The rationale for such favored treatment is that standards development organizations, as non-profits that serve a cross-section of an industry, are unlikely themselves to engage in anti-competitive activities. However, if free from the threat of treble damages, they can increase efficiency and facilitate the gathering of a wealth of technical expertise from a wide array of interests to enhance product quality and safety while reducing costs.

Title II, the Antitrust Criminal Penalty Enhancement and Reform Act of 2003, increases the maximum criminal penalties for antitrust violations so that the disparity is eliminated between the treatment of criminal white collar offenses and antitrust criminal violations. At this point, I do not see any reason to revise downward the current Sentencing Guideline presumption that twenty percent of the volume of commerce is an appropriate proxy for the pecuniary loss caused by a criminal antitrust conspiracy.

This Title also incorporates a leniency provision that encourages participants in illegal cartels to turn against their co-conspirators. This provision allows the Department of Justice to limit the damages of the cooperating company's civil liability to actual, rather than treble damages. The Department of Justice will only grant such leniency if the company provides adequate and timely cooperation to both the government and any subsequent private plaintiffs in civil suits. And because the remaining conspirators remain jointly and severally liable for treble damages, the victims' potential total recovery is not reduced by leniency applicant's reduced damages. The central purpose of this provision is to bolster the leniency program already utilized by the Antitrust Division so that antitrust prosecutors can more effectively go after antitrust violators. The Department of Justice has assured me that it will always use these new tools cognizant of the needs of victims.

Finally, Title II of the bill reforms the Tunney Act to strengthen the Act's requirement that courts review antitrust consent decrees in a meaningful manner, rather than simply ''rubber-stamping'' such decrees.

H.R. 1086 is an important bill that modernizes and enhances the enforcement of U.S. antitrust laws. I'd like to thank the Chairman for his cooperative efforts on this bill and in writing the supplemental legislative history. We worked hard together on both and I'm very proud of the final product. I urge my colleagues to support this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as a co-sponsor of this legislation, I support H.R. 1086, ''The Standards Development Organization Advancement Act of 2003.''

This Act amends the National Cooperative Standards Development Act to provide antitrust protections to specific activities of standard development organizations (SDOs) relating to the development of voluntary consensus standards.

Among other provisions, H.R. 1086 amends the NCRA to limit the recovery of antitrust damages against SDOs if the organizations pre-disclose the nature and scope of their standards development activity to the proper antitrust authorities. H.R. 1086 also amends the NCRA to include SDOs in the framework of NCRA that awards reasonable attorneys' fees to the substantially prevailing party.

The provisions of H.R. 1086 protect SDOs, and in turn, SDOs help protect consumers and the public. SDOs are non-profit organizations that establish voluntary industry standards. These standards ensure competition within various industries, promote manufacturing compatibility, and reduce the risk that consumers will be stranded with a product that is incompatible with products from other manufacturers.

The nature of the standards development process requires competing companies to bring their competitive ideas to the voluntary standards development process. When one of the companies believes its market position has been compromised by the standards development process that company will likely resort to litigation. It is not uncommon for the SDO to be named as a Defendant. For non-profit organizations like SDOs, litigation can be very costly and disruptive to their operations, and treble antitrust damages can be financially crippling.

Under H.R. 1086, the recovery of damages against SDOs is limited if the organizations pre-disclose the nature and scope of their standards development activity to the proper antitrust authorities. Furthermore, SDOs are only liable for treble damages under antitrust laws if they fail to disclose the nature and scope of their voluntary standards setting activity.

H.R. 1086 strikes a good balance. It does not grant SDOs full antitrust immunity, but it provides SDOs with protection from treble damages when they provide proper disclosure.

H.R. 1086 also benefits the consumer. It enables the SDOs to develop industry standards that promote price competition, intensify corporate rivalry, and encourage the development of new products.

Mr. Speaker, I support H.R. 1086.

Mr. SCOTT of Virginia. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time as well.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1086.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

ANABOLIC STEROID CONTROL ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass 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, as amended.

The Clerk read as follows:

H.R. 3866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Anabolic Steroid Control Act of 2004''.

SEC. 2. INCREASED PENALTIES FOR ANABOLIC STEROID OFFENSES NEAR SPORTS FACILITIES.

