



**House
Legislative
Analysis
Section**

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CRIMINAL PENALTIES FOR STEROID ABUSE

RECEIVED

House Bill 4081 as enrolled
Second Analysis (7-3-90)

OCT 08 1990

Sponsor: Rep. Kirk A. Profit
First House Committee: Judiciary Mich. State Law Library
Second House Committee: Public Health
Third House Committee: Judiciary
Senate Committee: Health Policy

THE APPARENT PROBLEM:

The use of anabolic steroids carries with it the risk of serious side effects, including sterility (and, for men, atrophy of the testicles), stroke, psychosis, heart attack, kidney damage, liver disorders, and stunted bone growth. Nevertheless, because use of these steroids also results in increased strength and muscle bulk, many athletes and body builders use them to enhance both their performance and appearance. Of particular concern are reports of increased use among high school students. In response, various state and private agencies are cooperating in developing educational programs. However, many believe that a greater emphasis on education may not be sufficient to deal with the steroid abuse problem. To further combat steroid abuse and illegal sales of anabolic steroids, special criminal penalties have been proposed.

THE CONTENT OF THE BILL:

The bill would add to the Public Health Code a new section establishing criminal penalties for unlawful use, possession and distribution of androgenic anabolic steroids and counterfeit androgenic anabolic steroids. It also would place anabolic steroids under the triplicate prescription law and provide for such substances in the property forfeiture portion of the Public Health Code, thus making property used in conjunction with steroid trafficking subject to seizure and forfeiture. Additional details follow.

Use, possession. A person would be forbidden from using androgenic anabolic steroids except as provided by the Public Health Code, and from possessing such steroids without a prescription. Use or first-time possession would be a misdemeanor punishable by imprisonment for up to 90 days, a fine of up to \$100, or both. A subsequent possession offense would be a felony, punishable by imprisonment for up to four years, a fine of up to \$2,000, or both.

Delivery. Knowingly delivering the proscribed steroids to another person or knowingly possessing them with intent to deliver would be a felony punishable by imprisonment for up to seven years, a fine of up to \$5,000, or both. The same penalties would apply to delivery or intent to deliver counterfeit steroids.

Burden of proof, presumptions. In a criminal proceeding under the bill, a person claiming an exemption or exception (such as having a lawful prescription for an androgenic anabolic steroid) would have the burden of proof. In the absence of proof that a person was the authorized holder of an appropriate license or order form, the person would be presumed not to be the holder of the license or order form, and the burden of proof would be on the person to rebut the presumption.

MCL 333.7521 et al.

BACKGROUND INFORMATION:

Androgenic ("male") anabolic (tissue-building) steroids were first used by Nazis during World War II to increase the aggressiveness of their military troops. They first appeared in athletics in 1952, when Soviet athletes used them for the 1952 Helsinki Olympics. A Dr. John Zeigler introduced these steroids to American athletes two years later, and said, before his death in 1983, that he wished that he'd never heard of the word "steroid."

Androgenic anabolic steroids were legally used from the 1950s to the late 1960s, mainly by body builders, discus throwers, shot-putters, and football players, but since the late 1960s (when the East German swim team had to be introduced by name and sex, since use of these steroids had so "masculinized" many of the women team members as to make sexual identification difficult) these steroids have been banned from most athletic competitions.

Androgenic anabolic steroids are synthetic versions of the male hormone testosterone. They are used by people — especially by athletes in sports where bulk and strength are advantageous and by body builders where bulk and muscle "definition" are valued — because these steroids result in increases in size, strength and performance. Their use, however, carries with it serious side effects for both men and women. Not surprisingly, since these are male-like hormones, the effect of androgenic steroids on females is "masculinization": increased facial and body hair, decreased breast size, menstrual irregularities, deepened voice, broader back and wider shoulders, and male pattern baldness. In males, their use also results in increased facial and body hair, but, almost paradoxically, also in the development of female sex characteristics (such as enlarged breasts and nipples), in decreased sex drive, decreased number and duration of erections, shrinkage of testicles, and reduced or non-existent sperm count. In both sexes the use of anabolic steroids has resulted in liver disorders (including blood-filled cysts and hardening of the liver), cardiovascular disorders (such as high blood pressure, increased risk of blood clots, elevated levels of certain kinds of cholesterol, and possible increase in the risk of stroke), central nervous system disorders (dizziness, headaches, fatigue, irritability, depression, and sleep disorders), and gastrointestinal disorders (such as cramps, spasms, and gastric irritation). Ironically, although these drugs usually are taken to enhance physical performance, their use also increases people's susceptibility to injuries such as increased risk of muscle tears and of tendonitis and an increased risk of fractures due to weakened bones because of calcium loss. Negative psychological side effects include irritability (sometimes extreme enough to have earned the nickname "roid rage"), severe mood swings, aggressive behavior, and depression. Other side

