing boards are appointed.<sup>67</sup> Representative Franklin moved for an amendment to change that appointment process so that two board members were appointed by the Speaker of the House, two board members were appointed by the Lieutenant Governor, and one board member was appointed by the Governor.<sup>68</sup> This amendment failed.<sup>69</sup>

Representative Franklin then motioned to amend the provisions of SB 413 regarding the regulation of ticket brokers on the basis that regulating ticket brokers falls outside of the scope of the goal of the bill which was to protect the health and safety of the participants and the fans.<sup>70</sup> Mr. Simms noted that under current law ticket brokers were already regulated under the jurisdiction of the GAEC and that the provisions in SB 413 only served to clarify that jurisdiction.<sup>71</sup> Nobody seconded this amendment.

Representative Franklin then motioned for an amendment to change the licensing fees outlined in the bill from one thousand

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<sup>63</sup> See O.C.G.A. § 43-4B-4 (2005); see also O.C.G.A. § 43-4B-50 (2005).

<sup>64</sup> 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 8 min., 18 sec. (Remarks by Robb Simms on behalf of the GAEC).

<sup>65</sup> *Id.*

<sup>66</sup> 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 30 min., 30 sec. (Remarks by Rep. Bobby Franklin (R-43rd)).

<sup>67</sup> See O.C.G.A. § 43-4B-3 (2005).

<sup>68</sup> 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 1 hr., 6 min., 30 sec. (Remarks by Rep. Bobby Franklin (R-43rd)).

<sup>69</sup> *Id.* at 1 hr., 13 min., 36 sec. (Remarks by Rep. David Ralston (R-7th)).

<sup>70</sup> *Id.* at 1 hr., 13 min., 50 sec. (Remarks by Rep. Bobby Franklin (R-43rd)).

<sup>71</sup> *Id.* at 1 hr., 16 min., 30 sec. (Remarks by Robb Simms on behalf of the GAEC).

dollars back to two hundred and fifty dollars.<sup>72</sup> This motion was the impetus for discussion regarding whether SB 413 could be considered a revenue raising bill.<sup>73</sup> Representative John Lunsford (R-110th) argued that the Senate, where the bill originated, did not have the constitutional authority to originate revenue bills.<sup>74</sup> Thus, the provisions of the bill which raised or decreased the licensure fees were arguably unconstitutional. He proposed an amendment that would return all of the provisions regarding either the decrease or increase of fees outlined in the bill to their original form<sup>75</sup> and thus allow the bill to remain revenue neutral and avoid “dying” in the House on the basis of constitutionality issues.<sup>76</sup> This amendment was adopted.<sup>77</sup>

Representative Lunsford also motioned to amend SB 413 so that the appeals process was more clearly articulated.<sup>78</sup> Lunsford expressed a concern that the bill gave the GAEC the authority to suspend and revoke licenses but that if a person felt they were wronged in this regard, they had no avenue of recourse.<sup>79</sup> Representative Lunsford’s amendment passed and provided clarification for administrative procedures that would allow for some type of an appeals process.<sup>80</sup> Representative Lunsford did not vote on passage of the bill, but did vote to reconsider after the bill failed.<sup>81</sup> A few other minor changes were made to the bill in committee through the amendment process; however, the regulation of professional wrestling played little to no role in these discussions.<sup>82</sup> On April 1, 2008, the committee favorably reported the bill.<sup>83</sup>

<sup>72</sup> *Id.* at 1 hr., 18 min., 7 sec. (Remarks by Rep. Bobby Franklin (R-43rd)).

<sup>73</sup> *Id.* at 1 hr., 21 min., 37 sec. (Remarks by Rep. John Lunsford (R-110th)).

<sup>74</sup> 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 1 hr., 21 min., 37 sec. (Remarks by Rep. John Lunsford (R-110th)).

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*; see also SB 413 (LC 29 3459ERS), §§ 43-4B-10(b), 43-4B-10(c), 43-4B-11(a)(1), 43-4B-11(a)(2), 43-4B-20.5(b).

<sup>78</sup> 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 1 hr., 41 min., 15 sec. (Remarks by Rep. John Lunsford (R-110th)).

<sup>79</sup> *Id.*

<sup>80</sup> See *id.* at 1 hr., 43 min., 13 sec. (Remarks by Rep. David Ralston (R-7th)); compare SB 413 (SCS), § 43-4B-11(b), 2008 Ga. Gen. Assem, with SB 413 (LC 29 3549ERS), § 43-4B-11(b), 2008 Ga. Gen. Assem.

