

**AMENDMENT TO RULES COMMITTEE PRINT 119-**

**33**

**OFFERED BY MR. DAVIDSON OF OHIO**

Page 305, after line 7, insert the following new section:

1 **SEC. 5\_\_ . PROHIBITED DIETARY SUPPLEMENT INGREDI-**  
2 **ENTS AND PERFORMANCE-ENHANCING SUB-**  
3 **STANCES.**

4 (a) PROHIBITION.—Chapter 49 of title 10, United  
5 States Code, is amended by inserting after section 978 the  
6 following new section:

7 **“§ 978a. Prohibited dietary supplement ingredients**  
8 **and performance-enhancing substances**

9 “(a) PROHIBITED INGREDIENT AND SUBSTANCE  
10 LISTS.—The Secretary shall publish and, not less fre-  
11 quently than once every 90 days, shall update a list of—

12 “(1) dietary supplement ingredients prohibited  
13 for use by members of the armed forces; and

14 “(2) performance-enhancing substances prohib-  
15 ited for use by members of the armed forces.

16 “(b) REQUIRED FORMATS.—The Secretary shall pub-  
17 lish the list under subsection (a)—

1           “(1) on an internet website where such list may  
2           be viewed in full without use of a search function;

3           “(2) in a searchable database; and

4           “(3) in a digital file that may be downloaded  
5           from such internet website in a common format.

6           “(c) COMMANDING OFFICER MAY ELECT NOT TO  
7 DISCIPLINE.—The commanding officer of a member of the  
8 armed forces who possesses or uses a dietary supplement  
9 containing an ingredient (other than a substance included  
10 in the schedule under section 202 of the Controlled Sub-  
11 stances Act (21 U.S.C. 812)) appearing on the list under  
12 subsection (a)(1)—

13           “(1) may elect not to subject such member to  
14           discipline if—

15           “(A) such possession or use is the first dis-  
16           ciplinary offense committed by such member;

17           “(B) such commanding officer determines  
18           that such member satisfies the good faith  
19           standard under subsection (e); and

20           “(C) such member agrees to participate in  
21           education, counseling, or drug testing in lieu of  
22           discipline; and

23           “(2) may elect not to subject such member to  
24           administrative separation.

1           “(d) POSSESSION OF PROHIBITED INGREDIENT NOT  
2 DRUG ABUSE.—Notwithstanding any other provision of  
3 law, possession of a dietary supplement containing an in-  
4 gredient (other than a substance included in the schedule  
5 under section 202 of the Controlled Substances Act (21  
6 U.S.C. 812)) appearing on the list under subsection (a)(1)  
7 shall not constitute drug abuse for purposes of this title.

8           “(e) GOOD FAITH STANDARD.—A member of the  
9 armed forces satisfies the good faith standard under this  
10 subsection if such member—

11           “(1) possesses or uses a dietary supplement  
12 containing an ingredient (other than a substance in-  
13 cluded in the schedule under section 202 of the Con-  
14 trolled Substances Act (21 U.S.C. 812)) appearing  
15 on the list under subsection (a)(1) without actual  
16 knowledge that such dietary supplement contains  
17 such ingredient;

18           “(2) purchases such supplement from a retail  
19 facility affiliated with the Department of Defense;

20           “(3) reasonably relies, prior to purchasing or  
21 using such supplement, on a search of the list under  
22 subsection (a)(1) that fails to identify such ingre-  
23 dient as prohibited under subsection (a)(1), includ-  
24 ing due to a misspelling or variation in the name of  
25 such ingredient on such list; or

1           “(4) otherwise demonstrates a reasonable belief  
2           that such supplement does not contain such ingre-  
3           dient.”.

4           (b) SECRETARY TO UPDATE DEPARTMENT OF DE-  
5 FENSE INSTRUCTION.—Not later than 120 days after the  
6 date of the enactment of this section, the Secretary of De-  
7 fense, acting through the Under Secretary for Personnel  
8 and Readiness, shall revise Department of Defense In-  
9 struction 6130.06 pursuant to section 978a of title 10,  
10 United States Code, as added by subsection (a).

11          (c) SECRETARY TO UPDATE OPERATION SUPPLE-  
12 MENT SAFETY INTERNET WEBSITE.—Not later than one  
13 year after the date of the enactment of this section, the  
14 Secretary shall—

15           (1) update the Operation Supplement Safety  
16 internet website to enhance functionality for—

17                   (A) vendors of dietary supplements; and

18                   (B) members of the Armed Forces; and

19           (2) review possible improvements to such inter-  
20 net website, including with respect to—

21                   (A) search tools that employ—

22                           (i) autofill functionality; and

23                           (ii) autocorrect functionality;

24                   (B) artificial intelligence tools that can—

25                           (i) scan product labels; and

1 (ii) search such internet website for  
2 information on the ingredients found on  
3 such labels; and

4 (C) capacity to allow a user to register to  
5 receive a notification when a dietary supplement  
6 ingredient is added to the list under section  
7 978a(a)(1) of title 10, United States Code, as  
8 added by subsection (a).

9 (d) SECRETARY TO REVIEW DIETARY SUPPLEMENT  
10 SAFETY EDUCATION OPPORTUNITIES.—Not later than  
11 one year after the date of the enactment of this section,  
12 the Secretary shall review opportunities for incorporating  
13 into existing training programs for members of the Armed  
14 Forces education concerning—

15 (1) dietary supplement safety; and

16 (2) the list under section 978a(a) of title 10,  
17 United States Code, as added by subsection (a).

18 (e) REPORTS.—

19 (1) INITIAL IMPLEMENTATION REPORT.—Not  
20 later than 120 days after the date of the enactment  
21 of this section, the Secretary shall submit to the con-  
22 gressional defense committees a report describing ef-  
23 forts made to ensure that retail facilities affiliated  
24 with the Department of Defense do not sell any  
25 products containing an ingredient appearing on the

1 list under section 978a(a) of title 10, United States  
2 Code, as added by subsection (a).

3 (2) FINAL IMPLEMENTATION REPORT.—Not  
4 later than two years after the date of the enactment  
5 of this section, the Secretary shall submit to the con-  
6 gressional defense committees a report describing  
7 steps taken to implement section 978a of title 10,  
8 United States Code, as added by subsection (a).

9 (3) ANNUAL REPORTS.—Not later than one  
10 year after the date of the enactment of this section,  
11 and annually thereafter for a period of five years,  
12 the Secretary shall submit to the congressional de-  
13 fense committees a report—

14 (A) listing, for the one-year period ending  
15 on the date on which such report is sub-  
16 mitted—

17 (i) the total number of administrative  
18 separation actions initiated for possession  
19 or use of a dietary supplement containing  
20 an ingredient appearing on the list under  
21 section 978a(a)(1) of title 10, United  
22 States Code, as added by subsection (a),  
23 disaggregated by—

24 (I) armed force;

25 (II) pay grade;

1 (III) characterization of dis-  
2 charge sought;

3 (IV) whether the member subject  
4 to the administrative separation ac-  
5 tion contested such action; and

6 (V) outcome; and

7 (ii) the number of commanding offi-  
8 cers who elected not to subject a member  
9 of the Armed Forces to discipline under  
10 section 978a(c) of such title; and

11 (B) assessing the effectiveness of efforts to  
12 provide education relating to dietary supple-  
13 ment safety to members of the Armed Forces.

