

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide a complete substitute.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1960

To protect the health and safety of all athletes, to promote the integrity of professional sports by establishing minimum standards for the testing of steroids and other performance-enhancing substances and methods by professional sports leagues, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. BUNNING

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Integrity in Profes-
5 sional Sports Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) The use of anabolic steroids and other per-
2 formance-enhancing substances by children and
3 teenagers is a public health problem of national sig-
4 nificance.

5 (2) Experts estimate that over 500,000 teen-
6 agers have used performance-enhancing substances,
7 which medical experts warn can cause a litany of
8 health problems for individuals who take those sub-
9 stances, particularly children and teenagers.

10 (3) The adverse health effects caused by
11 steroids and other performance-enhancing sub-
12 stances include—

13 (A) stunted growth;

14 (B) scarring acne;

15 (C) hair loss;

16 (D) dramatic mood swings;

17 (E) hormonal and metabolic imbalances;

18 (F) liver damage;

19 (G) a higher risk of heart disease and
20 stroke later in life; and

21 (H) an increased propensity to dem-
22 onstrate aggressive behavior, commit suicide,
23 and commit crimes.

1 (4) Professional athletes are role models for
2 young athletes and influence the behavior of children
3 and teenagers.

4 (5) Congressional testimony by parents of mi-
5 nors who used performance-enhancing substances,
6 and by medical and health experts, indicates that
7 the actual or alleged use of performance-enhancing
8 substances by professional athletes results in the in-
9 creased use of these substances by children and
10 teenagers.

11 (6) Surveys and studies suggest a connection
12 between the actual or alleged use of performance-en-
13 hancing substances by professional athletes and the
14 increased use of these substances by children and
15 teenagers.

16 (7) The real or perceived tolerance of perform-
17 ance-enhancing substances by professional athletes
18 has increased the pressure on children and teenagers
19 to use performance-enhancing substances in order to
20 advance their athletic careers and damaged the in-
21 tegrity of professional sports leagues.

22 (8) The adoption by professional sports leagues
23 of strong policies to eliminate the use of perform-
24 ance-enhancing substances would contribute to the

1 reduction in the use of these substances by children
2 and teenagers.

3 (9) The establishment, by Federal law, of min-
4 imum drug testing standards for professional sports
5 would—

6 (A) ensure the adoption of strong policies
7 to help eliminate the use and the perceived use
8 of performance-enhancing substances in profes-
9 sional sports; and

10 (B) help return integrity to professional
11 sports.

12 (10) For several years, Congress has—

13 (A) expressed a strong interest in the
14 problem of the role of performance-enhancing
15 substances in professional sports and other lev-
16 els of sports;

17 (B) regulated the use of anabolic steroids
18 and other performance-enhancing substances;
19 and

20 (C) regulated both professional and ama-
21 teur sports.

22 (11) Recent Federal laws regulating the use of
23 anabolic steroids and other performance-enhancing
24 substances were enacted to reduce the prevalence of
25 these substances in sports.

1 (b) PURPOSE.—The purpose of this Act is to protect
2 the health and safety of all athletes and promote the integ-
3 rity of professional sports by establishing minimum stand-
4 ards for the testing of steroids and other performance-en-
5 hancing substances and methods by professional sports
6 leagues.

7 **SEC. 3. SENSE OF CONGRESS.**

8 It is the sense of Congress that—

9 (1) the individual records of professional ath-
10 letes achieved as a result of the use of performance-
11 enhancing substances or methods should be invali-
12 dated;

13 (2) all professional sports should implement
14 policies and procedures for testing for the use of
15 prohibited substances and detecting prohibited meth-
16 ods by professional athletes that ensure that Amer-
17 ican professional sports are world leaders in the ef-
18 fort to keep steroids and other performance-enhanc-
19 ing drugs out of sports; and

20 (3) each professional sports league should
21 produce and publicize public service announcements
22 and invest in grassroots efforts regarding the health
23 and safety consequences of steroids and other simi-
24 lar performance-enhancing substances on children

1 and teenagers, and particularly on high school ath-
2 letes.

3 **SEC. 4. DEFINITIONS.**

4 In this Act:

5 (1) **ADJUDICATION.**—The term “adjudication”
6 means the process of prehearing administration,
7 hearings, and appeals arising out of an offense (as
8 defined in section 6(b)).