(a) IN GENERAL.—Part D of the Controlled Substances Act is amended by adding at the end the following:

ANABOLIC STEROID OFFENSES NEAR SPORTS FACILITIES

''SEC. 424. (a) Whoever violates section 401(a)(1) or section 416 by manufacturing, distributing, or possessing with intent to distribute, an anabolic steroid near or at a sports facility is subject to twice the maximum term of imprisonment, maximum fine, and maximum term of supervised release otherwise provided by section 401 for that offense.

''(b) As used in this section—

''(1) the term 'sports facility' means real property where athletic sports or athletic training takes place, if such property is privately owned for commercial purposes or if such property is publicly owned, but does not include any real property described in section 419;

''(2) the term 'near or at' means in or on, or within 1000 feet of; and

''(3) the term 'possessing with intent to distribute' means possessing with the intent to distribute near or at a sports facility.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents for Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 423 the following new item:

''Sec. 424. Anabolic steroid offenses near sports facilities.''.

SEC. 3. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines with respect to offenses involving anabolic steroids;

(2) consider amending the Federal sentencing guidelines to provide for increased penalties with respect to offenses involving anabolic steroids in a manner that reflects the seriousness of such offenses and the need to deter anabolic steroid use; and

(3) take such other action that the Commission considers necessary to carry out this section.

SEC. 4. AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (41)—

(A) by realigning the margin so as to align with paragraph (40); and

(B) by striking subparagraph (A) and inserting the following:

''(A) The term 'anabolic steroid' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and includes—

''(i) androstanediol—

''(I) 3β,17β-dihydroxy-5α-androstane; and

''(II) 3α,17β-dihydroxy-5α-androstane;

''(ii) androstanedione (5α-androstan-3,17-dione);

''(iii) androstenediol—

''(I) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);

''(II) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

''(III) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene); and

''(IV) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);

''(iv) androstenedione—

''(I) 1-androstenedione ([5α]-androst-1-en-3,17-dione);

''(II) 4-androstenedione (androst-4-en-3,17-dione); and

''(III) 5-androstenedione (androst-5-en-3,17-dione);

''(v) bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

''(vi) boldenone (17β-hydroxyandrost-1,4,-diene-3-one);

''(vii) calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

''(viii) clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);

''(ix) dehydrochlormethyltestosterone (4-chloro-17β-hydroxy-17α-methylandrost-1,4-dien-3-one);

''(x) Δ1-dihydrotestosterone (also known as 1-testosterone) (17β-hydroxy-5α-androst-1-en-3-one);

''(xi) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);

''(xii) drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);

''(xiii) ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);

''(xiv) fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);

''(xv) formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);

''(xvi) furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);

''(xvii) 13α-ethyl-17β-hydroxygon-4-en-3-one;

''(xviii) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);

''(xix) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);

''(xx) mestanolone (17α-methyl-17β-hydroxy-5α-androstan-3-one);

''(xxi) mesterolone (1α-methyl-17β-hydroxy-[5α]-androstan-3-one);

''(xxii) methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);

''(xxiii) methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);

''(xxiv) methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);

''(xxv) methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);

''(xxvi) mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);

''(xxvii) 17α-methyl-Δ1-dihydrotestosterone (17 β-hydroxy-17α-methyl-5α-androst-1-en-3-one) (also known as '17-α-methyl-1-testosterone');

''(xxviii) nandrolone (17β-hydroxyestr-4-en-3-one);

''(xxix) norandrostenediol—

''(I) 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene);

''(II) 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene);

''(III) 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene); and

''(IV) 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene);

''(xxx) norandrostenedione—

''(I) 19-nor-4-androstenedione (estr-4-en-3,17-dione); and

''(II) 19-nor-5-androstenedione (estr-5-en-3,17-dione);

''(xxxi) norbolethone (13β,17α-diethyl-17β-hydroxygon-4-en-3-one);

''(xxxii) norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);

''(xxxiii) norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);

''(xxxiv) oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);

''(xxxv) oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);

''(xxxvi) oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);

''(xxxvii) stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);

''(xxxviii) stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);

''(xxxix) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

''(xl) testosterone (17β-hydroxyandrost-4-en-3-one);

''(xli) tetrahydrogestrinone (13β,17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);

''(xlii) trenbolone (17β-hydroxyestr-4,9,11-trien-3-one); and

''(xliii) any salt, ester, or ether of a drug or substance described in this paragraph;''; and

(2) in paragraph (44), by inserting ''anabolic steroids,'' after ''marihuana,''.

