

Union Calendar No. 133

109TH CONGRESS
1ST SESSION

H. R. 3084

[Report No. 109–210, Part I]

To direct the Secretary of Commerce to issue regulations requiring testing for steroids and other performance-enhancing substances for certain sports associations engaged in interstate commerce.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2005

Mr. STEARNS (for himself, Ms. SCHAKOWSKY, Mr. BASS, Mr. UPTON, Mrs. BLACKBURN, Mr. GENE GREEN of Texas, Mr. MARKEY, Mr. MURPHY, and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 28, 2005

Reported from the Committee on Energy and Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

JULY 28, 2005

Referral to the Committee on Education and the Workforce extended for a period ending not later than September 30, 2005

SEPTEMBER 30, 2005

Committee on Education and the Workforce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To direct the Secretary of Commerce to issue regulations requiring testing for steroids and other performance-enhancing substances for certain sports associations engaged in interstate commerce.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Drug Free Sports Act”.*

5 **SEC. 2. DEFINITIONS.**

6 *As used in this Act—*

7 (1) *the term “Secretary” refers to the Secretary*
8 *of Commerce; and*

9 (2) *the term “professional sports associations”*
10 *means Major League Baseball, the National Basket-*
11 *ball Association, the National Football League, the*
12 *National Hockey League, Major League Soccer, the*
13 *Arena Football League, and any other league or asso-*
14 *ciation that organizes professional athletic competi-*
15 *tions as the Secretary may determine.*

1 **SEC. 3. RULES REQUIRING MANDATORY TESTING FOR ATH-**
2 **LETES.**

3 (a) *RULEMAKING.*—Not later than 270 days after the
4 date of enactment of this Act, the Secretary shall issue regu-
5 lations requiring professional sports associations operating
6 in interstate commerce to adopt and enforce policies and
7 procedures for testing athletes who participate in their re-
8 spective associations for the use of performance-enhancing
9 substances. Such policies and procedures shall, at min-
10 imum, include the following:

11 (1) *TIMING AND FREQUENCY OF RANDOM TEST-*
12 *ING.*—Each athlete shall be tested a minimum of 5
13 times each year that such athlete is participating in
14 the activities organized by the professional sports as-
15 sociation. Tests shall be conducted at random inter-
16 vals throughout the entire year, during both the sea-
17 son of play and the off-season, and neither the athlete,
18 nor any member of the coaching and training staffs
19 shall be notified in advance of the test.

20 (2) *APPLICABLE SUBSTANCES.*—The Secretary,
21 in consultation with the Director of the National In-
22 stitute on Drug Abuse, shall, by rule, prescribe the
23 substances for which each athlete shall be tested, which
24 shall include—

25 (A) substances that—

1 (i) are determined by the World Anti-
2 Doping Agency to be prohibited substances;
3 and

4 (ii) the Secretary determines to be per-
5 formance-enhancing substances for any par-
6 ticular sport, or substances whose purpose is
7 to conceal the presence of performance-en-
8 hancing substances in the body, and for
9 which testing is reasonable and practicable;
10 and

11 (B) such additional substances that the Sec-
12 retary may determine to be performance-enhanc-
13 ing substances for any particular sport, or sub-
14 stances whose purpose is to conceal the presence
15 of performance-enhancing substances in the body,
16 and for which testing is reasonable and prac-
17 ticable.

18 (3) *THERAPEUTIC AND MEDICAL USE EXEMP-*
19 *TIONS.*—The Secretary, in consultation with the Di-
20 rector of the National Institute on Drug Abuse, shall
21 establish criteria by which professional sports associa-
22 tions, after consultation with the athletes who partici-
23 pate in the activities of such professional sports asso-
24 ciation (or the representatives of such athletes), may
25 provide an athlete with an exemption for a particular

1 substance, prior to or after any drug test, if such sub-
2 stance has a legitimate medical or therapeutic use,
3 and if such use is for a documented medical condition
4 of such athlete.

5 (4) *METHOD OF TESTING AND ANALYSIS.*—The
6 Secretary, in consultation with the Director of the
7 National Institute on Drug Abuse, shall establish cri-
8 teria whereby tests shall be administered by an inde-
9 pendent party not affiliated with the professional
10 sports association.

11 (5) *PENALTIES.*—Subject to the determination
12 made pursuant to an appeal as described in para-
13 graph (6), a positive test shall result in the following
14 penalties:

15 (A) *SUSPENSION.*—

16 (i) *An athlete who tests positive shall*
17 *be suspended from participation in the pro-*
18 *fessional sports association for a period not*
19 *less than 1/2 of a season of play, including*
20 *suspension from the number of games con-*
21 *stituting 1/2 of a season of play.*

22 (ii) *An athlete who tests positive, hav-*
23 *ing once previously violated the policies*
24 *concerning prohibited substances, shall be*
25 *suspended from participation in the profes-*

1 sional sports association for a period not
2 less than an entire season of play, including
3 suspension from the number of games con-
4 stituting a full season of play.

5 (iii) An athlete who tests positive, hav-
6 ing twice previously violated the policies
7 concerning prohibited substances, shall be
8 permanently suspended from participation
9 in the professional sports association.

10 All suspensions shall include loss of pay for the
11 period of suspension.

12 (B) DISCLOSURE.—The name of any athlete
13 having a positive test result resulting in suspen-
14 sion shall be disclosed to the public.

