

119TH CONGRESS
2D SESSION

S. _____

To prohibit vulture investors from investing in youth sports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MURPHY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To prohibit vulture investors from investing in youth sports, 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 “Let Kids Play Act”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) **ACQUIRED ENTITY.**—The term “acquired
8 entity” means any company or organization in which
9 a covered firm, directly or indirectly, holds an own-

1 ership interest, maintains a management or oper-
2 ational control agreement, or exercises control.

3 (2) AFFILIATE.—The term “affiliate” means an
4 entity that controls, is controlled by, or is under
5 common control with another entity.

6 (3) ASSISTANT ATTORNEY GENERAL.—The
7 term “Assistant Attorney General” means the As-
8 sistant Attorney General for the Antitrust Division
9 of the United States Department of Justice.

10 (4) CAPITAL DISTRIBUTION.—The term “cap-
11 ital distribution” means—

12 (A) a cash or share dividend;

13 (B) a share repurchase;

14 (C) a share redemption; or

15 (D) a share buyback.

16 (5) COMMISSION.—The term “Commission”
17 means the Federal Trade Commission.

18 (6) COMPANY.—The term “company” has the
19 meaning given the term in section 2 of the Invest-
20 ment Company Act of 1940 (15 U.S.C. 80a–2).

21 (7) CONTROL.—The term “control” has the
22 meaning given the term in section 2 of the Invest-
23 ment Company Act of 1940 (15 U.S.C. 80a–2).

24 (8) COVERED FIRM.—The term “covered firm”
25 means—

1 (A) a private equity fund; or

2 (B) a company that is owned or controlled
3 by a private equity fund.

4 (9) INVEST.—The term “invest” means to own,
5 operate, control, manage, or otherwise direct the op-
6 eration of the whole or any part of an entity or facil-
7 ity, including by entering into a management agree-
8 ment or operational control agreement with an enti-
9 ty or facility.

10 (10) OPERATIONAL CONTROL AGREEMENT.—

11 The term “operational control agreement” means
12 any formal or informal contract, agreement, or un-
13 derstanding, whether written or oral (including a
14 limited partnership agreement, side letter, or any
15 agreement between or among investors) through
16 which a covered firm obtains the authority to influ-
17 ence or determine key operational decisions of a
18 youth sports facility, or where such authority is con-
19 tractually delegated to the private equity fund by
20 other investors or parties, including decisions relat-
21 ing to—

22 (A) staffing and personnel;

23 (B) scheduling and programming;

24 (C) budgeting and financial management;

1 (D) use and maintenance of athletic facili-
2 ties; or

3 (E) terms of participation or membership.

4 (11) PRIVATE EQUITY FUND.—The term “pri-
5 vate equity fund” means a person who—

6 (A) would be an investment company, as
7 defined in the Investment Company Act of
8 1940, but for paragraphs (1) or (7) of section
9 3(c) of that Act (15 U.S.C. 80a–3); and

10 (B) directly, or through an affiliate, exer-
11 cises control of such company.

12 (12) VULTURE INVESTOR.—The term “vulture
13 investor” means any covered firm that—

14 (A) engages, or has previously engaged, in
15 vulture practices with respect to an entity that
16 was an acquired entity at the time of such en-
17 gagement; or

18 (B) has had 2 or more acquired entities
19 become financially insolvent or enter bank-
20 ruptcy proceedings within 5 years of acquisi-
21 tion.