(b) AUTHORITY AND CRITERIA FOR CLASSIFICATION.—Section 201(g) of the Controlled Substances Act (21 U.S.C. 811(g)) is amended—

(1) in paragraph (1), by striking ''substance from a schedule if such substance'' and inserting ''drug which contains a controlled substance from the application of titles II and III of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 802 et seq.) if such drug''; and

(2) in paragraph (3), by adding at the end the following:

''(C) Upon the recommendation of the Secretary of Health and Human Services, a compound, mixture, or preparation which contains any anabolic steroid, which is intended for administration to a human being or an animal, and which, because of its concentration, preparation, formulation or delivery system, does not present any significant potential for abuse.''.

(c) ANABOLIC STEROIDS CONTROL ACT.—Section 1903 of the Anabolic Steroids Control Act of 1990 (Public Law 101–647; 21 U.S.C. 802 note) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

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.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3866, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, recently American sprinter Kelli White admitted to the United States Anti-Doping Agency that she had been taking banned steroids. European 100 meters champion Dwain Chambers and four other U.S. athletes also recently tested positive for steroid use. Steroid use in professional baseball is well-known. The fact is that steroids are abused in professional sports more often than many would like to admit, and we face statistics showing an alarming number of children in middle school and high school have tried steroids.

By simply reading the newspapers, one gets the feeling that steroid abuse is an epidemic. We must ask ourselves what kind of example is being set for our children when our best athletes feel it is necessary to pollute their bodies with these chemicals and risk their health to compete in sports. Today, we are here to say enough is enough by making it harder to traffic in steroids and making sure there are tough penalties for those who do.

Studies show that steroid use may include some very serious consequences such as liver disorders, heart attack and stroke. Additionally, many long-term users face psychiatric effects such as rage, mania or delusions. When used by adolescents, steroid use may result in premature growth cessation or rupturing of tendons.

In addition to facing the health consequences of taking steroids, Ms. White, Dwain Chambers and other athletes are facing the consequences of their actions professionally. All will be banned from competition for 2 years. Ms. White had to relinquish the medal she received in the 2003 world championships. Hopefully, the message our children receive from these high-profile cases is that our society will not tolerate this type of cheating in professional or Olympic sports. We should admire the athletes who achieve greatness through hard work and their own God-given abilities and hard work.

The Anabolic Steroid Control Act of 2004 will help to drive home this message. This legislation adds steroid precursors, substances which become steroids in the body, to the list of controlled substances, meaning they will no longer be available unless prescribed by a physician for a legitimate medical purpose. It also increases the penalties for anyone caught trafficking in steroids near a sports facility.

The goal here is clear. We do not want these substances around our gyms, baseball stadiums, football fields or our running tracks. We do not want our athletes to risk their health to win. We want our athletes to be examples of healthy individuals. We want the way our American athletes treat their bodies to be a source of pride for our country, not a source of shame. We want our children to be able to look up to them for their accomplishments.

I strongly urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3866, the Anabolic Steroid Control Act of 2004.

This legislation updates the ban on steroids to include the several steroid precursors which have been developed since the 1990 ban on steroids went into effect. These precursors have been shown to cause the same reaction in the body as other steroids, and they are just as dangerous in terms of side effects and long-term damage potential. Yet, currently, they are not illegal; and they are widely used by athletes and others seeking to enhance muscle and body development.

In addition to being directly ingested, these dangerous drugs are also being consumed as parts of presently legal, over-the-counter nutrition and dietary supplements.

Of course, the most important concern driving the bill is the impact these drugs and precursors have on children. Some young athletes are using the drugs with the belief that they can become great in their sport and gain money and fame. However, in addition to risking disqualification from playing sports, they also risk stunted growth, infertility and other long-term health problems and even death.

While we must ensure that these dangerous new drugs and precursors do not get in the hands of children or others who would use them improperly, we must also be aware that these same drugs have legitimate uses. If made available for legitimate prescriptions by physicians, they could treat conditions such as body wasting with patients with AIDS and other diseases that result in loss of muscle mass.

