

109TH CONGRESS  
1ST SESSION

# H. R. 2565

To reauthorize the Office of National Drug Control Policy Act and to establish minimum drug testing standards for major professional sports leagues.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2005

Mr. TOM DAVIS of Virginia (for himself, Mr. WAXMAN, Mr. SOUDER, Mr. CUMMINGS, Mr. SHAYS, Mr. OWENS, Mr. MCHUGH, Mrs. MALONEY, Mr. PLATTS, Mr. DAVIS of Illinois, Mr. DUNCAN, Mr. CLAY, Mr. ISSA, Mr. LYNCH, Mr. DENT, Ms. LINDA T. SÁNCHEZ of California, Ms. FOXX, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committees on Energy and Commerce and 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

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## A BILL

To reauthorize the Office of National Drug Control Policy Act and to establish minimum drug testing standards for major professional sports leagues.

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. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—REAUTHORIZATION OF OFFICE OF NATIONAL DRUG  
CONTROL POLICY ACT

- Sec. 101. Short title.  
Sec. 102. Repeal of termination provision.  
Sec. 103. Authorization of appropriations.

TITLE II—CLEAN SPORTS ACT OF 2005

- Sec. 201. Addition of minimum drug testing standards to Office of National  
Drug Control Policy Act.

1 **TITLE I—REAUTHORIZATION OF**  
2 **OFFICE OF NATIONAL DRUG**  
3 **CONTROL POLICY ACT**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Office of National  
6 Drug Control Reauthorization Act”.

7 **SEC. 102. REPEAL OF TERMINATION PROVISION.**

8 Section 715 of the Office of National Drug Control  
9 Policy Reauthorization Act of 1998 (Public Law 105–277;  
10 21 U.S.C. 1712) is repealed, and the law shall read as  
11 if such section was never in effect.

12 **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

13 Section 714 of such Act (21 U.S.C. 1711) is amend-  
14 ed—

15 (1) by striking “title,” and inserting “subtitle,  
16 except activities for which amounts are otherwise  
17 specifically authorized by this subtitle,”; and

18 (2) by striking “1999 through 2003” and in-  
19 serting “2006 through 2010”.

1     **TITLE II—CLEAN SPORTS ACT**  
2                     **OF 2005**

3     **SEC. 201. ADDITION OF MINIMUM DRUG TESTING STAND-**  
4                     **ARDS TO OFFICE OF NATIONAL DRUG CON-**  
5                     **TROL POLICY ACT.**

6             (a) AMENDMENT.—The Office of National Drug Con-  
7     trol Policy Act of 1998 (Public Law 105–277; 21 U.S.C.  
8     1701 et seq.) is amended—

9             (1) by inserting before section 701 the fol-  
10     lowing:

11             **“Subtitle A—Office of National**  
12             **Drug Control Policy”**; and

13             (2) by adding at the end the following new sub-  
14     title:

15             **“Subtitle B—Clean Sports Act of**  
16             **2005**

17     **“SEC. 721. SHORT TITLE.**

18             “‘This subtitle may be cited as the ‘Clean Sports Act  
19     of 2005’.

20     **“SEC. 722. FINDINGS AND PURPOSE.**

21             “(a) FINDINGS.—Congress finds the following:

22             “(1) The use of anabolic steroids and other per-  
23     formance-enhancing substances by minors is a public  
24     health problem of national significance.

1           “(2) Experts estimate that over 500,000 teen-  
2           agers have used performance-enhancing substances,  
3           which medical experts warn can cause a litany of  
4           health problems for individuals who take them, in  
5           particular children and teenagers.

6           “(3) The adverse health effects caused by  
7           steroids and other performance-enhancing sub-  
8           stances include stunted growth, scarring acne, hair  
9           loss, dramatic mood swings, hormonal and metabolic  
10          imbalances, liver damage, a higher risk of heart dis-  
11          ease and stroke later in life, as well as an increased  
12          propensity to demonstrate aggressive behavior, com-  
13          mit suicide, and commit crimes.

14          “(4) Professional athletes are role models for  
15          young athletes and influence the behavior of children  
16          and teenagers.

17          “(5) Congressional testimony by parents of mi-  
18          nors who used performance enhancing drugs, as well  
19          as medical and health experts, indicates that the ac-  
20          tual or alleged use of performance-enhancing sub-  
21          stances by professional athletes results in the in-  
22          creased use of these substances by children and  
23          teenagers.

24          “(6) Surveys and studies suggest a connection  
25          between the actual or alleged use of performance-en-

1       hancing substances by college and professional ath-  
2       letes and the increased use of these substances by  
3       children and teenagers.

