

109TH CONGRESS
1ST SESSION

H. R. 3942

To establish a Federal Office of Steroids Testing Enforcement and Prevention to establish and enforce standards for the testing for the illegal use in professional sports of performance enhancing substances and other controlled substances.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2005

Mr. SENSENBRENNER (for himself and Mr. CONYERS) introduced the following bill; which was referred to the Committee on the Judiciary, 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

A BILL

To establish a Federal Office of Steroids Testing Enforcement and Prevention to establish and enforce standards for the testing for the illegal use in professional sports of performance enhancing substances and other controlled substances.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Professional Sports
5 Responsibility Act of 2005”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Congress has created some important legal
4 benefits for professional sports leagues, some of
5 which have been instrumental to the enormous suc-
6 cess of those leagues. These benefits include anti-
7 trust exemptions created under the National Sports
8 Broadcasting Act, labor exemptions to the antitrust
9 laws to engage in collective bargaining agreements,
10 special visas for foreign professional athletes, and
11 several tax benefits including tax write-offs after the
12 sale of a team and tax exemption status for profes-
13 sional sports leagues. Additionally, they enjoy indi-
14 rect tax benefits which create incentives for cities to
15 build stadiums.

16 (2) The leagues have no entitlement to these
17 benefits and Congress can revoke these benefits
18 away at any time.

19 (3) The illegal use of anabolic steroids, per-
20 formance enhancing substances, and Schedule I con-
21 trolled substances by professional athletes poses a
22 significant public health and safety concern not only
23 for the players on the field, but also for the general
24 public. As long as athletes believe the use of these
25 products is necessary to gain a competitive edge and
26 secure recognition in the professional leagues, there

1 will be incentives for amateur athletes to use these
2 products to attempt to reach higher levels of com-
3 petition.

4 (4) Studies suggest a connection between the
5 use of performance enhancing substances by profes-
6 sional athletes and the increased use of these sub-
7 stances by children and teenagers. Experts estimate
8 that over 500,000 teenagers have used performance-
9 enhancing substances, which can have serious health
10 consequences, especially for teenagers and children.

11 (5) The detrimental health effects of these sub-
12 stances are well-documented including stunted
13 growth, scarring acne, hair loss, hormonal and meta-
14 bolic imbalances, liver damage, a higher risk of heart
15 attack and stroke, dramatic mood swings, and vio-
16 lent tendencies.

17 (6) The tolerance of the use of performance en-
18 hancing substances by professional athletes by the
19 professional sports leagues send the wrong message
20 to youth that these drugs must be used to advance
21 in athletic competition.

22 (7) To continue to enjoy the benefits afforded
23 the leagues by Congress, the leagues must operate
24 as responsible citizens of the United States by
25 adopting strong policies to eliminate the use of these

1 substances and reassure the public that there will be
2 no place in professional sports for the illegal use of
3 performance-enhancing substances or other con-
4 trolled substances.

5 (8) As of the date of enactment of this Act,
6 Congress is not satisfied that the four major profes-
7 sional leagues have an appropriate testing and pen-
8 alty policy in place. Minimum standards for testing
9 for the illegal use of performance-enhancing sub-
10 stances and other controlled substances, and min-
11 imum penalties for the illegal use of these sub-
12 stances, should be established.

13 (9) Because the list of performance-enhancing
14 substances continues to expand and new substances
15 are always being developed, the list of substances
16 must be frequently monitored and updated. The De-
17 partment of Justice, as the agency tasked with en-
18 forcing the laws on controlled substances, is the ap-
19 propriate agency to establish, monitor, and update
20 standards for testing for and penalties for illegal use
21 of performance-enhancing and other controlled sub-
22 stances.

23 **SEC. 3. DEFINITIONS.**

24 In this Act the following definitions apply:

1 (1) ACCREDITATION BODY.—The term “accred-
2 itation body” means the private nonprofit organiza-
3 tion authorized under section 5 to audit, inspect,
4 and certify major professional leagues.