22 (13) VULTURE PRACTICE.—The term “vulture
23 practice” means any practice, term, condition, tactic,
24 instrument, method, or act that causes harm or cre-
25 ates long-term risk of harm to an acquired entity in

1 order to extract profit, assets, or other value for the
2 benefit of a covered firm or its affiliates, including—

3 (A) imposing any debt on an acquired enti-
4 ty to generate profit, finance the acquisition or
5 other business activity, or otherwise create
6 value for a covered firm;

7 (B) transferring to a covered firm the own-
8 ership or control of an acquired entity's assets
9 or rights to the intellectual property or data
10 generated by an acquired entity;

11 (C) shielding a covered firm from liability
12 for legal infractions or financial obligations it
13 benefits from or directly or indirectly causes;

14 (D) employing roll-up strategies through
15 serial acquisitions or investments to consolidate
16 control over local providers, including by acquir-
17 ing, controlling, managing, financing, advising,
18 or exercising governance rights;

19 (E) converting an acquired entity into a
20 high-risk, high-margin business by increasing
21 prices, adding junk fees, reducing quality or
22 safety, cutting jobs, wages, or benefits, or oth-
23 erwise degrading operations to maximize profit;

24 (F) imposing operational costs on an ac-
25 quired entity such as management fees, leases

1 for seized assets, capital distribution, or other
2 burdensome or unnecessary charges; or

3 (G) imposing one-sided terms on an ac-
4 quired entity, or its customers, workers, clients,
5 buyers, or others that lock them into exclusive
6 dealings with entities controlled by the covered
7 firm, or that otherwise exploit or restrict choice.

8 (14) YOUTH SPORTS.—The term “youth
9 sports” means any organization, asset, service, or
10 activity associated with organized athletic participa-
11 tion, instruction, or competition for individuals
12 under the age of 18, including the following:

13 (A) All leagues, clubs, associations, and
14 teams at the recreational, travel, and elite lev-
15 els.

16 (B) All youth sports facilities, physical as-
17 sets, and infrastructure.

18 (C) All associated technology and intellec-
19 tual property, including registration platforms,
20 scheduling software, scoring systems, propri-
21 etary training methods, performance metric
22 technology, and related data collection and algo-
23 rithms.

24 (D) All youth sports training camps, tour-
25 naments, and showcases.

1 (E) All nonprofit and for-profit entities
2 that provide or facilitate any aspect of the ac-
3 tivities described in subparagraphs (A) through
4 (D).

5 (15) YOUTH SPORTS ENTITY.—The term
6 “youth sports entity” means any person, company,
7 partnership, corporation, association, affiliate, or or-
8 ganization (whether for-profit or nonprofit) that pro-
9 vides, operates, manages, or facilitates youth sports.

10 (16) YOUTH SPORTS FACILITY.—The term
11 “youth sports facility” means a field, court, stadium,
12 sports complex, gymnasium, or similar athletic facil-
13 ity that is used for recreational, competitive sporting
14 activities or to provide ancillary services for partici-
15 pants under the age of 18, including as a part of a
16 school-sponsored team, recreational league, or com-
17 munity-based program.

18 (17) YOUTH SPORTS FUND.—The term “Youth
19 Sports Fund” means the fund established under sec-
20 tion 8.

21 **SEC. 3. PROHIBITION ON VULTURE INVESTMENT IN YOUTH**
22 **SPORTS.**

23 (a) VULTURE INVESTOR PROHIBITION.—It shall be
24 unlawful for any vulture investor to invest in a youth
25 sports entity.

1 (b) VULTURE PRACTICE PROHIBITION.—It shall be
2 unlawful for any covered firm to engage in vulture prac-
3 tices in connection with investment in a youth sports enti-
4 ty, including by doing any of the following:

5 (1) Consolidating control over youth sports by
6 rolling up multiple youth sports entities, or acquir-
7 ing, controlling, managing, financing, advising, exer-
8 cising governance rights for, or investing in more
9 than 1 entity that—

10 (A) exclusively serves multiple youth sports
11 entities; or

12 (B) supplies products or services that are
13 essential or mandatory for participation in
14 youth sports.

15 (2) Creating an integrated network of activities,
16 services, partnerships, tournaments, apparel, or tech
17 platforms, where participation in one requires, di-
18 rectly or indirectly, the use of others owned or con-
19 trolled by the covered firm or offered by a third-
20 party partner of the covered firm.

21 (3) Conditioning eligibility to participate in any
22 aspect of youth sports on the use of a designated
23 travel agent, hotel or lodging accommodation, or
24 transportation entity.

