
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 660 **Hearing Date:** June 20, 2017
Author: Rubio
Version: April 27, 2017
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Public Agencies: Trespass*

HISTORY

Source: California Association of Clerks and Election Officials
California Newspaper Publishers Association

Prior Legislation: AB 668 (Lieu), Ch. 531, Stats. 2010
AB 924 (Maldonado), Ch. 101, Stats. 2003
SB 993 (Poochigian), Ch. 805, Stats. 2003
SB 1486 (Schiff), Ch. 563, Stats. 2000

Support: Unknown

Opposition: None known

Assembly Floor Vote: 69 - 0

PURPOSE

The purpose of this bill is to expand the trespass law on obstructing customers at public agencies by including within its scope the making of material misrepresentations of law to customers there to transact business with the public agency.

Existing law makes it a misdemeanor to enter onto another's property to interfere with business. (Pen. Code, § 602, subd. (k).)

Existing law makes it a misdemeanor to enter and occupy real property or structures of any kind without the owner's consent. (Pen. Code, § 602, subd. (m).)

Existing law makes it a misdemeanor to refuse to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public after being asked to leave by someone employed there. (Pen. Code, § 602, subd. (q).)

Existing law provides that any person who intentionally interferes with any lawful business or occupation carried on by the owner or agent of a business establishment open to the public, by obstructing or intimidating those attempting to carry on business, or their customers, and who refuses to leave the premises of the business establishment after being requested to leave by the owner or the owner's agent, or by a peace officer acting at the request of the owner or owner's agent, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 90 days, or by a fine of up to \$400, or by both that imprisonment and fine. (Pen. Code, § 602.1, subd. (a).)

Existing law provides that any person who intentionally interferes with any lawful business carried on by the employees of a public agency open to the public, by obstructing or intimidating those attempting to carry on business, or those persons there to transact business with the agency, and who refuses to leave the property upon request is guilty of a misdemeanor punishable by imprisonment in the county jail for up to 90 days, or by a fine of up to \$400, or both. (Pen. Code, § 602.1, subd. (b).)

Existing law includes the following exceptions to the trespassing law on obstructing public agencies or customers:

- A person who is conducting lawful union activities; or,
- A person who is on the premises and engaging in activities protected by the California or United States Constitution. (Pen. Code, § 602.1, subd. (c).)

This bill provides that that any person who intentionally interferes with any lawful business carried on by the employees of a public agency open to the public by knowingly making a material misrepresentation of the law to those persons there to transact business with the public agency is guilty of a misdemeanor, punishable by imprisonment in the county jail for up to 90 days, or by a fine of up to \$400, or both.

COMMENTS

1. Need for This Bill

According to the author:

Current state law under the California Penal Code Section 602.1 only punishes acts that are considered “obstructing” or “intimidating” to persons attempting to carry on business at a public agency. This creates a void in the penal code that permits illegitimate solicitors to be exempt from the enforcement of said punishments. AB 660 expands the crime of trespassing on the property of a public agency. Specifically, this bill: Provides that any person who intentionally interferes with any lawful business carried on by the employees of a public agency open to the public by knowingly making a material misrepresentation of the law to those persons there to transact business with the public agency is guilty of a misdemeanor.

Those who refuse to leave the premises of a public agency after being requested to will be punished by imprisonment in a county jail for up to 90 days, or a fine of up to four hundred dollars (\$400), or by both imprisonment and fine.

2. Conduct that this Bill Addresses

According to the proponents of this bill, there have been complaints at some County Clerk offices regarding aggressive solicitors harassing individuals there to conduct business. For example, in San Bernardino County, more than a dozen complaints were filed between 2014 and 2015 regarding solicitors outside the Hall of Records posing as county employees, arguing with citizens and following them into the building to enlist their business in filing fictitious business names and articles of incorporation.

In Los Angeles County, solicitors have been confrontational and used aggressive tactics to acquire business from individuals who were there to file a fictitious business name with the County Clerk's office. Some of solicitors have been known to approach individuals as they get out of their vehicles on their way to the clerk's office in an attempt to get those filers to use an agent to file their documents. In some instances, these solicitors have knowingly misled individuals by stating that they are required to use an agent to file a fictitious business name.

This bill expands the trespass law on obstructing customers at public agencies by including within its scope knowingly making material misrepresentations of law to customers there to transact business with the public agency. This bill makes this conduct a misdemeanor punishable by imprisonment in the county jail for up to 90 days, or by a fine of up to \$400, or both the imprisonment and fine.

3. Argument in Support

The California Association of Clerks and Election Officials, a co-sponsor of this bill:

In order to file a fictitious business name (FBN), the filer must complete required paperwork with the county clerk's office and also pay to have the FBN published in a newspaper of general circulation for public notice. The filer is provided with a list of eligible newspapers by the county to choose where to publish their information. In some counties where many newspapers meet the requirement, an extremely competitive environment has emerged to secure the fees for publishing. In Los Angeles county, for example, over 125 newspapers are on the list.

This measure will expand existing Penal Code Section 602.1 (b) which states that "any person who intentionally interferes with the lawful business carried on by the employees of a public agency open to the public by obstructing or intimidating those attempting to carry on business, or those persons there to transact business with the public agency, and who refuses to leave the premises of the public agency after being requested to leave by the office manager or supervisor of the public agency, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 90 days, or by a fine of up to four hundred dollars (\$400), or by both that imprisonment and fine. AB 660 would add "by making a material misrepresentation of law to those persons there to transact business with the public agency" to "obstructing or intimidating" constituents. This important expansion would address the troublesome activity of intentionally misleading the public into believing that a paid agent is required to fulfill the activity of filing an FBN.

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