

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1726 Session of
2007

INTRODUCED BY STAIRS, BASTIAN, BENNINGHOFF, CLYMER, GEIST,
GODSHALL, HARHAI, HARHART, HENNESSEY, JAMES, R. MILLER, MURT,
O'NEILL, PEIFER, SAYLOR, SWANGER AND YOUNGBLOOD,
JULY 13, 2007

REFERRED TO COMMITTEE ON EDUCATION, JULY 13, 2007

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," providing for random testing of
6 students for anabolic steroid use and training of certain
7 public school employees.

8 The General Assembly finds and declares as follows:

9 (1) The primary use for steroids in humans is to treat
10 abnormally low amounts of testosterone. However, some
11 athletes misuse the drug to "improve" their appearance or
12 athletic performance. Improper use of anabolic steroids can
13 have severe, long-lasting and often irreversible physical and
14 emotional consequences both for males and females. Physical
15 effects can include stunted growth, high blood pressure,
16 infertility and liver tumors. Psychological effects can
17 include wide mood swings that range from episodes of
18 uncontrolled anger and aggressiveness to clinical depression
19 when steroid use is stopped.

1 (2) "Use of Performance-Enhancing Substances," a sports
2 medicine and fitness policy statement from the American
3 Academy of Pediatrics, cites the unique vulnerability of
4 adolescents in regard to performance-enhancing substances.
5 During adolescence, children "engage in risk-taking behavior
6 and experimentation." Furthermore, the attitude that winning
7 is the ultimate goal permeates from professional sports down
8 to youth sports, inducing young athletes to "obtain an 'edge'
9 over the competition." Young athletes are also induced by
10 professional athletes' salaries "to try anything to ensure
11 continued athletic success."

12 (3) A 1997 issue of NIDA Notes, a publication of the
13 United States Government produced by the National Institute
14 on Drug Abuse, indicates that "adolescent boys, particularly
15 those involved in athletics such as football or body
16 building, make up the majority of high school steroid user."
17 The performance-enhancing effects of steroids are nonetheless
18 alluring to adolescent girls as well.

19 (4) According to the 2005 Pennsylvania Youth Survey
20 (PAYS) of public school students in grades 6, 8, 10 and 12,
21 which was sponsored by the Pennsylvania Commission on Crime
22 and Delinquency (PCCD), in collaboration with the Department
23 of Education, Department of Health, Liquor Control Board and
24 the Department of Public Welfare, "lifetime prevalence of
25 steroid use ranges from a low of 0.7% for 6th graders to a
26 high of 1.7% for 12th graders. Overall, 1.3% of PAYS 2005
27 Statewide students have used steroids at least once in their
28 lifetimes."

29 (5) Nationally, steroid use among student athletes has
30 increased substantially over the past decade. According to

1 results from the 2005 Monitoring the Future Study, which is
2 funded by the National Institute on Drug Abuse (NIDA) and is
3 conducted by the University of Michigan's Institute for
4 Social Research, "1.7 percent of 8th graders, 2.0 percent of
5 10th graders and 2.6 percent of 12th graders reported using
6 steroids at least once in their lifetime. The relative ease
7 of obtaining steroids is higher than the rates of reported
8 use, with 18.1 percent of 8th graders, 29.7 percent of 10th
9 graders and 39.7 percent of 12th graders surveyed reporting
10 that steroids were 'fairly easy' or 'very easy' to obtain."

11 (6) According to the 2005 Youth Risk Behavior
12 Surveillance System Survey conducted by the Centers for
13 Disease Control and Prevention, "4 percent of all high school
14 students surveyed had taken steroids one or more times during
15 their lifetime without a doctor's prescription."

16 (7) Participation in interscholastic athletics is a
17 privilege and a voluntary activity available to every
18 student. Students participating in interscholastic athletics
19 are expected to accept the responsibilities granted to them
20 by such a privilege. Moreover, student athletes become role
21 models for young children and their peers. With this role,
22 they assume responsibility of a drug-free lifestyle.

23 (8) Given the damaging effects of anabolic steroids, in
24 conjunction with the health and safety concerns for
25 Pennsylvania's student athletes and the recognition that
26 steroid abuse exists both nationally and in this
27 Commonwealth, a Statewide random steroid testing program is
28 necessary.

29 The General Assembly of the Commonwealth of Pennsylvania
30 hereby enacts as follows:

1 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
2 as the Public School Code of 1949, is amended by adding a
3 section to read:

4 Section 1606-A. Random Steroid Testing Program.--(a)
5 Contingent upon funding, and to the extent funded, the
6 association shall facilitate a one-year program during the 2008-
7 2009 academic year in which students in grades 9 through 12 in
8 its member schools who participate in regular and postseason
9 interscholastic athletics governed by the association shall be
10 subject to random testing for the use of anabolic steroids. All
11 school entities shall consent to the provisions of this section
12 as a prerequisite for membership in the association for the
13 duration of the random drug testing program.

14 (b) The association shall establish procedures for the
15 conduct of the program that, at a minimum, shall provide for the
16 following:

17 (1) The association shall select and enter into a contract
18 with a testing agency that will administer the testing program.
19 The laboratory utilized by the testing agency to analyze
20 specimens shall be accredited by the World Anti-Doping Agency or
21 another appropriate national or international certifying
22 organization.

23 (2) Each school entity shall report to the association the
24 names of all students who will represent the school in
25 interscholastic athletics. A student shall not be eligible to
26 participate in interscholastic athletics until the student's
27 name has been reported to the association by the school entity.