1 (4) Imposing junk fees or other hidden or un-
2 fair charges in connection with youth sports partici-
3 pation, including any fee or additional cost that—

4 (A) is not clearly and conspicuously dis-
5 closed before a youth registers, commits, or
6 makes a payment to participate in youth sports,
7 including any late-stage fee added after an ini-
8 tial price is presented or paid;

9 (B) is mandatory or effectively unavoidable
10 as a condition of participation after a youth
11 registers, commits, or makes a payment;

12 (C) penalizes a youth participant or family
13 for declining to purchase goods or services;

14 (D) is unnecessary such that it incurs
15 nominal or no cost to provide;

16 (E) is excessive such that it is dispropor-
17 tional to the cost to provide; or

18 (F) duplicates, overlaps with, or is bundled
19 with other fees or charges such that the cost is
20 obscured or incurred more than once for the
21 same or similar goods or services.

22 (5) Imposing any of the following terms:

23 (A) Exclusivity, non-compete, or right of
24 first refusal requirements that directly or indi-
25 rectly limit activities, services, partnerships,

1 tournaments, apparel, or tech platforms in
2 youth sports to those controlled or owned by
3 the covered firm or their third-party partners.

4 (B) Multi-year, non-cancelable commit-
5 ments binding youth sports participants or enti-
6 ties for 2 or more seasons without early termi-
7 nation rights.

8 (C) Bans or restrictions, direct or indirect,
9 on participating in competing tournaments or
10 other non-affiliated athletic events offering
11 within 150 miles.

12 (D) Bans or restrictions, direct or indirect,
13 on using competing tech platforms, including
14 non-affiliated scheduling, registration, or ana-
15 lytics tools.

16 (6) Claiming, securing, transferring, or licens-
17 ing by or to a covered firm, an entity affiliated with
18 or controlled by a covered firm, or any third party
19 unaffiliated with youth sports, the intellectual prop-
20 erty rights to any of the following:

21 (A) Record, broadcast, report, attend, por-
22 tray, share, or otherwise capture any aspect of
23 youth sports.

24 (B) Any athlete biometric, performance, or
25 family financial data, including but not limited

1 to heart rate, global positioning system track-
2 ing, injury history, scouting reports, or parental
3 payment records.

4 (C) Any technology or algorithms, includ-
5 ing software, models, or predictive systems de-
6 veloped in connection with any aspect of youth
7 sports.

8 (7) Violating any provision of the Protecting
9 Young Victims from Sexual Abuse and Safe Sport
10 Authorization Act of 2017 (36 U.S.C. 220541 et
11 seq.).

12 (8) Engaging in any other practice, term, con-
13 dition, tactic, instrument, method, or act that the
14 Commission or Assistant Attorney General has de-
15 termined to be a vulture practice and has published
16 notice thereof in the Federal Register without regard
17 to the requirements under section 553 of title 5,
18 United States Code.

19 **SEC. 4. VULTURE INVESTOR DESIGNATION.**

20 (a) DESIGNATION.—

21 (1) PRESUMPTIVE DESIGNATION FOR EXISTING
22 INVESTMENT AS OF THE DATE OF ENACTMENT OF
23 THIS ACT.—Any covered firm that is invested in a
24 youth sports entity as of the date of enactment of

1 this Act shall be presumed to be a vulture investor
2 for all purposes under this Act.

3 (2) AUTOMATIC DESIGNATION FOR EXISTING
4 INVESTMENT AFTER THE DATE OF ENACTMENT OF
5 THIS ACT.—Any covered firm that is invested in a
6 youth sports entity as of the date of enactment of
7 this Act shall be automatically designated as a vul-
8 ture investor 91 days after the date of enactment of
9 this Act unless certified under subsection (b).

10 (3) DESIGNATION FOR PROSPECTIVE INVEST-
11 MENT AFTER THE DATE OF ENACTMENT OF THIS
12 ACT.—A covered firm that is seeking to invest in a
13 youth sports entity on or after the date of enactment
14 of this Act shall be designated a vulture investor for
15 all purposes under this Act and shall not initiate or
16 proceed with any such investment unless and until
17 certified under subsection (b).

