
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 689 **Hearing Date:** April 25, 2017
Author: Wiener
Version: March 29, 2017
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Crimes: Sporting Events*

HISTORY

Source: San Francisco Giants
Oakland Athletics
Los Angeles Angels
San Jose Earthquakes

Prior Legislation: AB 2464 (Gatto), Ch. 261, Stats. 2012
AB 245 (Cohn), Ch. 818, Stats. 2003

Support: Anaheim Arena Management, LLC; Anaheim Ducks Hockey Club, LLC; Golden State Warriors, LLC; Los Angeles Dodgers, LLC; Major League Baseball, Office of the Commissioner; San Francisco 49ers; San Francisco Giants Baseball Club; San Francisco Police Officers Association; San Jose Sharks

Opposition: American Civil Liberties Union of California; California Attorneys for Criminal Justice

PURPOSE

The purpose of this bill is to authorize misdemeanor penalties for the existing infraction of throwing an object or running onto a court or field during a professional sporting event without permission and to increase punishment for battery on a “player” as defined.

Existing law states that it is an infraction punishable by a fine of up to \$250 for any person attending a professional sporting event to throw an object on or across the court or field of play with the intent to interfere with play or distract a player or to enter upon the court or field of play without permission from an authorized person any time after the authorized participants of play have entered the court or field to begin the sporting event and until the participants of play have completed the playing time of the sporting event. (Pen. Code § 243.83, subd. (a).)

This bill would authorize a violation of the above provision to be punished as either an infraction or a misdemeanor with the following graduated penalties:

- A first violation would be punishable as an infraction with a fine not exceeding \$1,000, or as a misdemeanor punishable by imprisonment in a county jail for not more than 10 days, by a fine not exceeding \$2,500, or by both that fine and imprisonment;

- A second violation or subsequent violation within five years of a prior violation would be a misdemeanor, punishable by imprisonment in a county jail for not more than 60 days, by a fine not exceeding \$5,000, or by both that fine and imprisonment.

Existing law generally provides that it is a misdemeanor to commit battery against another person and punishes that crime by imprisonment in the county jail for up to six months, or a fine up to \$2000, or both the fine and imprisonment. (Pen. Code § 243, subd. (a).)

Existing law provides that battery against a sports official immediately prior to, during, or immediately following an organized athletic contest in which the sports official is participating is a misdemeanor punishable by imprisonment up to one year in county jail, or a fine of up to \$2000, or both the fine and imprisonment. (Pen. Code § 243.8, subd. (a).)

Existing law defines “sports official” to mean a referee, umpire, linesman, or who serves in a similar capacity but may be known by a different title or name and is duly registered by, or a member of, a local, state, regional, or national organization engaged in part in providing education and training to sports officials. (Pen. Code § 243.8, subd. (a).)

This bill makes it a misdemeanor punishable by imprisonment up to one year in county jail, or a fine of up to \$2000, or both the fine and imprisonment, to commit battery against a player immediately prior to, during, or immediately following an organized athletic contest in which the player is participating.

This bill would define “player” to include any authorized participant of play, including, but not limited to, team members and support staff.

COMMENTS

1. Need for This Bill

According to the author:

Senate Bill 689 offers modest, but important changes to current California law to protect players, coaches, other on-field personnel, and fans at sporting events. In California, unlike many other states, persons trespassing on the field and potentially confronting or injuring a player or a coach, or throwing an object onto the field to interfere with play is punishable as a mere infraction with a fine of \$250.00. With such lenient penalties, it is more likely that offending behavior will continue to occur unless a change is made. Senate Bill 689 proposes to increase the criminal penalties associated with (i) trespassing on the field and throwing objects onto the field with the intent to interfere with play by making each punishable as either an infraction with a fine up to \$1,000.00 or a misdemeanor with up to ten days in county jail and a fine of \$2,500 for the first offense and (ii) committing a battery on a player or coach by making it punishable by a fine not exceeding \$2,000, or by imprisonment in the county jail up to one year, or by both that fine and imprisonment, matching existing criminal penalties for committing battery against a referee during a sporting event.