5 (2) MAJOR PROFESSIONAL LEAGUE.—The term
6 “major professional league” means Major League
7 Baseball, the National Basketball Association, the
8 National Football League, and the National Hockey
9 League or any successor organization to such
10 leagues.

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

15 (4) PROFESSIONAL ATHLETE.—The term “pro-
16 fessional athlete” means an individual who competes
17 in a major professional league.

18 (5) SEASON OF PLAY.—

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

1 game of the major professional league's regular
2 season.

3 (B) POST-SEASON.—The season of play
4 shall include post-season play for an athlete
5 who is a member of a team that remains active
6 in post-season play.

7 **SEC. 4. STANDARDS FOR TESTING FOR PERFORMANCE-EN-**
8 **HANCING AND OTHER CONTROLLED SUB-**
9 **STANCES.**

10 (a) IN GENERAL.—Not later than 180 days after the
11 date of the enactment of this Act, the Attorney General
12 shall issue rules requiring the testing by major profes-
13 sional leagues for the illegal use of steroids and other per-
14 formance-enhancing substances and any substance des-
15 ignated as a Schedule I substance under the Controlled
16 Substances Act (21 U.S.C. 801 et seq.). The requirements
17 of section 553 of title 5, United States Code, shall not
18 apply to such rulemaking. Such rules shall be issued with
19 regard to each specific major professional league and at
20 a minimum establish—

21 (1) the minimum number of times each profes-
22 sional athlete should be tested for prohibited sub-
23 stances during a calendar year, ensuring that tests
24 are conducted at random intervals throughout the
25 season of play and during the off-season;

1 (2) the applicable prohibited substances for
2 which professional athletes shall be tested;

3 (3) a method of testing and analysis which
4 guarantees that—

5 (A) the tests will be administered by an
6 independent party who is not an employee of a
7 major professional league, member team, or
8 labor organization representing professional
9 athletes in that league; and

10 (B) the determination of the persons to be
11 tested, and the timing and frequency of testing,
12 is not controlled by the major professional
13 league;

14 (4) a means for exempting particular sub-
15 stances that have legitimate medical or therapeutic
16 use, if such use is for a documented medical condi-
17 tion of the professional athlete;

18 (5) sufficient penalties for any professional ath-
19 lete who tests positive for a prohibited substance and
20 penalties for any professional athlete who refuses or
21 fails to submit to a required test;

22 (6) an adequate appeals process; and

23 (7) procedures for publicly disclosing the iden-
24 tity of any athlete who tests positive for a prohibited
25 substance.

1 (b) REVISIONS TO RULE.—The Attorney General
2 shall have the authority to modify and update the stand-
3 ards issued under subsection (a) as necessary. Any modi-
4 fication of such standards shall take effect on January 1
5 of the year following the year in which the modifications
6 were issued.

7 **SEC. 5. AUTHORIZATION OF INDEPENDENT ACCREDITA-**
8 **TION BODY AND CERTIFICATION.**

9 (a) ACCREDITATION BODY.—The Attorney General
10 shall authorize a private nonprofit organization to be an
11 accreditation body for the certification of major profes-
12 sional leagues. Such accreditation body shall—

13 (1) audit a major professional league’s testing
14 protocols and policies with such frequency as the At-
15 torney General shall determine; and

16 (2) with such frequency as determined by the
17 Attorney General, inspect the testing of a major pro-
18 fessional league of its professional athletes to ensure
19 that the testing procedures meet the standards es-
20 tablished under section 4.

21 (b) CERTIFICATION REQUIREMENTS.—

22 (1) CERTIFICATION.—The accreditation body
23 shall certify a major professional league each year
24 prior to the beginning of that league’s season of play
25 if such league adopts and enforces a policy for the

1 testing for the illegal use of performance-enhancing
2 substances and other controlled substances which
3 meets the standards established under section 4.

