

By the Committee on Judiciary; and Senator Villalobos

590-2515-07

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           implement 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 records relating to  
14          drug tests and challenge and appeal proceedings  
15          are maintained separately from a student's  
16          educational record; requiring students and  
17          their parents to consent to the testing program  
18          as a prerequisite for eligibility to  
19          participate in specified sports; requiring the  
20          school to meet with a student who tests  
21          positive and his or her parent to review the  
22          test findings, penalties, and procedures for  
23          challenge and appeal; providing penalties for  
24          positive findings; providing procedures for  
25          challenging and appealing the test findings and  
26          penalties; providing that the result of a drug  
27          test is not admissible in a criminal  
28          prosecution; requiring a report to the  
29          Legislature on the results of the program;  
30          providing an exemption from civil liability  
31          resulting from implementation of the program;

1 requiring the Department of Legal Affairs to  
2 provide defense in claims of civil liability;  
3 authorizing athletic organization to reduce the  
4 scope of the program in order to remain within  
5 the legislative appropriation; providing for  
6 repeal of the program; providing an effective  
7 date.

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

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11 Section 1. Subsection (10) is added to section  
12 1006.20, Florida Statutes, to read:

13 1006.20 Athletics in public K-12 schools.--

14 (10) RANDOM DRUG-TESTING PROGRAM.--

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

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

29 1. The organization shall select and enter into a  
30 contract with a testing agency to administer the testing  
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1 program. The laboratory used by the testing agency to analyze  
2 specimens must be accredited by the World Anti-Doping Agency.

3 2. Each member school shall identify and submit to the  
4 organization the names of all students who will be  
5 representing the school in football, baseball, and  
6 weightlifting during 2007-2008 academic year. A student may  
7 not participate in the member school's interscholastic  
8 athletics in these sports until the student's name has been  
9 reported to the organization by the school.

10 3. The organization shall provide the names of all the  
11 students submitted by its member schools to the testing  
12 agency. A maximum of 1 percent of the names submitted shall be  
13 randomly selected by the testing agency for testing.

14 4. The testing agency shall notify the administration  
15 of a school and the organization within 7 days prior to the  
16 date that the testing agency or its representatives will be at  
17 the school to collect a specimen from a randomly selected  
18 student. However, the name of the student from whom a specimen  
19 is to be collected may not be disclosed.

20 5. Records relating to drug tests under this  
21 subsection and to any subsequent challenge and appeal  
22 proceedings under paragraph (h) shall be maintained separately  
23 from a student's educational record.

24 (c) Each student who wishes to participate in  
25 football, baseball, or weightlifting and his or her parent  
26 must provide consent to drug testing under this subsection as  
27 a prerequisite for athletic eligibility. The consent must be  
28 in writing on a form prescribed by the organization and  
29 provided to the student by his or her school. Failure to  
30 complete and sign the consent form will result in the  
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1 student's ineligibility to participate. The consent form must  
2 include the following 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 a  
10 specimen is provided.

11 (e) If a student tests positive in a test administered  
12 under this subsection, the school that the student attends  
13 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 the positive finding, the procedure for  
19 challenging the positive finding, the prescribed penalties,  
20 and the procedure for appealing the prescribed penalties.

21 (f) For a positive test finding, the student shall be  
22 suspended from all interscholastic athletic practice and  
23 competition for 90 school days and shall be subject to a  
24 mandatory exit test for restoration of eligibility 60 school  
25 days after the suspension. If the exit test is negative, the  
26 organization shall immediately restore the eligibility of the  
27 student. If the exit test is positive, the student shall  
28 remain suspended from all interscholastic athletic practice  
29 and competition until a subsequent retest of the student  
30 results in a negative finding. The student shall be subject to  
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1 repeated drug tests for the duration of his or her high school  
2 athletic eligibility.

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

10 (h) The following procedure for challenging a positive  
11 test result shall be provided to each student who tests  
12 positive in a test administered under this subsection:

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

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

1 from the prescribed penalty. Regardless of the commissioner's  
2 decision, the student shall remain ineligible until the  
3 student tests negative on an exit drug test and the student's  
4 eligibility is restored by the organization.

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

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

20 (i) The result of a drug test under this subsection is  
21 not admissible as evidence in a criminal prosecution.

22 (j) By October 1, 2008, the organization shall submit  
23 to the President of the Senate and the Speaker of the House of  
24 Representatives a report on the results of the drug-testing  
25 program. The report must include statistics on the number of  
26 students tested; the number of violations; the number of  
27 challenges and their results; the number of appeals and their  
28 dispositions; and the costs incurred by the organization in  
29 the administration of the program, including attorney's fees  
30 and other expenses of litigation.

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1           (k) 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 testing program conducted  
5 under this subsection. The Department of Legal Affairs shall  
6 defend the organization, members of its board of directors,  
7 and its employees and member schools and their employees in  
8 any action arising from any such act or omission. In providing  
9 such defense, the department may employ or utilize the legal  
10 services of outside counsel.

11           (l) In order to conduct the drug-testing program  
12 within appropriated funds, the organization may limit the  
13 program to only one or two of the named sports. All program  
14 expenses shall be paid with funds appropriated by the  
15 Legislature. Such expenses include, but are not limited to,  
16 all fees and expenses charged by the testing agency for  
17 administrative services, specimen-collection services, and  
18 specimen analysis; all administrative expenses incurred by the  
19 organization to implement the program; and all attorney's fees  
20 and other expenses of litigation resulting from any legal  
21 challenges related to the program.

22           (m) This subsection shall stand repealed on October 2,  
23 2008, unless reviewed and saved from repeal through  
24 reenactment by the Legislature.

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

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3   SB 2200

4 This committee substitute differs from the underlying bill in  
5 that it:

6 -- Removes language which would have specified the group of  
7 persons to whom steroid testing result could be shown;

8 -- Deletes the term "due process" to describe a student's  
9 rights to challenge steroid test results;

10 -- Provides that regardless of the outcome of an appeal, a  
11 student must test negative on an exit test before the  
12 athletic eligibility of a student may be reinstated;

13 -- Provides that the results of a drug test are not  
14 admissible in a criminal prosecution; and

15 -- Provides that the provisions of the bill automatically  
16 repeal on October 2, 2008.

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