9 (2) **COMMISSION.**—The term “Commission”
10 means the Federal Trade Commission.

11 (3) **INDEPENDENT ENTITY.**—The term “inde-
12 pendent entity” means—

13 (A) a not-for-profit organization—

14 (i) that conducts sport drug testing
15 and adjudication;

16 (ii) that does not have a single profes-
17 sional sports league as its primary source
18 of revenue; and

19 (iii) whose board of directors and em-
20 ployees are not selected by a professional
21 sports league or any person affiliated with
22 the professional sports league; or

23 (B) the United States Anti-Doping Agen-
24 cy.

1 (4) OFF-SEASON.—The term “off-season” for
2 each professional athlete means the period of time
3 outside the professional sports season for that ath-
4 lete.

5 (5) PROFESSIONAL ATHLETE.—The term “pro-
6 fessional athlete” means an individual who competes
7 in a professional sports league.

8 (6) PROFESSIONAL SPORTS EVENT.—The term
9 “professional sports event” means any game or com-
10 petition conducted in the United States between any
11 teams, clubs, or organizations of a professional
12 sports league.

13 (7) PROFESSIONAL SPORTS LEAGUE.—The
14 term “professional sports league” means Major
15 League Baseball, Minor League Baseball, the Na-
16 tional Football League, the National Basketball As-
17 sociation, the National Hockey League, or any suc-
18 cessor organization to those organizations.

19 (8) PROFESSIONAL SPORTS SEASON.—The term
20 “professional sports season” means, for each profes-
21 sional athlete, the period of time—

22 (A) beginning on the date on which the
23 professional athlete is eligible, invited, allowed,
24 or required to report for practice or preparation
25 to compete in a professional sports league; and

1 (B) ending on the later of—

2 (i) the date of the league’s last regu-
3 larly scheduled game or competition; or

4 (ii) the date of the last game or com-
5 petition of the post-season in which the
6 professional athlete is eligible, invited, al-
7 lowed, or required to participate.

8 (9) PROHIBITED METHOD.—The term “prohib-
9 ited method” means a method listed and described
10 in the Protocol (excluding methods prohibited in a
11 particular sport).

12 (10) PROHIBITED SUBSTANCE.—The term
13 “prohibited substance” means a substance in such
14 amount as listed and described in the Protocol (ex-
15 cluding substances prohibited in a particular sport).

16 (11) PROTOCOL.—The term “Protocol” means
17 the United States Anti-Doping Agency Protocol for
18 Olympic Movement Testing.

19 **SEC. 5. CONDUCT PROHIBITED.**

20 It is unlawful for a professional sports league to orga-
21 nize, sponsor, endorse, promote, produce, or recognize a
22 professional sports event without adopting and enforcing
23 a testing policy that meets or exceeds the requirements
24 under section 6.

1 **SEC. 6. MINIMUM STANDARDS.**

2 (a) TESTING AND ADJUDICATION POLICY RE-
3 QUIRED.—Each professional sports league shall adopt and
4 enforce policies and procedures to—

5 (1) proscribe the use of prohibited substances
6 and prohibited methods by each professional athlete
7 competing in a professional sports event of the
8 league;

9 (2) test for the use of prohibited substances
10 and prohibited methods by each professional athlete
11 competing in a professional sports event of the
12 league; and

13 (3) proscribe any employee or contractor of the
14 league, of a team or club of that league, or of the
15 union representing the professional athletes of that
16 league from complicity in an offense by a profes-
17 sional athlete competing in a professional sports
18 event of the league.

19 (b) OFFENSES.—

20 (1) PROFESSIONAL ATHLETE.—A professional
21 athlete commits an offense of the testing policy
22 under this section if—

23 (A) a test reveals the presence of a prohib-
24 ited substance or its metabolites or markers in
25 the bodily specimen of a professional athlete

1 that demonstrates the use of a prohibited sub-
2 stance or a prohibited method;

3 (B) evidence of the use of a prohibited
4 substance or prohibited method is discovered;

5 (C) the professional athlete refuses or fails
6 to submit to a test without compelling justifica-
7 tion, provided that mere absence of an athlete
8 from the United States shall not constitute
9 compelling justification; or

10 (D) the professional athlete tampers with
11 the testing process.

