

By Senator Peadar

2-899-06

See HB

1 A bill to be entitled

2 An act relating to high school athletics;

3 amending s. 1006.20, F.S.; requiring the

4 Florida High School Athletic Association to

5 facilitate a 3-year drug testing program to

6 randomly test for anabolic steroids in students

7 in grades 9 through 12 who participate in

8 interscholastic athletics in its member

9 schools; requiring schools to consent to the

10 provisions of the program as a prerequisite for

11 membership in the organization; requiring the

12 organization to establish procedures for the

13 conduct of the program, including contracting

14 with a testing agency to administer the

15 program; providing that the finding of a drug

16 test shall be separate from a student's

17 educational records; providing for disclosure;

18 requiring students and their parents to consent

19 to the provisions of the program as a

20 prerequisite for eligibility to participate in

21 interscholastic athletics; providing penalties

22 for students selected for testing who fail to

23 provide a specimen; requiring the

24 administration of a school to meet with a

25 student who tests positive and his or her

26 parent to review the finding, penalties, and

27 procedure for challenge and appeal; providing

28 penalties for first, second, and third positive

29 findings; providing due process procedures for

30 challenge and appeal; requiring the

31 organization to provide an annual report to the

1 Legislature on the results of the program;
2 providing an exemption from civil liability
3 resulting from implementation of the program;
4 requiring the Department of Legal Affairs to
5 provide defense in claims of civil liability;
6 requiring program expenses to be paid through
7 legislative appropriation; providing for
8 expiration of the program; providing an
9 appropriation; providing an effective date.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

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

1006.20 Athletics in public K-12 schools.--

(10) RANDOM DRUG TESTING PROGRAM.--

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

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

1. The organization shall select and enter into a contract with a testing agency that will administer the testing program. The laboratory used by the testing agency to

1 analyze specimens shall be accredited by the World Anti-Doping
2 Agency.

3 2. A minimum of 1 percent of the total students who
4 participate in each interscholastic sport, based on
5 participation numbers reported to the organization during the
6 preceding academic year, shall be randomly selected to undergo
7 a test in each year of the program.

8 3. Each member school shall report to the organization
9 each year the names of students who will represent the school
10 in interscholastic athletics during that year. A student shall
11 not be eligible to participate in interscholastic athletics in
12 a member school until the student's name has been reported to
13 the organization by the school in the year in which such
14 participation is to occur.

15 4. Each year, the organization shall provide to the
16 testing agency all names of students that are submitted by its
17 member schools. The testing agency shall make its random
18 selections for testing from these names.

19 5. The testing agency shall notify not fewer than 7
20 days in advance both the administration of a school and the
21 organization of the date on which its representatives will be
22 present at the school to collect a specimen from a randomly
23 selected student. However, the name of the student from which
24 a specimen is to be collected shall not be disclosed.

25 6. The finding of a drug test shall be separate from a
26 student's educational records and shall be disclosed by the
27 testing agency only to the organization, the student, the
28 student's parent, the administration of the student's school,
29 and the administration of any school to which the student may
30 transfer during a suspension from participation in
31 interscholastic athletics resulting from a positive finding.

1 (c) In each year of the program, each student who
2 wishes to participate in interscholastic athletics and his or
3 her parent must consent to the provisions of this subsection
4 as a prerequisite for athletic eligibility. This consent shall
5 be in writing on a form prescribed by the organization and
6 provided to the student by his or her school. Failure to
7 complete and sign the consent form shall result in the
8 student's ineligibility to participate in all interscholastic
9 athletics. The consent form shall include the following
10 information:
11 1. A brief description of the drug testing program.
12 2. The penalties for a first, second, and third
13 positive finding.
14 3. The procedure for challenging a positive finding.
15 4. The procedure for appealing a prescribed penalty.
16 (d) A student who is selected for testing and fails to
17 provide a specimen shall be immediately suspended from
18 interscholastic athletic practice and competition until such
19 time as a specimen is provided.
20 (e) If a student tests positive in a test administered
21 under this subsection, the administration of the school the
22 student attends shall immediately:
23 1. Suspend the student from participation in all
24 interscholastic athletic practice and competition.
25 2. Notify and schedule a meeting with the student and
26 his or her parent during which the principal or his or her
27 designee shall review with them the positive finding, the
28 procedure for challenging the positive finding, the prescribed
29 penalties, and the procedure for appealing the prescribed
30 penalties.
31

1 (f) The following penalties are prescribed for
2 positive findings resulting from tests administered under this
3 subsection:

4 1. For a first positive finding, the student shall be
5 suspended from all interscholastic athletic practice and
6 competition for a period of 90 school days and shall be
7 subject to a mandatory exit test for restoration of
8 eligibility no sooner than the 60th school day of the
9 suspension. If the exit test is negative, the organization
10 shall restore the eligibility of the student at the conclusion
11 of the 90-school-day period of suspension. If the exit test is
12 positive, the student shall remain suspended from all
13 interscholastic athletic practice and competition until such
14 time as a subsequent retest of the student results in a
15 negative finding. The student shall be subject to repeated
16 tests for the duration of his or her high school athletic
17 eligibility.

