

1 A bill to be entitled

2 An act relating to high school athletics; amending s.
3 1006.20, F.S.; requiring the Florida High School Athletic
4 Association to facilitate a 3-year drug testing program to
5 randomly test for anabolic steroids in students in grades
6 9 through 12 who participate in interscholastic athletics
7 in its member schools; requiring schools to consent to the
8 provisions of the program as a prerequisite for membership
9 in the organization; requiring the organization to
10 establish procedures for the conduct of the program,
11 including contracting with a testing agency to administer
12 the program; providing that the finding of a drug test
13 shall be separate from a student's educational records;
14 providing for disclosure; requiring students and their
15 parents to consent to the provisions of the program as a
16 prerequisite for eligibility to participate in
17 interscholastic athletics; providing penalties for
18 students selected for testing who fail to provide a
19 specimen; requiring the administration of a school to meet
20 with a student who tests positive and his or her parent to
21 review the finding, penalties, and procedure for challenge
22 and appeal; providing penalties for first, second, and
23 third positive findings; providing due process procedures
24 for challenge and appeal; requiring the organization to
25 provide an annual report to the Legislature on the results
26 of the program; providing an exemption from civil
27 liability resulting from implementation of the program;
28 requiring the Department of Legal Affairs to provide

29 defense in claims of civil liability; requiring program
 30 expenses to be paid through legislative appropriation;
 31 providing for expiration of the program; providing an
 32 appropriation; providing an effective date.

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34 Be It Enacted by the Legislature of the State of Florida:

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36 Section 1. Subsection (10) is added to section 1006.20,
 37 Florida Statutes, to read:

38 1006.20 Athletics in public K-12 schools.--

39 (10) RANDOM DRUG TESTING PROGRAM.--

40 (a) The organization shall facilitate a 3-year program
 41 during the 2006-2007, 2007-2008, and 2008-2009 academic years in
 42 which students in grades 9 through 12 in its member schools who
 43 participate in interscholastic athletics governed by the
 44 organization shall be subject to random testing for the use of
 45 anabolic steroids as defined in s. 893.03(3)(d). All schools,
 46 both public and private, shall consent to the provisions of this
 47 subsection as a prerequisite for membership in the organization
 48 for the duration of the program.

49 (b) The organization's board of directors shall establish
 50 procedures for the conduct of the program that, at a minimum,
 51 shall provide for the following:

52 1. The organization shall select and enter into a contract
 53 with a testing agency that will administer the testing program.
 54 The laboratory utilized by the testing agency to analyze
 55 specimens shall be accredited by the World Anti-Doping Agency.

56 2. A minimum of 1 percent of the total students who
57 participate in each interscholastic sport, based on
58 participation numbers reported to the organization during the
59 preceding academic year, shall be randomly selected to undergo a
60 test in each year of the program.

61 3. Each member school shall report to the organization
62 each year the names of students who will represent the school in
63 interscholastic athletics during that year. A student shall not
64 be eligible to participate in interscholastic athletics in a
65 member school until the student's name has been reported to the
66 organization by the school in the year in which such
67 participation is to occur.

68 4. Each year, the organization shall provide to the
69 testing agency all names of students that are submitted by its
70 member schools. The testing agency shall make its random
71 selections for testing from these names.

72 5. The testing agency shall notify not fewer than 7 days
73 in advance both the administration of a school and the
74 organization of the date on which its representatives will be
75 present at the school to collect a specimen from a randomly
76 selected student. However, the name of the student from which a
77 specimen is to be collected shall not be disclosed.

78 6. The finding of a drug test shall be separate from a
79 student's educational records and shall be disclosed by the
80 testing agency only to the organization, the student, the
81 student's parent, the administration of the student's school,
82 and the administration of any school to which the student may

83 transfer during a suspension from participation in
84 interscholastic athletics resulting from a positive finding.

85 (c) In each year of the program, each student who wishes
86 to participate in interscholastic athletics and his or her
87 parent must consent to the provisions of this subsection as a
88 prerequisite for athletic eligibility. This consent shall be in
89 writing on a form prescribed by the organization and provided to
90 the student by his or her school. Failure to complete and sign
91 the consent form shall result in the student's ineligibility to
92 participate in all interscholastic athletics. The consent form
93 shall include the following information:

- 94 1. A brief description of the drug testing program.
- 95 2. The penalties for a first, second, and third positive
96 finding.
- 97 3. The procedure for challenging a positive finding.
- 98 4. The procedure for appealing a prescribed penalty.

99 (d) A student who is selected for testing and fails to
100 provide a specimen shall be immediately suspended from
101 interscholastic athletic practice and competition until such
102 time as a specimen is provided.

103 (e) If a student tests positive in a test administered
104 under this subsection, the administration of the school the
105 student attends shall immediately:

- 106 1. Suspend the student from participation in all
107 interscholastic athletic practice and competition.
- 108 2. Notify and schedule a meeting with the student and his
109 or her parent during which the principal or his or her designee
110 shall review with them the positive finding, the procedure for

111 challenging the positive finding, the prescribed penalties, and
112 the procedure for appealing the prescribed penalties.

