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Sports Legislation in the 107th Congress

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Background

The history of professional, amateur, and youth sports in the United States is replete with legal battles, congressional investigations, and regulatory and legislative actions. The perception that sports are a "public trust," and must be protected, has resulted in Congress's implementing public policy with the underlying objective of guaranteeing the public fair access to sports. Congressional and other governmental action over the last three decades has had several public policy objectives. It has promoted parity in competition, attempted to reduce racial and gender discrimination, facilitated spectator access through television, and diminished athlete exploitation. In general, it could be said that Congress, prior to 1960, assumed the role of sports facilitator, rather than the more modern role of sports regulator, and was often content to let amateur and professional sports regulatory bodies monitor and correct problems within their sports.

After 1960, dramatic sports industry growth, both in finances and in popularity, and conflicts within the industry served to draw congressional attention, often at the request of the sports industry itself. The advent of televised broadcasting of sports events and the ever greater economic returns on sports activities combined to make sports, and its problems (such as player strikes and team relocations), more visible to the public and government officials. The ability or willingness of major sports organizations to regulate and manage their own affairs properly was also coming into question. The public perception of sports as recreation and diversion was giving way to one of sports as big business.

The House Select Committee on Professional Sports, established in 1976, was charged with conducting an investigation into all aspects of professional sports for the express purpose of determining whether legislation, or other forms of government intervention, might be required to reduce the detrimental impact of money on the intrinsic value of athletic competition. During this same period, amateur athletics also came under increased scrutiny. President Gerald R. Ford, with Executive Order 11868 of June 19, 1975, created the President's Commission on Olympic Sports, and contributed to the development of the Amateur Sports Act of 1978 (now the Ted Stevens Olympic and Amateur Sports Act, 36 U.S.C. 220501 et seq.). This act restructured the United States Olympic Committee to lessen the ongoing conflict among various U.S. amateur sports organizations. An investigation was considered necessary because the conflict within the amateur sports industry was detrimental to American Olympic efforts. Congress had passed Title IX of the Education Amendments of 1972 to prohibit discrimination on the basis of gender in educational programs or activities receiving federal funding. Although Title IX was not aimed specifically at sports, it became instrumental in promoting sports equality for female athletes at high schools and colleges around the nation. It continues to be a controversial and highly debated law.

The executive branch has also been active in making sports policy. The Federal Communications Commission, the National Labor Relations Board, the Department of Labor, the Immigration and Naturalization Service, the Justice Department, the Department of Education, and other federal agencies have all played key roles in amateur and professional sports issues over the last 30 years.

The intervention of Congress, the executive branch, or the courts in the problems of amateur and professional sports has been primarily to protect the public interest. In no small way, the tremendous growth in the monetary value of professional sports teams (to owners and local communities), rising player salaries and more effective player unions, escalating television and cable revenues and increasing competition for limited sports programing, demands for gender and racial equity, and taxpayer investments in stadiums and U.S.-held Olympic Games have raised the level of, and potential for, conflict in the sports world. Congress and other government institutions now find themselves playing the roles of regulators, arbiters, facilitators, sports reformers, and guardians of the public trust. Because of the ongoing popularity of sporting events, the potential for great monetary rewards, and conflict and tension among the many competing actors in the sports industry, congressional interest, oversight, and intervention in matters concerning this industry seem unlikely to diminish.

Sports-related legislation introduced during the 107th Congress will be identified and tracked in the following pages.

Sports Legislation in the 107th Congress

Immigration

H.R. 26—Baseball Diplomacy Act. Introduced by Representative José E. Serrano on January 3, 2001, this legislation would have waived foreign assistance and trade prohibitions against Cuba under specified federal laws with regard to certain transactions, including: (1) Cuban nationals who enter the United States on visas to play organized professional baseball; and (2) the return of their baseball earnings to Cuba. The bill would have prevented the President from denying visas to such nationals based upon authority under the Immigration and Nationality Act to restrict any entry of aliens or class of aliens that would be detrimental to the interests of the United States. It also would have declared that the Act would not be affected by the economic embargo requirements against Cuba under the Cuban Liberty and Democratic Solidarity Act of 1996. This bill was referred to the House Committee on International Relations and the Committee on the Judiciary (Subcommittee on Immigration and Claims).

