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CS/HB 461, Engrossed 1

2007 Legislature

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 1-year drug testing program to
5 randomly test certain students for anabolic steroid use;
6 requiring schools to consent to the provisions of the
7 program as a prerequisite for membership in the
8 organization; requiring the organization to establish
9 procedures for the conduct of the program, including
10 contracting with a testing agency to administer the
11 program; providing that records relating to drug tests and
12 challenge and appeal proceedings shall be maintained
13 separately from a student's educational record; requiring
14 students and their parents to consent to the provisions of
15 the program as a prerequisite for eligibility to
16 participate in specified sports; requiring the
17 administration of a school to meet with a student who
18 tests positive and his or her parent to review the
19 finding, penalties, and procedures for challenge and
20 appeal; providing penalties for positive findings;
21 providing due process procedures for challenge and appeal;
22 providing that the result of a drug test is not admissible
23 in a criminal prosecution; requiring a report to the
24 Legislature on the results of the program; providing an
25 exemption from civil liability resulting from
26 implementation of the program; requiring the Department of
27 Legal Affairs to provide defense in claims of civil
28 liability; requiring program expenses to be paid through

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29 legislative appropriation; providing for repeal of the
 30 program; providing an effective date.

31
 32 Be It Enacted by the Legislature of the State of Florida:

33
 34 Section 1. Subsection (10) is added to section 1006.20,
 35 Florida Statutes, to read:

36 1006.20 Athletics in public K-12 schools.--

37 (10) RANDOM DRUG TESTING PROGRAM.--

38 (a) Contingent upon funding, and to the extent funded, the
 39 organization shall facilitate a 1-year program during the 2007-
 40 2008 academic year in which students in grades 9 through 12 in
 41 its member schools who participate in regular and postseason
 42 competition in football, baseball, or weightlifting governed by
 43 the organization shall be subject to random testing for the use
 44 of anabolic steroids as defined in s. 893.03(3)(d). All schools,
 45 both public and private, shall consent to the provisions of this
 46 subsection as a prerequisite for membership in the organization
 47 for the duration of the program.

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

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

55 2. Each member school shall report to the organization the
 56 names of all students who will represent the school in football,

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57 baseball, and weightlifting. A student shall not be eligible to
58 participate in interscholastic athletics in any of these sports
59 in a member school until the student's name has been reported to
60 the organization by the school.

61 3. The organization shall provide to the testing agency
62 all names of students that are submitted by its member schools.
63 A maximum of 1 percent of the total number of students who
64 participate in football, baseball, and weightlifting shall be
65 randomly selected by the testing agency to undergo testing.

66 4. The testing agency shall notify not fewer than 7 days
67 in advance both the administration of a school and the
68 organization of the date on which its representatives will be
69 present at the school to collect a specimen from a randomly
70 selected student. However, the name of the student from which a
71 specimen is to be collected shall not be disclosed.

72 5. Records relating to drug tests under this subsection
73 and to the challenge and appeal proceedings under paragraph (h)
74 shall be maintained separately from a student's educational
75 records.

76 (c) Each student who wishes to participate in football,
77 baseball, or weightlifting and his or her parent must consent to
78 the provisions of this subsection as a prerequisite for athletic
79 eligibility. This consent shall be in writing on a form
80 prescribed by the organization and provided to the student by
81 his or her school. Failure to complete and sign the consent form
82 shall result in the student's ineligibility to participate in
83 the sport for which the consent form is required. The consent
84 form shall include the following information:

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- 85 1. A brief description of the drug testing program.
- 86 2. The penalties for a positive finding.
- 87 3. The procedure for challenging a positive finding.
- 88 4. The procedure for appealing a prescribed penalty.

89 (d) A student who is selected for testing and fails to
 90 provide a specimen shall be immediately suspended from
 91 interscholastic athletic practice and competition until such
 92 time as a specimen is provided.

93 (e) If a student tests positive in a test administered
 94 under this subsection, the administration of the school the
 95 student attends shall immediately:

96 1. Suspend the student from participation in all
 97 interscholastic athletic practice and competition.

98 2. Notify and schedule a meeting with the student and his
 99 or her parent during which the principal or his or her designee
 100 shall review with them the positive finding, the procedure for
 101 challenging the positive finding, the prescribed penalties, and
 102 the procedure for appealing the prescribed penalties.

