

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1263 (as introduced 9-15-98)
Sponsor: Senator Michael J. Bouchard
Committee: Judiciary

Date Completed: 9-15-98

CONTENT

The bill would amend the Revised Judicature Act (RJA) to provide for tort immunity for the ejection of certain persons from an entertainment forum or shopping center and for certain damages occurring at a hockey facility or baseball stadium.

Entertainment Forums and Shopping Centers

Immunity. In a civil action against an "entertainment forum" or "shopping center" for false imprisonment, wrongful ejection, unlawful arrest, assault, battery, libel, or slander, a plaintiff would not be allowed the following unless he or she established that the entertainment forum used unreasonable force, detained the plaintiff an unreasonable length of time, acted with unreasonable disregard of the plaintiff's rights or sensibilities, or acted with intent to injure the plaintiff:

- Compensatory damages.
- Damages for or resulting from personal injury or mental anguish.
- Punitive, exemplary, or aggravated damages.

These provisions would apply if a claim against an entertainment forum arose out of conduct involving a person who "violated the terms of his or her license for admission", and if the entertainment forum had probable cause to believe and did believe that the plaintiff violated those terms, or if a claim against a shopping center arose out of conduct involving a person who "created a public nuisance" in the shopping center, and if the shopping center had probable cause to believe and did believe that the plaintiff had created a public nuisance.

In addition, provisions of the RJA dealing with comparative negligence would apply to the claim (MCL 600.2956-600.2960). Those sections of the RJA provide for several (individual), but not joint, liability; the determination and allocation of liability in proportion to each party's percentage of fault; and reduction of damages by the percentage of comparative fault of the person upon whose injury or death damages are based.

Definitions. "Entertainment forum" would mean an arena, theater, circus, athletic grounds used for an athletic event or other form of public entertainment, or other place of public entertainment, with a seating capacity of not less than 200, and would include an owner, lessee, manager, or operator of an entertainment forum, an agent of an entertainment forum, or an independent contractor providing security for an entertainment forum.

"Violated the terms of his or her license for admission" would include any of the following committed by a person who had been admitted to an entertainment forum:

- A felony or misdemeanor under Michigan law.

- Physically harming or threatening to harm physically the entertainment forum or persons admitted to it.
- A public disturbance.
- An act in clear disregard of the rights or sensibilities of other persons admitted to the entertainment forum.

“Shopping center” would mean commercial property for which a single lessor had executed two or more leases to persons engaged in the sale of goods or services, and for which there was a common parking area, and would include an owner, lessee, manager, or operator of a shopping center, an agent of a shopping center, or an independent contractor providing security for a shopping center.

“Created a public nuisance” would include any of the following committed by a person who had been admitted to a shopping center:

- A felony or misdemeanor under Michigan law.
- Physically harming or threatening to harm physically the shopping center or persons admitted to it.
- A public disturbance.
- An act in clear disregard of the rights or sensibilities of other persons admitted to the shopping center.

Hockey Facility and Baseball Stadium

Immunity. The owner or operator of a “hockey facility” or “baseball stadium” would not be liable for personal injury or property damage resulting from a person’s being struck by a hockey stick or hockey puck at a hockey facility, or a baseball bat or baseball at a baseball stadium, unless one or both of the following occurred:

- The person was struck while situated behind a “shield” and the facility or stadium owner’s or operator’s negligence rendered the shield defective. (A shield would not be considered defective as a result of its height or width.)
- The person was struck as a result of the willful and wanton misconduct of the facility or stadium owner or operator or a hockey or baseball player or coach employed by the owner or operator, in connection with the game of hockey or baseball.

Definitions. “Hockey facility” would mean a rink, arena, stadium, or other facility used for hockey, whether or not it was used for other purposes, owned by any public or private entity, or any combination of public or private entities. (“Hockey” would refer to the game of ice hockey, including practice, regardless of whether it was played on a professional or amateur basis and whether it was under or outside of an organized or league structure, and would not include field hockey, roller hockey, or any other form of hockey not played on ice.)

“Baseball stadium” would mean a field, arena, stadium, or other facility used for baseball, whether or not it was used for other purposes, owned by any public or private entity, or any combination of public or private entities. (“Baseball” would refer to the game of baseball or softball, including practice, regardless of whether it was played on a professional or amateur basis and whether it was under or outside of an organized or league structure.)

“Shield”, with regard to a hockey facility, would mean a screen, protective glass, or other similar safety device, and with regard to a baseball stadium, would mean a net, screen, protective glass, or other similar safety device.

FISCAL IMPACT

The bill would have an indeterminate impact on State and local units of government. The extent to which the bill would limit liability of units of government at certain sports facilities would depend on potential future claims and cannot be estimated.

Fiscal Analyst: B. Bowerman