

ANABOLIC STEROID CONTROL ACT OF 2004

APRIL 27, 2004.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. BARTON of Texas, from the Committee on Energy and
Commerce, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3866]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Energy and Commerce, to whom was referred the bill (H.R. 3866) to amend the Controlled Substances Act to provide increased penalties for anabolic steroid offenses near sports facilities, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment (stated in terms of the provisions of the amendment in the nature of a substitute reported by the Committee on the Judiciary) is as follows:

Strike section 5 and insert the following:

SEC. 5. REPORTING REQUIREMENT.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General, shall prepare and submit a report to the Judiciary Committee of the House and Senate, and to the Committee on Energy and Commerce of the House, evaluating the health risks associated with dietary supplements not scheduled under the amendments made by this Act which contain substances similar to those added to the list of controlled substances under those amendments. The report shall include recommendations on whether such substances should be regulated as anabolic steroids.

PURPOSE AND SUMMARY

H.R. 3866 would add several new substances to the list of banned substances and provide increased penalties for any individual who traffics in steroids within 1,000 feet of an athletic facility. In addition, the legislation includes a requirement that the Department of Health and Human Services report back to the Committee on Energy and Commerce and the House and Senate Committees on the Judiciary within two years with recommendations regarding the need to add additional dangerous substances to the list.

BACKGROUND AND NEED FOR LEGISLATION

The issue of anabolic steroid use has been an increasing problem in professional and amateur athletics. Since the passage of the Anabolic Steroids Control Act of 1990, the use of steroids has been banned in the United States. This law has been successful in acting as a deterrent to potential steroid users; however, some individuals have developed new products that react in a virtually identical manner once inside the human body. New products referred to as "steroid precursors" allow athletes to achieve the same performance enhancement as do anabolic steroids. Since steroid precursors provide the same result in the human body while posing an equal or greater health risk to the consumer, Congress sees the need to treat these products the same as anabolic steroids.

HEARINGS

The Committee on Energy and Commerce has not held hearings on the legislation.

COMMITTEE CONSIDERATION

On April 22, 2004, the Full Committee met in open markup session to consider H.R. 3866, as reported by the Committee on the

Judiciary, and ordered H.R. 3866 favorably reported to the House, as amended, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken during consideration of H.R. 3866. A motion by Mr. Barton to order H.R. 3866 reported to the House, as amended, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has not held oversight or legislative hearings on this legislation.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

H.R. 3866 adds several new substances to the list of banned substances and provides increased penalties for any individual who traffics in steroids within 1,000 feet of an athletic facility

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3866, the Anabolic Steroids Control Act of 2004, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 27, 2004.

Hon. JOE BARTON,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3866, the Anabolic Steroid Control Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 3866—Anabolic Steroid Control Act of 2004

CBO estimates that implementing H.R. 3866 would cost less than \$500,000 annually from appropriated funds for the Department of Health and Human Services (HHS) to prepare a report on the health risks associated with certain dietary supplements. Enactment of the bill could affect direct spending and receipts, but CBO estimates that any such effects would not be significant.

H.R. 3866 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments. H.R. 3866 would impose a private-sector mandate, as defined by UMRA, by adding about two dozen new substances to the list of anabolic steroid controlled substances. Under the bill, manufacturing and distributing of those substances would be regulated by the Controlled Substances Act. The direct cost of the mandate would be the amount manufacturers and distributors would incur to comply with the laws and regulations for registration and distribution of a controlled substance. Based on information from government sources, CBO expects that the direct cost of the mandate would fall below the annual threshold established by UMRA for private-sector mandates (\$120 million in 2004, adjusted annually for inflation).

H.R. 3866 would expand the list of anabolic steroids regulated by the Drug Enforcement Administration (DEA) to include about two dozen new substances. The bill would increase the maximum penalties, including imprisonment and fines, for the possession or distribution of steroids within 1,000 feet of a sports facility.

Implementing H.R. 3866 would enable the federal government to pursue cases involving unauthorized use of steroids that it otherwise would not be able to prosecute. Based on information from the DEA, CBO expects that any increase in federal costs for law enforcement, court proceedings, or prison operations would not be significant because of the relatively small number of additional cases likely to be involved. Any such additional costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under H.R. 3866 could be subject to criminal fines, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and later spent. CBO expects that any additional receipts and direct spending would not be significant because of the small number of cases likely to be affected.

