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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bills 349 and 350 (as passed by the Senate)
Sponsor: Senator William Faust
Committee: Health Policy

Date Completed: 2-12-90

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 angioedema, 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 misuse 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 androgenic anabolic steroids and human growth hormones should be designated Schedule 2 substances under the Public Health Code and notices warning of the illegal use or sale of these substances should be posted in athletic facilities frequented by athletes.

CONTENT

Senate Bill 349 would amend the Public

Health Code to include any androgenic anabolic steroid, human growth hormone, or related compound within the list of controlled substances designated in the Code as a Schedule 2 drug. Senate Bill 350 would create an act to require "athletic service providers" to post a warning notice, as prescribed in the bill, regarding the use or sale of anabolic steroids; specify where these notices would have to be placed; provide penalties for violation of the bill; and, authorize the Department of Public Health (DPH) to promulgate rules to implement the bill.

Senate Bill 349

The controlled substances to be designated a Schedule 2 drug would include, but not be limited to, the following: clostebol, dehydrochlormethyl testosterone, ethylestrenol, methandrostenolone, methenolone, methyltestosterone, fluoxymesterone, mesterolone, nandrolone, nandrolone decanoate, nandrolone phenpropionate, norethandrolone, oxandrolone, oxymesterone, human growth releasing hormone, dromostanolone, oxymetholone, stanozolol, somatotropin, testosterone, testosterone cypionate, testosterone enanthate, testosterone propionate, and testosterone-like related compounds.

S.B. 349 & 350 (2-12-90)

(The Code characterizes a Schedule 2 drug as a substance that has a high potential for abuse; has accepted medical use in treatment in this country, or currently accepted medical use with severe restrictions; and the abuse of which could lead to severe psychic or physical dependence.)

MCL 333.7214

Senate Bill 350

Warning Notice

An "athletic services provider", meaning a person who owned or operated an "educational athletic facility", "a recreational facility", or a "sports facility", would be required to place the warning notice in a form prescribed by the Department in each facility owned or operated by that provider.

The notice would have to contain a warning that Michigan law provided that it was illegal to participate in the unlawful sale, use, possession, or exchange of anabolic steroids, testosterone, or human growth hormone. The notice also would have to include the following maximum penalties under Michigan law (which are applicable to other Schedule 2 drugs):

- Manufacture or delivery: felony; imprisonment for seven years, a \$5,000 fine, or both.
- Possession: felony; imprisonment for two years, a \$2,000 fine, or both.
- Possession on school property by a person 18 years of age or older: felony; imprisonment for four years, a \$4,000 fine; or both.
- Use: misdemeanor; imprisonment for one year, a \$1,000 fine, or both.
- Distribution or delivery by an adult to a minor three or more years younger than the adult: felony; imprisonment for 14 years, a \$5,000 fine, or both.

In addition, the notice would have to include the following potential side effects resulting from use of these substances: atrophy of the testicles, sterility, acne, stroke, psychosis, addiction, enlarged breasts, impotence, hair loss, kidney damage, cardiovascular disease, high blood pressure, withdrawal, heart attack, high blood cholesterol, and stunted bone

growth.

Posting of the Notice

An athletic services provider would be required to place the notice conspicuously in the following locations:

- If the facility were an educational athletic facility or a sports facility, in each locker room of that facility.
- If the facility were a recreational athletic facility, near each entrance and in each locker room of that facility.

Penalties

A person who violated the bill would be responsible for a civil violation, and would be fined up to \$50. A person who violated the bill after he or she was notified of the violation in writing by the DPH would be responsible for a civil violation, and would be fined up to \$50 for each day that the violation continued after the notice was issued.

Definitions

"Educational athletic facility" would mean a facility, other than a sports facility, that was owned or operated by an educational institution (public or private secondary school, trade school, vocational school, community or junior college, college, or university) and that was used or intended to be used for maintaining or enhancing the aerobic condition or physical strength of one or more individuals, or for athletic competition between two or more individuals.

"Recreational athletic facility" would mean a facility other than an educational athletic facility or sports facility that was used or intended to be used for one or more of the following: maintaining or enhancing the aerobic condition or physical strength of one or more individuals, if a fee or other consideration were directly or indirectly charged to that person for use of that facility; and, athletic competition between two or more persons, if a fee or other consideration were directly or indirectly charged to those individuals for use of that facility.

"Sports facility" would mean a facility used or intended to be used for the public display of

athletic competitions.