So, Mr. Speaker, I am pleased to join the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Michigan (Ranking Member CONYERS) and other Members who have helped craft the bill in their effort to get these drugs out of the category of easy access to children and others who would use them improperly and into the laboratory to determine their legitimate, beneficial uses and into the doctor's office where they can be properly prescribed. I, therefore, urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BARTON), the distinguished chairman of the Committee on Energy and Commerce.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary, for bringing this bill to the floor and thank him for his leadership.

H.R. 3866, the Anabolic Steroid Control Act of 2004, will help prevent the abuse of steroids by professional athletes and will also address the widespread use of steroids and steroid precursors by college, high school and even middle school students.

Steroid use has been banned in the United States since the passage of the Anabolic Steroids Control Act of 1990. However, in recent years, new substances have become available that have the same effects on the body as anabolic steroids but are not banned under current law. These steroid precursors can be just as dangerous as those substances that have been banned themselves under the original Act.

This legislation, which the Committee on Energy and Commerce had sequential jurisdiction on and was marked up in April in the Committee on Energy and Commerce, would add several of these new products to the list of banned substances and provide increased penalty for any individual who traffics in steroids within 1,000 feet of an athletic facility. This bill will go a long way toward ensuring that our Nation's athletes, both children and adults, will not be exposed to these dangerous products.

I want to again thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for his excellent leadership on this and would urge all my colleagues to vote yes on H.R. 3866.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Texas (Mr. BARTON) for advancing this legislation. I would particularly like to thank the gentleman from New York (Mr. SWEENEY) for inspiring this legislation and having a great deal to do with its inception.

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Mr. Speaker, in 2000, Mark McGwire hit 70 home runs. In 2001, more than one million children ages 12 to 17 used performance enhancing substances, and 390,000 children aged 10 to 14 used performance enhancing drugs or supplements. Chief among these substances used by teenagers was androstendione, which Mark McGwire admitted using when setting the record.

Mr. Speaker, androstendione is a steroid precursor. It is not a steroid under current definition; yet when ingested, it becomes a steroid, and it can be purchased over the counter by teenagers. Androstendione and other precursors are banned by the NCAA, the United States Olympic Committee, the National Football League, and the National Basketball Association; but it is not banned by Major League Baseball, high schools and junior high schools; and this just does not make any sense.

Steroids and steroid precursors cause cancer of the liver and kidneys, heart disease, stunt growth, cause extreme aggression and depression sometimes leading to teenage suicide, and the younger the user the more negative the consequences. But they also can build muscle, and therein lies the problem. It is a very dangerous situation.

I have three major concerns here: number one, many children do not know the risks. They assume that over-the-counter drugs are safe if they are sold over the counter. Also, 40 percent of supplements contain banned substances. They are not labeled correctly.

Number two, many young people will sacrifice health to gain a competitive edge. They know what the risks are, yet to win an Olympic medal, to win an athletic scholarship, to look more muscular, to make the team, they will actually sacrifice years off their life.

Number three, the use of steroids and precursors threatens the integrity of athletic competition. Do the 70 home runs in the year 2000 indicate greater athletic achievement than 65 home runs in the 1960s, or does it indicate better chemistry? We really will not know, and it is not fair to those who are competing today and those who competed 30, 40 and 50 years ago.

Again, I would like to thank the gentleman from New York (Mr. SWEENEY) and the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), for their work. I urge support of H.R. 3866. This bill addresses the issue of steroid precursors; designer steroids, such as THD; and strengthens penalties for distribution of steroid products.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, I rise today in support of the Anabolic Steroid Control Act, H.R. 3866, and commend my colleagues from the Committee on the Judiciary and Committee on Energy and Commerce for their hard work on this legislation.

Fourteen years ago, the passage of the Anabolic Steroid Control Act banned the use of steroids, but since then steroid precursors have emerged in the marketplace. These products, which are not considered steroids under current law, react like steroids once ingested and yield similar effects. Use of precursors is also associated with the same kinds of bad side effects associated with sustained steroid use, such as aggression, liver tumors, and extreme mood swings, just to name a few.

Since these substances are not legal under current law, some of them are marketed as nutrition or dietary supplements and are readily available over the counter. This has resulted in another detrimental development: widespread use of precursors among young people, ranging from college age to kids as young as middle school students. Pressured by athletic competition and peers, these young people turn to these substances for a competitive edge. Numbers released by the National Institute on Drug Abuse for 2003 show an alarming trend of increased precursor use among adolescents since the

early 1990s. It is clear that our current law must be updated to reflect the times. We must take action to protect our loved ones.