103 (f) For a positive finding, the student shall be suspended
 104 from all interscholastic athletic practice and competition for a
 105 period of 90 school days and shall be subject to a mandatory
 106 exit test for restoration of eligibility no sooner than the 60th
 107 school day of the suspension. If the exit test is negative, the
 108 organization shall immediately restore the eligibility of the
 109 student. If the exit test is positive, the student shall remain
 110 suspended from all interscholastic athletic practice and
 111 competition until such time as a subsequent retest of the
 112 student results in a negative finding. The student shall be

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113 subject to repeated tests for the duration of his or her high
 114 school athletic eligibility.

115 (g) In addition to the penalties prescribed in paragraph
 116 (f), a student who tests positive in a test administered under
 117 this subsection shall attend and complete an appropriate
 118 mandatory drug education program conducted by the student's
 119 school, the student's school district, or a third-party
 120 organization contracted by the school or school district to
 121 conduct such an education program.

122 (h) The following due process shall be afforded each
 123 student who tests positive in a test administered under this
 124 subsection:

125 1. The member school may challenge a positive finding and
 126 must challenge a positive finding at the request of the student.
 127 A sample of the original specimen provided by the student and
 128 retained by the testing agency shall be analyzed. The member
 129 school or the student's parent shall pay the cost of the
 130 analysis. If the analysis results in a positive finding, the
 131 student shall remain ineligible until the prescribed penalty is
 132 fulfilled. If the analysis results in a negative finding, the
 133 organization shall immediately restore the eligibility of the
 134 student and shall refund to the member school or student's
 135 parent the cost of the analysis. The student shall remain
 136 suspended from interscholastic athletic practice and competition
 137 during the challenge.

138 2.a. The member school may appeal to the organization's
 139 commissioner the period of ineligibility imposed on a student as
 140 a result of a positive finding and must appeal at the request of

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141 the student. The commissioner may require the student to
142 complete the prescribed penalty, reduce the prescribed penalty
143 by one-half, or provide complete relief from the prescribed
144 penalty. Regardless of the decision of the commissioner, the
145 student shall remain ineligible until the student tests negative
146 on an exit drug test and the student's eligibility is restored
147 by the organization.

148 b. Should the member school or student be dissatisfied
149 with the decision of the commissioner, the school may pursue the
150 appeal before the organization's board of directors and must do
151 so at the request of the student. The board of directors may
152 require the student to complete the prescribed penalty, reduce
153 the prescribed penalty by one-half, or provide complete relief
154 from the prescribed penalty. Regardless of the decision of the
155 board of directors, the student shall remain ineligible until
156 the student tests negative on an exit drug test and the
157 student's eligibility is restored by the organization. The
158 decision of the board of directors on each appeal shall be
159 final.

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

163 (i) The result of a drug test under this subsection shall
164 not be admissible as evidence in a criminal prosecution.

165 (j) No later than October 1, 2008, the organization shall
166 submit to the President of the Senate and the Speaker of the
167 House of Representatives a report on the results of the program.
168 The report shall include statistics on the number of students

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169 tested; the number of violations; the number of challenges and
 170 their results; the number of appeals and their dispositions; and
 171 the costs incurred by the organization in the administration of
 172 the program, including attorney's fees and other expenses of
 173 litigation.

174 (k) The organization, members of its board of directors,
 175 and its employees and member schools and their employees are
 176 exempt from civil liability arising from any act or omission in
 177 connection with the program conducted under this subsection. The
 178 Department of Legal Affairs shall defend the organization,
 179 members of its board of directors, and its employees and member
 180 schools and their employees in any action against such parties
 181 arising from any such act or omission. In providing such
 182 defense, the Department of Legal Affairs may employ or utilize
 183 the legal services of outside counsel.

184 (l) The program shall be conducted to the extent funded by
 185 the Legislature. In order to conduct the program within
 186 appropriated funds, the organization is authorized to implement
 187 the program in only one or two of the named sports. All expenses
 188 of the program shall be paid with funds appropriated by the
 189 Legislature. Such expenses shall include, but not be limited to,
 190 all fees and expenses charged by the testing agency for
 191 administrative services, specimen collection services, and
 192 specimen analysis; all administrative expenses incurred by the
 193 organization in the facilitation of the program; and all
 194 attorney's fees and other expenses of litigation resulting from
 195 legal challenges related to the program.

196 (m) This subsection shall stand repealed on October 2,

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197 | 2008, unless reviewed and saved from repeal through reenactment

198 | by the Legislature.

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