

109TH CONGRESS
1ST SESSION

S. 1334

To provide for integrity and accountability in professional sports.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2005

Mr. BUNNING (for himself, Mr. STEVENS, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide for integrity and accountability in professional sports.

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 Integrity and Accountability Act”.

6 **SEC. 2. EFFECTIVE DATE.**

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

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

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

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

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

9 (4) PROFESSIONAL SPORTS EVENT.—The term
10 “professional sports event” means any game, match,
11 or competition conducted in the United States be-
12 tween any teams, clubs, or organizations of a profes-
13 sional sports league.

14 (5) PROFESSIONAL SPORTS LEAGUE.—The
15 term “professional sports league” means Major
16 League Baseball, Minor League Baseball, the Na-
17 tional Football League, the Arena Football League,
18 the National Basketball Association, the Women’s
19 National Basketball Association, the National Hock-
20 ey League, Major League Soccer, and any successor
21 organization to those organizations.

22 (6) PROFESSIONAL SPORTS SEASON.—The term
23 “professional sports season” for each professional
24 athlete means the period of time beginning on the
25 date on which the athlete is eligible, invited, allowed,

1 or required to report for practice or preparation to
2 compete in a professional sports league and ending
3 on the later of the date of the league's last regularly
4 scheduled professional sports event or the date of
5 the last professional sports event of the post-season
6 in which the athlete is eligible, invited, allowed, or
7 required to participate.

8 (7) PROTOCOL.—The term “Protocol” means
9 the United States Anti-Doping Agency Protocol for
10 Olympic Movement Testing and any successor to
11 that protocol.

12 **SEC. 4. CONDUCT PROHIBITED.**

13 It is unlawful for a professional sports league to orga-
14 nize, sponsor, endorse, promote, produce, or recognize a
15 professional sports event without adopting and enforcing
16 a testing policy that meets the requirements of section 5.

17 **SEC. 5. MINIMUM DRUG POLICY IN PROFESSIONAL SPORTS.**

18 (a) TESTING POLICY REQUIRED.—Each professional
19 sports league shall adopt and enforce policies and proce-
20 dures to—

21 (1) proscribe the use of prohibited substances
22 and methods by each professional athlete competing
23 in the league;

1 (2) test for the use of prohibited substances
2 and methods by each professional athlete competing
3 in the league; and

4 (3) proscribe any person associated with the
5 league from complicity in a violation by a profes-
6 sional athlete competing in the league.

7 (b) PROHIBITED SUBSTANCES AND METHODS.—At a
8 minimum, the prohibited substances and methods are as
9 follows:

10 (1) PROFESSIONAL SPORTS SEASON.—During
11 the professional sports season, all substances and
12 methods in such amounts as prohibited in-competi-
13 tion by the Protocol, excluding substances or meth-
14 ods prohibited in a particular sport as defined by the
15 Protocol.

16 (2) OFF-SEASON.—During the off-season, all
17 substances and methods in such amounts as prohib-
18 ited out-of-competition by the Protocol, excluding
19 substances or methods prohibited in a particular
20 sport as defined by the Protocol.

21 (3) ADDITIONAL SUBSTANCES AND METH-
22 ODS.—Any other substances or methods or amounts
23 of substances or methods determined by the Com-
24 mission to be performance-enhancing substances or

1 methods for which testing is reasonable and prac-
2 ticable.

3 (c) VIOLATIONS.—

4 (1) PROFESSIONAL ATHLETE.—The following
5 constitute violations of the testing policy under this
6 section for a professional athlete:

7 (A) The presence of a prohibited substance
8 or its metabolites or markers in the bodily spec-
9 imen of a professional athlete, or evidence of
10 the use of a prohibited method.

11 (B) Refusing, or failing without compelling
12 justification, to submit to a test. The absence of
13 an athlete from the United States shall not
14 alone be a compelling justification under this
15 subparagraph.

16 (2) ANY PERSON.—The following constitute vio-
17 lations of the testing policy under this section for
18 any person associated with a professional sports
19 league:

20 (A) The administration or attempted ad-
21 ministration of a prohibited substance or meth-
22 od to any professional athlete.

23 (B) Assisting, encouraging, aiding, abet-
24 ting, covering up, or any other type of com-

1 plicity involving a violation by a professional
2 athlete.

3 (d) CONDUCT OF TESTS.—

4 (1) FREQUENCY, RANDOMNESS, AND ADVANCE
5 NOTICE.—

6 (A) IN GENERAL.—Each professional ath-
7 lete shall be tested for the use of prohibited
8 substances and methods no less than 3 times in
9 each calendar year that the athlete competes in
10 a professional sports league.

11 (B) RANDOM.—Tests conducted under this
12 subsection shall be conducted at random inter-
13 vals throughout the entire calendar year with
14 no advance notice to the professional athlete.

15 (2) ADMINISTRATION AND ANALYSIS.—

16 (A) IN GENERAL.—Tests under this sub-
17 section shall be conducted by an independent
18 entity not subject to the control of any profes-
19 sional sports league.