H.R. 3866 modernizes the list of anabolic steroids regulated by the Drug Enforcement Administration to include about two dozen new substances and increases the maximum penalties for trafficking steroids close to a sports facility.

However, I am concerned about what is not in this legislation, namely, the steroid hormone DHEA. Like my colleagues in the Committee on Energy and Commerce, I am disappointed to see DHEA exempted from H.R. 3866. Both the National Institutes of Health and the dietary supplement industry have declared their concern about potentially dangerous health effects.

The questions and concerns raised in this discussion show why the regulatory framework for dietary supplements must be updated. Under current law, consumers and the Food and Drug Administration do not have access to the information or tools they need to make informed decisions about dietary supplements.

With the support of the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. WAXMAN), I introduced the Dietary Supplement Access and Awareness Act, H.R. 3377, in order to establish commonsense consumer protections. The measures and education programs contained in H.R. 3377 will enable the FDA to gather solid data about the dangers some dietary supplements pose and make sensible informed decisions about supplements such as DHEA. In turn, consumers will have greater assurance than they currently have about the safety of dietary supplements on the market.

So, my colleagues, I would certainly encourage support of this legislation today. I believe it is sensible. But it also opens up the way for us to provide for consumers who choose to take dietary supplements more education and more information awareness.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SWEENEY), who is a cosponsor of the legislation.

Mr. SWEENEY. Mr. Speaker, I thank the chairman for yielding me this time.

This is a big day for me personally because this is a piece of legislation that represents an agreement on a piece of legislation that I first introduced 4 years ago, and I want to talk a little about the personal aspects of this and how I got involved in the whole anabolic steroid precursor and designer steroid issue.

My son, who I love and who I am lucky enough to get to spend some time with, and I work out fairly regularly together, Mr. Speaker. And, fortunately, about 5 years ago, at one of our workouts, my son was talking to me about some of his friends and his colleagues and some of their training habits. It was also 5 years ago almost immediately after the Mark McGwire record-setting home run streak in Major League Baseball. My son said that he and his friends had all been talking about how they could get better, how they could get bigger, stronger, faster, hit the ball better; and one of the ideas they had, by virtue of some of the advertising and some of the stories they heard about Mark McGwire, was to use a substance called andro.

Mr. Speaker, the gentleman from Nebraska (Mr. OSBORNE), no greater a symbol of the American sports movement than Coach Tom Osborne at Nebraska, mentioned in his remarks andro and its effects, and the record was pretty clear that after Mark McGwire hit his home runs, performing under legal rules established at that time, the use of andro quadrupled, with teenagers making up a large portion of that population. According to the Department of Health and Human Services, one out of every 40 high school students admitted to using andro in the past year, and something in the range of 3 to 4 percent of junior high school students had talked about and were using anabolic steroids.

Now, 20 years ago, we addressed the issue of anabolic steroids and established very clearly the health risks that were attendant to it. But what we find now is this almost insidious effort to market products meant simply to skirt the law, simply to subvert the testing processes that exist and targeting a very vulnerable part of our population, young athletes, people who cared about their fitness, and marketing these products in order to take advantage of that circumstance.

So this legislation coming forward today represents Congress' response to that, an appropriate response that will effectively make it illegal to sell over the counter now, with that presumption of sales over the counter, that a product is safe and does what it says it does. It will make it illegal to sell those products over the counter at the GNCs, at the Wal-Marts, or any of the other places. And what it effectively does is protect our kids, which is, obviously, a very important part.

Now, make no mistake about it, keeping our children safe is far more important than restoring the integrity to the sports world, Mr. Speaker; but with the Anabolic Steroid Control Act we accomplish both of those things. In athletics today, the lines of fair play have been blurred by the prevalence of steroid precursors and designer steroids; and athletes have become more creative in turning those substances, such as andro, into their muscle-building cousins.

Now, I want to respond a little to one of the prior speakers, and this was the gentlewoman who preceded me most immediately, and that was the issue of DHEA and whether we have DHEA mentioned in the list of products specifically mentioned here. As someone 4 years ago that introduced legislation that was very broad and said that any precursor or any designer steroid ought to be outlawed, I came to recognize that that legislation, under the instruction of the chairman and the ranking member of the Committee on the Judiciary, probably would not have survived judicial scrutiny.