18 (b) CERTIFICATION.—

19 (1) REQUIREMENTS.—A covered firm may
20 rebut the designation under subsection (a) only by
21 submitting to the Commission a sworn certification,
22 executed under penalty of perjury and subject to
23 strict liability for any material misstatement or
24 omission, by each general partner or equivalent indi-

1 vidual with management authority over the covered
2 firm, attesting that—

3 (A) the covered firm and any affiliate,
4 predecessor, successor, or entity under common
5 control has never engaged in a vulture practice;

6 (B) not more than 1 acquired entity of the
7 covered firm, including all affiliated or com-
8 monly controlled entities, has become financially
9 insolvent or entered bankruptcy proceedings
10 within 5 years of acquisition; and

11 (C) the covered firm will not engage in any
12 vulture practice at any time.

13 (2) TIMING OF CERTIFICATION SUBMISSION.—

14 (A) COVERED FIRMS INVESTED AS OF THE
15 DATE OF ENACTMENT OF THIS ACT.—Not later
16 than 60 days after the date of enactment of
17 this Act, a covered firm invested in a youth
18 sports entity as of the date of enactment of this
19 Act may submit a certification under paragraph
20 (1).

21 (B) COVERED FIRMS SEEKING TO INVEST
22 AFTER THE DATE OF ENACTMENT OF THIS
23 ACT.—A covered firm seeking to invest in a
24 youth sports entity after the date of enactment
25 of this Act shall submit a certification under

1 paragraph (1) not less than 60 days prior to
2 initiating such investment.

3 (3) EFFECT ON OPERATIONS.—A certification
4 under paragraph (1) shall have no force or effect un-
5 less and until approved by the Commission, and no
6 certification submission, pendency, or review shall
7 stay, delay, or otherwise affect any designation or
8 obligation under this Act.

9 (4) DISPOSITION OF CERTIFICATION.—Any cer-
10 tification under paragraph (1) not approved on or
11 before the date that is 31 days after the date of sub-
12 mission shall be deemed denied by operation of law.

13 (5) TERMINATION OF CERTIFICATION.—The
14 Commission or the Assistant Attorney General may
15 terminate a certification at any time by notifying the
16 covered firm and publishing a notice in the Federal
17 Register, and, effective on the date of publication,
18 the covered firm shall be automatically designated as
19 a vulture investor for the purposes of this Act.

20 (c) FALSE CERTIFICATION.—

21 (1) CIVIL PENALTY.—Any covered firm that
22 submits a certification under subsection (b) that
23 contains a material misstatement or omission shall
24 be liable for a civil penalty of not less than
25 \$1,000,000 per certification, which shall—

1 (A) be assessed separately for each false
2 certification submitted under subsection (b);

3 (B) be imposed jointly and severally on the
4 covered firm and each individual who executes
5 such certification, including each general part-
6 ner or equivalent individual with management
7 authority over the covered firm, without right of
8 indemnification, reimbursement, insurance, or
9 contribution from any covered firm, affiliate, or
10 other person, and any agreement to the con-
11 trary shall be void as against public policy;

12 (C) apply by operation of law upon submis-
13 sion of such certification and may be enforced
14 by the Commission or the Assistant Attorney
15 General; and

16 (D) be deposited into the Youth Sports
17 Fund.

18 (2) CRIMINAL LIABILITY.—Any individual who
19 knowingly or willfully executes or submits a certifi-
20 cation under subsection (b) that contains a material
21 misstatement or omission shall be fined under title
22 18, United States Code, imprisoned for not more
23 than 1 year, or both, and may be prosecuted under
24 this subsection, section 1001 of title 18, United
25 States Code, or both.

1 (d) LIMITATION ON REVIEW.—Any determination by
2 the Commission or the Assistant Attorney General under
3 this section, including the approval, denial, or termination
4 of a certification, shall not stay, enjoin, or otherwise delay
5 the application of any requirement under this Act, includ-
6 ing through temporary restraining order, preliminary in-
7 junction, or other equitable relief.