Taxation

H.R. 916—Stop Tax-Exempt Arena Debt Insurance Act. Introduced by Representative Barney Frank on March 7, 2001, the bill would have amended the Internal Revenue Code to treat certain bonds, used directly or indirectly for financing professional sports facilities, as private activity bonds and not as qualified bonds, except for certain in-progress or approved projects, facilities with final bond resolutions, and current refunding. This bill was referred to the House Committee on Ways and Means.

Gambling

S. 338—National Collegiate and Amateur Athlete Protection Act of 2001. Introduced by Senator John E. Ensign on February 14, 2001, this legislation would have ordered the Attorney General to establish a prosecutorial task force on illegal wagering on amateur and collegiate sporting events. The task force would have coordinated the enforcement of federal laws that prohibit gambling on amateur and collegiate sports. It would also be required to submit an annual report to Congress outlining progress toward this goal. It would have authorized appropriations of $4 million in FY2002 and $6 million in each year thereafter through FY2006.

The bill would have increased penalties for illegal sports gambling and promoted studies (two) to determine the extent of sports gambling among minors and on college campuses. It would have ordered colleges and universities to establish programs to reduce illegal gambling on their respective campuses in order to retain their eligibility for programs authorized under the Higher Education Act of 1965. This bill was referred to the Senate Committee on the Judiciary.

H.R. 1110—Student Athlete Protection Act. Introduced by Representative Lindsey O. Graham on March 20, 2001, the bill would have amended Section 3704 of Title 28 of the United States Code to prohibit high school and college sports gambling in all states including states where such gambling was permitted prior to 1991. This bill was referred to the House Committee on the Judiciary.

H.R. 641—To Protect Amateur Athletics and Combat Illegal Sports Gambling. Introduced by Representative Jim Gibbons on February 14, 2001, this legislation directed the Attorney General to establish a prosecutorial task force to combat illegal wagering on amateur and collegiate sporting events and it increased penalties for illegal sports gambling. This bill was referred to the House Judiciary Committee and the House Committee on Education and the Workforce (Subcommittee on 21st Century Competitiveness).

Olympics

S. 1085—Olympic Sports Revitalization Act. Introduced by Senator Paul D. Wellstone on June 21, 2001, this legislation amended the Ted Stevens Olympic and Amateur Sports Act to authorize the Secretary of Commerce to make grants to a District of Columbia corporation for Olympic sports determined by the Secretary of Education to be emerging sports or ones being discontinued by colleges and universities.

It amended the Higher Education Act of 1965 to require reporting under the Equity in Athletic Disclosure Act of institutions discontinuing or reducing funding for college sports and orders the creation of an internal process for appeal and notification to be established by those institutions. This bill was referred to the Senate Commerce, Science, and Transportation Committee.

H.R. 4906—J. Dennis Hastert Scholar Athlete Act of 2002. Introduced by Representative James A. Leach on June 11, 2002, this legislation amended part A of Title IV of the Higher Education Act of 1965 to authorize the Secretary of Education to make grants to states to award scholarships for one to four years of study at institutions of higher education to individuals who have demonstrated outstanding academic and athletic achievement and show promise of continuing that achievement. It allowed the Secretary of Education to enter into agreements with states to assure that the scholarship program was administered to comply with specified requirements. Special emphasis was required of sports that are a part of the Olympic Games or were not significant revenue generators at particular institutions. This bill was referred to the House Committee on Education and the Workforce

Antitrust

S. 1704—Fairness in Antitrust in National Sports Act of 2001. Introduced by Senator Paul D. Wellstone on November 14, 2001, this legislation would have amended the Clayton Act to bring the business of Major League Baseball under the antitrust laws in matters relating to the elimination or relocation of a major league baseball franchise.

It also would have granted standing to bring legal action under this Act to any person, including major and minor league baseball players, federal, state, and local governments, and any stadium authority injured by violation of this Act. This bill was referred to the Senate Committee on the Judiciary.