20 (B) METHODS, POLICIES, AND PROCE-
21 DURES.—The independent entity shall deter-
22 mine the methods, policies, and procedures of
23 collection, transportation, and analysis of bodily
24 specimens of professional athletes necessary to
25 conduct tests for prohibited substances and

1 methods and shall conduct such collection,
2 transportation, and analysis.

3 (C) ANALYSIS.—Analysis of specimens
4 shall be conducted in a laboratory that meets
5 the requirements for approval by the United
6 States Anti-Doping Agency and is located with-
7 in the United States.

8 (3) SUBSTANCES.—

9 (A) IN GENERAL.—Each professional ath-
10 lete shall be tested for all prohibited substances
11 and methods at the time of the administration
12 of each test.

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

19 (i) has a legitimate and documented
20 medical or therapeutic use;

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

23 (iii) is properly prescribed by a doctor
24 of medicine licensed in the United States.

25 (e) PENALTIES.—

1 (1) VIOLATION.—Subject to paragraph (3), a
2 violation shall result in the following penalties:

3 (A) FIRST VIOLATION.—A person who
4 commits a violation shall be immediately sus-
5 pended from participation in any professional
6 sports league without pay for a minimum of 2
7 years.

8 (B) SECOND VIOLATION.—A person who
9 commits a violation, having once previously
10 committed a violation, shall be immediately per-
11 manently suspended without pay from partici-
12 pation in any professional sports league.

13 (2) DISCLOSURE.—

14 (A) AFTER NOTICE.—Not later than 10
15 days after receiving notice of a violation under
16 this section, a professional sports league shall
17 publicly disclose the name of the violator, the
18 penalty imposed, and a description of the viola-
19 tion, including any prohibited substance or
20 method involved.

21 (B) ADJUDICATION PROCEEDINGS.—The
22 league shall publicly disclose the results of any
23 adjudication proceedings required by paragraph
24 (3) within 10 days of notice of the termination
25 of the proceedings.

1 (3) ADJUDICATION.—

2 (A) IN GENERAL.—A professional sports
3 league shall—

4 (i) provide a violator with prompt no-
5 tice and a prompt hearing and right to ap-
6 peal; and

7 (ii) permit that violator to have coun-
8 sel or other representative for the pro-
9 ceedings.

10 (B) VIOLATOR SUSPENDED.—A violator
11 subject to this paragraph shall be suspended
12 without pay from participation in any profes-
13 sional sports league during the proceedings.

14 (f) RECORDS.—

15 (1) IN GENERAL.—Each professional sports
16 league shall maintain all documentation and records
17 pertaining to the policies and procedures required by
18 this section and make such documentation and
19 records available to the Commission upon request.

20 (2) PRIVACY.—With regards to any information
21 provided to the Commission under this subsection,
22 nothing in this Act shall be construed to require dis-
23 closure to the public of health information of an in-
24 dividual athlete that would not be subject to disclo-
25 sure under other applicable Federal laws.

1 **SEC. 6. ENFORCEMENT.**

2 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—

3 Except as provided in subsection (b), this Act shall be en-
4 forced by the Commission as if a violation of this Act or
5 of any regulation promulgated by the Commission under
6 this Act were a violation of section 18 of the Federal
7 Trade Commission Act regarding unfair or deceptive acts
8 or practices.

9 (b) ENHANCED CIVIL PENALTIES.—In addition to
10 the penalties provided in subsection (a), the Commission
11 may seek a civil penalty not to exceed \$1,000,000 for each
12 day a professional sports league is in violation of this Act.

13 (c) PROMULGATION OF REGULATIONS.—The Com-
14 mission may promulgate such regulations as necessary to
15 enforce this Act as if the relevant provisions of the Federal
16 Trade Commission Act were incorporated in this Act.

17 (d) DELEGATION.—The Commission may delegate
18 the administration of this Act or any part of this Act to
19 any appropriate agency of the United States Government.

20 **SEC. 7. RULES OF CONSTRUCTION.**

21 (a) UNITED STATES ANTI-DOPING AGENCY.—Noth-
22 ing in this Act shall be construed to deem the United
23 States Anti-Doping Agency an agent of or an actor on
24 behalf of the United States Government or impose any re-
25 quirements or place any limitations on the United States
26 Anti-Doping Agency.

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

5 **SEC. 8. SENSE OF CONGRESS ON COORDINATION WITH THE**
6 **UNITED STATES ANTI-DOPING AGENCY.**

7 It is the sense of Congress that—

8 (1) the United States Anti-Doping Agency is
9 the Nation’s leading expert on testing for and re-
10 search on performance-enhancing substances and
11 methods; and

12 (2) professional sports leagues should consult
13 with and follow the recommendations and standards
14 of the Agency in developing their testing policies and
15 procedures.

16 **SEC. 9. SENSE OF CONGRESS ON PROFESSIONAL SPORTS**
17 **RECORDS.**

18 It is the sense of Congress that the individual records
19 of athletes achieved while using performance-enhancing
20 drugs should be invalidated.

1 **SEC. 10. SENSE OF CONGRESS ON OTHER PROFESSIONAL**
2 **SPORTS ORGANIZATIONS.**

3 It is the sense of Congress that all professional sports
4 organizations not covered by this Act should adopt testing
5 policies that meet the requirements of the Act.

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