



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 18, 2005

H.R. 3084
Drug Free Sports Act

*As ordered reported by the House Committee on Energy and Commerce
on June 29, 2005*

SUMMARY

H.R. 3084 would require professional sports leagues and associations to follow prescribed procedures for testing and penalizing athletes for the use of certain performance-enhancing substances identified by the World Anti-Doping Agency and the Secretary of Commerce. Under the bill, the Department of Commerce would create and enforce regulations for professional sports leagues and associations regarding performance-enhancing substances and would be directed to assess and collect fines for violations of these regulations. (Civil penalties are recorded in the federal budget as revenues.)

CBO estimates that implementing the bill would cost \$1 million in 2006 and \$6 million over the 2006-2010 period, assuming the availability of appropriations funds. Because CBO expects that professional sports leagues and associations would comply with the law and the new regulations, we estimate that enacting H.R. 3084 would not have a significant effect on revenues. The bill would not affect direct spending.

H.R. 3084 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt some state privacy laws, but CBO estimates that any costs to state, local, or tribal governments would be minimal and would not exceed the threshold established in UMRA (\$62 million in 2005, adjusted annually for inflation).

H.R. 3084 would impose several private-sector mandates, as defined in UMRA, on major professional sports leagues. CBO estimates that the total direct cost of those mandates would fall well below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3084 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit). CBO assumes that the bill will be enacted by the end of 2005, that the necessary amounts will be appropriated for each fiscal year, and that outlays will follow historical trends. CBO estimates that implementing the bill would increase spending subject to appropriation by about \$1 million in 2006 and \$6 million over the 2006-2010 period for creating and enforcing regulations related to the use of performance-enhancing substances by professional athletes.

	By Fiscal Year, in Millions of Dollars				
	2006	2007	2008	2009	2010
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	1	1	1	1	1
Estimated Outlays	1	1	1	1	1

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 3084 would require the public disclosure of the name of any athlete having a positive test that results in suspension. Such a requirement would preempt numerous state privacy laws and would constitute a mandate as defined in UMRA. CBO estimates that the costs of such a preemption to state, local, and tribal governments would be minimal and would not exceed the threshold established in UMRA (\$62 million in 2005, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 3084 would impose several private-sector mandates, as defined in UMRA, on major professional sports leagues. CBO estimates that the total direct cost of those mandates would fall well below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).

The bill would require Major League Baseball, the National Football League, the National Basketball Association, the National Hockey League, Major League Soccer, the Arena Football League, and any other professional league as determined by the Secretary of Commerce to implement drug-testing programs for performance-enhancing substances. The

leagues would be required to test, without advance notice to the athlete or any team staff member, their players a minimum of five times during the season of play and in the off-season. The Department of Commerce would prescribe the substances for which each athlete would be tested and establish the criteria whereby tests would be administered. Currently each of the sports leagues conduct their own testing, so the cost of the mandate would be the increase in cost attributable to the additional drug testing required by the bill. Based on information from the United State Anti-Doping Agency (USADA), the cost of drug testing of athletes could be up to \$600 per test. The cost of the testing would include locating the athletes in the off-season, shipping charges, and the comprehensive analysis of samples at an approved laboratory. According to representatives of the professional sports leagues, approximately 6,000 athletes would need to be tested. Therefore, CBO estimates that the direct cost would fall below the annual threshold.

Under the bill, the leagues also would be required to publicly disclose the identity of any athlete who has tested positive resulting in a suspension. In addition, the leagues must establish an appeals process with an arbiter. Currently, the leagues provide some public disclosure of test results and penalties and provide adjudication. Thus, CBO expects that the cost to comply with those mandates would be small.

PREVIOUS CBO ESTIMATE

On July 7, 2005, CBO transmitted a cost estimate for H.R. 2565, the Clean Sports Act of 2005, as ordered reported by the House Committee on Government Reform on May 26, 2005. H.R. 2565 would establish similar requirements for professional sports organizations related to performance-enhancing substances, although that bill would be implemented by the Office of National Drug Control Policy rather than the Department of Commerce. CBO's estimate of the costs for regulation and enforcement would be similar under both bills; however, CBO's cost estimate for spending subject to appropriation for H.R. 2565 is higher than that for H.R. 3084 because a survey of high school and college athletes would not be required under H.R. 3084.

Both bills would preempt state privacy protections, but H.R. 2565 contains a potentially costly provision that would give the director of Office of National Drug Control Policy the authority to extend testing standards to colleges and athletes in Divisions I and II of the National Collegiate Athletic Association (NCAA)—more than half of which are public. The mandate statements reflect these differences in the two bills.

Both of the bills would require testing for performance-enhancing substances of professional athletes. H.R. 2565 could require the professional boxing industry to test their boxers if the U.S. Boxing Commission is established. That requirement is not in H.R. 3084. H.R. 3084 would require more professional sports leagues, adding Major League Soccer and Arena Football, to test their athletes than H.R. 2565.

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