15 (C) EXCEPTIONAL CIRCUMSTANCES.—The
16 Secretary shall establish criteria by which profes-
17 sional sports associations may reduce the period
18 of suspension for an athlete who has tested posi-
19 tive for a prohibited substance but who estab-
20 lishes that he or she bears no fault or negligence
21 or no significant fault or negligence for the viola-
22 tion. In establishing such criteria, the Secretary
23 shall consider the policies and practices of the
24 World Anti-Doping Agency regarding reduced
25 penalties for exceptional circumstances. Such cri-

1 *teria shall not require a professional sports asso-*
2 *ciation to adopt a policy providing for reduc-*
3 *tions in penalties for any circumstances.*

4 (6) *APPEALS PROCESS.—*

5 (A) *HEARING AND FINAL ADJUDICATION.—*

6 *An athlete who tests positive and is subject to*
7 *penalty under paragraph (5) shall be afforded an*
8 *opportunity for a prompt hearing and a right to*
9 *appeal. Such athlete shall file an appeal with the*
10 *professional sports association within 5 business*
11 *days after learning of the positive test. The asso-*
12 *ciation shall hold a hearing before an arbiter es-*
13 *tablished under subparagraph (B) and such arbi-*
14 *ter shall reach a final adjudication not later*
15 *than 45 days after receiving notice of the appeal.*
16 *The penalties specified in paragraph (5) shall be*
17 *stayed pending an appeal and final adjudica-*
18 *tion.*

19 (B) *ARBITER.—The arbiter of the appeals*
20 *process described in subparagraph (A) shall be*
21 *agreed upon mutually by the professional sports*
22 *association and the athletes who participate in*
23 *the activities of such professional sports associa-*
24 *tion (or the representatives of such athletes), and*

1 *shall be approved by the Secretary, and such ap-*
 2 *proval shall not be unreasonably withheld.*

3 **(b) CONSULTATION.**—*In prescribing regulations under*
 4 *this section, the Secretary may consult with anti-doping*
 5 *authorities, medical experts, and professional sports asso-*
 6 *ciations.*

7 **SEC. 4. NONCOMPLIANCE.**

8 *Beginning 1 year after the date on which the final*
 9 *rules required by section 3 are issued, the Secretary may*
 10 *fine any professional sports association that fails to adopt*
 11 *and enforce testing policies and procedures consistent with*
 12 *such regulations. An initial fine for failing to adopt or en-*
 13 *force such policies and procedures under this Act shall be*
 14 *\$5,000,000 and may be increased by the Secretary by*
 15 *\$1,000,000 for each day of noncompliance. The Secretary*
 16 *may reduce the fines specified in this section upon finding*
 17 *such fines to be unduly burdensome on a professional sports*
 18 *association.*

19 **SEC. 5. REPORTS.**

20 **(a) REPORT ON EFFECTIVENESS OF REGULATIONS.**—
 21 *Not later than 2 years after the date of enactment of this*
 22 *Act and every 2 years thereafter, the Secretary shall trans-*
 23 *mit to the Committee on Energy and Commerce of the*
 24 *House of Representatives and the Committee on Commerce,*
 25 *Science, and Transportation of the Senate, a report describ-*

1 *ing the effectiveness of the regulations prescribed pursuant*
 2 *to this Act, the degree to which professional sports associa-*
 3 *tions have complied with such regulations, and any signifi-*
 4 *cant examples of noncompliance.*

5 *(b) STUDY ON COLLEGE AND SECONDARY SCHOOL*
 6 *TESTING POLICIES AND PROCEDURES.—*

7 *(1) STUDY.—The Comptroller General shall con-*
 8 *duct a study on the testing policies and practices*
 9 *(and their implementation) for performance-enhanc-*
 10 *ing substances for athletes at colleges and secondary*
 11 *schools. The study shall examine the prohibited sub-*
 12 *stance policies and testing procedures of—*

13 *(A) intercollegiate athletic associations;*

14 *(B) college and university athletic depart-*
 15 *ments; and*

16 *(C) secondary schools and State and re-*
 17 *gional interscholastic athletic associations.*

18 *The study shall also include an analysis of the best*
 19 *available estimates for both licit and illicit use of an-*
 20 *abolic steroids and human growth hormones by such*
 21 *athletes.*

22 *(2) REPORT.—Not later than 1 year after the*
 23 *date of enactment of this Act, the Comptroller General*
 24 *shall transmit a report to the Committee on Energy*
 25 *and Commerce of the House of Representatives and*

1 *the Committee on Commerce, Science, and Transpor-*
2 *tation of the Senate. The report shall assess the ade-*
3 *quacy of such testing policies and procedures in de-*
4 *tecting and preventing the use of performance-enhanc-*
5 *ing substances, and shall include any recommenda-*
6 *tions to Congress regarding expanding the applica-*
7 *tion of the regulations issued pursuant to this Act to*
8 *such intercollegiate and interscholastic athletic asso-*
9 *ciations.*

10 **SEC. 6. RULES OF CONSTRUCTION.**

11 *(a) PRE-EXISTING POLICIES.—Nothing in this Act*
12 *shall be construed to prohibit a professional sports associa-*
13 *tion from continuing to enforce policies and procedures gov-*
14 *erning the use of performance-enhancing substances that*
15 *were in effect on the date of enactment of this Act until*
16 *such time as such professional sports associations adopt*
17 *policies and procedures consistent with the rules issued*
18 *under section 3.*

19 *(b) MORE STRINGENT POLICIES.—Nothing in this Act*
20 *shall be construed to prohibit a professional sports associa-*
21 *tion and its athletes (or the representatives of its athletes)*
22 *from negotiating and agreeing upon policies and procedures*
23 *governing the use and testing of performance-enhancing*
24 *substances that are more stringent than those required by*
25 *this Act.*

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