<sup>81</sup> Georgia House of Representatives Voting Record, SB 413, House Vote # 1061 and House Vote # 1062 (Apr. 4, 2008).

<sup>82</sup> See SB 413 (LC 29 3459ERS), §§ 43-4B-20.9, 2008 Ga. Gen. Assem.

<sup>83</sup> State of Georgia Final Composite Status Sheet, SB 413, Apr. 4, 2008.

On April 2, 2008, the House postponed a floor debate and final vote on the bill.<sup>84</sup> On April 4, 2008, Representative Jim Cole (R-125th) presented the bill to the House.<sup>85</sup> The bill was voted on twice in the House but did not pass either time.<sup>86</sup> Several representatives voiced concerns over whether it was an appropriate role for the government to regulate professional wrestling.<sup>87</sup> Representative Allen Freeman (R-140th) made the point that professional wrestlers are synonymous with actors on a stage, performing in a local theater.<sup>88</sup> He further questioned whether or not the government intended to regulate those entertainers in the same way SB 413 attempted to regulate professional wrestling.<sup>89</sup>

### *Analysis*

The GAEC requested the passage of SB 413 because, in its experience, the existing language regulating boxing, mixed martial arts, and professional wrestling was weak and unenforceable.<sup>90</sup> Furthermore, heavyweight boxers and ultimate fighters would not participate in Georgia because the regulations in place did not effectively control the purse.<sup>91</sup> Thus, participants could not be assured that referees did not have an interest in the outcome of the fight.<sup>92</sup> More importantly, the GAEC felt that the regulations aimed at protecting the health and safety of participants were so ambiguous that participants did not feel safe fighting in Georgia.<sup>93</sup>

The authors of SB 413 aimed to clean up the existing legislation so that no ambiguity existed concerning what the rules were and who was covered by them.<sup>94</sup> The goal of SB 413 was to provide for clear

<sup>84</sup> *Id.*

<sup>85</sup> Video Recording of House Proceedings, Apr. 4, 2008 at 30 min., 50 sec. (Remarks by Rep. Jim Cole (R-125th)), <http://media.legis.ga.gov/hav/08/floor/ld40b.wmv> [hereinafter House Video].

<sup>86</sup> Georgia House of Representatives Voting Record, SB 413, House Vote # 1061 and House Vote # 1062 (Apr. 4, 2008).

<sup>87</sup> See House Video, *supra* note 85, at 34 min., 00 sec. (Remarks by Rep. Allen Freeman (R-140th)); see also *id.* at 34 min., 42 sec. (Remarks by Rep. Clay Cox (R-102nd)).

<sup>88</sup> *Id.*; see also Telephone Interview with Rep. Allen Freeman (R-140th) (April 15, 2008) [hereinafter Freeman Interview].

<sup>89</sup> *Id.*

<sup>90</sup> See Johnson Interview, *supra* note 24.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

standards regarding control of the purse, blood testing, random drug testing, documenting and testing for communicable diseases, ticket brokers, ticket sales, safety of the participants and fans, venue requirements, and licensing issues.<sup>95</sup> With these provisions, the GAEC believed that they would have clear legal standards outlining the extent of their authority to regulate these boxing, mixed martial arts, and professional wrestling events.

The regulations in SB 413 were based on existing regulations in twenty-five other states where boxing and UFC fighters currently participate.<sup>96</sup> The UFC, the largest mixed martial arts promoter in the world, wrote a letter to Senator Johnson stating that it would fight in Georgia if the bill was passed.<sup>97</sup> Conversely, the WWE claimed that it would not perform in Atlanta if the bill were passed in its original form.<sup>98</sup>

The primary controversy surrounding SB 413 centered on whether to regulate professional wrestling.<sup>99</sup> The bill would have removed the exemption that the WWE currently enjoys. The GAEC would have had more explicit control over professional wrestling under SB 413 because Article 2A authorized additional licensing requirements for professional wrestlers.<sup>100</sup> Under this section, professional wrestlers would have been made to comply with several business-related requirements pursuant to the authority of the GAEC.<sup>101</sup> These provisions also would have allowed the GAEC to require wrestlers to provide documented blood tests demonstrating they do not have any communicable diseases.<sup>102</sup> If a wrestler failed to provide this documentation, and bled during a fight, the GAEC would have had the authority to end the fight immediately.<sup>103</sup> While the bill did not give the GAEC the authority to randomly drug test professional wrestlers, which SB 413 allowed them to do with mixed martial artists and boxers, the bill did contain a clause that made it unlawful for any professional wrestler to use anabolic steroids, illegal drugs or

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<sup>95</sup> See SB 413, as passed Senate, 2008 Ga. Gen. Assem.