4 (2) APPLICATION AND REQUIREMENTS FOR
5 CERTIFICATION.—To be certified under this section,
6 a major professional league shall—

7 (A) submit an application to the accredita-
8 tion body—

9 (i) in such form and manner as the
10 Attorney General shall prescribe;

11 (ii) that describes the characteristics
12 of the major professional league’s prohib-
13 ited substance testing protocols, policies
14 and procedures, including—

15 (I) the number and types of tests
16 for prohibited substances conducted in
17 a calendar year, including the actual
18 number of professional athletes tested;

19 (II) the methodologies used for
20 administering tests and other proce-
21 dures employed;

22 (III) the qualifications (edu-
23 cational background, training, and ex-
24 perience) of the lab personnel selected
25 to evaluate the tests; and

1 (IV) adjudication policies and
2 procedures, including policies and pro-
3 cedures governing an appeals process;
4 and

5 (iii) that contains such other informa-
6 tion as the Attorney General may require
7 to determine compliance with this Act;

8 (B) provide the accreditation body satisfac-
9 tory assurances that the major professional
10 league will be operated in accordance with
11 standards issued by the Attorney General under
12 section 4; and

13 (C) agree to permit inspections by the ac-
14 creditation body and to make available any
15 records and submit reports to the accreditation
16 body as the Attorney General may reasonably
17 require.

18 (c) SUSPENSION AND REVOCATION.—The certifi-
19 cation of a major professional league issued under this sec-
20 tion may be suspended or revoked if the accreditation body
21 finds, after reasonable notice and opportunity for hearing
22 of the owner or operator of the major professional league,
23 that such owner or operator or any employee of the major
24 professional league—

1 (1) has been guilty of misrepresentation in ob-
2 taining the certification;

3 (2) has failed to comply with the requirements
4 of this section or the standards established under
5 section 4;

6 (3) has failed to comply with reasonable re-
7 quests of the accreditation body for any information
8 or materials that the accreditation body concludes is
9 necessary to determine the major professional
10 league's continued eligibility for certification; or

11 (4) has refused a reasonable request of the ac-
12 creditation body to inspect the major professional
13 league and its operations and pertinent records.

14 (d) REPORT.—The accrediting body shall report to
15 Congress whenever a major professional league fails to re-
16 ceive certification under subsection (b) or a major profes-
17 sional league's certification is revoked or suspended, under
18 subsection (c). The report shall include the reasons for
19 which the league was not certified or for which its certifi-
20 cation was revoked or suspended.

21 **SEC. 6. CIVIL PENALTIES.**

22 Beginning 1 year after the date on which the final
23 rules required by section 4 are issued, the Attorney Gen-
24 eral may fine any major professional league that fails to
25 adopt and enforce testing policies and procedures con-

1 sistent with such rules. The amount of the fine shall be
2 not more than \$5,000,000, except that the Attorney Gen-
3 eral may increase that amount by not more than
4 \$1,000,000 for each additional day of noncompliance. The
5 Attorney General may reduce the amount of the fines pro-
6 vided for in this section upon finding such fines to be un-
7 duly burdensome for a particular major professional
8 league.

9 **SEC. 7. FURTHER CONGRESSIONAL ACTION.**

10 (a) REPORT TO CONGRESS.—The Attorney General
11 shall report to Congress regarding any major professional
12 league that fails to adopt or enforce policies and proce-
13 dures consistent with the rules issued pursuant to section
14 4. Such report shall include recommendations on any spe-
15 cific action regarding any of the privileges, exemptions, or
16 other benefits enjoyed by such major professional leagues
17 under the law.

18 (b) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that Congress should annually review the certifi-
20 cation status of each major professional league and con-
21 sider taking legislative action regarding the benefits en-
22 joyed by any league that fails to adopt or enforce policies
23 and procedures consistent with the rules issued pursuant
24 to this Act.

1 **SEC. 8. INCREASED PENALTIES FOR ANABOLIC STEROID**
2 **OFFENSES NEAR SPORTS FACILITIES OR IN-**
3 **VOLVING ATHLETES.**

4 (a) IN GENERAL.—Part D of the Controlled Sub-
5 stances Act is amended by adding at the end the following:

6 “ANABOLIC STEROID OFFENSES NEAR SPORTS
7 FACILITIES OR INVOLVING ATHLETES

8 “SEC. 424. (a) Whoever violates section 401(a)(1) or
9 section 416 by manufacturing, distributing, or possessing
10 with intent to distribute, an anabolic steroid near or at
11 a sports facility, or by distributing or possessing with in-
12 tent to distribute an anabolic steroid to a professional, col-
13 lege, or high school athlete, is subject to twice the max-
14 imum term of imprisonment, maximum fine, and max-
15 imum term of supervised release otherwise provided by
16 section 401 for that offense.