8 **SEC. 5. DIVESTITURE AND REMEDIES.**

9 (a) DIVESTITURE.—Not later than 2 years after the
10 date of enactment of this Act or after designation as a
11 vulture investor, a vulture investor shall cure any violation
12 of this Act by—

13 (1) divesting or unwinding any ownership
14 stakes, acquisitions, rights, agreements, contracts,
15 terms, and exclusivity arrangements related to the
16 ownership, operation, control, management, or other
17 direction of any youth sports entity;

18 (2) returning, transferring, or assigning owner-
19 ship of all assets, real estate, and intellectual prop-
20 erty, including trademarks, copyrights, patents, and
21 related rights acquired by a vulture investor from a
22 youth sports entity or generated by its activities, or,
23 in the event of a non-reversible sale of a physical
24 asset or real estate to an unaffiliated third party,
25 the vulture investor shall pay the youth sports entity

1 the full proceeds the vulture investor received from
2 the sale or the market value at the time of sale,
3 whichever is higher; and

4 (3) at the time of designation as a vulture in-
5 vestor, removing any individuals installed by the vul-
6 ture investor from any management, senior execu-
7 tive, or board position within any youth sports enti-
8 ty.

9 (b) DIVESTITURE PROCESS.—

10 (1) GUIDANCE.—Not later than 30 days after
11 the date of enactment of this Act, the Chair of the
12 Commission shall issue guidance specifying mile-
13 stones for divestment within the deadline established
14 under subsection (a) by publishing notice thereof in
15 the Federal Register without regard to the provi-
16 sions under section 553 of title 5, United States
17 Code.

18 (2) PENALTIES FOR FAILURE TO COMPLY.—

19 For any entity subject to divestiture under sub-
20 section (a) that does not comply with the milestones
21 specified under paragraph (1), except in cases in
22 which divestiture is blocked under paragraph (5),
23 the Chair of the Commission or the Assistant Attor-
24 ney General shall cause 10 percent of all revenue re-
25 ceived by the vulture investor attributable to the

1 youth sports entity to be transferred into escrow on
2 a monthly basis, which shall be—

3 (A) returned to the vulture investor if di-
4 vestment occurs by the deadline under sub-
5 section (a); or

6 (B) deposited into the Youth Sports Fund
7 if divestment does not occur by the deadline
8 under subsection (a).

9 (3) REPORTING PERIOD.—Any divestment re-
10 quired under subsection (a) shall be reported to the
11 Commission and the Assistant Attorney General
12 under section 7A of the Clayton Act (15 U.S.C. 18a)
13 without respect to the thresholds under subsection
14 (a)(2) of that section.

15 (4) REVIEW OF DIVESTITURE.—With respect to
16 each divestiture undertaken pursuant to subsection
17 (a), in addition to any applicable review under sec-
18 tion 7A of the Clayton Act (15 U.S.C. 18a), the
19 Commission and the Assistant Attorney General
20 shall review the effect on competition, financial via-
21 bility, and the public interest—

22 (A) of the divestiture; and

23 (B) of the subsequent acquisition of the di-
24 vested entity by the acquiring person.

1 (5) BLOCKING DIVESTITURE.—The Commission
2 and the Assistant Attorney General, jointly or sepa-
3 rately, may bring a civil action in any court of com-
4 petent jurisdiction to block any divestiture that
5 would constitute a violation of this Act or harm com-
6 petition, result in financial insolvency, or result in a
7 conflict of interest to the detriment of the public in-
8 terest.

9 (6) TRUSTEE.—If divestiture does not occur by
10 the divestiture deadline under subsection (a), a di-
11 vestiture trustee appointed by the Chair of the Com-
12 mission or the Assistant Attorney General and paid
13 for in full by the vulture investor subject to divesti-
14 ture shall oversee the required divestiture and shall
15 have the authority to sell the youth sports entity to
16 which the divestiture requirement applies.

