

By Senator Villalobos

38-1357-07

See HB 461

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 1-year drug testing program to
6 randomly test certain students for anabolic
7 steroid use; requiring schools to consent to
8 the provisions of the program as a prerequisite
9 for membership in the organization; requiring
10 the organization to establish procedures for
11 the conduct of the program, including
12 contracting with a testing agency to administer
13 the program; providing that the finding of a
14 drug test shall be separate from a student's
15 educational records; providing for disclosure;
16 requiring students and their parents to consent
17 to the provisions of the program as a
18 prerequisite for eligibility to participate in
19 interscholastic athletics; requiring the
20 administration of a school to meet with a
21 student who tests positive and his or her
22 parent to review the finding, penalties, and
23 procedures for challenge and appeal; providing
24 penalties for positive findings; providing due
25 process procedures for challenge and appeal;
26 requiring a report to the Legislature on the
27 results of the program; providing an exemption
28 from civil liability resulting from
29 implementation of the program; requiring the
30 Department of Legal Affairs to provide defense
31 in claims of civil liability; requiring program

1 expenses to be paid through legislative
2 appropriation; providing an effective date.

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

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6 Section 1. Subsection (10) is added to section
7 1006.20, Florida Statutes, to read:

8 1006.20 Athletics in public K-12 schools.--

9 (10) RANDOM DRUG TESTING PROGRAM.--

10 (a) Contingent upon funding, and to the extent funded,
11 the organization shall facilitate a 1-year program during the
12 2007-2008 academic year in which students in grades 9 through
13 12 in its member schools who participate in regular and
14 postseason competition in football, baseball, or weightlifting
15 governed by the organization shall be subject to random
16 testing for the use of anabolic steroids as defined in s.
17 893.03(3)(d). All schools, both public and private, shall
18 consent to the provisions of this subsection as a prerequisite
19 for membership in the organization for the duration of the
20 program.

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

24 1. The organization shall select and enter into a
25 contract with a testing agency that will administer the
26 testing program. The laboratory used by the testing agency to
27 analyze specimens shall be accredited by the World Anti-Doping
28 Agency.

29 2. Each member school shall report to the organization
30 the names of all students who will represent the school in
31 football, baseball, and weightlifting. A student shall not be

1 eligible to participate in interscholastic athletics in any of
2 these sports in a member school until the student's name has
3 been reported to the organization by the school.

4 3. The organization shall provide to the testing
5 agency all names of students that are submitted by its member
6 schools. A maximum of 1 percent of the total number of
7 students who participate in football, baseball, and
8 weightlifting shall be randomly selected by the testing agency
9 to undergo testing.

10 4. The testing agency shall notify no less than 7 days
11 in advance both the administration of a school and the
12 organization of the date on which its representatives will be
13 present at the school to collect a specimen from a randomly
14 selected student. However, the name of the student from which
15 a specimen is to be collected shall not be disclosed.

16 5. The finding of a drug test shall be separate from a
17 student's educational records and shall be disclosed by the
18 testing agency only to the organization, the student, the
19 student's parent, the administration of the student's school,
20 and the administration of any school to which the student may
21 transfer during a suspension from participation in
22 interscholastic athletics resulting from a positive finding.

23 (c) Each student who wishes to participate in
24 football, baseball, or weightlifting and his or her parent
25 must consent to the provisions of this subsection as a
26 prerequisite for athletic eligibility. This consent shall be
27 in writing on a form prescribed by the organization and
28 provided to the student by his or her school. Failure to
29 complete and sign the consent form shall result in the
30 student's ineligibility to participate in all interscholastic
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1 athletics. The consent form shall include the following
2 information:
3 1. A brief description of the drug testing program.
4 2. The penalties for a positive finding.
5 3. The procedure for challenging a positive finding.
6 4. The procedure for appealing a prescribed penalty.
7 (d) A student who is selected for testing and fails to
8 provide a specimen shall be immediately suspended from
9 interscholastic athletic practice and competition until such
10 time as a specimen is provided.
11 (e) If a student tests positive in a test administered
12 under this subsection, the administration of the school the
13 student attends shall immediately:
14 1. Suspend the student from participation in all
15 interscholastic athletic practice and competition.
16 2. Notify and schedule a meeting with the student and
17 his or her parent during which the principal or his or her
18 designee shall review with them the positive finding, the
19 procedure for challenging the positive finding, the prescribed
20 penalties, and the procedure for appealing the prescribed
21 penalties.
22 (f) For a positive finding, the student shall be
23 suspended from all interscholastic athletic practice and
24 competition for a period of 90 school days and shall be
25 subject to a mandatory exit test for restoration of
26 eligibility no sooner than the 60th school day of the
27 suspension. If the exit test is negative, the organization
28 shall immediately restore the eligibility of the student. If
29 the exit test is positive, the student shall remain suspended
30 from all interscholastic athletic practice and competition
31 until such time as a subsequent retest of the student results

1 in a negative finding. The student shall be subject to
2 repeated tests for the duration of his or her high school
3 athletic eligibility.

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

1 reduce the prescribed penalty by one-half, or provide complete
2 relief from the prescribed penalty.

3 b. Should the member school or student be dissatisfied
4 with the decision of the commissioner, the school may pursue
5 the appeal before the organization's board of directors and
6 must do so at the request of the student. The board of
7 directors may require the student to complete the prescribed
8 penalty, reduce the prescribed penalty by one-half, or provide
9 complete relief from the prescribed penalty. The decision of
10 the board of directors on each appeal shall be final.

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

14 (i) No later than October 1, 2008, the organization
15 shall submit to the President of the Senate and the Speaker of
16 the House of Representatives a report on the results of the
17 program. The report shall include statistics on the number of
18 students tested; the number of violations; the number of
19 challenges and their results; the number of appeals and their
20 dispositions; and the costs incurred by the organization in
21 the administration of the program, including attorney's fees
22 and other expenses of litigation.

23 (j) The organization, members of its board of
24 directors, and its employees and member schools and their
25 employees are exempt from civil liability arising from any act
26 or omission in connection with the program conducted under
27 this subsection. The Department of Legal Affairs shall defend
28 the organization, members of its board of directors, and its
29 employees and member schools and their employees in any action
30 against such parties arising from any such act or omission. In
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1 providing such defense, the Department of Legal Affairs may
2 employ or utilize the legal services of outside counsel.

3 (k) The program shall be conducted to the extent
4 funded by the Legislature. In order to conduct the program
5 within appropriated funds, the organization is authorized to
6 implement the program in only one or two of the named sports.
7 All expenses of the program shall be paid with funds
8 appropriated by the Legislature. Such expenses shall include,
9 but not be limited to, all fees and expenses charged by the
10 testing agency for administrative services, specimen
11 collection services, and specimen analysis; all administrative
12 expenses incurred by the organization in the facilitation of
13 the program; and all attorney's fees and other expenses of
14 litigation resulting from legal challenges related to the
15 program.

16 Section 2. This act shall take effect July 1, 2007.
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