

Calendar No. 280109TH CONGRESS
1ST SESSION**S. 1960**

To protect the health and safety of all athletes, to promote the integrity of professional sports by establishing minimum standards for the testing of steroids and other performance-enhancing substances and methods by professional sports leagues, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 3, 2005

Mr. BUNNING (for himself, Mr. MCCAIN, Mr. STEVENS, Mr. ROCKEFELLER, and Mr. GRASSLEY) introduced the following bill; which was read the first time

NOVEMBER 4, 2005

Read the second time and placed on the calendar

A BILL

To protect the health and safety of all athletes, to promote the integrity of professional sports by establishing minimum standards for the testing of steroids and other performance-enhancing substances and methods by professional sports leagues, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Integrity in Profes-
3 sional Sports Act”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) The use of anabolic steroids and other per-
7 formance-enhancing substances by children and
8 teenagers is a public health problem of national sig-
9 nificance.

10 (2) Experts estimate that over 500,000 teen-
11 agers have used performance-enhancing substances,
12 which medical experts warn can cause a litany of
13 health problems for individuals who take those sub-
14 stances, particularly children and teenagers.

15 (3) The adverse health effects caused by
16 steroids and other performance-enhancing sub-
17 stances include—

18 (A) stunted growth;

19 (B) scarring acne;

20 (C) hair loss;

21 (D) dramatic mood swings;

22 (E) hormonal and metabolic imbalances;

23 (F) liver damage;

24 (G) a higher risk of heart disease and
25 stroke later in life; and

1 (H) an increased propensity to dem-
2 onstrate aggressive behavior, commit suicide,
3 and commit crimes.

4 (4) Professional athletes are role models for
5 young athletes and influence the behavior of children
6 and teenagers.

7 (5) Congressional testimony by parents of mi-
8 nors who used performance-enhancing substances,
9 and by medical and health experts, indicates that
10 the actual or alleged use of performance-enhancing
11 substances by professional athletes results in the in-
12 creased use of these substances by children and
13 teenagers.

14 (6) Surveys and studies suggest a connection
15 between the actual or alleged use of performance-en-
16 hancing substances by professional athletes and the
17 increased use of these substances by children and
18 teenagers.

19 (7) The real or perceived tolerance of perform-
20 ance-enhancing substances by professional athletes
21 has increased the pressure on children and teenagers
22 to use performance-enhancing substances in order to
23 advance their athletic careers and damaged the in-
24 tegrity of professional sports leagues.

1 (8) The adoption by professional sports leagues
2 of strong policies to eliminate the use of perform-
3 ance-enhancing substances would contribute to the
4 reduction in the use of these substances by children
5 and teenagers.

6 (9) The establishment, by Federal law, of min-
7 imum drug testing standards for professional sports
8 would—

9 (A) ensure the adoption of strong policies
10 to help eliminate the use and the perceived use
11 of performance-enhancing substances in profes-
12 sional sports; and

13 (B) help return integrity to professional
14 sports.

15 (10) For several years, Congress has—

16 (A) expressed a strong interest in the
17 problem of the role of performance-enhancing
18 substances in professional sports and other lev-
19 els of sports;

20 (B) regulated the use of anabolic steroids
21 and other performance-enhancing substances;
22 and

23 (C) regulated both professional and ama-
24 teur sports.

1 (11) Recent Federal laws regulating the use of
2 anabolic steroids and other performance-enhancing
3 substances were enacted to reduce the prevalence of
4 these substances in sports.

5 (b) PURPOSE.—The purpose of this Act is to protect
6 the health and safety of all athletes and promote the integ-
7 rity of professional sports by establishing minimum stand-
8 ards for the testing of steroids and other performance-en-
9 hancing substances and methods by professional sports
10 leagues.

11 **SEC. 3. SENSE OF CONGRESS.**

12 It is the sense of Congress that—

13 (1) the individual records of professional ath-
14 letes achieved as a result of the use of performance-
15 enhancing substances or methods should be invali-
16 dated;

17 (2) all professional sports should implement
18 policies and procedures for testing for the use of
19 prohibited substances and detecting prohibited meth-
20 ods by professional athletes that ensure that Amer-
21 ican professional sports are world leaders in the ef-
22 fort to keep steroids and other performance-enhanc-
23 ing drugs out of sports; and

24 (3) each professional sports league should
25 produce and publicize public service announcements

1 and invest in grassroots efforts regarding the health
2 and safety consequences of steroids and other simi-
3 lar performance-enhancing substances on children
4 and teenagers, and particularly on high school ath-
5 letes.

