

111TH CONGRESS
2D SESSION

S. 4032

To amend the Controlled Substances Act to more effectively regulate anabolic steroids.

IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2010

Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Controlled Substances Act to more effectively regulate anabolic steroids.

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 “Designer Anabolic
5 Steroid Control Act of 2010”.

6 **SEC. 2. AMENDMENTS TO THE CONTROLLED SUBSTANCES**

7 **ACT.**

8 (a) DEFINITIONS.—Section 102(41) of the Controlled
9 Substances Act (21 U.S.C. 802(41)) is amended—

10 (1) in subparagraph (A)—

1 (A) in clause (xlix), by striking “and” at
2 the end;

3 (B) by redesignating clause (xlix) as clause
4 (lxxx); and

5 (C) by inserting after clause (xlix) the fol-
6 lowing:

7 “(l) 5α -Androstan-3,6,17-trione;

8 “(li) Androst-4-ene-3,6,17-trione;

9 “(lii) Androsta-1,4,6-triene-3,17-
10 dione;

11 “(liii) 6-bromo-androstan-3,17-dione;

12 “(liv) 6-bromo-androsta-1,4-diene-
13 3,17-dione;

14 “(lv) 4-chloro- 17α -methyl-androsta-
15 1,4-diene-3,17 β -diol;

16 “(lvi) 4-chloro- 17α -methyl-androst-4-
17 ene-3 β ,17 β -diol;

18 “(lvii) 4-chloro- 17α -methyl-17 β -hy-
19 droxy-androst-4-en-3-one;

20 “(lviii) 4-chloro- 17α -methyl-17 β -hy-
21 droxy-androst-4-ene-3,11-dione;

22 “(lix) 4-chloro- 17α -methyl-androsta-
23 1,4-diene-3,17 β -diol;

24 “(lx) 2α , 17α -dimethyl-17 β -hydroxy-
25 5α -androstan-3-one;

- 1 “(lxi) 2 α ,17 α -dimethyl-17 β -hydroxy-
2 5 β -androstan-3-one;
3 “(lxii) 2 α ,3 α -epithio-17 α -methyl-5 α -
4 androstan-17 β -ol;
5 “(lxiii) [3,2-c]-furazan-5 α -androstan-
6 17 β -ol;
7 “(lxiv) 3 β -hydroxy-androst-1-en-17-
8 one;
9 “(lxv) 3 β -hydroxy-androst-4-en-17-
10 one;
11 “(lxvi) 3 β -hydroxy-estr-4-en-17-one;
12 “(lxvii) 3 β -hydroxy-estra-4,9,11-trien-
13 17-one;
14 “(lxviii) 17 α -methyl-androst-2-ene-
15 3,17 β -diol;
16 “(lxix) 17 α -methyl-androsta-1,4-diene-
17 3,17 β -diol;
18 “(lxx) Estra-4,9,11-triene-3,17-dione;
19 “(lxxi) 18a-Homo-3-hydroxy-estra-
20 2,5(10)-dien-17-one;
21 “(lxxii) 6 α -Methyl-androst-4-ene-3,17-
22 dione;
23 “(lxxiii) 17 α -Methyl-androstan-3-
24 hydroxyimine-17 β -ol;

1 “(lxxiv) 17 α -Methyl-5 α -androstan-
2 17 β -ol;

3 “(lxxv) 17 β -Hydroxy-androstano[2,3-
4 d]isoxazole;

5 “(lxxvi) 17 β -Hydroxy-androstano[3,2-
6 c]isoxazole

7 “(lxxvii) 4-Hydroxy-androst-4-ene-
8 3,17-dione[3,2-c]pyrazole-5 α -androstan-
9 17 β -ol;

10 “(lxxviii) [3,2-c]pyrazole-androst-4-en-
11 17 β -ol;

12 “(lxxix) [3,2-c]pyrazole-5 α -androstan-
13 17 β -ol; and”; and

14 (2) by inserting at the end the following:

15 “(C) A drug or hormonal substance (other
16 than estrogens, progestins, corticosteroids, and
17 dehydroepiandrosterone) that is not listed in
18 subparagraph (A), and is derived from, or has
19 a chemical structure substantially similar to, 1
20 or more anabolic steroids listed in subpara-
21 graph (A), shall, subject to the limitations of
22 section 201(i)(6) (21 U.S.C. 811(i)(6)), be con-
23 sidered to be an anabolic steroid for purposes of
24 this Act if—

1 “(i) the drug or substance has been
2 created or manufactured with the intent of
3 producing a drug or other substance that
4 either—

5 “(I) promotes muscle growth; or

6 “(II) otherwise causes a pharma-
7 cological effect similar to that of tes-
8 tosterone; or

9 “(ii) the drug or substance has been,
10 or is intended to be, marketed or otherwise
11 promoted in any manner suggesting that
12 consuming it will promote muscle growth
13 or any other pharmacological effect similar
14 to that of testosterone.”.