4               “(7) The real or perceived tolerance of the use  
5       of performance-enhancing substances by professional  
6       athletes has resulted in both increased pressure on  
7       children and teenagers to use performance-enhanc-  
8       ing drugs in order to advance their athletic careers  
9       and to professional sports loss of integrity.

10              “(8) The adoption by professional sports  
11       leagues of strong policies to eliminate the use of per-  
12       formance-enhancing substances would result in the  
13       reduced use of these substances by children and  
14       teenagers.

15              “(9) Minimum drug testing standards for pro-  
16       fessional sports established by Federal law would en-  
17       sure the adoption of strong policies to eliminate the  
18       use of performance-enhancing substances in profes-  
19       sional sports.

20              “(10) Minimum drug testing standards for pro-  
21       fessional sports established by Federal law would  
22       help return integrity to professional sports.

23              “(11) Congress has for several years expressed  
24       a strong interest in the problem of the role of per-

1 performance-enhancing drugs in professional sports and  
2 other levels of sports.

3 “(12) Congress has for several years regulated  
4 the use of anabolic steroids and other performance-  
5 enhancing substances.

6 “(13) Recent Federal laws regulating the use of  
7 anabolic steroids and other performance-enhancing  
8 substances were enacted in large part to reduce the  
9 prevalence of these substances in sports.

10 “(14) Congress has for several years regulated  
11 both professional and amateur sports.

12 “(b) PURPOSE.—The purpose of this subtitle is to  
13 protect the integrity of professional sports and the health  
14 and safety of athletes generally by establishing minimum  
15 standards for the testing of steroids and other perform-  
16 ance-enhancing substances by professional sports leagues.

17 **“SEC. 723. DEFINITIONS.**

18 “In this subtitle:

19 “(1) ANTI-DOPING CODE.—The term ‘anti-  
20 doping code’ means the doping control standards es-  
21 tablished in the United States Anti-Doping Agency  
22 Protocol for Olympic Movement Testing (excluding  
23 substances or methods prohibited in a particular  
24 sport, as defined in such protocol).

1           “(2) COMMISSION.—The term ‘Commission’  
2 means the Federal Trade Commission.

3           “(3) DIRECTOR.—The term ‘Director’ means  
4 the Director of the Office of National Drug Control  
5 Policy.

6           “(4) MAJOR PROFESSIONAL LEAGUE.—The  
7 term ‘major professional league’ means Major  
8 League Baseball, the National Basketball Associa-  
9 tion, the National Football League, and the National  
10 Hockey League or any successor organization to  
11 those leagues.

12           “(5) OFF-SEASON.—The term ‘off-season’  
13 means the period of time in each calendar year out-  
14 side of the season of play for each major profes-  
15 sional league.

16           “(6) PROFESSIONAL ATHLETE.—The term ‘pro-  
17 fessional athlete’ means an individual who competes  
18 in a major professional league.

19           “(7) PROFESSIONAL GAME.—The term ‘profes-  
20 sional game’ means any game held in the United  
21 States between any professional teams of a major  
22 professional league.

23           “(8) PROHIBITED METHOD OR SUBSTANCE.—

1           “(A) PROHIBITED METHOD.—The term  
2 ‘prohibited method’ means a method listed and  
3 described in the Anti-Doping Code.

4           “(B) PROHIBITED SUBSTANCE.—The term  
5 ‘prohibited substance’ means a substance listed  
6 and described in the Anti-Doping Code.

7           “(C) PERIOD OF PROHIBITION.—A sub-  
8 stance prohibited in-competition by the Anti-  
9 Doping Code shall be a prohibited substance  
10 only during the season of play. Only a sub-  
11 stance or method prohibited out-of-competition  
12 by the Anti-Doping Code shall be a prohibited  
13 substance or method during the off-season.

14           “(9) SEASON OF PLAY.—

15           “(A) IN GENERAL.—The term ‘season of  
16 play’ for each major professional league means  
17 the period of time in each calendar year begin-  
18 ning with the date on which professional ath-  
19 letes of that major professional league are col-  
20 lectively obligated to report to their teams in  
21 preparation for play and ending with the last  
22 game of the major professional league’s regular  
23 season.

24           “(B) POST-SEASON.—The season of play  
25 shall include post-season play for an athlete

1           who is a member of a team that remains active  
2           in post-season play.