18 2. For a second positive finding, the student shall be
19 suspended from all interscholastic athletic practice and
20 competition for a period of 1 calendar year and shall be
21 subject to a mandatory exit test for restoration of
22 eligibility no sooner than the 11th month of the suspension.
23 If the exit test is negative, the organization shall restore
24 the eligibility of the student at the conclusion of the
25 1-calendar-year period of suspension. If the exit test is
26 positive, the student shall remain suspended from all
27 interscholastic athletic practice and competition until such
28 time as a subsequent retest of the student results in a
29 negative finding. The student shall be subject to repeated
30 tests for the duration of his or her high school athletic
31 eligibility.

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

4 (g) In addition to the penalties prescribed in
5 paragraph (f), a student who tests positive in a test
6 administered under this subsection shall attend and complete
7 an appropriate mandatory drug education program conducted by
8 the student's school, the student's school district, or a
9 third-party organization contracted by the school or school
10 district to conduct such an education program.

11 (h) The following due process shall be afforded each
12 student who tests positive in a test administered under this
13 subsection:

14 1. The member school may challenge a positive finding
15 and must challenge a positive finding at the request of the
16 student. A sample of the original specimen provided by the
17 student and retained by the testing agency shall be analyzed.
18 The member school or the student's parent shall pay the cost
19 of the analysis. If the analysis results in a positive
20 finding, the student shall remain ineligible until the
21 prescribed penalty is fulfilled. If the analysis results in a
22 negative finding, the organization shall immediately restore
23 the eligibility of the student and shall refund to the member
24 school or student's parent the cost of the analysis. The
25 student shall remain suspended from interscholastic athletic
26 practice and competition during the challenge.

27 2.a. A member school may appeal to the organization's
28 commissioner the period of ineligibility imposed on a student
29 as a result of a positive finding and must appeal at the
30 request of the student. The commissioner may require the
31 student to complete the prescribed penalty, reduce the

1 prescribed penalty by one-half, or provide complete relief
2 from the prescribed penalty. Regardless of the decision of the
3 commissioner, the student shall remain ineligible until the
4 student tests negative on the mandatory exit test and the
5 student's eligibility is restored by the organization.

6 b. Should the school or student be dissatisfied with
7 the decision of the commissioner, the school may pursue the
8 appeal before the organization's board of directors and must
9 do so at the request of the student. The board of directors
10 may require the student to complete the prescribed penalty,
11 reduce the prescribed penalty by one-half, or provide complete
12 relief from the prescribed penalty. Regardless of the decision
13 of the board of directors, the student shall remain ineligible
14 until the student tests negative on the mandatory exit test
15 and the student's eligibility is restored by the organization.
16 The decision of the board of directors on each appeal shall be
17 final.

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

21 (i) No later than October 1 following each year of the
22 program, the organization shall submit to the President of the
23 Senate and the Speaker of the House of Representatives a
24 report on the results of the program for that year, as well as
25 the aggregate results of the program to date. The report shall
26 include statistics on the number of students tested; the
27 number of first, second, and third violations; the number of
28 challenges and their results; the number of appeals and their
29 dispositions; and the costs incurred by the organization in
30 the administration of the program, including attorney's fees
31 and other expenses of litigation.

1 (j) The organization, members of its board of
2 directors, and its employees and member schools and their
3 employees are exempt from civil liability arising from any act
4 or omission in connection with the program conducted under
5 this subsection. The Department of Legal Affairs shall defend
6 the organization, members of its board of directors, and its
7 employees and member schools and their employees in any action
8 against such parties arising from any such act or omission. In
9 providing such defense, the Department of Legal Affairs may
10 employ or use the legal services of outside counsel.

11 (k) All expenses of the program shall be paid with
12 funds appropriated by the Legislature. Such expenses shall
13 include, but not be limited to, all fees and expenses charged
14 by the testing agency for administrative services, specimen
15 collection services, and specimen analysis; all administrative
16 expenses incurred by the organization in the facilitation of
17 the program; and all attorney's fees and other expenses of
18 litigation resulting from legal challenges related to the
19 program.

20 (l) The provisions of this subsection shall expire on
21 June 30, 2009, or at such earlier date as appropriated funds
22 are exhausted.

23 Section 2. There is hereby appropriated from the
24 General Revenue Fund to the Florida High School Athletic
25 Association the sum of \$3 million for the purpose of
26 administering the provisions of s. 1006.20(10), Florida
27 Statutes, as created by this act. Any unexpended or
28 unencumbered balance remaining at the end of fiscal year
29 2008-2009 shall revert to the General Revenue Fund.

30 Section 3. This act shall take effect July 1, 2006.
31