<sup>96</sup> See Hollis, *supra* note 40.

<sup>97</sup> See Johnson Interview, *supra* note 24.

<sup>98</sup> See Hollis, *supra* note 40.

<sup>99</sup> *Id.*

<sup>100</sup> See SB 413, §§ 43-4B-20.5 to -20.8, as passed Senate, 2008 Ga. Gen. Assem.

<sup>101</sup> See SB 413, § 43-4B-20.5, as passed Senate, 2008 Ga. Gen. Assem.

<sup>102</sup> See SB 413, § 43-4B-20.6, as passed Senate, 2008 Ga. Gen. Assem.

<sup>103</sup> *Id.*

alcohol.<sup>104</sup> Thus, if a professional wrestler was clearly impaired during a match and the commissioner had cause to invoke that clause, the wrestler would be subject to criminal penalties.<sup>105</sup> The bill that went before the House also allowed the GAEC to be present in the locker rooms, dressing areas, and showers up until one hour before an event started.<sup>106</sup>

These regulations were the impetus for questions from Representative Freeman and Representative Cox who both questioned whether the appropriate role of the government was to impose these regulations on participants in an event that was choreographed, similar to an acting performance, and thus inherently unlike boxing or mixed martial arts.<sup>107</sup> This sentiment appeared to echo in the House when they refused to pass SB 413 by a vote of 105 Nays to 57 Yeas.<sup>108</sup> Several people speculated that the primary reason for the bill's failure to pass was the fact that many members of the House did not believe professional wrestling should be regulated at all.<sup>109</sup> Several members of the House and Senate also appeared unsure as to whether or not they wanted to regulate mixed martial arts, and in turn, legitimize the sport.<sup>110</sup>

While many members of the General Assembly felt that professional wrestling should not be regulated at all, others felt that the bill did not go far enough to regulate the wrestlers. Because professional wrestling was separated from mixed martial arts and boxing in the bill, Senator Johnson and some members of the GAEC feared that they did not provide enough protection for the wrestlers.<sup>111</sup> Although the vast majority of the professional wrestling

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<sup>104</sup> See Johnson Interview, *supra* note 24; see also SB 413, § 43-4B-20.6, as passed Senate, 2008 Ga. Gen. Assem.

<sup>105</sup> See Johnson Interview, *supra* note 24; see also SB 413, § 43-4B-20.6, as passed Senate, 2008 Ga. Gen. Assem.

<sup>106</sup> See SB 413 (LC 29 3459ERS) § 43-4B-20.8, 2008 Ga. Gen. Assem.

<sup>107</sup> See House Video, *supra* note 85, at 34 min., 00 sec. (Remarks by Rep. Allen Freeman (R-140th)); see also *id.* at 34 min., 42 sec. (Remarks by Rep. Clay Cox (R-102nd)).

<sup>108</sup> Georgia House of Representatives Voting Record, SB 413 (April 4, 2008).

<sup>109</sup> See Freeman Interview, *supra* note 88; see also Telephone Interview with Cary Ichter (April 14, 2008) [hereinafter Ichter Interview].

<sup>110</sup> See 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 15 min, 56 sec. (Remarks by Rep. Roberta Abdul-Salaam (D-74th)); see also Video Recording of Senate Proceedings, Mar. 11, 2008 at 1 hr., 52 min., 41 sec. (Remarks by Sen. Steve Thompson (D-33rd)), [http://www.georgia.gov/00/article/0,2086,4802\\_6107103\\_103744254,00.html](http://www.georgia.gov/00/article/0,2086,4802_6107103_103744254,00.html) [hereinafter Senate Video].

<sup>111</sup> See Johnson Interview, *supra* note 24.

community is opposed to regulation, there are some members who believe it is the duty of the legislature to protect wrestlers as fighters and that excluding them from the same regulations that govern boxing and martial arts constitutes a failure to uphold this duty.<sup>112</sup> Senator Johnson feared that as the UFC and other mixed martial arts events become more popular in general, which they increasingly are, the professional wrestling community and the WWE would lose audiences and thus be forced to “get less scripted and more dangerous with their fights and gimmicks.”<sup>113</sup> Concerns about steroid use also add to fears that professional wrestling is headed down a dangerous path. Thus, a major unintended consequence of the bill was that it “[didn’t] have enough teeth” to protect wrestlers.<sup>114</sup> However, because the bill did not pass, the WWE still enjoys its exemption from the rules that largely regulate the health and safety of the performers and the fans.<sup>115</sup>

One of the issues discussed during the Judiciary Non-Civil Committee hearing in the House was the fact that the GAEC intended to impose regulations, similar to the ones contained in the bill, regardless of whether or not the bill passed.<sup>116</sup> The current law provides that

“[t]he commission shall have the duty to safeguard the public health, to protect competitors, and to provide for competitive matches by requiring licensed organizations to abide by rules promulgated by the commission for basic minimum medical and safety requirements based on the nature of the activity and the anticipated level of physical conditioning and training of competitors.”<sup>117</sup>

This provision is under the Code section that governs the regulation of mixed martial arts and wrestling.<sup>118</sup> Thus, the GAEC

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<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> See O.C.G.A. § 43-4B-2 (2005).