3 **“SEC. 724. MINIMUM UNIFORM TESTING STANDARDS.**

4           “(a) CONDUCT PROHIBITED.—It shall be unlawful  
5 for a major professional league to arrange, promote, orga-  
6 nize, or produce a professional game without meeting the  
7 requirements in subsection (b).

8           “(b) MINIMUM TESTING REQUIREMENTS.—Each  
9 major professional league shall implement policies and  
10 procedures for the testing of the use of prohibited sub-  
11 stances by professional athletes who compete in each re-  
12 spective major professional league which shall be inde-  
13 pendently administered and shall be consistent with and  
14 as stringent as the doping control standard established by  
15 the United States Anti-Doping Agency, and which shall,  
16 at minimum, include the following:

17           “(1) TIMING AND FREQUENCY OF TESTING.—

18           “(A) IN GENERAL.—Each professional ath-  
19 lete shall be tested a minimum of 5 times each  
20 calendar year that such athlete is competing in  
21 games organized by the major professional  
22 league.

23           “(B) TIMING.—Each athlete shall be test-  
24 ed—

1                   “(i) at least 3 times, each with no ad-  
2                   vance notice, during each season of play;  
3                   and

4                   “(ii) at least 2 times, each with no ad-  
5                   vance notice, during the off-season.

6                   “(2) TEST DISTRIBUTION PLANNING.—Each  
7                   major professional league shall certify to the Direc-  
8                   tor on or prior to December 31 of each year that it  
9                   has consulted with the United States Anti-Doping  
10                  Agency in the development of its test distribution  
11                  plan for both season of play and off-season testing.

12                  “(3) METHOD OF TESTING.—Each major pro-  
13                  fessional league shall certify to the Director on or  
14                  prior to December 31 of each year that it has con-  
15                  sulted with the United States Anti-Doping Agency in  
16                  the development of its drug testing protocols for  
17                  both season of play and off-season testing.

18                  “(4) APPLICABLE SUBSTANCES.—Each profes-  
19                  sional athlete shall be tested for all prohibited sub-  
20                  stances at the time of each test. A major profes-  
21                  sional league may make exceptions for any prohib-  
22                  ited substances that have been properly prescribed  
23                  by a doctor of medicine licensed in the United States  
24                  for legitimate and documented therapeutic purposes.

1           “(5) ANALYSIS OF SAMPLE.—Each sample pro-  
2           vided shall be analyzed by a laboratory approved by  
3           the United States Anti-Doping Agency.

4           “(6) POSITIVE TESTS.—

5           “(A) IN GENERAL.—A positive test shall  
6           consist of the presence in the sample of any  
7           prohibited substance or its metabolites or mark-  
8           ers, or evidence of the use of a prohibited meth-  
9           od, unless that substance was prescribed to the  
10          athlete in accordance with paragraph (4).

11          “(B) REFUSAL.—A refusal by a profes-  
12          sional athlete to submit to a test or a failure of  
13          a professional athlete to submit to a test with-  
14          out compelling justification shall also be consid-  
15          ered a positive test.

16          “(7) PENALTIES.—

17          “(A) GENERAL RULE.—

18          “(i) FIRST VIOLATION.—Except as  
19          provided in subparagraph (B), a profes-  
20          sional athlete who tests positive shall be  
21          immediately suspended for a minimum of 2  
22          years for a first violation. All suspensions  
23          shall include a loss of pay for the period of  
24          the suspension.

1           “(ii) SECOND VIOLATION.—A second  
2 violation shall result in a lifetime ban of  
3 the professional athlete from all major pro-  
4 fessional leagues.

5           “(B) EXCEPTIONS.—

6           “(i) KNOWLEDGE OF THE ATH-  
7 LETE.—A major professional league may  
8 impose a lesser penalty than provided in  
9 subparagraph (A) or no penalty if the pro-  
10 fessional athlete establishes that he did not  
11 know or suspect, and could not reasonably  
12 have known or suspected even with the ex-  
13 ercise of utmost caution, that he had used  
14 the prohibited substance.

15           “(ii) ASSISTANCE IN IDENTIFYING  
16 VIOLATIONS.—A major professional league  
17 may impose a lesser penalty than provided  
18 in subparagraph (A) if the professional  
19 athlete provides substantial assistance to  
20 the major professional league in identifying  
21 violations of the league’s drug testing pol-  
22 icy by other professional athletes or assist-  
23 ance in violations of the league’s drug test-  
24 ing policy by any coach, trainer, manager,  
25 agent, team staff, official, medical, or

1 other personnel working with or treating  
2 professional athletes participating in or  
3 preparing for sports competition.