15 (b) CLASSIFICATION AUTHORITY.—Section 201 of
16 the Controlled Substances Act (21 U.S.C. 811) is amend-
17 ed by adding at the end the following:

18 “(i) TEMPORARY AND PERMANENT SCHEDULING OF
19 RECENTLY EMERGED ANABOLIC STEROIDS.—

20 “(1) The Attorney General may issue a tem-
21 porary order adding a drug or other substance to
22 the list of anabolic steroids if the Attorney General
23 finds that—

24 “(A) the drug or other substance satisfies
25 the criteria for being considered an anabolic

1 steroid under section 102(41) but is not listed
2 in that section or by regulation of the Attorney
3 General as being an anabolic steroid; and

4 “(B) adding such drug or other substance
5 to the list of anabolic steroids will assist in pre-
6 venting the unlawful importation, manufacture,
7 distribution, or dispensing of such drug or other
8 substance.

9 “(2) An order issued under paragraph (1) shall
10 not take effect until 30 days after the date of the
11 publication by the Attorney General of a notice in
12 the Federal Register of the intention to issue such
13 order and the grounds upon which such order is to
14 be issued. The order shall expire not later than 24
15 months after the date it becomes effective, except
16 that the Attorney General may, during the pendency
17 of proceedings under paragraph (5), extend the tem-
18 porary scheduling order for up to 6 months.

19 “(3) A temporary scheduling order issued under
20 paragraph (1) shall be vacated upon the issuance of
21 a permanent scheduling order under paragraph (5).

22 “(4) An order issued under paragraph (1) is
23 not subject to judicial review.

24 “(5) The Attorney General may, by rule, issue
25 a permanent order adding a drug or other substance

1 to the list of anabolic steroids if such drug or other
2 substance satisfies the criteria for being considered
3 an anabolic steroid under section 102(41). Such
4 rulemaking may be commenced simultaneously with
5 the issuance of the temporary order issued under
6 paragraph (1).

7 “(6) If a drug or other substance has not been
8 temporarily or permanently added to the list of ana-
9 bolic steroids pursuant to this subsection, the drug
10 or other substance shall be considered an anabolic
11 steroid if in any criminal, civil, or administrative
12 proceeding arising under this Act it has been deter-
13 mined in such proceeding, based on evidence pre-
14 sented in the proceeding, that the substance satisfies
15 the criteria for being considered an anabolic steroid
16 under paragraph (41)(A), (41)(C)(i), or (41)(C)(ii)
17 of section 102.”.

18 (c) LABELING REQUIREMENTS.—The Controlled
19 Substances Act is amended by inserting after section 305
20 (21 U.S.C. 825) the following:

21 “§ 305A. Offenses involving false labeling of anabolic
22 steroids

23 “(a) UNLAWFUL ACTS.—

24 “(1) It shall be unlawful—

1 “(A) to import into the United States or to
2 export from the United States,

3 “(B) to manufacture, distribute, dispense,
4 sell, or offer to sell; or

5 “(C) to possess with intent to manufac-
6 ture, distribute, dispense, sell, or offer to sell;
7 any anabolic steroid, or any product containing an
8 anabolic steroid, unless it bears a label clearly identi-
9 fying any anabolic steroid contained in such steroid
10 or product by the nomenclature used by the Inter-
11 national Union of Pure and Applied Chemistry
12 (IUPAC).

13 “(2) A product that is the subject of an ap-
14 proved application as described in section 505(b), (i)
15 or (j) of the Federal Food, Drug, and Cosmetic Act
16 (21 U.S.C. 355(b), (i), or (j)) is exempt from the
17 International Union of Pure and Applied Chemistry
18 nomenclature requirement of this subsection if such
19 product is labeled in the manner required by the
20 Federal Food, Drug, and Cosmetic Act.