17 “(b) As used in this section—

18 “(1) the term ‘sports facility’ means real prop-
19 erty where athletic sports or athletic training takes
20 place, if such property is privately owned for com-
21 mercial purposes or if such property is publicly
22 owned, but does not include any real property de-
23 scribed in section 419;

24 “(2) the term ‘near or at’ means in or on, or
25 within 1000 feet of;

1 “(3) the term ‘college or high school athlete’
2 means an athlete who is a student at an institution
3 of higher learning (as defined in section 101 of the
4 Higher Education Act of 1965 (20 U.S.C. 1001) or
5 at a secondary school (as defined in section 9101 of
6 the Elementary and Secondary Education Act of
7 1965 (20 U.S.C. 7801);

8 “(4) the term ‘athlete’ means an individual who
9 participates in an athletic activity conducted by—

10 “(A) an intercollegiate athletic association
11 or interscholastic athletic association;

12 “(B) a professional athletic association; or

13 “(C) an amateur athletic organization;

14 “(5) the term ‘athletic activity’ means an activ-
15 ity that—

16 “(A) has officially designated coaches;

17 “(B) conducts regularly scheduled prac-
18 tices or workouts that are supervised by coach-
19 es; and

20 “(C) has established schedules for competi-
21 tive events or exhibitions; and

22 “(6) the term ‘possessing with intent to dis-
23 tribute’ means possessing with the intent to dis-
24 tribute near or at a sports facility.”.

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

“Sec. 424. Anabolic steroid offenses near sports facilities or involving athletes.”.

5 **SEC. 9. STUDIES AND REPORTS.**

6 (a) REPORT ON EFFECTIVENESS OF REGULA-
7 TIONS.—Not later than 2 years after the date of enact-
8 ment of this Act and every 2 years thereafter, the Attor-
9 ney General shall transmit to the Committees on the Judi-
10 ciary of the Senate and the House of Representatives a
11 report describing the effectiveness of the regulations pre-
12 scribed under section 4, the degree to which professional
13 sports associations have complied with such regulations,
14 and any significant examples of noncompliance.

15 (b) STUDY ON COLLEGE TESTING POLICIES AND
16 PROCEDURES.—

17 (1) STUDY.—The Comptroller General shall
18 conduct a study on the illegal use of performance-
19 enhancing substances and other controlled sub-
20 stances by college athletes which shall examine the
21 prohibited substance policies and testing procedures
22 of intercollegiate athletic associations and college
23 and university athletic departments.

1 (2) REPORT.—Not later than 1 year after the
2 date of enactment of this Act, the Comptroller Gen-
3 eral shall transmit a report of the study required by
4 subsection (a) to the Committee on the Judiciary of
5 the House of Representatives and the Committee on
6 the Judiciary of the Senate. The report shall—

7 (A) assess the adequacy of the testing poli-
8 cies and procedures described in subsection (a)
9 in detecting and preventing the illegal use of
10 performance-enhancing and other controlled
11 substances; and

12 (B) include recommendations to Congress
13 regarding expanding the application of the reg-
14 ulations issued pursuant to this Act to such
15 intercollegiate and interscholastic athletic asso-
16 ciations.

17 **SEC. 10. INCLUSION OF ADDITIONAL LEAGUES.**

18 The Attorney General may include any additional
19 professional sports league or the entities participating in
20 Division I or Division II of the National Collegiate Athletic
21 Association as a major professional league if the Attorney
22 General determines that such additions would prevent the
23 illegal use of performance-enhancing substances and other

- 1 controlled substances by high school, college, or profes-
- 2 sional athletes.