4 “(8) ADJUDICATION.—

5 “(A) CONSULTATION.—Each major profes-  
6 sional league shall certify to the Director on or  
7 prior to December 31 of each year that it has  
8 consulted with the United States Anti-Doping  
9 Agency in the development of its adjudication  
10 process.

11 “(B) DUE PROCESS.—If a professional  
12 athlete tests positive, the professional athlete  
13 shall have the right to notice, a fair, timely, and  
14 expedited hearing, representation by counsel  
15 and appeal.

16 “(C) SUSPENSION.—During the pendency  
17 of any proceedings the professional athlete shall  
18 be suspended from participating in any profes-  
19 sional game.

20 “(9) PUBLIC DISCLOSURE.—

21 “(A) TESTING.—A major professional  
22 league shall publicly disclose the identity of any  
23 professional player who has tested positive as  
24 well as the prohibited substance or prohibited

1 method for which he tested positive not later  
2 than 30 days after receiving the test results.

3 “(B) PENALTY.—A major professional  
4 league shall publicly disclose the name of any  
5 penalized athlete, the penalty imposed, the sub-  
6 stance for which the player tested positive, and  
7 the reason for the penalty not later than 15  
8 days after the final disposition of the player’s  
9 case.

10 **“SEC. 725. PROMULGATION OF STANDARDS BY THE DIREC-**  
11 **TOR OF THE OFFICE OF NATIONAL DRUG**  
12 **CONTROL POLICY.**

13 “(a) IN GENERAL.—The Director shall have the au-  
14 thority to promulgate standards that would modify the  
15 provisions of section 724 as they apply to an individual  
16 major professional league for exceptional circumstances or  
17 for other good cause.

18 “(b) EFFECTIVENESS MAINTAINED.—A modification  
19 under subsection (a) shall not—

20 “(1) reduce the effectiveness of the standards in  
21 eliminating the use of steroids or other performance-  
22 enhancing substances in any major professional  
23 league; or



1 as though all applicable terms and provisions of the  
2 Federal Trade Commission Act (15 U.S.C. 41 et  
3 seq.) were incorporated into and made a part of this  
4 subtitle. Any person who violates such regulations  
5 shall be subject to the penalties and entitled to the  
6 privileges and immunities provided in that Act.

7 “(2) ENHANCED PENALTY FOR VIOLATIONS.—  
8 Notwithstanding subsection (a) and the Federal  
9 Trade Commission Act, in the case of a person who  
10 violates section 724, the Commission may, in its dis-  
11 cretion, seek a civil penalty for such violation in an  
12 amount, as determined by the Commission, of not  
13 more than \$1,000,000 for each violation of section  
14 724.

15 “(3) GENERAL AUTHORITY.—Nothing in this  
16 subtitle shall be construed to limit the authority of  
17 the Commission under any other provision of law.

18 **“SEC. 727. REPORTS TO CONGRESS.**

19 “(a) FIRST LEAGUE REPORT.—

20 “(1) IN GENERAL.—Not later than 6 months  
21 after completion of a professional sports league’s  
22 first season of play after the effective date of this  
23 subtitle, each major professional league shall trans-  
24 mit to the Committee on Commerce, Science, and  
25 Transportation of the Senate and the Committee on

1 Energy and Commerce and the Committee on Gov-  
2 ernment Reform of the House of Representatives, a  
3 report on its testing policies and procedures.

4 “(2) CONTENTS.—The report required by this  
5 subsection shall contain—

6 “(A) a comparison of the major profes-  
7 sional league’s testing policy (including its adju-  
8 dication procedures) to that of the United  
9 States Anti-Doping Agency, emphasizing the  
10 differences between the policies and the ration-  
11 ales for the differences; and

12 “(B) aggregate data on the number of pro-  
13 fessional players tested by the major profes-  
14 sional league and the prohibited substances de-  
15 tected in samples or prohibited methods, includ-  
16 ing the number of tests conducted during the  
17 season of play and during the off-season.

18 “(b) BIENNIAL LEAGUE REPORTS.—Each major pro-  
19 fessional league shall transmit to the Committee on Com-  
20 merce, Science, and Transportation of the Senate and the  
21 Committee on Energy and Commerce and the Committee  
22 on Government Reform of the House of Representatives,  
23 on a biennial basis, a report containing the data and anal-  
24 ysis required in subsection (a) for each of the 2 prior  
25 years.

