

104TH CONGRESS
2D SESSION

S. 1767

To harmonize the application of the antitrust laws to professional sports,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 16, 1996

Mr. HATCH introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To harmonize the application of the antitrust laws to
professional sports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sports Antitrust Re-
5 form Act of 1996”.

6 **SEC. 2. APPLICATION OF THE ANTITRUST LAWS TO PRO-**
7 **FESSIONAL SPORTS.**

8 The Clayton Act (15 U.S.C. 12 et seq.) is amended
9 by adding at the end the following new section:

1 **“SEC. 27. APPLICATION OF THE ANTITRUST LAWS TO PRO-**
 2 **FESSIONAL SPORTS.**

3 “(a) DEFINITIONS.—For purposes of this section—

4 “(1) the term ‘home territory’ means the geo-
 5 graphic metropolitan area within which a member
 6 team operates and plays the majority of its home
 7 games;

8 “(2) the term ‘interested party’ includes, with
 9 respect to a member team—

10 “(A) any political subdivision of a State
 11 that provides, or has provided, financial assist-
 12 ance, including tax abatement, for facilities (in-
 13 cluding a stadium or arena) in which the mem-
 14 ber team plays;

15 “(B) a representative of the political sub-
 16 division with jurisdiction over the geographic
 17 area in which the stadium or arena of the mem-
 18 ber team is located;

19 “(C) a member team;

20 “(D) the owner or operator of a stadium
 21 or arena of a member team; and

22 “(E) any other person who is determined
 23 to be an affected party by the sports league of
 24 the member team;

25 “(3) the term ‘member team’ means a team of
 26 professional athletes—

1 “(A) organized to play professional foot-
2 ball, basketball, or hockey; and

3 “(B) that is a member of a professional
4 sports league;

5 “(4) the term ‘person’ means any individual,
6 partnership, corporation, or unincorporated associa-
7 tion, any combination or association thereof, or any
8 State or political subdivision of a State;

9 “(5) the term ‘professional sports league’ means
10 an association that—

11 “(A) is composed of 2 or more member
12 teams;

13 “(B) regulates the contests and exhibitions
14 of its member teams; and

15 “(C) has been engaged in competition in a
16 particular sport for a period of more than 7
17 years; and

18 “(6) the terms ‘stadium’ and ‘arena’ mean the
19 principal physical facility within which a member
20 team has played the majority of its home games.

21 “(b) ESTABLISHMENT OF RULE.—

22 “(1) IN GENERAL.—Subject to the require-
23 ments set forth in this section, any professional
24 sports league may establish a rule—

1 “(A) authorizing the membership of that
2 league to decide whether or not a member team
3 of that league may be relocated outside of the
4 home territory of that member team; and

5 “(B) requiring that any person seeking to
6 change the home territory of that member team
7 obtain the approval of the appropriate profes-
8 sional sports league.

9 “(2) INAPPLICABILITY OF ANTITRUST LAWS.—
10 Notwithstanding any other provision of law, the
11 antitrust laws shall not apply to the enforcement or
12 application by a professional sports league of any
13 rule established pursuant to paragraph (1).

14 “(c) PROCEDURAL REQUIREMENTS.—

15 “(1) REQUEST FOR APPROVAL.—

16 “(A) IN GENERAL.—Not later than 210
17 days before the commencement of the season in
18 which a member team proposes to play in a new
19 location, any person seeking to change the
20 home territory of that member team shall sub-
21 mit a request for approval of the proposed
22 change to the appropriate professional sports
23 league.

1 “(B) REQUIREMENTS.—Each request for
2 approval submitted under subparagraph (A)
3 shall—

4 “(i) be in writing;

5 “(ii) be delivered in person or by cer-
6 tified mail to each interested party by not
7 later than 30 days after submission to the
8 appropriate professional sports league
9 under subparagraph (A);

10 “(iii) be made available by the date
11 specified in clause (ii) to the news media;

12 “(iv) be published by the date speci-
13 fied in clause (iii) in 1 or more newspapers
14 of general circulation within the home ter-
15 ritory of the member team; and

16 “(v) contain—

17 “(I) an identification of the pro-
18 posed location of the member team;

19 “(II) a summary of the reasons
20 for the change in home territory based
21 on the criteria described in paragraph
22 (2)(B); and

23 “(III) the date on which the pro-
24 posed change would become effective.