12 (2) OTHER PERSONS OR ENTITIES.—An em-
13 ployee or contractor of a professional sports league,
14 of a team or club of that league, or of the union rep-
15 resenting the professional athletes of that league
16 commits an offense of the testing policy under this
17 section if such person or entity—

18 (A) administers a prohibited substance or
19 prohibited method to any professional athlete;
20 or

21 (B) assists, encourages, aids, abets, covers
22 up, or commits any other type of complicity in-
23 volving an offense by a professional athlete.

24 (c) TEST PROCEDURES.—

25 (1) TESTING FREQUENCY AND NOTICE.—

1 (A) FREQUENCY.—Each professional ath-
2 lete shall be tested for the use of prohibited
3 substances and prohibited methods not fewer
4 than 5 times in each calendar year that the ath-
5 lete competes in a professional sports league, of
6 which—

7 (i) at least 3 tests shall occur during
8 each professional sports season; and

9 (ii) at least 2 tests shall occur during
10 the off-season.

11 (B) NO ADVANCE NOTICE.—Tests con-
12 ducted under this subsection shall be conducted
13 throughout the entire calendar year with no ad-
14 vance notice to the professional athlete.

15 (2) ADMINISTRATION AND ANALYSIS.—

16 (A) METHODS, POLICIES, AND PROCE-
17 DURES.—Subject to the requirements of this
18 section, an independent entity shall—

19 (i) determine the methods, policies,
20 and procedures of test distribution plan-
21 ning, athlete selection for testing, collec-
22 tion, and transportation of bodily speci-
23 mens of professional athletes necessary to
24 conduct tests for prohibited substances and
25 prohibited methods; and

1 (ii) conduct such test distribution
2 planning, athlete selection for testing, col-
3 lection, and transportation.

4 (B) FUNDING.—Each professional sports
5 league shall, by contract, provide reasonable
6 funding to the independent entity to conduct
7 and make all decisions regarding testing and
8 adjudication as required in this Act.

9 (C) ANALYSIS.—Analysis of bodily speci-
10 mens shall be conducted in a laboratory that
11 is—

12 (i) approved by the United States
13 Anti-Doping Agency; and

14 (ii) located within the United States.

15 (D) RESULTS.—In accordance with policies
16 and procedures determined by the independent
17 entity pursuant to subparagraph (A), the lab-
18 oratory shall promptly notify the relevant pro-
19 fessional sports league of any offense discovered
20 as a result of a test conducted under this sub-
21 section.

22 (3) SUBSTANCES.—

23 (A) IN GENERAL.—Each professional ath-
24 lete shall be tested for all prohibited substances
25 and prohibited methods for which testing is rea-

1 sonable and practicable at the time of the ad-
2 ministration of each test.

3 (B) LIMITED EXEMPTION FOR MEDICAL OR
4 THERAPEUTIC USE.—A professional sports
5 league may provide an individual professional
6 athlete with an exemption for a particular pro-
7 hibited substance or prohibited method if such
8 substance or method—

9 (i) has a legitimate and documented
10 medical or therapeutic use;

11 (ii) is for a documented medical condi-
12 tion of such athlete; and

13 (iii) is properly prescribed by a doctor
14 of medicine licensed in the United States
15 or Canada.

16 (d) PENALTIES.—

17 (1) SUSPENSION.—Subject to paragraph (2),
18 any person who commits an offense under this sec-
19 tion, shall, immediately after a disclosure under
20 paragraph (3)—

21 (A) be suspended without pay from partici-
22 pation in all professional sports leagues for a
23 period encompassing not less than a consecutive
24 number of regularly scheduled games or com-
25 petitions equal to $\frac{1}{2}$ of the number of regularly

1 scheduled games or competitions for a team or
2 club in a professional sports season;

3 (B) for a second offense under this section,
4 be suspended without pay from participation in
5 all professional sports leagues for a period en-
6 compassing not less than a consecutive number
7 of regularly scheduled games or competitions
8 equal to the number of regularly scheduled
9 games or competitions for a team or club in a
10 professional sports season and any post-season
11 games or competitions immediately following
12 such period; and

13 (C) for a third offense under this section,
14 be permanently suspended without pay from
15 participation in any professional sports league.