FISCAL IMPACT

Senate Bill 349

The bill would have an indeterminate fiscal impact on State and local government. Increased costs for testing and analyzing steroids would be realized by the Department of State Police. The costs would depend on the number and type of samples tested. Information concerning the cost of doing these tests 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 manufacture or delivery (up to seven years' imprisonment), possession (up to two years' imprisonment), possession on school property by a person 18 years of age or older (up to four years' imprisonment), use (up to one year's imprisonment) and distribution or delivery by an adult to a minor three or more years younger than the adult (up to 14 years' imprisonment). If a court imposed a prison sentence for one of those provisions, 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 the following total prisoner care and custody costs:

- Manufacture or delivery: \$190,400 (\$22,600 year 1, adjusted for 5% inflation annually years 2-7).
- Possession: \$46,330 (\$22,600 + \$23,730).
- Possession on school property by a person 18 years of age or older \$100,100 (\$22,600 year 1, adjusted for 5% inflation annually years 2-4).
- Distribution or delivery by adult to minor three or more years younger than adult \$471,400 (\$22,600 year 1, adjusted for 5% inflation annually years 2-14).

At the local level, based on an average jail per diem cost of \$35, an individual found guilty of use would cost the incarcerating local government \$12,775 (\$35 x 365 days).

Senate Bill 350

The bill would have an indeterminate fiscal impact on the State General Fund. The magnitude and direction of the impact would depend on the number of civil violations, the degree and cost of enforcement, and the number of fines levied.

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. One method for combating the illegal use of these potentially damaging drugs would be to educate the users--athletes--of the potential side effects and legal consequences of illegally using these drugs. Senate Bill 350 would aid in this effort by requiring the owners and operators of certain athletic facilities to post warning notices about the use or sale of steroids.

Supporting Argument

Senate Bill 349 would classify anabolic steroids and human growth hormones as Schedule 2 controlled substances, thus increasing the penalties and potential enforcement regarding these substances. The illegal distribution or

sale as well as possession of these substances would be upgraded from a misdemeanor under the Public Health Code (MCL 333.17766) to a felony as a result of the bill, which could result in increased enforcement and prosecution by police agencies that would feel it was "worth the effort" to pursue persons who illegally sold, distributed, or used these substances. Furthermore, the bill would result in greater control over the dispensing of the drug since steroids would be considered a Schedule 2 controlled substance, and as such would fall within the triplicate prescription program. This could diminish the possibility of doctors, pharmacists, and veterinarians serving as illegal sources of the drug.

Opposing Argument

Under the Public Health Code, a seven-member scientific advisory commission is created to serve as an advisory and consultative body to the Michigan Board of Pharmacy in matters relating to the classification, reclassification, addition to, or deletion from all substances classified as controlled substances in Schedules 1 to 5, or substances not presently controlled or yet to come into being (MCL 333.7206). The mechanism established in the Code for adding substances to various classifications would be circumvented by Senate Bill 349. The designation of androgenic anabolic steroids and human growth hormones as Schedule 2 substances should be based on scientific findings. This determination should be made according to procedures established in the Code.

Opposing Argument

While there may be a need to control the spread of these drugs, placing androgenic anabolic steroids and human growth hormones under the Schedule 2 of controlled substances, as proposed in Senate Bill 349, could be an extreme measure since it has been argued that steroids do not exhibit the traditional dependency effects of other Schedule 2 drugs, such as cocaine. It could be more appropriate to place these substances in a different classification, for example Schedule 5, which is for substances that have a low potential for abuse, have accepted medical use, and have limited physical or psychological dependency (MCL 333.7219). If proponents of Senate Bill 349 feel that steroids have great potential for abuse and dependency, however, then it may be preferable to place a total ban on the

substances, except for specified legitimate uses.

Opposing Argument

Under the Michigan Vehicle Code, persons are prohibited from operating a motor vehicle, off-road vehicle, or snowmobile while under the influence of a "controlled substance", as defined in the Public Health Code. (The Public Health Code defines controlled substance as a drug, substance, or immediate precursor in Schedules 1 to 5 (MCL 333.1704).) Generally, when a person is stopped by the police for erratic driving, a breath test is conducted, according to the State Police. If the breathalyzer does not indicate that the driver has been drinking, the next step is a blood test to screen for the presence of controlled substances. If Senate Bill 349 were enacted, androgenic anabolic steroids would be included in the test of Schedule 2 drugs and would be considered a controlled substance under the vehicle code. Thus, screenings would have to include tests for steroids if they were considered to impair driving. Furthermore, the State Police estimate that testing blood samples for steroids could take from four to eight hours per sample as opposed to a half-hour per test for other controlled substances, such as cocaine. As a result, police crime laboratories would need more equipment and personnel to handle the additional workload, or would have to incur the costs of sending samples to private laboratories for testing.

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A8990/S349A

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.