Law enforcement, teams, venue operators, and organizations, such as Major League Baseball, have had a longstanding concern about the vulnerability of players and coaches during play and California's lack of criminal penalties to protect vulnerable players and coaches. Given world events, many sports organizations and venue operators have been working on a series of security measures and protocols large and small to help ensure the safe operation of venues and to protect fans, players, and employees. As a result, Senate Bill 689 has been proposed to deter activities that pose threats to the safety and security of players, coaches, and fans at sporting events, and to bring California in line with other states' criminal penalties.

2. Existing Law Authorizes Misdemeanor Penalties for Conduct Targeted by this Bill

This bill authorizes misdemeanor penalties for the offense of running out onto a field or throwing an object with the intent to interfere with play. Currently, the applicable statute states that the offense is an infraction punishable by a fine of up to \$250. However, this conduct may be prosecuted under other statutes that authorize misdemeanor penalties. Running onto a sports field or court may be prosecuted as disorderly conduct or trespassing, which are both misdemeanors. (Pen. Code, §§ 647, 602.) Additionally, throwing an object at any person is punishable as assault which is generally a misdemeanor. (Pen. Code, § 240.) If the object thrown is likely to produce great bodily injury, it could be charged as a felony even the thrown object did not cause great bodily injury. (Pen. Code, § 245.) If an object is thrown and it hits someone, for example if someone throws beer at a player, that person could be charged with battery, which is generally a misdemeanor, but could also be charged as a felony if injury has been inflicted. (Pen. Code, § 243.)

Prosecutors have discretion to charge defendants with any crime that is supported by the facts of the case. Thus, in cases where a prosecutor believes that a misdemeanor is appropriate, one of the existing misdemeanor crimes may be charged, whereas an infraction may be more appropriate in the majority of other cases. One consideration in deciding whether to charge something as an infraction or misdemeanor may be court and attorney resources.

Prosecution of a misdemeanor gives a defendant the right to a jury trial because the person may be punished by imprisonment, whereas infractions are not punishable by imprisonment, thus a person charged with an infraction would not be entitled to a jury trial. (Pen. Code, § 19.6.) Furthermore, a person charged with an infraction is not be entitled to have the public defender or other counsel appointed at public expense to represent him or her, whereas misdemeanants would be entitled to counsel at county expense. Thus, even if the law was amended to authorize misdemeanor penalties for the specified offense of running out onto a field or throwing an object, prosecutors may elect not to charge the misdemeanor due to the added time and cost of prosecuting the case.

3. Legislative History

One of the statutes that this bill amends, Penal Code section 243.83, was enacted in 2003 by AB 245 (Cohn). When the bill was introduced, the criminal penalty specified was a misdemeanor. However, due to concerns raised in the Assembly Committee's analysis regarding the availability of existing misdemeanor penalties and the potential costs of jury trials for the new misdemeanor, the bill was amended to create an infraction instead of a misdemeanor.

This bill would amend that statute to authorize either an infraction or a misdemeanor to be charged.

4. Argument in Support

Major League Baseball writes in support of this bill:

The Player Safety & Security Act offers modest but important changes to the current law, making field trespassers subject to arrest and enhanced penalties (e.g., infraction or misdemeanor depending on the circumstances). This approach, while not as punitive as some other jurisdictions where consequences are more severe, still creates a meaningful deterrent that will likely result in fewer incidents at our California ballparks. Senate Bill 689 will give our teams and local law enforcement important tools to more effectively confront problems and provide a safer environment for our field personnel.

5. Argument in Opposition

The California Attorneys for Criminal Justice, opposes this bill, and writes:

[C]urrent law adequately penalizes assault and battery, especially given the discretion of judges to consider the particular circumstances of the crime and the perpetrator. Any intended extra deterrent or punishment effect of SB 689 is defeated by the arbitrary distinctions set forth in the bill, as described above. In 2015, the Governor vetoed a passel of bills that would have created new crimes and imposed new penalties for specialized crimes. His veto message for those bills rings equally true with respect to SB 689:

“Each of these bills creates a new crime -- usually by finding a novel way to characterize and criminalize conduct that is already proscribed. This multiplication and particularization of criminal behavior creates increasing complexity without commensurate benefit.

“Over the last several decades, California's criminal code has grown to more than 5,000 provisions covering every almost conceivable form of human misbehavior.

“During the same period, our jail and prison populations have exploded.

“Before we keep going down this road, I think we should pause and reflect how our system of criminal justice could be made more human, more just and more cost-effective.”

-- END --