16 (2) ADJUDICATION.—

17 (A) DUE PROCESS.—A person who is al-
18 leged to have committed an offense shall be—

19 (i) provided with prompt notice and a
20 prompt and fair hearing and right to ap-
21 peal; and

22 (ii) permitted to have legal counsel or
23 other representative for the proceedings.

24 (B) ADMINISTRATION.—Subject to the re-
25 quirements under this section, an independent

1 entity shall determine the policies and proce-
2 dures of adjudication.

3 (C) NOTICE.—Not later than 5 business
4 days after the date on which a professional
5 sports league receives notice of an offense under
6 this section, a professional sports league shall
7 provide notice to the person who is alleged to
8 have committed the offense.

9 (D) COMPLETION.—Not later than 45
10 days after the date on which a professional
11 sports league receives notice of an offense under
12 this section, the league shall complete adjudica-
13 tion proceedings provided for under this para-
14 graph.

15 (3) DISCLOSURE.—Not later than 5 days after
16 the conclusion of adjudication proceedings under
17 paragraph (2), a professional sports league shall
18 publicly disclose—

19 (A) the name of the offender;

20 (B) the penalty imposed;

21 (C) the prohibited substance or prohibited
22 method involved; and

23 (D) the reason for the penalty.

24 (e) RECORDS.—

1 (1) IN GENERAL.—Each professional sports
2 league shall—

3 (A) maintain all documentation and
4 records pertaining to the policies and proce-
5 dures required under this section; and

6 (B) make such documentation and records
7 available to the Commission upon request.

8 (2) PRIVACY.—Health information about indi-
9 vidual professional athletes provided to the Commis-
10 sion under this subsection shall not be subject to
11 public disclosure under section 552 of title 5, United
12 States Code (commonly referred to as the Freedom
13 of Information Act).

14 **SEC. 7. ENFORCEMENT.**

15 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—
16 Except as provided in subsection (b), a violation of section
17 5 shall be enforced by the Commission as if the violation
18 were a violation of the Federal Trade Commission Act (15
19 U.S.C. 41 et seq.) regarding unfair or deceptive acts or
20 practices.

21 (b) ENHANCED CIVIL PENALTIES.—In addition to
22 the penalties provided under subsection (a), the Commis-
23 sion may seek a civil penalty not to exceed \$1,000,000
24 for each day a professional sports league is in violation
25 of this Act.

1 (c) DELEGATION.—The Commission may delegate
2 the administration of this Act or any part of this Act to
3 any appropriate agency of the United States Government
4 not less than 30 days after providing notification of such
5 delegation to Congress.

6 (d) SAVINGS PROVISION.—Nothing in this Act shall
7 be construed to limit the authority of the Commission
8 under any other provision of law.

9 **SEC. 8. PROMULGATION OF STANDARDS BY UNITED**
10 **STATES BOXING COMMISSION.**

11 Not later than 12 months after the date of enactment
12 of this Act or the date that is 12 months after the estab-
13 lishment of the United States Boxing Commission pursu-
14 ant to Federal law, whichever is later, the United States
15 Boxing Commission shall, in consultation with the Asso-
16 ciation of Boxing Commissions and the United States
17 Anti-Doping Agency, promulgate uniform performance-en-
18 hancing substance testing standards for professional box-
19 ing that are consistent with section 6.

20 **SEC. 9. RULES OF CONSTRUCTION.**

21 (a) NON-GOVERNMENTAL ENTITIES.—Nothing in
22 this Act shall be construed to deem the United States
23 Anti-Doping Agency, any independent entity, or any pro-
24 fessional sports league an agent of or an actor on behalf
25 of the United States Government.

1 (b) MORE STRINGENT POLICIES.—Nothing in this
2 Act shall be construed to prohibit a professional sports
3 league from adopting and enforcing policies and proce-
4 dures more stringent than the requirements of this Act.

5 (c) PRECEDENT.—Nothing in this Act shall be con-
6 strued to have any effect on the collective bargaining obli-
7 gations of any employer that is not subject to this Act
8 or on any subject matter that is outside of the scope of
9 this Act.

10 **SEC. 10. EFFECTIVE DATE.**

11 This Act shall take effect on the date that is 1 year
12 after the date of enactment of this Act.