113 (f) The following penalties are prescribed for positive
114 findings resulting from tests administered under this
115 subsection:

116 1. For a first positive finding, the student shall be
117 suspended from all interscholastic athletic practice and
118 competition for a period of 90 school days and shall be subject
119 to a mandatory exit test for restoration of eligibility no
120 sooner than the 60th school day of the suspension. If the exit
121 test is negative, the organization shall restore the eligibility
122 of the student at the conclusion of the 90-school-day period of
123 suspension. If the exit test is positive, the student shall
124 remain suspended from all interscholastic athletic practice and
125 competition until such time as a subsequent retest of the
126 student results in a negative finding. The student shall be
127 subject to repeated tests for the duration of his or her high
128 school athletic eligibility.

129 2. For a second positive finding, the student shall be
130 suspended from all interscholastic athletic practice and
131 competition for a period of 1 calendar year and shall be subject
132 to a mandatory exit test for restoration of eligibility no
133 sooner than the 11th month of the suspension. If the exit test
134 is negative, the organization shall restore the eligibility of
135 the student at the conclusion of the 1-calendar-year period of
136 suspension. If the exit test is positive, the student shall
137 remain suspended from all interscholastic athletic practice and
138 competition until such time as a subsequent retest of the

139 student results in a negative finding. The student shall be
140 subject to repeated tests for the duration of his or her high
141 school athletic eligibility.

142 3. For a third positive finding, the student shall be
143 permanently suspended from all interscholastic athletic practice
144 and competition.

145 (g) In addition to the penalties prescribed in paragraph
146 (f), a student who tests positive in a test administered under
147 this subsection shall attend and complete an appropriate
148 mandatory drug education program conducted by the student's
149 school, the student's school district, or a third-party
150 organization contracted by the school or school district to
151 conduct such an education program.

152 (h) The following due process shall be afforded each
153 student who tests positive in a test administered under this
154 subsection:

155 1. The member school may challenge a positive finding and
156 must challenge a positive finding at the request of the student.
157 A sample of the original specimen provided by the student and
158 retained by the testing agency shall be analyzed. The member
159 school or the student's parent shall pay the cost of the
160 analysis. If the analysis results in a positive finding, the
161 student shall remain ineligible until the prescribed penalty is
162 fulfilled. If the analysis results in a negative finding, the
163 organization shall immediately restore the eligibility of the
164 student and shall refund to the member school or student's
165 parent the cost of the analysis. The student shall remain

166 suspended from interscholastic athletic practice and competition
167 during the challenge.

168 2.a. A member school may appeal to the organization's
169 commissioner the period of ineligibility imposed on a student as
170 a result of a positive finding and must appeal at the request of
171 the student. The commissioner may require the student to
172 complete the prescribed penalty, reduce the prescribed penalty
173 by one-half, or provide complete relief from the prescribed
174 penalty. Regardless of the decision of the commissioner, the
175 student shall remain ineligible until the student tests negative
176 on the mandatory exit test and the student's eligibility is
177 restored by the organization.

178 b. Should the school or student be dissatisfied with the
179 decision of the commissioner, the school may pursue the appeal
180 before the organization's board of directors and must do so at
181 the request of the student. The board of directors may require
182 the student to complete the prescribed penalty, reduce the
183 prescribed penalty by one-half, or provide complete relief from
184 the prescribed penalty. Regardless of the decision of the board
185 of directors, the student shall remain ineligible until the
186 student tests negative on the mandatory exit test and the
187 student's eligibility is restored by the organization. The
188 decision of the board of directors on each appeal shall be
189 final.

190 c. Technical experts may serve as consultants to both the
191 organization's commissioner and its board of directors in
192 connection with such appeals.

193 (i) No later than October 1 following each year of the
194 program, the organization shall submit to the President of the
195 Senate and the Speaker of the House of Representatives a report
196 on the results of the program for that year, as well as the
197 aggregate results of the program to date. The report shall
198 include statistics on the number of students tested; the number
199 of first, second, and third violations; the number of challenges
200 and their results; the number of appeals and their dispositions;
201 and the costs incurred by the organization in the administration
202 of the program, including attorney's fees and other expenses of
203 litigation.

204 (j) The organization, members of its board of directors,
205 and its employees and member schools and their employees are
206 exempt from civil liability arising from any act or omission in
207 connection with the program conducted under this subsection. The
208 Department of Legal Affairs shall defend the organization,
209 members of its board of directors, and its employees and member
210 schools and their employees in any action against such parties
211 arising from any such act or omission. In providing such
212 defense, the Department of Legal Affairs may employ or utilize
213 the legal services of outside counsel.

214 (k) All expenses of the program shall be paid with funds
215 appropriated by the Legislature. Such expenses shall include,
216 but not be limited to, all fees and expenses charged by the
217 testing agency for administrative services, specimen collection
218 services, and specimen analysis; all administrative expenses
219 incurred by the organization in the facilitation of the program;

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220 and all attorney's fees and other expenses of litigation
221 resulting from legal challenges related to the program.

222 (1) The provisions of this subsection shall expire on June
223 30, 2009, or at such earlier date as appropriated funds are
224 exhausted.

225 Section 2. There is hereby appropriated from the General
226 Revenue Fund to the Florida High School Athletic Association the
227 sum of \$3 million for the purpose of administering the
228 provisions of s. 1006.20(10), Florida Statutes, as created by
229 this act. Any unexpended or unencumbered balance remaining at
230 the end of fiscal year 2008-2009 shall revert to the General
231 Revenue Fund.

232 Section 3. This act shall take effect July 1, 2006.