

105TH CONGRESS
2^D SESSION

S. 53

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1998

Referred to the Committee on the Judiciary

AN ACT

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 1998”.

1 **SEC. 2. PURPOSE.**

2 It is the purpose of this legislation to state that major
 3 league baseball players are covered under the antitrust
 4 laws (i.e., that major league baseball players will have the
 5 same rights under the antitrust laws as do other profes-
 6 sional athletes, e.g., football and basketball players), along
 7 with a provision that makes it clear that the passage of
 8 this Act does not change the application of the antitrust
 9 laws in any other context or with respect to any other per-
 10 son or entity.

11 **SEC. 3. APPLICATION OF THE ANTITRUST LAWS TO PRO-**
 12 **FESSIONAL MAJOR LEAGUE BASEBALL.**

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

15 “SEC. 27. (a) Subject to subsections (b) through (d),
 16 the conduct, acts, practices, or agreements of persons in
 17 the business of organized professional major league base-
 18 ball directly relating to or affecting employment of major
 19 league baseball players to play baseball at the major
 20 league level are subject to the antitrust laws to the same
 21 extent such conduct, acts, practices, or agreements would
 22 be subject to the antitrust laws if engaged in by persons
 23 in any other professional sports business affecting inter-
 24 state commerce.

25 “(b) No court shall rely on the enactment of this sec-
 26 tion as a basis for changing the application of the anti-

1 trust laws to any conduct, acts, practices, or agreements
2 other than those set forth in subsection (a). This section
3 does not create, permit or imply a cause of action by which
4 to challenge under the antitrust laws, or otherwise apply
5 the antitrust laws to, any conduct, acts, practices, or
6 agreements that do not directly relate to or affect employ-
7 ment of major league baseball players to play baseball at
8 the major league level, including but not limited to—

9 “(1) any conduct, acts, practices, or agreements
10 of persons engaging in, conducting or participating
11 in the business of organized professional baseball re-
12 lating to or affecting employment to play baseball at
13 the minor league level, any organized professional
14 baseball amateur or first-year player draft, or any
15 reserve clause as applied to minor league players;

16 “(2) the agreement between organized profes-
17 sional major league baseball teams and the teams of
18 the National Association of Professional Baseball
19 Leagues, commonly known as the ‘Professional
20 Baseball Agreement’, the relationship between orga-
21 nized professional major league baseball and orga-
22 nized professional minor league baseball, or any
23 other matter relating to organized professional base-
24 ball’s minor leagues;

1 “(3) any conduct, acts, practices, or agreements
2 of persons engaging in, conducting or participating
3 in the business of organized professional baseball re-
4 lating to or affecting franchise expansion, location or
5 relocation, franchise ownership issues, including
6 ownership transfers, the relationship between the Of-
7 fice of the Commissioner and franchise owners, the
8 marketing or sales of the entertainment product of
9 organized professional baseball and the licensing of
10 intellectual property rights owned or held by orga-
11 nized professional baseball teams individually or col-
12 lectively;

13 “(4) any conduct, acts, practices, or agreements
14 protected by Public Law 87–331 (15 U.S.C. § 1291
15 et seq.) (commonly known as the ‘Sports Broadcast-
16 ing Act of 1961’);

17 “(5) the relationship between persons in the
18 business of organized professional baseball and um-
19 pires or other individuals who are employed in the
20 business of organized professional baseball by such
21 persons; or

22 “(6) any conduct, acts, practices, or agreements
23 of persons not in the business of organized profes-
24 sional major league baseball.

1 “(c) Only a major league baseball player has standing
2 to sue under this section. For the purposes of this section,
3 a major league baseball player is—

4 “(1) a person who is a party to a major league
5 player’s contract, or is playing baseball at the major
6 league level; or

7 “(2) a person who was a party to a major
8 league player’s contract or playing baseball at the
9 major league level at the time of the injury that is
10 the subject of the complaint; or

11 “(3) a person who has been a party to a major
12 league player’s contract or who has played baseball
13 at the major league level, and who claims he has
14 been injured in his efforts to secure a subsequent
15 major league player’s contract by an alleged viola-
16 tion of the antitrust laws: *Provided however*, That
17 for the purposes of this paragraph, the alleged anti-
18 trust violation shall not include any conduct, acts,
19 practices, or agreements of persons in the business
20 of organized professional baseball relating to or af-
21 fecting employment to play baseball at the minor
22 league level, including any organized professional
23 baseball amateur or first-year player draft, or any
24 reserve clause as applied to minor league players; or

1 “(4) a person who was a party to a major
2 league player’s contract or who was playing baseball
3 at the major league level at the conclusion of the
4 last full championship season immediately preceding
5 the expiration of the last collective bargaining agree-
6 ment between persons in the business of organized
7 professional major league baseball and the exclusive
8 collective bargaining representative of major league
9 baseball players.

10 “(d)(1) As used in this section, ‘person’ means any
11 entity, including an individual, partnership, corporation,
12 trust or unincorporated association or any combination or
13 association thereof. As used in this section, the National
14 Association of Professional Baseball Leagues, its member
15 leagues and the clubs of those leagues, are not ‘in the busi-
16 ness of organized professional major league baseball’.

17 “(2) In cases involving conduct, acts, practices, or
18 agreements that directly relate to or affect both employ-
19 ment of major league baseball players to play baseball at
20 the major league level and also relate to or affect any other
21 aspect of organized professional baseball, including but
22 not limited to employment to play baseball at the minor
23 league level and the other areas set forth in subsection
24 (b) above, only those components, portions or aspects of
25 such conduct, acts, practices, or agreements that directly

1 relate to or affect employment of major league players to
2 play baseball at the major league level may be challenged
3 under subsection (a) and then only to the extent that they
4 directly relate to or affect employment of major league
5 baseball players to play baseball at the major league level.

6 “(3) As used in subsection (a), interpretation of the
7 term ‘directly’ shall not be governed by any interpretation
8 of section 151 et seq. of title 29, United States Code (as
9 amended).

10 “(4) Nothing in this section shall be construed to af-
11 fect the application to organized professional baseball of
12 the nonstatutory labor exemption from the antitrust laws.

13 “(5) The scope of the conduct, acts, practices, or
14 agreements covered by subsection (b) shall not be strictly
15 or narrowly construed.”.

Passed the Senate July 30, 1998.

Attest:

GARY SISCO,
Secretary.