

105TH CONGRESS
2D SESSION

H. R. 3817

To exempt professional sports leagues from liability under the antitrust laws for certain conduct relating to the relocation of their respective member teams; to establish procedures and remedies applicable to such leagues with respect to the relocation of such teams, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 1998

Mr. MEEHAN (for himself and Mr. BRYANT) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To exempt professional sports leagues from liability under the antitrust laws for certain conduct relating to the relocation of their respective member teams; to establish procedures and remedies applicable to such leagues with respect to the relocation of such teams, 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 “Professional Sports
5 Franchise Relocation Act of 1998”.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this section:

3 (1) ANTITRUST LAWS.—The term “antitrust
4 laws”—

5 (A) has the meaning given it in subsection
6 (a) of the first section of the Clayton Act (15
7 U.S.C. 12(a)), except that such term includes
8 section 5 of the Federal Trade Commission Act
9 (15 U.S.C. 45) to the extent such section 5 ap-
10 plies to unfair methods of competition; and

11 (B) includes any State law similar to the
12 laws referred to in subparagraph (A).

13 (2) HOME TERRITORY.—The term “home terri-
14 tory” means the geographic metropolitan area within
15 which a member team operates and plays the major-
16 ity of its home games.

17 (3) INTERESTED PARTY.—The term “interested
18 party” includes, with respect to a member team—

19 (A) any political subdivision of a State that
20 provides, or has provided, financial assistance,
21 including tax abatement, for facilities (including
22 a stadium or arena) in which the member team
23 plays;

24 (B) a representative of the political sub-
25 division with jurisdiction over the geographic

1 area in which the stadium or arena of the mem-
2 ber team is located;

3 (C) the member team;

4 (D) the owner or operator of a stadium or
5 arena of the member team; and

6 (E) any other person who is determined by
7 the sports league of the member team to be an
8 affected party.

9 (4) MEMBER TEAM.—The term “member team”
10 means a team of professional athletes—

11 (A) organized to play professional football,
12 basketball, soccer, or hockey; and

13 (B) that is a member of a professional
14 sports league.

15 (5) PERSON.—The term “person” means any
16 individual, partnership, corporation, or unincor-
17 porated association, any combination or association
18 thereof, or any State or political subdivision of a
19 State.

20 (6) PROFESSIONAL SPORTS LEAGUE.—The
21 term “professional sports league” means an associa-
22 tion that—

23 (A) is composed of 2 or more member
24 teams;

1 (B) regulates the contests and exhibitions
2 of its member teams; and

3 (C) has been engaged in competition in a
4 particular sport for a period of more than 7
5 years.

6 (7) STADIUM; ARENA.—The terms “stadium”
7 and “arena” mean the principal physical facility
8 within which a member team plays the majority of
9 its home games.

10 **SEC. 3. INAPPLICABILITY OF THE ANTITRUST LAWS.**

11 It shall not be unlawful under the antitrust laws for
12 a professional sports league (or a member team of such
13 league acting jointly with another member team of such
14 league, under the authority of such league) to issue or en-
15 force rules, or to enter into or carry out agreements, to
16 permit or to restrict the relocation of any such member
17 team.

18 **SEC. 4. PROCEDURAL REQUIREMENTS.**

19 (a) REQUEST FOR APPROVAL.—

20 (1) IN GENERAL.—Not later than 210 days be-
21 fore the commencement of the season in which a
22 member team proposes to play in a new location,
23 any person seeking to change the home territory of
24 the member team shall submit a request for ap-

1 proval of the proposed change to the appropriate
2 professional sports league.

3 (2) REQUIREMENTS.—Each request for ap-
4 proval submitted under paragraph (1) shall—

5 (A) be in writing;

6 (B) be delivered in person or by certified
7 mail to each interested party not later than 30
8 days after submission to the appropriate profes-
9 sional sports league under paragraph (1);

10 (C) be made available by the date specified
11 in subparagraph (B) to the news media;

12 (D) be published by the date specified in
13 subparagraph (B) in 1 or more newspapers of
14 general circulation in the home territory of the
15 member team; and

16 (E) contain—

17 (i) an identification of the proposed
18 location of the member team;

19 (ii) a summary of the reasons for the
20 change in home territory, taking into con-
21 sideration the criteria described in sub-
22 section (b)(2);

23 (iii) the date on which the proposed
24 change is intended to become effective; and

25 (iv) a detailed description of—

1 (I) the requirements specified in
2 this subsection applicable to the sub-
3 mission of such request;

4 (II) the procedures specified in
5 subsection (b) applicable to requests
6 submitted under this subsection;

7 (III) the requirements specified
8 in subsection (c) applicable to deci-
9 sions on such requests;

10 (IV) the requirements specified
11 in subsection (d) applicable to notice
12 of decisions on such requests; and

13 (V) the relief available under sec-
14 tion 5 to a prevailing interested party.