28 (3) The association shall provide to the testing agency all
29 names of students that are submitted by school entities. A
30 statistically significant number of students who participate in

interscholastic athletics shall be randomly selected by the testing agency to undergo testing.

(4) The testing agency shall notify not fewer than seven (7) days in advance both the administration of a school entity and the association of the date on which its representatives will be present at the school entity to collect a specimen from a randomly selected student. However, the name of the student from which a specimen is to be collected shall not be disclosed.

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

(c) The parent or guardian of each student who wishes to participate in interscholastic athletics must consent to the provisions of this section as a prerequisite for athletic eligibility. This consent shall be in writing on a form prescribed by the association and provided to the student by the student's school. Failure to complete and sign the consent form shall result in the student's ineligibility to participate in the sport for which the consent form is required. The consent form shall include the following information:

(1) A brief description of the drug testing program.

(2) The penalties for a positive finding required under section 2 of the act of December 22, 1989 (P.L.702, No.93), entitled "An act requiring school directors to prohibit the use of steroids by pupils involved in athletics; requiring education regarding the use of anabolic steroids; requiring penalties for unauthorized use of anabolic steroids; and providing for dispensing anabolic steroids and for prescriptions for anabolic steroids."

(3) The procedure for challenging a positive finding under

1 subsection (h)(1).

2 (4) The procedure for appealing a prescribed penalty under
3 subsection (h)(2).

4 (d) A student who is selected for testing and fails to
5 provide a specimen shall be immediately suspended from
6 interscholastic athletic practice and competition until such
7 time as a specimen is provided.

8 (e) (1) If a student tests positive in a test administered
9 under this section, the administration of the school the student
10 attends shall immediately:

11 (i) Suspend the student in accordance with section 3(a) of
12 the act of December 22, 1989 (P.L.702, No.93).

13 (ii) Notify and schedule a meeting with the student and the
14 student's parent or guardian during which time the principal or
15 the principal's designee shall review with them the positive
16 finding, the procedure challenging the positive finding, the
17 prescribed penalties and the procedure for appealing the
18 prescribed penalties.

19 (2) This subsection does not apply to the use by a student
20 of a steroid that is dispensed, prescribed, delivered and
21 administered by a physician or other person regulated by the act
22 of December 20, 1985 (P.L.457, No.112), known as the Medical
23 Practice Act of 1985, for a valid medical purpose and in the
24 course of a professional practice.

25 (f) For a positive finding, the student shall be suspended
26 in accordance with section 3(a) of the act of December 22, 1989
27 (P.L.702, No.93). Eligibility of the student shall be restored
28 in accordance with section 3(b) of the act of December 22, 1989
29 (P.L.702, No.93).

30 (g) In addition to the penalties prescribed in section 2 of

the act of December 22, 1989 (P.L.702, No.93), a student who tests positive in a test administered under this section shall attend and complete an appropriate mandatory drug education program conducted by the student's school, the student's school district or a third-party organization contracted by the school or school district to conduct such an education program.

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

(1) The school entity may challenge a positive finding and must challenge a positive finding at the request of the student. A sample of the original specimen provided by the student and retained by the testing agency shall be analyzed. The school entity or the student's parent or guardian shall pay the cost of the analysis. If the analysis results in a positive finding, the student shall remain ineligible until the prescribed penalty is fulfilled. If the analysis results in a negative finding, the association shall immediately restore the eligibility of the student and shall refund to the school entity or student's parent the cost of the analysis. The student shall remain suspended from interscholastic athletics during the challenge.

(2) The student and the student's parent or guardian may appeal to the school entity the period of ineligibility imposed on a student as a result of a positive finding. The school entity may require the student to complete the prescribed penalty, reduce the prescribed penalty or provide complete relief from the prescribed penalty. Regardless of the decision of the school entity, the student shall remain ineligible until the student fulfills section 3(b) of the act of December 22, 1989 (P.L.702, No.93).

(i) The result of a drug test under this section shall not

1 be admissible as evidence in a criminal prosecution.

2 (j) No later than October 1, 2009, the association shall
3 submit to the President pro tempore of the Senate, the Speaker
4 of the House of Representatives and the chairman and minority
5 chairman of the Education Committee of the Senate and the
6 chairman and minority chairman of the Education Committee of the
7 House of Representatives a report on the results of the program.
8 The report shall include statistics on the number of students
9 tested; the number of violations; the number of challenges and
10 their results; the number of appeals and their dispositions; and
11 the costs incurred by the association in the administration of
12 the program.

13 (k) The association, members of its board of directors and
14 its employees and school entities and their employees are exempt
15 from civil liability arising from any act or omission in
16 connection with the program conducted under this section.

17 (l) The program shall be conducted to the extent funded by
18 the General Assembly. In order to conduct the program within
19 appropriated funds, the association is authorized to implement
20 the program in only one or two interscholastic sports. All
21 expenses of the program shall be paid with funds appropriated by
22 the General Assembly. Such expenses shall include, but not be
23 limited to, all fees and expenses charged by the testing agency
24 for administrative services, specimen collection services and
25 specimen analysis; all administrative expenses incurred by the
26 association in the facilitation of the program; and all attorney
27 fees and other expenses of litigation resulting from legal
28 challenges related to the program.

29 (m) The association shall establish and maintain an
30 educational program regarding the health effects of steroid use

1 for coaches of interscholastic sports. The program shall be
2 available to school entities.

3 (n) This act shall expire October 2, 2009, unless further
4 extended through reenactment by the General Assembly.

5 Section 2. This act shall take effect immediately.