What we have in this legislation is the perfect balance to make sure that the legislation we pass forward will have the effect we choose it to have, and that is making sure that manufacturers are putting on the shelves products that do what they say and are safe, and, secondly, outlawing those that are not. So whether DHEA is mentioned in this legislation or not, or any other product that is devised, and there will be others the manufacturing community will come forward with, whether they are made illegal or not does not really matter here, Mr. Speaker.

The burden of proof is now shifted to them. The effective tools that we need in order to protect our kids, to protect athletes, and protect the next generation, and to protect the integrity of sports are here. That is why the FDA, the DEA, the United States Olympic Committee, the NFL, the NCAA, all of those groups, the U.S. Anti-Doping Association, CASPER, and all of those groups have come out in support of this legislation. They recognize that this long fight, begun 20 years ago in this body, is coming to the right conclusion, a conclusion that protects the American people.

Finally, Mr. Speaker, I want to recognize the hard work and efforts of the gentleman from Nebraska (Mr. OSBORNE). He committed with me 4 years ago to pass this legislation, and we have gotten that done. I also want to recognize the great work of the Committee on the Judiciary and its chairman, who gave us not only an opportunity to be heard but carried this legislation, through the ranking member; and the chairman of the Subcommittee on Crime, Terrorism, and Homeland Security, the gentleman from North Carolina (Mr. COBLE); and his ranking member, the gentleman from Virginia (Mr. SCOTT), for their subcommittee work on all this. This is a strong bipartisan effort that is for the good of the American people.

Finally, and in conclusion, I would point out that all major sport entities of any credibility in this Nation have endorsed this legislation. It is time for Major League Baseball, and most specifically the Major League Baseball Players Association, to end the foot-dragging and to go forward and ban in their own sport these substances that threaten the integrity of their sport. And do it not just because the integrity of their sport is threatened, but do it as well because it is good for America, good for American athletes, and good for the next generation.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman for his

comments and for his leadership on this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, H.R. 3866 is a bill that will bring more integrity to athletics in this country and bring our legislative controls over steroids and steroid precursors up-to-date, thereby making them more effective. The abuse of these controlled substances is a major concern because it makes not only the players suffer, but is also makes the spectators, parents, family, friends, and ticket-purchasers suffer. Therefore, I generally support the bill introduced by my colleagues Messrs. SENSENBRENNER, CONYERS, SWEENEY, OSBORNE, and BERMAN, H.R. 3866, the Anabolic Steroid Control Act of 2004.

In supporting this bill, I also share the concern of my colleagues of the House Judiciary that it will explicitly exempt a specific steroid precursor, dehydroepiandrosterone or 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.

H.R. 3866's purpose is to facilitate DEA's ability to restrict access to anabolic steroids, like Androstendione or Andro, that boost testosterone and estrogen levels in the body. Maintenance of this purpose 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.

Over 20 percent of athletes in Western nations have admitted to using drugs. Performance enhancing drugs should not be tolerated on any team in respect of fair play and because of the health risks associated with their use. When we watch games on television or from the stands, we should not have to ask ourselves, ''Is this the athlete's true ability, or just the drugs on display?'' Unfortunately, the illegal acts of a small number of players has caused the entire industry to suffer the burden of being subject to random drug testing. Random testing is a burden on players; however, given the tremendous amount of money at stake based upon physical performance and the degree to which young children look to athletes as role models, the benefits outweigh the burdens. A program of random drug tests, education, treatment, and discipline would cost an estimated $1 million annually. If such a program, along with effective legislation, like that before us today, were in place, there would be a decreased incidence of enhancement-drug related health risks such as heart disease, liver tumors, and edema (abnormal fluid accumulated in body tissues).

The sad trend among athletes is that the majority of those who have only used steroids for one game to see if they could improve continue to use steroids for the remainder of their career. Since the drug controls were instituted in 1968, there have been 51 positive tests at the Olympic Games. At the summer games in Barcelona in 1992, five athletes failed their tests. Although President Bush has proposed an additional $23 million for schools that want to do drug tests, he did not call for any money or new laws to combat drugs in pro sports.

