

113TH CONGRESS
1ST SESSION

H. R. 3452

To decrease the frequency of sports blackouts, to require the application of the antitrust laws to Major League Baseball, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 12, 2013

Mr. HIGGINS introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To decrease the frequency of sports blackouts, to require the 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 “Furthering Access and
5 Networks for Sports Act” or the “FANS Act”.

6 **SEC. 2. DEFINITION.**

7 In this Act, the term “Sports Broadcasting Act of
8 1961” means the Act of September 30, 1961 (15 U.S.C.
9 1291 et seq.).

1 **SEC. 3. AMENDMENTS TO THE SPORTS BROADCASTING ACT**
2 **OF 1961.**

3 (a) **ELIMINATION OF ANTITRUST EXEMPTION FOR**
4 **SPORTS BLACKOUTS DURING RETRANSMISSION CONSENT**
5 **NEGOTIATIONS.**—Section 1 of the Sports Broadcasting
6 Act of 1961 (15 U.S.C. 1291) is amended by adding at
7 the end the following: “The antitrust exemption estab-
8 lished under this section shall not apply to any league of
9 clubs participating in professional football, baseball, bas-
10 ketball, or hockey contests that does not expressly prohibit
11 sponsored telecast licensees of such league, and any agree-
12 ment with any video licensee, from intentionally removing
13 the live content of such league from a multichannel video
14 programming distributor (as defined in section 602 of the
15 Communications Act of 1934 (47 U.S.C. 522)), when such
16 removal occurs during or is related to a negotiation re-
17 garding carriage of the games of such league by the multi-
18 channel video programming distributor.”.

19 (b) **ELIMINATION OF ANTITRUST EXEMPTION FOR**
20 **LOCAL SPORTS BLACKOUTS.**—Section 2 of the Sports
21 Broadcasting Act of 1961 (15 U.S.C. 1292) is amended
22 by striking “, except within the home territory of a mem-
23 ber club of the league on a day when such club is playing
24 a game at home”.

1 (c) AVAILABILITY OF GAMES OVER THE INTERNET
2 WHERE NOT OTHERWISE AVAILABLE ON TELEVISION.—

3 The Sports Broadcasting Act of 1961 is amended—

4 (1) by redesignating sections 4 through 6 as
5 sections 5 through 7, respectively; and

6 (2) by inserting after section 3 the following:

7 “SEC. 4. (a) The antitrust exemption established
8 under section 1 of this Act shall not apply to any league
9 of clubs participating in professional football, baseball,
10 basketball, or hockey contests that does not make a spon-
11 sored telecast of a covered game available to consumers,
12 for a fee or otherwise, using an Internet platform, in any
13 territory in which the game is not available for private
14 viewing through a local television broadcast station or any
15 available multichannel video programming distributor.

16 “(b) For purposes of this section—

17 “(1) the term ‘covered game’ means a game
18 that—

19 “(A) is played in the home territory of a
20 member club of a league described in subsection
21 (a); and

22 “(B) is not available for private viewing
23 through a local television broadcast station or
24 any available multichannel video programming
25 distributor;

1 “(2) the term ‘multichannel video programming
2 distributor’ has the meaning given the term in sec-
3 tion 602 of the Communications Act of 1934 (47
4 U.S.C. 522);

5 “(3) the term ‘television broadcast station’ has
6 the meaning given the term in section 325(b)(7) of
7 the Communications Act of 1934 (47 U.S.C.
8 325(b)(7)); and

9 “(4) the term ‘Internet platform’ means a deliv-
10 ery mechanism that uses packet-switched protocol or
11 any successor technology.”.

12 **SEC. 4. APPLICATION OF THE ANTITRUST LAWS TO PRO-**
13 **FESSIONAL MAJOR LEAGUE BASEBALL.**

14 Section 27 of the Clayton Act (15 U.S.C. 26b) is
15 amended—

16 (1) in subsection (a)—

17 (A) by striking “subsections (b) through
18 (d)” and inserting “subsections (b) and (c)”;

19 and

20 (B) by striking “directly relating to or af-
21 fecting employment of major league baseball
22 players to play baseball at the major league
23 level”;

24 (2) in subsection (b)—

1 (A) in the matter preceding paragraph (1),
2 by striking “, any conduct, acts, practices or
3 agreements that do not directly relate to or af-
4 fect employment of major league baseball play-
5 ers to play baseball at the major league level,
6 including but not limited to”;

7 (B) in paragraph (3)—

8 (i) by inserting “or” before “franchise
9 ownership”; and

10 (ii) by striking “, the relationship”
11 and all that follows through “collectively”;

12 (C) by striking paragraph (4); and

13 (D) by redesignating paragraphs (5) and
14 (6) as paragraphs (4) and (5), respectively;

15 (3) by striking subsection (c); and

16 (4) by redesignating subsection (d) as sub-
17 section (c).

18 **SEC. 5. EFFECTIVE DATE; APPLICABILITY.**

19 The amendments made by this Act shall—

20 (1) take effect on the date of enactment of this
21 Act; and

22 (2) apply to any contract or agreement entered
23 into or modified by a league subject to the require-

1 ments of the Sports Broadcasting Act of 1961 on or
2 after the date of enactment of this Act.

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