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BILL ANALYSIS

Senate Fiscal Agency

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House Bill 4081 (Substitute S-1 as reported)
Sponsor: Representative Kirk A. Profit
First House Committee: Judiciary
Second House Committee: Public Health
Third House Committee: Judiciary
Senate Committee: Health Policy

Date Completed: 2-7-90

RATIONALE

Whether the athletic arena is a high school football program, a neighborhood gymnasium, or a professional football league, some athletes involved in those programs illegally use androgenic anabolic steroids merely to increase muscle mass and strength in order to enhance their overall performance. Androgenic (masculinizing) anabolic (muscle-building) steroids have been found to promote tissue growth, and have been prescribed legitimately for the treatment of certain anemias, hereditary angiodema, and certain cases of breast cancer. Some athletes, however, are using steroids or human growth hormones illegally, because of their reputed muscle-building qualities, as a quick way to achieving bigger muscles and athletic success. The misuses of steroids reportedly carries with it the risk of serious side effects, including stunted bone growth, liver disorders, kidney damage, stroke, heart attack, psychosis, and sterility. In order to combat steroid abuse and the illegal sale of these substances, some people believe that criminal penalties should be imposed.

CONTENT

The bill would amend the Public Health Code to make it a misdemeanor knowingly to use or possess an "androgenic anabolic steroid" except pursuant to a lawful prescription or as otherwise provided in the Code. A

second possession offense would be a felony as would delivery of, or possession with the intent to deliver, an androgenic anabolic steroid (except as provided in the Code) or a "counterfeit androgenic anabolic steroid" (except for legitimate and professionally recognized purposes). Property would be subject to forfeiture, as provided in the Code, for a violation of the bill. A prescription for an androgenic steroid would have to be recorded on a prescription form in the same manner that a prescription for a Schedule 2 controlled substance must be recorded.

A person who knowingly used an androgenic anabolic steroid, except as provided in the Code, or knowingly possessed an androgenic anabolic steroid, except pursuant to a lawful prescription, would be guilty of a misdemeanor, punishable by up to 90 days' imprisonment, a maximum fine of \$100, or both. A second or subsequent possession offense would be a felony, punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both.

A person who knowingly delivered, or possessed with intent to deliver, an androgenic anabolic steroid, except as provided in the Code, or who knowingly delivered, or possessed with intent to deliver, a counterfeit androgenic anabolic steroid, other than for "legitimate and

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professionally recognized therapeutic or scientific purposes", would be guilty of a felony, punishable by up to seven years' imprisonment, a maximum fine of \$5,000, or both.

The bill specifies that, at a trial or other court proceeding, the State would not have to negate any claimed exemption or exception. Rather, the burden of proof would be on the person claiming such an exception or exemption. In addition, in the absence of any proof that a person was a holder of an appropriate license or order form, the person would be presumed not to be such a holder. The burden of proof would be upon that person to rebut the presumption. The bill further specifies that it would not impose a liability upon any authorized State, county, or local officer engaged in the lawful performance of his or her duties.

A prescription for an androgenic anabolic steroid would have to be recorded on a prescription form in the same manner that a controlled substance in Schedule 2 is required to be recorded on an official prescription form under the Code (MCL 333.7334).

Androgenic anabolic steroids would include any of the following or any isomer, ester, salt, or derivative of the following that acted in the same manner on the human body: dehydrochlormethyltestosterone, ethylestrenol, fluoxymesterone, mesterolone, methandienone, methandrostenolone, methenolone, methyltestosterone, nandrolone, nandrolone deconoate, norethandrolone, oxandrolone, oxymesterone, oxymetholone, stanozolol, testosterone, testosterone enanthate, testosterone propionate, and testosterone cypionate. Androgenic anabolic steroids would not include any anabolic steroids that were intended expressly for administration through implants to livestock or other nonhuman species and were approved by the Federal Food and Drug Administration for such use.

"Counterfeit androgenic anabolic steroid" would mean one or more of the following:

- An androgenic anabolic steroid that, without authorization, carried a trade name or identifying mark, number, or imprint other than that of the steroid's manufacturer, distributor, or dispenser.