6 **SEC. 4. DEFINITIONS.**

7 In this Act:

8 (1) **ADJUDICATION.**—The term “adjudication”
9 means the process of prehearing administration,
10 hearings, and appeals arising out of an offense (as
11 defined in section 6(b)).

12 (2) **COMMISSION.**—The term “Commission”
13 means the Federal Trade Commission.

14 (3) **INDEPENDENT ENTITY.**—The term “inde-
15 pendent entity” means—

16 (A) a not-for-profit organization—

17 (i) that conducts sport drug testing
18 and adjudication;

19 (ii) that does not have a single profes-
20 sional sports league as its primary source
21 of revenue; and

22 (iii) whose board of directors and em-
23 ployees are not selected by a professional
24 sports league or any person affiliated with
25 the professional sports league; or

1 (B) the United States Anti-Doping Agen-
2 cy.

3 (4) OFF-SEASON.—The term “off-season” for
4 each professional athlete means the period of time
5 outside the professional sports season for that ath-
6 lete.

7 (5) PROFESSIONAL ATHLETE.—The term “pro-
8 fessional athlete” means an individual who competes
9 in a professional sports league.

10 (6) PROFESSIONAL SPORTS EVENT.—The term
11 “professional sports event” means any game or com-
12 petition conducted in the United States between any
13 teams, clubs, or organizations of a professional
14 sports league.

15 (7) PROFESSIONAL SPORTS LEAGUE.—The
16 term “professional sports league” means Major
17 League Baseball, Minor League Baseball, the Na-
18 tional Football League, the National Basketball As-
19 sociation, the National Hockey League, or any suc-
20 cessor organization to those organizations.

21 (8) PROFESSIONAL SPORTS SEASON.—The term
22 “professional sports season” means, for each profes-
23 sional athlete, the period of time—

24 (A) beginning on the date on which the
25 professional athlete is eligible, invited, allowed,

1 or required to report for practice or preparation
 2 to compete in a professional sports league; and

3 (B) ending on the later of—

4 (i) the date of the league’s last regu-
 5 larly scheduled game or competition; or

6 (ii) the date of the last game or com-
 7 petition of the post-season in which the
 8 professional athlete is eligible, invited, al-
 9 lowed, or required to participate.

10 (9) PROHIBITED METHOD.—The term “prohib-
 11 ited method” means a method listed and described
 12 in the Protocol (excluding methods prohibited in a
 13 particular sport).

14 (10) PROHIBITED SUBSTANCE.—The term
 15 “prohibited substance” means a substance in such
 16 amount as listed and described in the Protocol (ex-
 17 cluding substances prohibited in a particular sport).

18 (11) PROTOCOL.—The term “Protocol” means
 19 the United States Anti-Doping Agency Protocol for
 20 Olympic Movement Testing.

21 **SEC. 5. CONDUCT PROHIBITED.**

22 It is unlawful for a professional sports league to orga-
 23 nize, sponsor, endorse, promote, produce, or recognize a
 24 professional sports event without adopting and enforcing

1 a testing policy that meets or exceeds the requirements
2 under section 6.

3 **SEC. 6. MINIMUM STANDARDS.**

4 (a) TESTING AND ADJUDICATION POLICY RE-
5 QUIRED.—Each professional sports league shall adopt and
6 enforce policies and procedures to—

7 (1) proscribe the use of prohibited substances
8 and prohibited methods by each professional athlete
9 competing in a professional sports event of the
10 league;

11 (2) test for the use of prohibited substances
12 and prohibited methods by each professional athlete
13 competing in a professional sports event of the
14 league; and

15 (3) proscribe any employee or contractor of the
16 league, of a team or club of that league, or of the
17 union representing the professional athletes of that
18 league from complicity in an offense by a profes-
19 sional athlete competing in a professional sports
20 event of the league.