1       “(c) ONDCP REPORT.—Not later than 1 year after  
2 the date of enactment of this subtitle, and subsequently  
3 thereafter as determined appropriate by the Director, the  
4 Director shall report to the Committee on Commerce,  
5 Science, and Transportation of the Senate and the Com-  
6 mittee on Energy and Commerce and the Committee on  
7 Government Reform of the House of Representatives, rec-  
8 ommendations for improving any Federal law governing  
9 controlled substances as may be necessary for reducing the  
10 use of steroids and other performance-enhancing sub-  
11 stances.

12       **“SEC. 728. PROMULGATION OF STANDARDS BY UNITED**  
13                               **STATES BOXING COMMISSION.**

14       “Upon the later of 12 months after enactment of this  
15 subtitle or 12 months after the establishment of the  
16 United States Boxing Commission pursuant to Federal  
17 law, that commission shall, in consultation with the Asso-  
18 ciation of Boxing Commissions and the United States  
19 Anti-Doping Agency, promulgate uniform performance-en-  
20 hancing substance testing standards for professional box-  
21 ing that are consistent with section 724.

22       **“SEC. 729. STUDY ON COLLEGE TESTING POLICIES AND**  
23                               **PROCEDURES.**

24       “(a) STUDY.—The Government Accountability Office  
25 shall conduct a study on the use of performance-enhancing

1 substances by college athletes which shall examine the pro-  
2 hibited substance policies and testing procedures of inter-  
3 collegiate athletic associations and college and university  
4 athletic departments.

5 “(b) REPORT.—

6 “(1) SUBMISSION TO CONGRESS.—Not later  
7 than 1 year after the date of enactment of this sub-  
8 title, the Government Accountability Office shall  
9 transmit a report to the Committee on Commerce,  
10 Science, and Transportation of the Senate and the  
11 Committee on Energy and Commerce and the Com-  
12 mittee on Government Reform of the House of Rep-  
13 resentatives.

14 “(2) CONTENTS.—The report required by this  
15 subsection shall—

16 “(A) assess the adequacy of the testing  
17 policies and procedures described in subsection  
18 (a) in detecting and preventing the use of per-  
19 formance-enhancing substances; and

20 “(B) include recommendations to Congress  
21 regarding expanding the application of the reg-  
22 ulations issued pursuant to this subtitle to such  
23 intercollegiate and interscholastic athletic asso-  
24 ciations.

1 **“SEC. 730. COMMISSION ON HIGH SCHOOL AND COLLE-**  
2 **GIATE ATHLETICS.**

3 “(a) COMMISSION.—The Director shall establish a  
4 commission on high school and collegiate athletics.

5 “(b) REPORT.—Not later than 1 year after the date  
6 of enactment of this subtitle, the commission shall report  
7 to Congress—

8 “(1) findings on the use of steroids and other  
9 performance-enhancing substances in high school  
10 and collegiate sports; and

11 “(2) recommendations for reducing their use.

12 **“SEC. 731. SENSE OF CONGRESS.**

13 “It is the sense of Congress that—

14 “(1) professional sports leagues not regulated  
15 by this subtitle should adhere to the drug testing  
16 standards established in this subtitle;

17 “(2) all professional sports should implement  
18 policies and procedures for the testing of the use of  
19 prohibited substances or the detection of prohibited  
20 methods by professional athletes that ensure that  
21 American professional sports leagues are world lead-  
22 ers in the effort to keep steroids and other perform-  
23 ance-enhancing drugs out of sports;

24 “(3) all professional sports should implement  
25 policies and procedures that address the development  
26 of designer steroids and emerging methods for

1 doping, including gene doping, that enhance sports  
2 performance, are potential or actual health risks,  
3 and are contrary to the spirit of the sport; and

4 “(4) each major professional league should  
5 produce and publicize public service announcements  
6 regarding the health and safety consequences of  
7 steroids and other similar performance-enhancing  
8 substances on children and teenagers.

9 **“SEC. 732. EFFECTIVE DATE.**

10 “This subtitle shall take effect 1 year after the date  
11 of enactment of this subtitle.”.

12 (b) CONFORMING AMENDMENTS.—The Office of Na-  
13 tional Drug Control Policy Act of 1998 (Public Law 105-  
14 277; 21 U.S.C. 1701 et seq.) is further amended—

15 (1) by striking “title” each place it appears and  
16 inserting “subtitle” in—

17 (A) section 701;

18 (B) section 702;

19 (C) section 703(b)(2);

20 (D) section 704(d)(1); and

21 (E) the first and second sentences of sec-

22 tion 705(a)(2)(A); and

1           (2) in section 711(b), by striking “title” and in-  
2           serting “Office of National Drug Control Policy Re-  
3           authorization Act of 1998”.

○