<sup>116</sup> 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 8 min., 18 sec. (Remarks by Robb Simms on behalf of the GAEC).

<sup>117</sup> O.C.G.A. § 43-4B-50 (2005).

<sup>118</sup> *Id.*

takes the position that they have the authority under current law to regulate the health and safety of both mixed martial arts and wrestling participants and fans.<sup>119</sup> However, because the existing language is so vague, the GAEC was attempting to make the language describing their jurisdiction and authority more clear with SB 413.<sup>120</sup> Because SB 413 did not pass, the GAEC will likely promulgate rules and regulations similar to the ones contained in the bill pursuant to their authority codified under current law.<sup>121</sup>

If the GAEC does impose regulations similar to the ones contained in SB 413, it is possible that participants who are subject to these regulations, and who do not wish to be subject to these regulations, will challenge the GAEC's jurisdiction over them in court.<sup>122</sup> SB 413 was thus, in part, an attempt by the GAEC to avoid litigation regarding their authority.<sup>123</sup> However litigation over these issues may now be likely.

SB 413 implicated many groups with many divergent interests.<sup>124</sup> The mixed martial arts community supported the bill.<sup>125</sup> The professional wrestling community was borderline outraged at their inclusion in the bill.<sup>126</sup> The boxing community, which has been solely regulated by the GAEC for some time now, remained behind the scenes. Most of the controversy regarding the bill surrounded whether professional wrestling should be regulated at all; and if so, to what extent.<sup>127</sup> Although some thought that this controversy was nullified by regulating professional wrestling separately from boxing and mixed martial arts under its own article in the bill, it appears as

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<sup>119</sup> See 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 8 min., 18 sec. (Remarks by Robb Simms on behalf of the GAEC); see also Ichter Interview, *supra* note 101.

<sup>120</sup> See 2008 Judiciary Non Civil Committee Video, *supra* note 53, at 8 min., 18 sec. (Remarks by Robb Simms on behalf of the GAEC); see also Ichter Interview, *supra* note 109; see also Johnson Interview, *supra* note 24.

<sup>121</sup> See 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 8 min., 18 sec. (Remarks by Robb Simms on behalf of the GAEC); see also Ichter Interview, *supra* note 109.

<sup>122</sup> See Ichter Interview, *supra* note 109.

<sup>123</sup> See 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 8 min., 18 sec. (Remarks by Robb Simms on behalf of the GAEC); see also Johnson Interview, *supra* note 24.

<sup>124</sup> See SB 413, as introduced, 2008 Ga. Gen. Assem.

<sup>125</sup> See Johnson Interview, *supra* note 24; see also Senate Video, *supra* note 110, at 1 hr., 48 min., 54 sec., (Remarks by Sen. Eric Johnson (R-1st)).

<sup>126</sup> See Johnson Interview, *supra* note 24.

<sup>127</sup> *Id.*

though when it came time for the final vote, professional wrestling once again took center stage.<sup>128</sup>

For now, everything remains status quo. However, in the wake of the failure of SB 413, the GAEC will most likely attempt to independently promulgate the rules which they feel are necessary to “protect the health and safety” of participants and fans.<sup>129</sup> Since 2001, at least five separate attempts have been made to amend Code section 43-4B. Given the GAEC’s current dissatisfaction with the law, the professional wrestling community’s dissatisfaction with the prospect of new laws, and the mixed martial arts community’s desire for regulation, it seems likely that the GAEC’s authority will either be litigated in court or Code section 43-4B will, once again, be the subject of debate in yet another legislative session.

*Carly Record*

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<sup>128</sup> See Senate Video, *supra* note 110, at 1 hr., 53 min., 17 sec., (Remarks by Sen. Eric Johnson (R-1st)).

<sup>129</sup> See 2008 Judiciary Non-Civil Committee Video, *supra* note 56, at 8 min., 18 sec. (Remarks by Robb Simms on behalf of the GAEC); see also Ichter Interview, *supra* note 109.