

Calendar No. 231

105TH CONGRESS
1ST SESSION

S. 53

[Report No. 105-118]

To require the general application of the antitrust laws to major league baseball, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. HATCH (for himself, Mr. LEAHY, Mr. THURMOND, and Mr. MOYNIHAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

OCTOBER 29, 1997

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To require the general application of the antitrust laws to major league baseball, 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 “Curt Flood Act of
5 ~~1997~~”.

1 **SEC. 2. APPLICATION OF THE ANTITRUST LAWS TO PRO-**
 2 **FESSIONAL MAJOR LEAGUE BASEBALL.**

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

5 “SEC. 27. (a) Subject to subsection (b), the antitrust
 6 laws shall apply to the business of professional major
 7 league baseball.

8 “(b) Nothing in this section shall be construed to af-
 9 fect—

10 “(1) the applicability or nonapplicability of the
 11 antitrust laws to the amateur draft of professional
 12 baseball; the minor league reserve clause; the agree-
 13 ment between professional major league baseball
 14 teams and teams of the National Association of
 15 Baseball, commonly known as the ‘Professional
 16 Baseball Agreement’, or any other matter relating to
 17 the minor leagues;

18 “(2) the applicability or nonapplicability of the
 19 antitrust laws to any restraint by professional base-
 20 ball on franchise relocation; or

21 “(3) the application of Public Law 87-331 (15
 22 U.S.C. 1291 et seq.) (commonly known as the
 23 ‘Sports Broadcasting Act of 1961’).”.

24 **SECTION 1. SHORT TITLE.**

25 *This Act may be cited as the “Curt Flood Act of 1997”.*

1 **SEC. 2. PURPOSE.**

2 *It is the purpose of this legislation to clarify that*
 3 *major league baseball players are covered under the anti-*
 4 *trust laws (i.e., that major league players will have the same*
 5 *rights under the antitrust laws as do other professional ath-*
 6 *letes, e.g., football and basketball players), along with a pro-*
 7 *vision that makes it clear that the passage of this Act does*
 8 *not change the application of the antitrust laws in any*
 9 *other context or with respect to any other person or entity.*

10 **SEC. 3. APPLICATION OF THE ANTITRUST LAWS TO PROFES-**
 11 **SIONAL MAJOR LEAGUE BASEBALL.**

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

14 *“SEC. 27. (a) The conduct, acts, practices, or agree-*
 15 *ments of persons in the business of organized professional*
 16 *major league baseball relating to or affecting employment*
 17 *to play baseball at the major league level are subject to the*
 18 *antitrust laws to the same extent such conduct, acts, prac-*
 19 *tices, or agreements would be subject to the antitrust laws*
 20 *if engaged in by persons in any other professional sports*
 21 *business affecting interstate commerce: Provided, however,*
 22 *That nothing in this subsection shall be construed as pro-*
 23 *viding the basis for any negative inference regarding the*
 24 *caselaw concerning the applicability of the antitrust laws*
 25 *to minor league baseball.*

1 “(b) *Nothing contained in subsection (a) of this section*
2 *shall be deemed to change the application of the antitrust*
3 *laws to the conduct, acts, practices, or agreements by, be-*
4 *tween, or among persons engaging in, conducting, or par-*
5 *ticipating in the business of organized professional baseball,*
6 *except the conduct, acts, practices, or agreements to which*
7 *subsection (a) of this section shall apply. More specifically,*
8 *but not by way of limitation, this section shall not be*
9 *deemed to change the application of the antitrust laws to—*

10 “(1) *the organized professional baseball amateur*
11 *draft, the reserve clause as applied to minor league*
12 *players, the agreement between organized professional*
13 *major league baseball teams and the teams of the Na-*
14 *tional Association of Professional Baseball Leagues,*
15 *commonly known as the ‘Professional Baseball Agree-*
16 *ment’, the relationship between organized professional*
17 *major league baseball and organized professional*
18 *minor league baseball, or any other matter relating to*
19 *professional organized baseball’s minor leagues;*

20 “(2) *any conduct, acts, practices, or agreements*
21 *of persons in the business of organized professional*
22 *baseball relating to franchise expansion, location or*
23 *relocation, franchise ownership issues, including own-*
24 *ership transfers, and the relationship between the Of-*
25 *fice of the Commissioner and franchise owners;*

1 “(3) any conduct, acts, practices, or agreements
2 protected by Public Law 87–331 (15 U.S.C. 1291 et
3 seq.) (commonly known as the ‘Sports Broadcasting
4 Act of 1961’); or

5 “(4) the relationship between persons in the busi-
6 ness of organized professional baseball and umpires or
7 other individuals who are employed in the business of
8 organized professional baseball by such persons.

9 “(c) As used in this section, ‘persons’ means any indi-
10 vidual, partnership, corporation, or unincorporated asso-
11 ciation or any combination or association thereof.”.

Calendar No. 231

105TH CONGRESS
1ST Session

S. 53

[Report No. 105-118]

A BILL

To require the general application of the antitrust laws to major league baseball, and for other purposes.

OCTOBER 29, 1997

Reported with an amendment