15 (b) PROCEDURES.—

16 (1) ESTABLISHMENT.—Each professional
17 sports league shall establish rules and procedures for
18 approving or disapproving requests submitted under
19 subsection (a), that shall—

20 (A) include criteria to be considered by the
21 professional sports league in approving or dis-
22 approving such requests; and

23 (B) be made available upon request to any
24 interested party.

1 (2) CRITERIA TO BE CONSIDERED.—The cri-
2 teria described in paragraph (1)(A) shall include—

3 (A) the extent to which fan loyalty to and
4 support for the member team has been dem-
5 onstrated, through attendance, ticket sales, and
6 television ratings, during the tenure of the
7 member team in the home territory;

8 (B) the degree to which the member team
9 has engaged in good faith negotiations with ap-
10 propriate persons concerning the terms and
11 conditions under which the member team might
12 continue to play its games in its current home
13 territory;

14 (C) the degree to which the ownership or
15 management of the member team has contrib-
16 uted to any circumstance that might dem-
17 onstrate the need for the relocation of the mem-
18 ber team;

19 (D) the extent to which the member team
20 has, directly or indirectly, received public finan-
21 cial support by means of any publicly financed
22 playing facility, rent abatement, special tax
23 treatment, any other form of public financial
24 support, any other public benefits not generally
25 available to businesses as a whole within the ju-

1 jurisdiction, and the extent to which such support
2 continues;

3 (E) the adequacy of the stadium or arena
4 of the member team, and the willingness of the
5 stadium or arena authority and the local gov-
6 ernment to remedy any deficiencies in the sta-
7 dium or arena;

8 (F) whether the member team has in-
9 curred net operating losses, exclusive of depre-
10 ciation or amortization, sufficient to threaten
11 the continued financial viability of the member
12 team;

13 (G) whether any other member team in the
14 professional sports league is located in the
15 home territory of the member team;

16 (H) whether the member team proposes to
17 relocate to a territory in which no other mem-
18 ber team in the professional sports league is lo-
19 cated;

20 (I) whether the stadium or arena author-
21 ity, if public, is opposed to the relocation;

22 (J) the effect that relocation will have on
23 contracts, agreements, or understandings be-
24 tween the member team and public and private
25 parties; and

1 (K) any other criteria considered to be ap-
2 propriate by the professional sports league.

3 (c) DECISION.—In determining whether to approve or
4 disapprove a proposed request submitted under subsection
5 (a), the professional sports league shall—

6 (1) ensure that the requirements of subsection
7 (a) have been satisfied;

8 (2) conduct a hearing at which interested par-
9 ties shall be afforded an opportunity to submit writ-
10 ten testimony and exhibits; and

11 (3) keep a written record of such hearing and
12 any testimony and exhibits submitted under para-
13 graph (2).

14 (d) NOTICE OF DECISION.—Not later than 5 days
15 after making a decision to approve or disapprove a request
16 submitted under subsection (a), the professional sports
17 league shall provide to each interested party, make avail-
18 able to the news media, and publish in a newspaper de-
19 scribed in subsection (a)(2)(D), a notice that includes—

20 (1) a statement of such decision; and

21 (2) a detailed description of—

22 (A) the requirements specified in sub-
23 section (a) applicable to the submission of such
24 request;

1 (B) the procedures specified in subsection
2 (b) applicable to the request submitted under
3 subsection (a);

4 (C) the requirements specified in sub-
5 section (c) applicable to the decision on such re-
6 quest;

7 (D) the requirements specified in this sub-
8 section applicable to notice of the decision on
9 such request; and

10 (E) the relief available under section 5 to
11 a prevailing interested party.

12 **SEC. 5. JUDICIAL REVIEW.**

13 (a) IN GENERAL.—Compliance by a professional
14 sports league with section 4 may be reviewed in a civil
15 action commenced by an interested party, but only in ac-
16 cordance with this section.

17 (b) VENUE; TIME LIMITATION.—Not later than 21
18 days after a professional sports league complies with sec-
19 tion 4(d), a civil action under subsection (a) may be com-
20 menced in any judicial district of the United States, ex-
21 cluding a judicial district—

22 (1) established in the State that contains—

23 (A) the home territory of the member team
24 with respect to which such action is com-
25 menced; or

1 (B) the proposed location of the member
2 team; or

3 (2) that includes any geographical area that is
4 less than 75 miles from any part of such home terri-
5 tory.

6 (c) RELIEF.—If the plaintiff prevails in a civil action
7 commenced under subsection (a) against a professional
8 sports league, the court shall enjoin such league—

9 (1) to vacate the decision of such league to ap-
10 prove or disapprove the request by the member team
11 involved to change its home territory; and

12 (2) not to approve or disapprove such request
13 until such league complies with section 4.

14 **SEC. 6. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

15 (a) EFFECTIVE DATE.—Except as provided in sub-
16 section (b), this Act shall take effect on the date of the
17 enactment of this Act.

18 (b) APPLICATION OF AMENDMENTS.—This Act shall
19 not apply with respect to conduct occurring before the
20 date of the enactment of this Act.

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