

113TH CONGRESS  
1ST SESSION

# S. 1721

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

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2013

Mr. BLUMENTHAL (for himself and Mr. McCAIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## 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.

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

17 “(b) For purposes of this section—

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

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

23 “(B) is not available for private viewing  
24 through a local television broadcast station or

1 any available multichannel video programming  
2 distributor;

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

7 “(3) the term ‘television broadcast station’ has  
8 the meaning given the term in section 325(b)(7) of  
9 the Communications Act of 1934 (47 U.S.C.  
10 325(b)(7)); and

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

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

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

18 (1) in subsection (a)—

19 (A) by striking “subsections (b) through  
20 (d)” and inserting “subsections (b) and (e)”;  
21 and

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

1 (2) in subsection (b)—

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

8 (B) in paragraph (3)—

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

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

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

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

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

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

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

20 The amendments made by this Act shall—

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

23 (2) apply to any contract or agreement entered  
24 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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