17 (c) REMEDIES IN CONNECTION WITH DIVESTI-
18 TURE.—

19 (1) IN GENERAL.—As a condition of or in con-
20 nection with any divestiture under this section, the
21 Commission or the Assistant Attorney General may
22 impose, require, supervise, and enforce such restric-
23 tions and remedies as are necessary to cure, miti-
24 gate, or prevent any violation of this Act.

1 (2) DIVESTITURE COMPLIANCE.—No divestiture
2 required under this section shall be considered com-
3 plete or in compliance with this Act unless and until
4 the Commission or the Assistant Attorney General
5 determines that all such remedies have been satis-
6 fied.

7 (3) TYPES OF REMEDIES.—The Commission or
8 the Assistant Attorney General may require a vul-
9 ture investor to—

10 (A) cease and desist from any violation of
11 this Act;

12 (B) disgorge any revenue, fees, special divi-
13 dends, or other forms of profit extracted from
14 a youth sports entity through vulture practices,
15 including any pre-judgment and post-judgment
16 interest;

17 (C) refund all junk fees charged directly or
18 indirectly to customers;

19 (D) forgive and void in full any debts or
20 outstanding payments owed by the youth sports
21 entity, the local community, and any employees,
22 families, participants, or customers that were
23 related to or resulted from vulture practices
24 under this Act;

1 (E) fund any scholarship or financial aid
2 programs that existed at the acquisition, includ-
3 ing during the 1-year period before the date of
4 acquisition, at the pre-acquisition funding level
5 for a minimum period of 5 years;

6 (F) pay the youth sports entity any pro-
7 ceeds the vulture investor received from leasing,
8 licensing, or granting access rights to any asset,
9 real estate, or intellectual property the youth
10 sports entity owned, controlled, generated, pro-
11 cured, or paid for prior to or during the period
12 of investment;

13 (G) transfer all data, algorithms, software,
14 licenses, platforms, and other technology nec-
15 essary to operate the business effectively to the
16 youth sports entity, and relinquish any past,
17 present, or future ownership or rights thereto;

18 (H) disgorge or delete any proprietary cus-
19 tomer, participant, or operational data acquired
20 or collected during the period of investment, as
21 directed by the Commission or the Assistant At-
22 torney General;

23 (I) compensate for any asset transfers or
24 transactions that diminished the value or viabil-
25 ity of the youth sports entity; and

1 (J) provide any other relief necessary to
2 restore the financial viability, operational inde-
3 pendence, and competitive position of the youth
4 sports entity.

5 (d) POST-DIVESTITURE JURISDICTION.—The Com-
6 mission and the Assistant Attorney General shall retain
7 jurisdiction for a period of not less than 1 year following
8 the completion of any divestiture under this section to—

9 (1) monitor compliance with this Act and any
10 conditions or remedies imposed under this sub-
11 section;

12 (2) impose additional conditions or remedies as
13 necessary;

14 (3) modify or terminate previously imposed con-
15 ditions or remedies; and

16 (4) require additional transfers, payments, or
17 operational changes to ensure compliance with this
18 Act and the effectiveness of the divestiture.

19 (e) ADMINISTRATIVE AUTHORITY.—

20 (1) IN GENERAL.—The authority under this
21 section may be exercised without any requirement to
22 prove a violation in court and may be based on des-
23 ignation as a vulture investor or a failure to obtain
24 or maintain certification under section 4, or the ap-
25 plication of this section.

1 (2) ORDERS.—The Commission or the Assist-
2 ant Attorney General may issue such orders as are
3 necessary to carry out this section, including orders
4 requiring compliance with any condition or remedy
5 imposed under this subsection.

6 (3) ESCROW.—The Commission or the Assist-
7 ant Attorney General may require that funds, pro-
8 ceeds, or other assets be placed in escrow or other-
9 wise withheld pending satisfaction of the divestiture,
10 or any condition or remedy imposed under this sec-
11 tion.