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effects include acne, oily skin and hair, retention of fluids and sodium, and spotted or darkened skin.

Anabolic steroids do have medically legitimate uses, including treatment of certain anemias, hereditary angioedema, certain cases of breast cancer, and possible osteoporosis. In children, the medically indicated uses have included initiation of delayed puberty, treatment of hypogonadism, and growth promotion.

Androgenic anabolic steroids are different from cortical steroids, which include hormones formed in the cortex of the adrenal gland and are used to suppress inflammation, counter serious attacks of asthma, and as replacement therapy for patients with adrenal insufficiency.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would have an undetermined fiscal impact. The Department of State Police could incur additional costs for testing androgenic anabolic steroids for anyone accused of use, delivery, or possession with intent to deliver such steroids as provided by the bill. The Department of Corrections could experience an expenditure increase dependent on the number of persons imprisoned under the bill; based on fiscal year 1989-90's average cost, the increased cost would be \$22,600 per offender annually. The Department of Licensing and Regulation would incur approximately \$10,000 in one-time costs to add androgenic anabolic steroids to the list of drugs that require the use of the triplicate prescription form. At the local level, based on an average jail per-diem cost of \$35, an individual found guilty of first-time use or possession would cost the incarcerating local government \$3,150 (\$35 times 90 days). Property forfeiture provisions could increase revenue for the entities that receive the proceeds. (2-7-90)

ARGUMENTS:

For:

The possible side effects of using androgenic anabolic steroids can be severe: death from stroke or heart attack and suicide have both been reported. But even if death does not result, the use of anabolic steroids can have permanent negative side effects, including impotence, sterility, kidney damage, cardiovascular disease, high blood pressure, high blood cholesterol, and, for women, permanent "masculinization" (including deepening of the voice and excessive body hair). Although there are not clear-cut medical studies establishing the effectiveness of steroid use in increasing muscle mass or strength, enough people believe that their size and performance will be enhanced that the non-medical (and illegal) use of anabolic steroids in sports and among body builders reportedly is very widespread.

Various efforts have been undertaken to stem the abuse of anabolic steroids. An educational component has been incorporated into the eighth grade Michigan model curriculum, funding for development and distribution of educational materials has been provided in the fiscal year 1990 budget for the Department of Public Health, and enrolled Senate Bill 350 (Public Act 31 of 1990) would require that weight lifting and body building facilities post warning signs about anabolic steroids.

Still, these efforts constitute only a partial approach to the problem. The distribution pattern of anabolic steroids contains elements — large-scale smuggling across international borders, regular "dealers" — of the illicit drug

trade. However, criminal penalties for trafficking in steroids are lacking. It appears that under Michigan law, it is not a criminal offense simply to possess steroids without a prescription; improperly selling anabolic steroids is at worst a 90-day misdemeanor. The bill would enact stiff penalties for the possession and distribution of anabolic steroids, thus deterring some who might otherwise use or sell them, and punishing others who would flaunt the law.

For:

By placing androgenic anabolic steroids under the triplicate prescription law, the bill would place greater control over the dispensing of those substances. Under the law, a prescription for an anabolic steroid would have to be recorded on a prescription form in the same manner that a prescription for a Schedule 2 controlled substance now must be recorded. The procedure should reduce the chances of doctors, pharmacists, and veterinarians serving as illegal sources of the substances.

Against:

Criminal penalties are a proven failure in stemming drug abuse. If anything, criminalization tends to drive use and distribution further underground and increase involvement by organized crime. Rather than create yet another demand on the criminal justice system, the state should confine its efforts to supporting the more effective approaches of education and rehabilitation. Steroid abuse is essentially a health and education problem, not a criminal problem. The law should treat it as such.