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SFA



BILL ANALYSIS

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Senate Bill 706 (as enrolled)
Sponsor: Senator Leon Stille
Committee: Education

Date Completed: 10-21-99

RATIONALE

Many of today's high school athletes are looking for ways to gain a competitive edge over their opponents. While some athletes adhere to good nutritional practices and perform weight-training exercises to prepare their bodies for competition, others resort to extreme measures to achieve the same goal. In sports in which athletes must meet weight limits to qualify for competition, such as wrestling, swimming, and track, some athletes reportedly will binge on food to bulk up and then will purge themselves to make the weight limits. In other sports in which an athlete's size and strength are important, such as football and hockey, some high school athletes use dietary supplements in combination with weight-training to increase muscle strength at a faster rate. Although these substances are legal, there is no conclusive evidence about the long-term effects they may have on adolescents. Consequently, there is concern that some public school coaches not only encourage the use of these substances but supply them to their athletes. Some people believe that public school employees and volunteers should be prohibited from advocating the use of or providing student athletes with performance-enhancing dietary supplements.

CONTENT

The bill would amend the Revised School Code to do the following:

- **Prohibit a public school employee or volunteer from knowingly selling or promoting the use of a dietary supplement that contained a performance-enhancing compound to a pupil with whom the employee or volunteer had contact as part of his or her employment or volunteer duties.**
- **Permit a public school employee or volunteer to sell or endorse the use of a performance-enhancing dietary supplement to a pupil as part of an activity**

that did not occur on school property or at a school-related function; was separate from the person's public school employment or volunteer school activities; and, did not involve information or contact with a pupil to whom the employee or volunteer had access as the result of being a public school employee or volunteer.

- **Establish misdemeanor penalties for violating the bill.**

The bill would prohibit a public school employee or volunteer from doing any of the following: knowingly selling, marketing, distributing, or promoting the use of a dietary supplement that contained a performance-enhancing compound to a pupil with whom the employee or volunteer had contact as part of his or her duties as a public school employee or as a public school volunteer; or knowingly endorsing or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contained a performance-enhancing compound by a pupil with whom the employee or volunteer had contact as part of his or her duties as a public school employee or volunteer.

The bill would not prohibit a public school employee or volunteer from selling, marketing, or distributing or promoting the use of a dietary supplement that contained a performance-enhancing compound to, or endorsing or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contained a performance-enhancing compound by, a pupil as part of an activity that met all of the following: did not occur on school property or at a school-related function; was entirely separate from any aspect of the public school employee's employment as a public school employee or the public school volunteer's activities as a public school volunteer; and, did not in any way involve information about or contacts with a pupil to whom the public school employee or volunteer had had direct or indirect access through any aspect of his or her employment as a public school employee or public

school volunteer's activities as a public school volunteer.

In addition, the bill would not prohibit a public school employee or volunteer from providing, endorsing, or promoting the use of a dietary supplement that contained a performance-enhancing compound to, or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contained a performance-enhancing compound by, the public school employee's or volunteer's own child.

A person who violated the bill would be subject to the Code's penalties for a school official's neglect or refusal to perform an act required under the Code (MCL 380.1804). (Under the Code, a school official or member of a school board or intermediate school board or other person who neglects or refuses to do or perform an act required under by the Code, or who violates or knowingly permits or consents to a violation of the Code, is guilty of a misdemeanor punishable by a fine of up to \$500 and/or imprisonment for not more than three months.)

Under the bill, "dietary supplement" would mean that term as defined in the Federal Food, Drug, and Cosmetic Act. "Performance-enhancing compound" would mean a manufactured product for oral ingestion, intranasal application, or inhalation that met both of the following: contained a stimulant, amino acid, hormone precursor, herb or other botanical, or any other substance that was not an essential vitamin or mineral; and, was intended to increase athletic or intellectual performance, promote muscle growth, or increase an individual's endurance or capacity for exercise.

"Public school employee" would mean a person employed by a school district, local act school district, intermediate school district, or public school academy. For purposes of the bill, "public school employee" also would include a person performing services on behalf of a school district, local act school district, intermediate school district, or public school academy pursuant to a contract. "Public school volunteer" would mean a person serving as a volunteer in any capacity in a public school.

The bill would take effect 90 days after its enactment.

Proposed MCL 380.1317

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

For student athletes and their coaches who are looking for ways to improve physical performance, dietary supplements are promoted as enabling athletes to build muscle strength and endurance. Two supplements that recently gained notoriety because of their use by professional athletes are androstenedione, a testosterone producing pill, and creatine monohydrate, a natural substance produced by the body that also is available commercially as a dietary supplement. Some student athletes and coaches claim creatine allows athletes to lift weights more frequently because it promotes rapid muscle recovery after weight-training workouts. Thus, student athletes allegedly are able to build muscle at a faster rate, which is considered to be essential in short-term high-intensity exercise regimens for football and hockey. Because of the reputed benefits of these supplements, some coaches not only encourage their use but sell or supply them to student athletes. Some people are concerned about the use of these substances by high school athletes, however, because the long-term effects of the substances on adolescents is uncertain. Prohibiting coaches, activity advisors, school employees, and school volunteers from encouraging students to use these substances, or distributing or selling them to students, would help keep these and other performance-enhancing dietary supplements out of the hands of student athletes.

Response: Many students look to their coaches and other school personnel or volunteers for guidance regarding proper athletic training. While a public school employee or volunteer should not sell or supply to student athletes dietary supplements to enhance physical performance, it is not certain whether they can be prohibited from endorsing or suggesting the use of supplements, which could infringe on a person's First Amendment free speech rights.

Supporting Argument

Proponents of creatine claim that it is a safe product when taken as directed because it is produced naturally in the body by the liver, kidney, and pancreas. In fact, persons can increase the amount of creatine in their systems by maintaining a diet of red meat or fish. There is concern, however, that creatine supplements rob vital organs of fluids that are taken into the muscles, which can result in dehydration accompanied by nausea and cramps. Scientific research has focused on its effects on adult males and the elderly, but there is no conclusive evidence on its long-term effects on the body. Consequently, adolescents should not be encouraged to use creatine or other athletic performance-enhancing dietary supplements. The Michigan High School Athletic Association (MHSAA) [A9900s706a](#)

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is urging coaches and school personnel not to dispense of any drug, medication, or food supplement except with extreme caution. Furthermore, MHSAA warns coaches and school personnel against recommending or using any drug, medication, or food supplement solely for performance-enhancing purposes. The association points out that natural substances used in unnatural amounts may have short- or long-term negative health effects. The MHSAA recommends that coaches educate their athletes about misconceptions that performance-enhancing dietary supplements provide a short-cut to building strong bodies, and that only with good nutrition, exercise, as well as appropriate weight training and conditioning, student athletes can improve their performance.

Response: For many people, good nutrition includes supplementing their diets with food and dietary supplements that are sold in retail outlets such as supermarkets and health food stores. The bill would prohibit school personnel and volunteers from encouraging students to use a “dietary supplement that contains a performance-enhancing compound”. Some retailers of these supplements are concerned that many products now sold as foods containing dietary supplements, such as sports drinks that replace lost electrolytes or beverages enhanced with herbs such as ginseng, could be covered by the bill if they are not sold as food but as products containing performance-enhancing substances. The bill should apply instead to “a product labeled as an athletic performance-enhancing compound”.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

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