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COMBAT SPORTS BILL 2013

Second Reading

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [10.39 a.m.]: I move:

That this bill be now read a second time.

I seek leave to have my second reading speech incorporated in *Hansard*.

Leave granted.

The Combat Sports Bill 2013 replaces the Combat Sports Act 2008 and strengthens the regulation of combat sports to better promote the health and safety of combatants and the integrity of combat sports contests. The objects are set out in clause 3 of the bill. The growth and commercialisation of combat sports have significantly altered their structure and operation. Promotions are increasingly held for large television and online audiences. The growth of the combat sports industry, which has always had its share of colourful identities, carries particular integrity risks. Health and safety are often early casualties of poor integrity, where profits are considered more important than people.

The reforms in the bill were developed in response to a review of the current Combat Sports Act, which found that new combat sports continue to emerge and should be regulated until such time as it can be demonstrated that they are sufficiently safe to not justify regulation; that current health and safety arrangements for combatants are inadequate, particularly for amateur combat sport contests; that a stronger fit and proper person assessment process is needed, particularly for roles that can significantly influence the outcome of contests, the industry and the safety of combatants; and that promoters should be accountable for the contests they arrange and hold. The consultation involved the release of a discussion paper, a web-based survey and workshops with promoters, managers and amateur sanctioning bodies. Venue operators were also consulted, as were Health and occupational health and safety bodies, government agencies and the NSW Police Force.

The bill builds upon many of the principles established under the earlier Boxing and Wrestling Control Act 1986 and the Combat Sports Act 2008. It provides for the continuation of the Combat Sports Authority to regulate contestants and those involved in the industry. It requires the registration of combatants, promoters and industry participants and for promoters to obtain permits to hold combat sports contests. It provides for combat sports inspectors, police and medical practitioners to attend contests and manage health and safety, integrity and public safety risks. The bill also makes significant changes that bring New South Wales into closer alignment with combat sports arrangements in Western Australia, Victoria and South Australia. Emerging combat sports disciplines are not currently regulated unless they are added through regulation. Promoters of new styles of contest are not required to come forward and advise the Combat Sports Authority of the contests they hold.

Where there are changes to the rules of a particular discipline to avoid regulation, a new and renamed discipline may be established. Clause 4 of the bill amends the definition of "combat sport" to ensure that it extends to all sports in which the primary objective of each contestant is to strike, kick, hit, grapple with, throw or punch one or more of the other contestants. By having a broad definition, new disciplines will be covered from the outset. I make one thing clear: The bill will not apply to those sports where the health and safety of combatants and the integrity and governance arrangements are satisfactory. Those sports will be exempted in the regulations made under the bill. Sports that are covered by the existing Combat Sports Act and have been preliminarily assessed as being eligible for exemption are jujitsu and wrestling. It is also proposed that the following sports and disciplines of this kind that are not covered by the existing Act will be exempt: judo, karate, kung-fu and taekwondo.

The following sports that are covered by the existing Combat Sports Act will be regulated: boxing; kickboxing, including Thai boxing, Laos boxing, Burmese boxing and shoot boxing; Muay Thai; and mixed martial arts, including cage fighting, ultimate fighting, combat 8 and kyoshi. The following sports that are not covered by the existing Act will not be exempted and will be regulated: sambo and pankration. Amateur contests may attract significant crowds and generate significant revenue for promoters. It is now common for both amateur and professional contests to be held at the same event. Amateur contests carry similar health and safety and integrity risks to professional contests. This bill extends an improved regulatory framework for professional combat sports to amateur combat sports contests to which the public are admitted for the payment of a fee that are held for profit or that are held on licensed premises.

All such contests, whether amateur or professional, will now be regulated by the Combat Sports Authority. The bill does not otherwise regulate combat sports training or club and intra-club competitions. These reforms mean there will no longer be an incentive for professional combatants to conceal the payments they receive in order to compete without

Combat Sports Authority oversight. The Combat Sports Authority will work in partnership with amateur sanctioning bodies in regulating amateur combat sports, with sanctioning bodies requiring ministerial approval under clause 8 to ensure that only genuine and properly administered bodies are sanctioning contests. The bill allows changes to be made to particular Combat Sports Authority and approved amateur body co-regulatory arrangements, with the authority able to devolve some regulatory functions to well-performing sanctioning bodies over time.

Regulations will be made for approved amateur bodies to remain responsible for registering amateur judges, referees, matchmakers and timekeepers who only officiate at events sanctioned by those amateur bodies. Amateur contests carry similar health and safety risks to those for professional contests. However, amateur combatants covered under the current Act are denied health and safety protections offered to professional combatants. The bill, in particular clauses 18 and 19 and part 3, extends health and safety protections to amateur contests. Promoters must ensure that medical practitioners attend all contests, whether professional or amateur, with all combatants subject to pre- and post-contest medical examinations to determine whether they are fit to fight. Medical practitioners who attend amateur contests may currently only advise that a fight be stopped on medical grounds. Clause 63 of the bill gives them the power to issue directions to stop contests in line with calls from the Australian Medical Association.