In World War II, it is reported that anabolic steroids were given to Hitler's troops to increase their aggression. Russian athletes were the first to use anabolic steroids in official competitions, and in 1960's Olympic games, for the first time, the International Olympic Committee discovered the incidence of ''doping'' when a cyclist using amphetamine collapsed and died during a race.

We need heightened legislative controls over things that take away from the integrity of our athletics and entertainment. Therefore, I fully support this legislation, but I admonish that we need to enhance its controls to cover steroid precursors such as DHEA.

Mr. WAXMAN. Mr. Speaker, today we are voting on a bill that will limit access to most steroids. In principle, this is a good thing and, in general, I support this bill. However, this legislation is flawed. While it limits access for most steroids, it explicitly exempts a specific steroid precursor, DHEA, from the Anabolic Steroid Act, thereby reducing DEA's authority over this potentially dangerous product. Today there will be no opportunity to try to amend this legislation and make it better. That is unfortunate. Members could have benefited from a debate about whether we should, in fact, be protecting this particular product.

Here is why I am concerned about the DHEA exemption. DHEA is a dietary supplement that is marketed as a performance enhancer as well as a rejuvenating product. DHEA is a hormone precursor. It converts to Andro, and then to testosterone and estrogen in the body. According to the NIH, there are concerns about dangerous side effects and the possibility of undiscovered health risks associated with these supplements. A recently published study found that athletes who take DHEA supplements might increase their risk of enlarged prostate. 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.

By specifically exempting DHEA we are sending a signal to the American public that DHEA is safe. This would be the wrong message. I suspect that once this legislation becomes law, we could see an increase in DHEA use, including among younger athletes, as the other products become less accessible.

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 NCAA bans andro and DHEA. The World Anti-Doping Agency bans Andro and DHEA. Only this legislation bans andro but protects DHEA. This exclusion is not about the science. This is an exclusion that the dietary supplement industry insisted on and I fear that this exclusion could have real adverse health consequences for young athletes.

I support this bill today because it represents an important step forward. But I am hopeful that this bill will be improved before we send it to the President.

Mr. CONYERS. Mr. Speaker, I strongly support the legislative proposal under consideration today. Without a doubt, H.R. 3866, the ''Anabolic Steroid Control Act of 2004,'' represents a major step in the right direction.

First, the bill highlights the serious nature of trafficking in steroid precursors by increasing the criminal penalties associated with their distribution, particularly near a sports facility. It's worth noting that this outcome was achieved without the use of mandatory minimums. Instead, the bill was drafted in such a way so as to leave sentencing determinations solely to the discretion of the judge—with the more egregious offenders being exposed to harsher sentences.

Second, the bill amends the Anabolic Steroid Control Act of 1990 by adding steroid precursors such as androstenedione, ''andro'' and its chemical cousins to the list of anabolic steroids controlled under the Controlled Substances Act. It also makes it easier for the DEA to add similar substances to that list in the future.

Scientific evidence shows that these performance-enhancing drugs create real and significant health risks. Potential long-term consequences of these products in men include impotence and the development of breast enlargement. While some women who use these products experience male pattern baldness, increased facial hair, and abnormal menstrual bleeding. And, most troubling of all, innocent children who are exposed to these products risk early onset of puberty and stunted growth.

Finally, the bill directs the U.S. Sentencing Commission to review the Federal sentencing guidelines for crimes involving anabolic

steroids and consider increasing them. Currently, the maximum sentence for offenses involving anabolic steroids is only 33–41 months for first time offenders. And to receive the maximum sentence an offender would have to have between 40,000 and 60,000 units, which is defined as a 10 cc vial or 50 tablets.

Saving children is the ultimate goal of this legislation. About 1 out of 40 high-school seniors reported that they had used andro in the past year, according to the Department of Health and Human Services' (HHS) 2002 Monitoring the Future survey, which tracks drug use among students. The survey, conducted by HHS's National Institute on Drug Abuse, also found that about 1 out of 50 10th graders had taken andro in the previous year.

In closing, I would like to thank Chairman SENSENBRENNER and Representatives BERMAN, SWEENEY and OSBORNE for their bipartisan leadership on this issue. I strongly urge my colleagues to lend their support to this sensible piece of legislation.