On April 2, 2004, CBO prepared a cost estimate for H.R. 3866, the Anabolic Steroid Control Act of 2004, as ordered reported by the House Committee on the Judiciary on March 31, 2004. The two versions of the bill are very similar, and the cost estimates are identical.

The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs) and Paige Piper/Bach (for the impact on the private sector). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 designates the short title as the "Anabolic Steroids Control Act of 2004."

Section 2. Increased penalties for anabolic steroid offenses near sports facilities

Section 3 increases the maximum penalties for individuals that are manufacturing, distributing, or possessing an anabolic steroid, with intent to distribute, within 1,000 feet of a sports facility.

Section 3. Sentencing commission guidelines

Section 3 requires the Sentencing Commission to review the Federal sentencing guidelines for offenses involving anabolic steroids and consider amending the guidelines to reflect the serious nature of anabolic steroid offenses.

Section 4. Amendments to the controlled substances act

Section 4 amends the list of anabolic steroids that are currently regulated under the Controlled Substances Act to include several new substances and makes changes to the authority and criteria for classification of such substances.

Section 5. Reporting requirement

Section 5 directs the Secretary of Health and Human Services, in consultation with the Attorney General, to evaluate the health risks associated with substances that are not scheduled as controlled substances under H.R. 3866. The Secretary will then have two years to provide the Committee on Energy and Commerce, as well as the House and Senate Judiciary Committees, with rec-

ommendations as to whether other dangerous substances should be added to the list of banned substances.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

The bill was referred to this committee for consideration of such provisions of the bill and amendment as fall within the jurisdiction of this committee pursuant to clause 1(f) of rule X of the Rules of the House of Representatives. The changes made to existing law by the amendment reported by the Committee on the Judiciary are shown in the report filed by that committee (Rept. 108-461, Part 1).

ADDITIONAL VIEWS

While we generally support the Anabolic Steroid Act, we are very concerned that it explicitly exempts a specific steroid precursor, DHEA. The effect of this exemption is to prevent the Drug Enforcement Agency (DEA) from taking action against DHEA as an anabolic steroid, no matter what evidence accumulates about its risks.

The purpose of this legislation is to make it easier for DEA to restrict access to anabolic steroids, like Androstendione (Andro), that boost testosterone and estrogen levels in the body. This is important because these products can have serious health risks, including potentially toxic effects on the liver and cardiovascular system, damage to fertility, and psychiatric side-effects, according to the American Medical Association. Because of their effects on hormone levels, anabolic steroids can be particularly damaging to growing children and adolescents. These products are widely marketed as performance enhancers and are increasingly used, especially by young people.

However, this act specifically excludes DHEA, another steroid hormone that is sold as a dietary supplement for performance enhancement as well as for rejuvenation. By specifically exempting DHEA we are sending a signal to the American public that DHEA is safe. This would be the wrong message. Once this legislation becomes law, we could see an increase in DHEA use, including among younger athletes, as the other products become less accessible.

DHEA is a hormone precursor. It converts to Andro and then to testosterone and estrogen in the body. The National Institutes of Health has expressed its concern about dangerous side effects and the possibility of undiscovered health risks associated with DHEA. Even the dietary supplement industry itself recognizes the health concerns associated with this product. The Council for Responsible Nutrition (CRN) puts Andro, which this legislation makes a controlled substance, and DHEA in the same category. CRN says that young people "may be more susceptible than adults to adverse effects of steroid hormone precursors such as 'andro' * * * and DHEA." Because of those safety concerns, CRN says that these products are inappropriate for use by athletes younger than 18.

According to Gary Wadler, a member of the World Anti-Doping Agency panel and an NYU professor of medicine, medically, "there is no reason to ban andro and not DHEA." The National Collegiate

Athletic Association bans Andro and DHEA. The World Anti-Doping Agency bans Andro and DHEA. Only this legislation bans andro but protects DHEA. This exclusion has no scientific basis, and does not belong in this legislation.

HENRY A. WAXMAN.
JOHN D. DINGELL.
SHERROD BROWN.
LOIS CAPPS.