Clause 66 of the bill establishes a new offence for referees who fail to stop contests when directed to do so by a medical practitioner, combat sport inspector or police officer. The new offence carries a maximum penalty of \$55,000 and/or 12 months imprisonment. This provision will reduce the risk of referees being pressured to continue fights by promoters and managers. All combatants, whether professional or amateur, will be required to register with the Combat Sports Authority and present a medical certificate of fitness and a serology clearance, in accordance with clause 11 of the bill. A combatant's medical information, including serology status, will be better protected under the new provisions. Currently, a combatant's blood test results are sent to the Combat Sports Authority. In the future the authority will receive a clearance for HIV and relevant hepatitis strains. Detailed medical information will be confidential between the combatant and his or her doctor, which is appropriate. Serology clearances will continue to be valid for six months for adults whilst clearances for amateur combatants aged between 14 and 18 years will be valid for 12 months, given their lower HIV and/or hepatitis risk profile.

The Combat Sports Authority will issue medical record books to all registered combatants and maintain a system that accurately records all suspensions from fighting on medical grounds, in accordance with clauses 17 and 18 of the bill. This means that amateur combatants from a regulated sport will no longer hold multiple medical record books issued by different sanctioning bodies, which has resulted in a fragmentation of critical health information and enabled fighters declared unfit by one body to fight in contests sanctioned by another. The bill establishes clear health and safety duties for promoters, with promoters responsible for ensuring that attending medical practitioners examine combatants' medical record books and serology information. Promoters, rather than managers, are now responsible for ensuring that combatants have clear blood results. Serology provisions have been moved from the regulation into clause 49 of the bill, allowing for maximum penalties for serology breaches to be increased from \$5,500 to \$55,000 and/or two years imprisonment.

The Combat Sports Authority no longer has the authority to permit a contest to proceed in the absence of clear blood results and, under clause 57 (2), attending medical practitioners must declare a person medically unfit where there is no current clearance. Promoters have a duty not to permit unfit combatants to compete, with clause 51 providing a maximum penalty of \$55,000 and/or 12 months imprisonment. Clause 50 now automatically prohibits a combatant from sparring when subject to a medical suspension, and medical suspensions and health and safety decisions are now left to medical practitioners and are not subject to Administrative Decisions Tribunal review. Clause 52 now requires promoters to ensure that required protective equipment is used in contests, with the maximum penalty in the regulations increased from \$1,100 to \$17,600. The type of protective equipment to be used will be included in the regulations and through conditions of promoter permits. This will allow the authority to determine protective equipment requirements, having regard to the latest evidence-based research.

Division 2 of part 4 of the bill enables the authority to make health and safety prohibition orders to bar both registered persons and unregistered persons—for example, overseas combatants—from both fighting and sparring on health and safety grounds. A registration is suspended during the term of any prohibition order, with clause 73 enabling a combatant to apply to the authority for the review of a health and safety order. For health and developmental reasons, clause 12 continues to prohibit minors from competing professionally. The Combat Sports Authority will set the rules for the age limits for participants in regulated amateur combat sports contests consistent with current amateur permit arrangements. Combatants under the age of 14 are prevented from competing in amateur combat sports. This threshold has been in place since 1998. Combatants under the age of 18 are prevented from competing in amateur mixed martial arts.

Promoters have effective control of combat sports events and may make significant profits from them. The bill makes it clear that promoters are responsible for the conduct of events. Promoters, in addition to the abovementioned health and safety requirements, will have a new responsibility of ensuring that all combatants and industry participants involved in a contest are registered or otherwise authorised to participate in a contest. Under clause 54, promoters will be required to notify the Combat Sports Authority of any known death and/or hospital admission of a combatant that occurs within 48 hours of a contest. This requirement, recommended by the Victorian coroner, will provide the authority with a source of information that is currently not available and contribute to its ability to make better-informed health and safety decisions.

New South Wales police are a key regulatory partner under the new bill, with a nominee of the Commissioner of Police restored to the Combat Sports Authority, after the 2008 Act removed the requirement for police membership. There is no room for organised crime in the combat sports industry or in the gyms where combatants train. Police are being given new powers to work with the Combat Sports Authority to keep criminals out of the sport. Schedule 3.2 to the bill amends the Crimes (Criminal Organisations Control) Act 2012 to prevent a person subject to that Act from being registered under this bill and future Act in any capacity. Promoters, matchmakers and managers are most likely to profit

from combat sport and have the greatest capacity to affect the integrity of contests. It is not unusual for a person to be registered in all three of these roles.

Adopting the model used in the Tattoo Parlours Act, clause 26 of the bill requires that promoters, managers and matchmakers are subject to a security determination by the Commissioner of Police. The commissioner may determine that a person cannot be registered in those roles on fit and proper person or public interest grounds, and the Combat Sports Authority must, under clause 25 (2), enforce that determination. The commissioner may consider criminal record information, including spent convictions, and police intelligence in making such an important determination. New South Wales police will monitor criminal records and intelligence in respect of all registered promoters, managers and matchmakers, and the commissioner may make an adverse security determination at any time in accordance with clause 34. The Combat Sports Authority must cancel a registration where this occurs.