12 **SEC. 6. ENFORCEMENT.**

13 (a) IN GENERAL.—The Commission or the Assistant
14 Attorney General may enforce this Act, including any di-
15 vestiture, condition, restriction, or remedy imposed under
16 section 5, by—

17 (1) exercising the administrative authorities
18 provided under this Act; or

19 (2) bringing a civil action in an appropriate dis-
20 trict court of the United States.

21 (b) POWERS OF THE COMMISSION.—

22 (1) IN GENERAL.—The Commission shall en-
23 force this Act or an order, requirement, guidance,
24 rule, process, or procedure authorized under this Act
25 in the same manner, by the same means, and with

1 the same jurisdiction, powers, and duties as though
2 all applicable terms and provisions of the Federal
3 Trade Commission Act (15 U.S.C. 41 et seq.) were
4 incorporated into and made a part of this Act.

5 (2) UNFAIR OR DECEPTIVE ACTS OR PRAC-
6 TICES; UNFAIR METHODS OF COMPETITION.—A vio-
7 lation of this Act or an order, requirement, guid-
8 ance, rule, process, or procedure authorized by this
9 Act shall also constitute a violation of section 5(a)
10 of the Federal Trade Commission Act (15 U.S.C.
11 45(a)) regarding unfair methods of competition or a
12 rule defining an unfair or deceptive act or practice
13 under section 18(a)(1)(B) of the Federal Trade
14 Commission Act (15 U.S.C. 57a(a)(1)(B)).

15 (3) PRIVILEGES AND IMMUNITIES.—Any person
16 who violates this Act or an order, requirement, guid-
17 ance, rule, process, or procedure authorized by this
18 Act shall be subject to the penalties and entitled to
19 the privileges and immunities provided in the Fed-
20 eral Trade Commission Act (15 U.S.C. 41 et seq.).

21 (c) ACTIONS BY STATE ATTORNEYS GENERAL.—

22 (1) IN GENERAL.—If the attorney general of a
23 State has reason to believe that an interest of the
24 residents of the State has been or is being threat-
25 ened or adversely affected by a practice that violates

1 this section, the attorney general of the State may,
2 as *parens patriae*, bring a civil action on behalf of
3 the residents of the State in an appropriate district
4 court of the United States.

5 (2) RULE OF CONSTRUCTION.—For purposes of
6 bringing a civil action under this subsection, nothing
7 in this Act shall be construed to prevent an attorney
8 general, official, or agency of a State from exercising
9 the powers conferred on the attorney general, offi-
10 cial, or agency by the laws of such State to conduct
11 investigations, administer oaths and affirmations, or
12 compel the attendance of witnesses or the production
13 of documentary and other evidence.

14 (d) PRIVATE RIGHT OF ACTION.—Any individual or
15 class of individuals adversely affected by a covered firm’s
16 violation of this Act, or a regulation promulgated there-
17 under, may bring a civil action in any court of competent
18 jurisdiction against the covered firm.

19 (e) AWARD.—In a civil action brought under this Act
20 in which the plaintiff prevails, the court may award—

21 (1) damages in an amount equal to—

22 (A) 3 times the amount of actual monetary
23 damages incurred as a result of the violation; or

24 (B) in the event of a willful violation, an
25 amount determined appropriate by the court,

1 but in no case shall such amount be less than
2 the amount described in subparagraph (A);

3 (2) restitution or other appropriate equitable
4 relief;

5 (3) reasonable attorney's fees and litigation
6 costs;

7 (4) any condition, restriction, or remedy de-
8 scribed in section 5; and

9 (5) any other relief that the court determines
10 appropriate.

11 (f) RIGHT TO JURY TRIAL.—Either party, upon re-
12 quest, shall have the right to a jury trial.

13 (g) INVALIDITY OF PRE-DISPUTE ARBITRATION
14 AGREEMENTS AND PRE-DISPUTE JOINT ACTION WAIV-
15 ERS.—

16 (1) DEFINITIONS.—For purposes of this sub-
17 section:

18 (A) PRE-DISPUTE ARBITRATION AGREE-
19 MENT.—The term “pre-dispute arbitration
20 agreement” means any agreement to arbitrate a
21 dispute that has not arisen at the time of the
22 making of the agreement.