- An androgenic anabolic steroid that, without authorization, was packaged in a container that bore a trade name or identifying mark, number, or imprint other than that of the steroid's manufacturer, distributor, or dispenser.
- A substance other than an androgenic anabolic steroid that carried a trade name or identifying mark, number, or imprint that misrepresented the substance as an androgenic anabolic steroid.
- A substance other than an androgenic anabolic steroid that was packaged in a container that bore a trade name or identifying mark, number, or imprint that misrepresented the substance as an androgenic anabolic steroid.

MCL 333.7521 et al.

SENATE COMMITTEE ACTION

The Senate Committee on Health Policy adopted a substitute bill to House Bill 4081 that revised the definition of "androgenic anabolic steroid" and would include androgenic anabolic substances within the Public Health Code's triplicate prescription regulations.

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State. 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 in the bill. These costs would depend on the number of cases tested and the cost of performing each test. This cost information is not available at this time.

The bill also would result in an indeterminate expenditure increase for the Department of Corrections. The amount of the increase would depend on the number of persons on whom a prison sentence was imposed for either a second or subsequent offense of possession of androgenic anabolic steroids (up to four years' imprisonment) or delivery of, or possession with intent to deliver, androgenic anabolic steroids (up to seven years' imprisonment). If a court imposed a prison sentence for any of those offenses, the State would experience an

increased cost of \$22,600 per offender annually, based on FY 1989-90's average cost. An imposition of the maximum sentence would result in the State's incurring a total cost of \$90,400 (\$22,600 x 4 years) for a second or subsequent offense of possession, and \$158,200 (\$22,600 x 7 years) for delivery or possession with intent to deliver.

The Department of Licensing and Regulation would incur approximately \$10,000 of additional one-time costs to add androgenic anabolic steroids to the list of drugs that require the use of the triplicate prescription form. The costs that would be incurred would be to reprogram the computer to include the additional drugs, to revise the drug code to include the additional drugs, and to educate the prescribers and dispensers about the new requirements.

Since property would be subject to forfeiture, as provided in the Code, for a violation of the bill, there would be a potential revenue increase as a result of this forfeiture. The amount of revenue would depend on the amount of value of property forfeited.

At the local level, based on an average jail per-diem cost of \$35, an individual found guilty of first-time use or possession of androgenic anabolic steroids would cost the incarcerating local government \$3,150 (\$35 x 90 days).

ARGUMENTS

Supporting Argument

The possible side effects of using androgenic anabolic steroids can be severe and can result in sterility; liver disorders; cardiovascular disorders, such as elevated blood pressure and coronary disfunction; central nervous system disorders, such as dizziness, fatigue, tremors, and depression; gastrointestinal disorders, such as kidney tumors and kidney toxicity; and, negative psychological effects, such as severe mood swings and aggressive behavior. In some cases, the effects of steroid abuse have resulted in death from heart attacks and suicide. Despite these health risks, some athletes have resorted to the use of steroids to increase muscle mass and strength in the belief that their size and performance will be enhanced. This nonmedical, and illegal, use of steroids is growing among athletes who can obtain

steroids through the black market or through athletic trainers, coaches, and physicians who illegally distribute the drug to athletes who are bent on winning at all costs. Some reports estimate that more than 1 million American athletes may be using steroids, and, according to the U.S. Food and Drug Administration, the illegal sale of steroids totals more than \$100 million a year. Various efforts have been undertaken to stem the abuse of androgenic anabolic steroids. One such effort is the incorporation into the eighth grade Michigan Model Curriculum of a component that educates students about the effects of steroid use. Such efforts, however, constitute only a partial approach to the problem, and criminal sanctions must be considered in the overall effort to stem the illegal use of these drugs. One method for combating their illegal use of these potentially damaging drugs would be to enact stiff penalties for their illegal possession and distribution.

Supporting Argument

The bill would result in greater control over the dispensing of androgenic anabolic steroids since steroids would fall within the State's triplicate prescription program. If the bill were enacted, a prescription for a 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. This could diminish the possibility of doctors, pharmacists, and veterinarians serving as illegal sources of the drug.

Opposing Argument

Some people contend that criminal penalties are not an effective means of stemming drug abuse. Rather, it is felt that efforts should be geared toward education to prevent abuse and rehabilitation of those persons who do use these drugs. Furthermore, police officials fear that criminalization of nonmedical use of steroids would only create another demand on an already burdened criminal justice system.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.