Clauses 77 and 78 allow adverse security determinations to be reviewed by the Administrative Decisions Tribunal while protecting sensitive police information. Persons registering in other roles will also be subject to a fit and proper person assessment, which will be undertaken by the authority and include checks on previous compliance with combat sports regulatory requirements, training requirements and any relevant information that police may provide. Police will consider all applications to hold combat sports events in accordance with the police events policy, and clause 43 requires the authority to notify police of all permits for combat sports events. Clause 45 gives police new powers, exercisable by an officer of or above the rank of assistant commissioner, to cancel combat sport contests where police have public health or safety, or significant property damage concerns. Outlaw motorcycle gang members often attend combat sport contests and if police receive intelligence that rival gangs are planning to confront each other at an event police can shut down the event. Police officers attending contests have similar powers, at clause 62, to stop contests from proceeding.

The powers at clause 62 may also be exercised by the authority or inspectors, with directions not to proceed with a contest able to be made to combatants and industry participants, not just promoters. Failure to comply with such a direction will be an offence. Regrettably, some combat sports contests have been marred by ring invasions. Clause 55 establishes an offence of unauthorised entry into a contest area during or within one hour of a contest. The maximum penalty of \$5,500 is consistent with those that apply to pitch or other sporting ground invasions. Police will also be able to continue to exercise the powers of combat sport inspectors in the manner agreed between the authority and police, as outlined at clause 84.

The current Act does not allow criminal action against registered persons, with disciplinary action the only option. This is highly unusual—whether a person is subject to criminal, in addition to disciplinary, action should be determined by the seriousness of the breach and not his or her registration status. Registration should not be used as a shield against prosecution. The bill allows registered persons to be subject to disciplinary action, criminal action, or both. Local Court proceedings for offences under clause 104 may be commenced within two years of an offence, rather than six months, as is currently the case, and the court may impose penalties of up to \$22,000, or \$55,000 for corporations, rather than the current \$5,500.

The bill abolishes disciplinary fines. Instead, clause 105 will allow regulations to be made to enable specified offences to be dealt with by way of penalty notice fine, with the State Debt Recovery Office able to take enforcement action. The disciplinary provisions in division 4 of part 2 of the bill have been modernised, with clear rules about written and in-person responses to disciplinary show cause notices, with persons permitted to have a legal representative or other support person present during disciplinary proceedings. Unlike the current Act, a registration may be suspended during the show cause process in accordance with clause 32. Additional disciplinary options, including reducing the period of registration or issuing a written caution, are provided for in clause 33. Part 4 of the bill replaces the current disqualification provisions of the Act with prohibition orders, which may be imposed on unregistered persons. The Combat Sports Authority may make orders under section 74 to prevent persons from engaging in contests or sparring, arranging or holding contests, being involved in the combat sports industry, attending premises where contests or weigh-ins are being held, or attending gyms and other places where combat sport training occurs. The powers to prevent attendance are similar to "warning off" powers in the racing industry and may be used to keep persons with known criminal associations away from contests and gyms. Police will be a key partner in prohibition order proceedings of this kind. This significant change will markedly extend the ability of the Combat Sports Authority to deal with integrity issues that occur outside the contest environment.

Prohibition orders may also be made to prevent venue operators that have previously hosted unlawful contests, and that have been warned of that fact, from hosting future contests in the case of a subsequent breach or planned breach. The Combat Sports Authority will make information on lawful contests available to venue operators. Clause 86 of the bill gives the Combat Sports Authority new powers to compel the production of information in disciplinary or prohibition proceedings, with exclusions to protect private health information held by medical practitioners who do not exercise functions under the Act.

Section 87 provides that there is no privilege against self-incrimination, although self-incriminating information cannot subsequently be used against a person in civil or criminal proceedings. Clauses 79 and 80 of the bill continue the operation of the Combat Sports Authority, with medical representation retained, and additional requirements for the police commissioner's nominee and a judicial officer or lawyer of at least seven years standing to be members—the latter being necessary, given the more formal disciplinary and prohibition processes. Clause 81 confers the additional authority function of promoting awareness of issues relating to combat sports, with this role strongly supported during consultations.

Clause 85 gives combat sports inspectors new powers of entry and inspection so they can properly fulfil their functions. Clause 84 (2) will enable representatives of approved amateur bodies to perform the duties of inspectors at events not attended by a government inspector, consistent with the co-regulatory model for amateur combat sport contests. Clauses 90 and 92 provide new offences for providing false and misleading information to inspectors, the authority,

police and medical practitioners, and for obstructing those exercising functions under the Act. Clause 100 protects those who exercise functions under the Act in good faith from personal liability. This bill will better protect the health and safety of all combatants, amateur or professional, and safeguard the integrity of the combat sports industry. These reforms are necessary and timely. Additionally, this bill ensures that New South Wales will have a modern, flexible regulatory framework that reflects the needs of stakeholders now and into the future. I commend the bill to the House.