23 (B) PRE-DISPUTE JOINT-ACTION WAIV-
24 ER.—The term “pre-dispute joint-action waiv-
25 er” means an agreement, whether or not part

1 of a pre-dispute arbitration agreement, that
2 would prohibit or waive the right of 1 of the
3 parties to the agreement to participate in a
4 joint, class, or collective action in a judicial, ar-
5 bitral, administrative, or other related forum,
6 concerning a dispute that has not yet arisen at
7 the time of the making of the agreement.

8 (2) INVALIDITY.—Notwithstanding any other
9 provision of law, no pre-dispute arbitration agree-
10 ment or pre-dispute joint action waiver shall be valid
11 or enforceable with regard to a dispute arising under
12 this Act.

13 (3) APPLICABILITY.—Any determination as to
14 whether or how this subsection applies to any dis-
15 pute shall be made by a court, rather than an arbi-
16 trator, without respect to whether such agreement
17 purports to delegate such determination to an arbi-
18 trator.

19 **SEC. 7. JOINT AND SEVERAL LIABILITY.**

20 Notwithstanding any other provision of law, or the
21 terms of any contract or agreement, a vulture investor,
22 including any control person or affiliate, shall be held
23 jointly and severally liable with the youth sports entity for
24 all liabilities incurred by the youth sports entity during
25 the period of the vulture investor's control, including—

- 1 (1) all debt obligations assumed by the youth
- 2 sports entity;
- 3 (2) legal judgments;
- 4 (3) pension-related obligations; and
- 5 (4) any legal, regulatory, or safety infractions
- 6 including, but not limited to, child safety, labor vio-
- 7 lations, and facility code failures.

8 **SEC. 8. YOUTH SPORTS FUND.**

9 Any money disgorged pursuant to an action under
10 this Act without a specified recipient shall be deposited
11 in a youth sports fund created and distributed under
12 terms set by the Commission to be put to use in the inter-
13 est of serving the youth sports needs of the harmed com-
14 munity or communities, including by—

- 15 (1) providing funds to youth sports entities to
- 16 reduce or eliminate participation costs for families;
- 17 (2) supporting free community access to youth
- 18 sports facilities;
- 19 (3) increasing financial aid or scholarships; or
- 20 (4) otherwise providing any necessary funding
- 21 to ensure a divested youth sports entity can operate
- 22 at a safe and effective level.

23 **SEC. 9. AUTHORITY TO IMPLEMENT THIS ACT.**

24 The Commission shall have the authority to issue or-
25 ders, requirements, guidance, rules, processes, or proce-

1 dures necessary to implement this Act by publishing notice
2 thereof in the Federal Register without regard to the pro-
3 visions under section 553 of title 5, United States Code.

4 **SEC. 10. PREEMPTION.**

5 Nothing in this Act shall be construed to restrict or
6 preempt any State or local law that—

7 (a) provides protection against vulture practices or a
8 covered firm that are greater than those set forth in this
9 Act;

10 (b) imposes civil or criminal sanctions or penalties
11 greater than those imposed by this Act; or

12 (c) creates any public or private right of action relat-
13 ing to vulture practices or a covered firm.

14 **SEC. 11. ANTI-EVASION.**

15 (a) IN GENERAL.—It shall be unlawful for any per-
16 son to structure, restructure, or otherwise arrange any
17 transaction, relationship, or agreement for the purpose of
18 evading the requirements of this Act.

19 (b) SUBSTANCE OVER FORM.—For purposes of de-
20 termining compliance with this Act, the Commission and
21 the Assistant Attorney General may disregard the form
22 of any transaction and consider its substance.

23 (c) TREATMENT AS A COVERED FIRM.—Any entity
24 created, reorganized, or utilized for the purpose of avoid-

1 ing designation under this Act shall be deemed to be a
2 covered firm.