25 “(2) PROCEDURES.—

1 “(A) ESTABLISHMENT.—Each professional
2 sports league shall establish rules and proce-
3 dures for approving or disapproving requests
4 submitted under paragraph (1), that shall—

5 “(i) include criteria to be considered
6 by the professional sports league in ap-
7 proving or disapproving such requests; and

8 “(ii) be made available upon request
9 to any interested party.

10 “(B) CRITERIA TO BE CONSIDERED.—The
11 criteria described in subparagraph (A)(i) shall
12 include—

13 “(i) the extent to which fan loyalty to
14 and support for the member team has been
15 demonstrated during the tenure of the
16 member team in the home territory;

17 “(ii) the degree to which the member
18 team has engaged in good faith negotia-
19 tions with appropriate persons concerning
20 the terms and conditions under which the
21 member team would continue to play its
22 games in the home territory of the member
23 team;

24 “(iii) the degree to which the owner-
25 ship or management of the member team

1 has contributed to any circumstance that
2 might demonstrate the need for the reloca-
3 tion of the member team;

4 “(iv) the extent to which the member
5 team has, directly or indirectly, received
6 public financial support by means of any
7 publicly financed playing facility, special
8 tax treatment, or any other form of public
9 financial support;

10 “(v) the adequacy of the stadium or
11 arena of the member team, and the willing-
12 ness of the stadium or arena authority and
13 the local government to remedy any defi-
14 ciencies in the stadium or arena;

15 “(vi) whether the member team has
16 incurred net operating losses, exclusive of
17 depreciation or amortization, sufficient to
18 threaten the continued financial viability of
19 the member team;

20 “(vii) whether any other member team
21 in the professional sports league is located
22 in the home territory of the member team;

23 “(viii) whether the member team pro-
24 poses to relocate to a territory in which no

1 other member team in the professional
2 sports league is located;

3 “(ix) whether the stadium or arena
4 authority, if public, is opposed to the relo-
5 cation; and

6 “(x) any other criteria considered to
7 be appropriate by the professional sports
8 league.

9 “(3) HEARINGS.—In determining whether to
10 approve or disapprove a proposed request submitted
11 under paragraph (1), the professional sports league
12 shall—

13 “(A) conduct a hearing at which interested
14 parties shall be afforded an opportunity to sub-
15 mit written testimony and exhibits; and

16 “(B) keep a written record of that hearing
17 and any testimony and exhibits submitted
18 under subparagraph (A).

19 “(d) JUDICIAL REVIEW.—

20 “(1) IN GENERAL.—A decision by a profes-
21 sional sports league to approve or disapprove a re-
22 quest submitted under paragraph (1) may only be
23 reviewed in a civil action filed by an interested party
24 in accordance with this subsection.

25 “(2) VENUE.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), an action under this sub-
3 section may be filed only in the United States
4 District Court for the District of Columbia.

5 “(B) EXCEPTION.—If the home territory
6 of the member team or the proposed home ter-
7 ritory of the member team is located within a
8 50-mile radius of the District of Columbia, an
9 action under this subsection may be filed only
10 in the United States District Court for the
11 Southern District of New York.

12 “(3) TIME.—

13 “(A) FILING.—An action under this sub-
14 section shall be filed not later than 14 days
15 after the date of the formal vote of the profes-
16 sional sports league approving or disapproving
17 the proposed relocation.

18 “(B) REVIEW.—Not later than 30 days
19 after the filing of the action in accordance with
20 subparagraph (A), the district court shall issue
21 an order with respect to that action.

22 “(4) STANDARD OF REVIEW.—The scope of ju-
23 dicial review in any action under this subsection
24 shall be limited to a determination of whether—

1 “(A) in deciding whether to approve or dis-
2 approve a proposed relocation, the professional
3 sports league failed to comply with this section;
4 and

5 “(B) the decision of the professional sports
6 league to approve or disapprove a proposed re-
7 location was arbitrary or capricious.

8 “(5) RELIEF GRANTED BY COURT.—

9 “(A) IN GENERAL.—In any action under
10 this subsection, if the district court makes a de-
11 termination described in subparagraph (A) or
12 (B) of paragraph (4), the court shall—

13 “(i) remand the matter for further
14 consideration by the professional sports
15 league; and

16 “(ii) enjoin any relocation of the
17 member team at issue until the profes-
18 sional sports team has reconsidered the
19 matter in accordance with the order of the
20 court under this paragraph.

21 “(B) LIMITATION.—The court may not
22 grant any relief in any action under this sub-
23 section other than enjoining or approving en-
24 forcement of the decision by the professional

1 sports league to approve or disapprove a re-
2 quest submitted under paragraph (1).”.

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