Mr. SCOTT of Virginia. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3866, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONSTITUTIONAL AMENDMENT REGARDING APPOINTMENT OF INDIVIDUALS TO FILL VACANCIES IN HOUSE OF REPRESENTATIVES

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 657, I call up the joint resolution (H.J. Res. 83) proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 83 is as follows:

H.J. RES. 83

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE —

''SECTION 1. Prior to taking the oath of office, an individual who is elected to serve as a Member of the House of Representatives for a Congress shall present to the chief executive of the State from which the individual is elected a list of nominees to take the individual's place in the event the individual dies or becomes incapacitated prior to the expiration of the individual's term of office. The individual shall ensure that the list contains the names of not fewer than two nominees, each of whom shall meet the qualifications for service as a Member of the House of Representatives from the State involved. After the individual takes the oath of office, the individual may present revised versions of the list at any time during the Congress.

''SECTION 2. If at any time a majority of the whole membership of the House of Representatives are unable to carry out their duties because of death or incapacity, or if at any time the House adopts a resolution declaring that extraordinary circumstances exist which threaten the ability of the House to represent the interests of the people of the United States, the chief executive of any State represented by any Member who is dead or incapacitated at that time shall appoint, from the most recent list of nominees presented by the Member under section 1, an individual to take the place of the Member. The chief executive shall make such an appointment as soon as practicable (but in no event later than seven days) after the date on which Member's death or incapacity has been certified. An individual appointed to take the place of a Member of the House of Representatives under this section shall serve until the Member regains capacity or until another Member is elected to fill the vacancy resulting from the death or incapacity. The State shall provide for an election to fill the vacancy at such time and in accordance with such procedures as may be provided under State law, and an individual appointed under this section may be a candidate in such an election. This section shall not apply with respect to any Member of the House who dies or becomes incapacitated prior to the seven-day period which ends on the date on which the event requiring appointments to be made under this section occurs.

''SECTION 3. During the period of an individual's appointment under section 2, the individual shall be treated as a Member of the House of Representatives for purposes of all laws, rules, and regulations, but not for purposes of section 1. If an individual appointed under section 2 is unable to carry out the duties of a Member during such period because of death or incapacity, the chief executive of the State involved shall appoint another individual from the same list of nominees presented under section 1 from which the individual was appointed under section 2. Any individual so appointed shall be considered to have been appointed under section 2.

''SECTION 4. Congress may by law establish the criteria for determining whether a Member of the House of Representatives or Senate is dead or incapacitated, and shall have the power to enforce this article through appropriate legislation.''.

The SPEAKER pro tempore. Pursuant to House Resolution 657, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 45 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Joint Resolution 83, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we debate whether we should amend the Constitution of the United States to allow House Members to be appointed in the wake of mass vacancies caused by a terrorist attack.

After September 11, 2001, no one would deny the real potential of such a catastrophe striking this body, but fundamentally today's debate is about whether to preserve lawmaking by a House of Representatives elected by the people or to deny the right of elected representation during the most crucial moments of American history and allow lawmaking by an appointed aristocracy.

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I would urge the membership to soundly defeat this constitutional amendment to preserve the People's House as an elected House and not as an appointed House.

Let us be clear, any constitutional amendment denying the right to elected representation would accomplish what no terrorist could, namely striking a fatal blow to what has always been the People's House. The House, unlike the Presidency and the Senate, are unique among all branches and bodies of the entire Federal Government. It is the only branch institutionally designed to always reflect the popular will through the legislation it passes.

When terrorists attacked on September 11, 2001, it was an elected not an appointed Congress that acted in its wake; and the legislation passed by that elected Congress has a legitimacy that legislation passed by an appointed Congress would not have had. All of Congress' powers under Article I of the Constitution are only legitimately exercised by an elected House.

H.R. 2844, the Continuity in Representation Act, which passed the House on April 22 by an overwhelming bipartisan vote of 306 to 97, with more Democrats voting for it than against it, will ensure that the House is repopulated by legitimate democratic means within a maximum of 45 days after an attack causes mass vacancies. Within those 45 days, any constitutional amendment that allowed lawmaking by appointed members would pose far more risks than benefits; and legislation passed by an appointed House that did not comport with the people's will would have to be repealed by a later elected House, leading to further discontinuity at the very time when continuity is most important.

The Founders explicitly rejected the proposition that the appointment of Members is compatible with the American Republic. James Madison wrote