21 (b) OFFENSES.—

22 (1) PROFESSIONAL ATHLETE.—A professional
23 athlete commits an offense of the testing policy
24 under this section if—

1 (A) a test reveals the presence of a prohib-
2 ited substance or its metabolites or markers in
3 the bodily specimen of a professional athlete
4 that demonstrates the use of a prohibited sub-
5 stance or a prohibited method;

6 (B) evidence of the use of a prohibited
7 substance or prohibited method is discovered;

8 (C) the professional athlete refuses or fails
9 to submit to a test without compelling justifica-
10 tion, provided that mere absence of an athlete
11 from the United States shall not constitute
12 compelling justification; or

13 (D) the professional athlete tampers with
14 the testing process.

15 (2) OTHER PERSONS OR ENTITIES.—An em-
16 ployee or contractor of a professional sports league,
17 of a team or club of that league, or of the union rep-
18 resenting the professional athletes of that league
19 commits an offense of the testing policy under this
20 section if such person or entity—

21 (A) administers a prohibited substance or
22 prohibited method to any professional athlete;
23 or

1 (B) assists, encourages, aids, abets, covers
2 up, or commits any other type of complicity in-
3 volving an offense by a professional athlete.

4 (c) TEST PROCEDURES.—

5 (1) TESTING FREQUENCY AND NOTICE.—

6 (A) FREQUENCY.—Each professional ath-
7 lete shall be tested for the use of prohibited
8 substances and prohibited methods not fewer
9 than 5 times in each calendar year that the ath-
10 lete competes in a professional sports league, of
11 which—

12 (i) at least 3 tests shall occur during
13 each professional sports season; and

14 (ii) at least 2 tests shall occur during
15 the off-season.

16 (B) NO ADVANCE NOTICE.—Tests con-
17 ducted under this subsection shall be conducted
18 throughout the entire calendar year with no ad-
19 vance notice to the professional athlete.

20 (2) ADMINISTRATION AND ANALYSIS.—

21 (A) METHODS, POLICIES, AND PROCE-
22 DURES.—Subject to the requirements of this
23 section, an independent entity shall—

24 (i) determine the methods, policies,
25 and procedures of test distribution plan-

1 ning, athlete selection for testing, collec-
2 tion, and transportation of bodily speci-
3 mens of professional athletes necessary to
4 conduct tests for prohibited substances and
5 prohibited methods; and

6 (ii) conduct such test distribution
7 planning, athlete selection for testing, col-
8 lection, and transportation.

9 (B) FUNDING.—Each professional sports
10 league shall, by contract, provide reasonable
11 funding to the independent entity to conduct
12 and make all decisions regarding testing and
13 adjudication as required in this Act.

14 (C) ANALYSIS.—Analysis of bodily speci-
15 mens shall be conducted in a laboratory that
16 is—

17 (i) approved by the United States
18 Anti-Doping Agency; and

19 (ii) located within the United States.

20 (D) RESULTS.—In accordance with policies
21 and procedures determined by the independent
22 entity pursuant to subparagraph (A), the lab-
23 oratory shall promptly notify the relevant pro-
24 fessional sports league of any offense discovered

1 as a result of a test conducted under this sub-
2 section.

3 (3) SUBSTANCES.—

4 (A) IN GENERAL.—Each professional ath-
5 lete shall be tested for all prohibited substances
6 and prohibited methods for which testing is rea-
7 sonable and practicable at the time of the ad-
8 ministration of each test.

9 (B) LIMITED EXEMPTION FOR MEDICAL OR
10 THERAPEUTIC USE.—A professional sports
11 league may provide an individual professional
12 athlete with an exemption for a particular pro-
13 hibited substance or prohibited method if such
14 substance or method—

15 (i) has a legitimate and documented
16 medical or therapeutic use;

17 (ii) is for a documented medical condi-
18 tion of such athlete; and

19 (iii) is properly prescribed by a doctor
20 of medicine licensed in the United States
21 or Canada.

22 (d) PENALTIES.—

23 (1) OFFENSE.—Subject to paragraph (2), a
24 person who commits an offense under this section—

1 (A) shall be suspended from participation
2 in any professional sports league without pay
3 for not less than 2 years immediately after the
4 disclosures set forth in paragraph (3); and

5 (B) if having previously committed an of-
6 fense under this section, shall be immediately
7 permanently suspended without pay from par-
8 ticipation in any professional sports league.