H.R. 3288—Fairness in Antitrust Laws in National Sports Act of 2001. Introduced by Representative John Conyers, Jr. on November 14, 2001, this legislation is identical to S. 1704 (see entry above), introduced by Senator Paul D. Wellstone. This legislation

was referred to the House Committee on the Judiciary. Hearings were held on December 6, 2001.

H.R. 3257—Give Fans a Chance Act of 2001. Introduced by Representative Earl Blumenaur on November 8, 2001, this legislation removed the antitrust exemption on professional sports leagues applicable to broadcasting agreements if clubs are forbidden by leagues to transfer ownership to governmental entities or the general public or are not in compliance with certain relocation or elimination requirements stated in the bill. This bill was referred to the Senate Committee on the Judiciary.

Boxing

S. 893—National Boxing Commission Act of 2001. Introduced by Senator Harry M. Reid on June 16, 2001, this legislation established the National Boxing Commission to protect the health, safety, and general interests of boxers. The bill set forth provisions for licensing and registration, and required certain record keeping by the Commission. This legislation would have allowed the Commission to suspend or revoke licenses, cancel boxing matches, and conduct investigations and issue injunctions against violation of this Act. This legislation was referred to the Senate Commerce, Science, and Transportation Committee.

S. 2550—Professional Boxing Amendments Act of 2002. Introduced by Senator John McCain on May 22, 2002, this legislation amended the Professional Boxing Safety Act of 1996 to (1) required an Indian tribe to establish a boxing commission ro regulate professional boxing matches held on reservations; (2) prohibited a person from arranging, promoting, or fighting in a match in a State or Indian land unless the match is approved by the United States Boxing Administration USBA), also established by this Act, and supervised by a boxing commission that is a member of the Association of Boxing Commissions; and (3) required each promoter who intends to hold a match in a state that does not have a boxing commission to notify the USBA. The USBA was established by this legislation to protect the health, safety, and general interest of boxers. The Administration was to establish and maintain a national registry of boxing personnel and medical records and medical suspensions for every licensed boxer. It would have the authority to revoke or suspend a boxer's license or registration, as appropriate. This bill was referred to the Senate Committee on Commerce, Science, and Transportation and reported favorably from that Committee.

H.R. 5006—Professional Boxing Amendments Act of 2002. Introduced by Representative Peter T. King on June 24, 2002, this legislation amended the Professional Boxing Safety Act of 1996 and established the United States Boxing Administration. This legislation was the House version of S.2550 described above. This bill was referred to the House Committee on Education and the Workforce and the House Committee on Energy and Commerce (Subcommittee on Commerce, Trade and Consumer Protection).

Sports Agents

H.R. 4701—Sports Agent Responsibility and Trust Act. Introduced by Representative Bart Gordon on May 9, 2002, the bill would have prohibited an agent from (1) directly or indirectly recruiting or soliciting a student athlete to enter into an agency

contract by giving false or misleading information or making a false promise or representation of by providing anything of value to the athlete before entering into such a contract; (2) entering into an agency contract with a student athlete without providing the required disclosure document; or (3) predating of postdating an agency contract. It required an agent, in conjunction with the signing of an agency contract, to provide to the athlete a separate disclosure document that includes notice that if the athlete signs the contract he or she may lose eligibility to compete as a student athlete in that sport. It further required the student athlete to sign such document before signing the agency contract.

This legislation would have treated as a violation an unfair or deceptive act or practice under the Federal Trade Commission Act and authorized civil actions by state attorneys general under specified circumstances. The agent and the athlete, within 72 hours after entering into an agency contract or before the next athletic event in which the athlete may participate, whichever occurs first, was required to provide notice to the education institution that the athlete has entered into an agency contract. Educational institutions have the right of action against an agent for damages caused by such agent's failure to provide such notice. This bill was referred to the House Committee on Energy and Commerce (Subcommittee on Commerce, Trade and Consumer Protection). Subcommittee hearings were held and the full Committee reported out the measure on October 7, 2002.

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