

## Background

Many of the most motivated troops use health supplements to increase nutrient intake and muscle performance, using common off-the-shelf and name-brand supplements. Some of these supplements are even sold in retail facilities on military bases. Unfortunately, many of these commercially available supplements are periodically added to an obscure list with no notice—a list of prohibited substances.

Many of these motivated servicemembers face separation when a supplement is added to the list without their knowledge. Operation Supplement Safety (OPSS) is an obscure database of banned ingredients for servicemembers, but rather than providing a comprehensive list of prohibited ingredients and substances, it only features a search box where exact spelling of unfamiliar and complex names like “enclomiphene” or “dimethylamylamine” is necessary. If the servicemember searches the brand name, or messes up a single letter, the database will approve its use, even if it is banned. Moreover, OPSS is regularly updated as more products are added to the market. The database currently includes over 800 prohibited substances and over 1700 synonyms. To maintain full compliance while optimizing supplement intake, a servicemember would have to regularly enter every single ingredient into the database search one at a time—double- or triple-checking spelling—to make sure the list did not add an ingredient included in the servicemember’s supplements since he or she last checked it.

Two things are true at once: first, servicemembers must be responsible for their actions and remain compliant with DoW regulations, especially those regulations protecting health and safety. Second, DoW regulations must be reasonably implemented and promulgated before removing servicemembers from the military. Judge Advocate General (JAG) officers expressed concern that they are spending inordinate amounts of time defending young recruits who unknowingly used prohibited substances, and that the cases are treated as drug abuse.

## PERFECT Act

The PERFECT Act would require the Secretary of War to publish a full list of prohibited ingredients every 90 days, allowing servicemembers to view the full list rather than only using a search feature. The bill also allows commanding officers to elect not to subject servicemembers to discipline or separation, provided that the offense was the first such offense by the servicemember, that the commanding officer determines that the servicemember was acting in good faith, and that the servicemember agrees to participate in education, counseling, or drug testing. This does not apply to servicemembers found to be in possession of dangerous or illicit drugs that appear on the Controlled Substances Act, such as heroin, marijuana, cocaine, etc.

Whether a servicemember’s possession of a prohibited substance is determined to be in line with the “good faith standard” is limited to at least one of the following circumstances:

- The servicemember had no knowledge that the dietary supplement contained a prohibited ingredient.
- The supplement was purchased from a retail facility affiliated with the Department of War.
- The servicemember reasonably relied on the published list but failed to identify that the ingredient was prohibited due to a misspelling or variation in the name of such ingredients. (Some manufacturers of prohibited ingredients create chemical analogs or change the name of ingredients, and some use umbrella ingredient names that obscure constituent ingredients identities.)
- The servicemember demonstrates reasonable belief that such supplement does not contain a prohibited ingredient.