9 (2) ADJUDICATION.—

10 (A) DUE PROCESS.—A person who is al-
11 leged to have committed an offense shall be—

12 (i) provided with prompt notice and a
13 prompt and fair hearing and right to ap-
14 peal; and

15 (ii) permitted to have legal counsel or
16 other representative for the proceedings.

17 (B) ADMINISTRATION.—Subject to the re-
18 quirements under this section, an independent
19 entity shall determine the policies and proce-
20 dures of adjudication.

21 (C) NOTICE.—Not later than 5 business
22 days after the date on which a professional
23 sports league receives notice of an offense under
24 this section, a professional sports league shall

1 provide notice to the person who is alleged to
2 have committed the offense.

3 (D) COMPLETION.—Not later than 45
4 days after the date on which a professional
5 sports league receives notice of an offense under
6 this section, the league shall complete adjudica-
7 tion proceedings provided for under this para-
8 graph.

9 (3) DISCLOSURE.—Not later than 5 days after
10 the conclusion of adjudication proceedings under
11 paragraph (2), a professional sports league shall
12 publicly disclose—

13 (A) the name of the offender;

14 (B) the penalty imposed;

15 (C) the prohibited substance or prohibited
16 method involved; and

17 (D) the reason for the penalty.

18 (e) RECORDS.—

19 (1) IN GENERAL.—Each professional sports
20 league shall—

21 (A) maintain all documentation and
22 records pertaining to the policies and proce-
23 dures required under this section; and

24 (B) make such documentation and records
25 available to the Commission upon request.

1 (2) **PRIVACY.**—Health information about indi-
2 vidual professional athletes provided to the Commis-
3 sion under this subsection shall not be subject to
4 public disclosure under section 552 of title 5, United
5 States Code (commonly referred to as the Freedom
6 of Information Act).

7 **SEC. 7. ENFORCEMENT.**

8 (a) **UNFAIR OR DECEPTIVE ACTS OR PRACTICES.**—
9 Except as provided in subsection (b), a violation of section
10 5 shall be enforced by the Commission as if the violation
11 were a violation of the Federal Trade Commission Act (15
12 U.S.C. 41 et seq.) regarding unfair or deceptive acts or
13 practices.

14 (b) **ENHANCED CIVIL PENALTIES.**—In addition to
15 the penalties provided under subsection (a), the Commis-
16 sion may seek a civil penalty not to exceed \$1,000,000
17 for each day a professional sports league is in violation
18 of this Act.

19 (c) **DELEGATION.**—The Commission may delegate
20 the administration of this Act or any part of this Act to
21 any appropriate agency of the United States Government
22 not less than 30 days after providing notification of such
23 delegation to Congress.

1 (d) SAVINGS PROVISION.—Nothing in this Act shall
2 be construed to limit the authority of the Commission
3 under any other provision of law.

4 **SEC. 8. PROMULGATION OF STANDARDS BY UNITED**
5 **STATES BOXING COMMISSION.**

6 Not later than 12 months after the date of enactment
7 of this Act or the date that is 12 months after the estab-
8 lishment of the United States Boxing Commission pursu-
9 ant to Federal law, whichever is later, the United States
10 Boxing Commission shall, in consultation with the Asso-
11 ciation of Boxing Commissions and the United States
12 Anti-Doping Agency, promulgate uniform performance-en-
13 hancing substance testing standards for professional box-
14 ing that are consistent with section 6.

15 **SEC. 9. RULES OF CONSTRUCTION.**

16 (a) NON-GOVERNMENTAL ENTITIES.—Nothing in
17 this Act shall be construed to deem the United States
18 Anti-Doping Agency, any independent entity, or any pro-
19 fessional sports league an agent of or an actor on behalf
20 of the United States Government.

21 (b) MORE STRINGENT POLICIES.—Nothing in this
22 Act shall be construed to prohibit a professional sports
23 league from adopting and enforcing policies and proce-
24 dures more stringent than the requirements of this Act.

1 (c) PRECEDENT.—Nothing in this Act shall be con-
2 strued to have any effect on the collective bargaining obli-
3 gations of any employer that is not subject to this Act
4 or on any subject matter that is outside of the scope of
5 this Act.

6 **SEC. 10. EFFECTIVE DATE.**

7 This Act shall take effect on the date that is 1 year
8 after the date of enactment of this Act.

Calendar No. 280

109TH CONGRESS
1ST Session

S. 1960

A BILL

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