21 “(b) CRIMINAL PENALTIES.—

22 “(1) Any person who violates subsection (a)
23 shall be sentenced to a term of imprisonment of not
24 more than 1 year, a fine not to exceed the greater
25 of that authorized in accordance with the provisions

1 of title 18, United States Code, or \$100,000 if the
2 defendant is an individual or \$250,000 if the defend-
3 ant is other than an individual, or both.

4 “(2) Any person who violates subsection (a)
5 knowing, intending, or having reasonable cause to
6 believe, that the substance or product is an anabolic
7 steroid, or contains an anabolic steroid, shall be sen-
8 tenced to a term of imprisonment of not more than
9 10 years, a fine not to exceed the greater of that au-
10 thorized in accordance with the provisions of title
11 18, United States Code, or \$500,000 if the defend-
12 ant is an individual or \$2,500,000 if the defendant
13 is other than an individual, or both.

14 “(c) CIVIL PENALTIES.—

15 “(1) Any person who violates subsection (a)
16 shall be subject to a civil penalty as follows:

17 “(A) In the case of an importer, exporter,
18 manufacturer, or distributor (other than as pro-
19 vided in subparagraph (B)), up to \$500,000 per
20 violation. For purposes of this subparagraph, a
21 violation is defined as each instance of importa-
22 tion, exportation, manufacturing, or distribu-
23 tion, and each anabolic steroid or product im-
24 ported, exported, manufactured, or distributed.

1 “(B) In the case of a sale or offer to sell
2 at retail, up to \$25,000 per violation. For pur-
3 poses of this subparagraph, each sale and each
4 product offered for sale shall be considered a
5 separate violation. Continued offers to sell by a
6 person 10 or more days after written notice (in-
7 cluding through electronic message) to the per-
8 son by the Attorney General or the Secretary
9 shall be considered additional violations.

10 “(2) Any person who violates subsection (a)
11 with a product that was, at the time of the violation,
12 included on the list described in subsection (d) shall
13 be subject to twice the civil penalty provided in para-
14 graph (1).

15 “(3) In this subsection, the term ‘product’
16 means a discrete article, either in bulk or in finished
17 form prepared for sale. A number of articles, if simi-
18 larly packaged and bearing identical labels, shall be
19 considered as one product, but each package size,
20 form, or differently labeled article shall be consid-
21 ered a separate product.

22 “(d) IDENTIFICATION AND PUBLICATION OF LIST OF
23 PRODUCTS CONTAINING ANABOLIC STEROIDS.—

24 “(1) The Attorney General may, in his discre-
25 tion, collect data and analyze products to determine

1 whether they contain anabolic steroids and are prop-
2 erly labeled in accordance with this section. The At-
3 torney General may publish in the Federal Register
4 or on the website of the Drug Enforcement Adminis-
5 tration a list of products that he has determined,
6 based on substantial evidence, contain an anabolic
7 steroid and are not labeled in accordance with this
8 section.

9 “(2) The absence of a product from the list re-
10 ferred to in paragraph (1) shall not constitute evi-
11 dence that the product does not contain an anabolic
12 steroid.”.

13 **SEC. 3. SENTENCING COMMISSION GUIDELINES.**

14 The United States Sentencing Commission shall—

15 (1) review and amend the Federal sentencing
16 guidelines with respect to offenses involving anabolic
17 steroids, including the offenses established in section
18 2 (section 305A of the Controlled Substance Act);

19 (2) amend the Federal sentencing guidelines,
20 including notes to the drug quantity tables, to pro-
21 vide clearly that in a case involving an anabolic ster-
22 oid not in a tablet, capsule, liquid, or other form
23 where dosage can be readily ascertained (such as a
24 powder, topical cream, gel, or aerosol), the sentence

1 shall be determined based on the entire weight of the
2 mixture or substance;

3 (3) amend the applicable guidelines by designating quantities of mixture or substance that correspond to a unit so that offenses involving such forms of anabolic steroids are penalized at least as severely as offenses involving forms whose dosage can be readily ascertained; and

9 (4) take such other action as the Commission
10 considers necessary to carry out this Act and this
11 section.

12 **SEC. 4. CONGRESSIONAL OVERSIGHT.**

13 The Administrator of the Drug Enforcement Administration shall report to Congress every 2 years—

15 (1) what anabolic steroids have been scheduled
16 on a temporary basis under the provisions of this
17 Act; and

18 (2) the findings and conclusions that led to
19 such scheduling.

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