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Attached: Colorado ["Baseball Spectator Safety Act"](#)

IS 3/7/08

P.L. 2005, CHAPTER 362, *approved January 12, 2006*
Senate, No. 2930 (*First Reprint*)

1 **AN ACT** concerning baseball spectator safety and supplementing Title
2 2A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the "New Jersey
8 Baseball Spectator Safety Act of ¹[2005] 2006¹."

9

10 2. The Legislature recognizes that baseball stadium owners and
11 operators have a duty to provide protected seating to spectators who,
12 seeking to avoid the risk of injury, desire protection. However, the
13 Legislature also recognizes that persons who attend professional
14 baseball games may be injured as a result of the risks inherent in being
15 a spectator at such games. The Legislature further finds that
16 attendance at such professional baseball games is a family and
17 community based activity to be encouraged. Moreover, the State
18 derives economic benefit from spectators attending professional
19 baseball games. Therefore, it is the intent of the Legislature to
20 encourage attendance at professional baseball games. Limiting the
21 civil liability of those who own professional baseball teams and those
22 who own the stadiums where professional baseball games are played
23 will help contain costs, thereby keeping ticket prices affordable.

24

25 3. As used in this act:

26 a. "Owner" means a person, including a corporation, partnership,
27 or limited liability company, who is in lawful possession and control
28 of a professional baseball team or a stadium in which a professional
29 baseball game is played. "Owner" shall also include the owner's
30 shareholders, partners, directors, officers, employees and agents.

31 b. "Professional baseball game" means any baseball game, whether
32 for exhibition or competition, in which the participating baseball teams
33 are members of a league of professional baseball clubs, commonly
34 known as a major league or a minor league, and which teams are
35 comprised of paid baseball players. "Professional baseball game" shall
36 also include pregame activities and shall include any baseball game or
37 pregame activity.

38 c. "Spectator" means a person who is present at a baseball game

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted January 5, 2006.

1 for the purpose of observing the game, whether or not a fee is paid.

2

3 4. a. Notwithstanding any other provision of law, spectators of
4 professional baseball games are presumed to have knowledge of and
5 to assume the inherent risks of observing professional baseball games.
6 These risks ¹[include, but are not limited to,] are defined as¹ injuries
7 which result from being struck by a baseball or a baseball bat anywhere
8 on the premises ¹during a professional baseball game¹.

9 b. (1) Except as provided in section 5 of this act, the assumption
10 of risk set forth in this section shall be a complete bar to suit and shall
11 serve as a complete defense to a suit against an owner by a spectator
12 for injuries resulting from the assumed risks.

13 (2) Except as provided in section 5 of this act, an owner shall not
14 be liable for an injury to a spectator resulting from the inherent risks
15 of attending a professional baseball game. Except as provided in
16 section 5 of this act, no spectator or spectator's representative shall
17 make any claim against, maintain an action against, or recover from an
18 owner for injury, loss, or damage to the spectator resulting from any
19 of the inherent risks of attending a professional baseball game.

20 c. Nothing in this act shall preclude a spectator from bringing an
21 action against another spectator for an injury to person or property
22 resulting from such other spectator's acts or omissions.

23

24 5. ¹ a.¹ Nothing in section 4 of this act shall prevent or limit the
25 liability of an owner who fails to post and maintain the warning signs
26 required pursuant to section 6 of this act.

27 ¹b. Nothing in section 4 of this act shall prevent or limit the liability
28 of an owner who fails to provide protection for spectators in the most
29 dangerous sections of the stands. This limited duty may be satisfied by
30 having a net behind home plate.¹

31

32 6. a. Every owner of a stadium where professional baseball games
33 are played shall post and maintain signs which contain the warning
34 notice set forth in subsection b. of this section. Such signs shall be
35 posted in conspicuous places at the entrances outside the stadium and
36 at stadium facilities where tickets to professional baseball games are
37 sold.

38 b. The signs described in subsection a. of this section shall contain
39 the following warning notice:

40

41

WARNING

42 UNDER NEW JERSEY LAW, A SPECTATOR OF
43 PROFESSIONAL BASEBALL ASSUMES THE RISK OF ANY
44 INJURY TO PERSON OR PROPERTY RESULTING FROM ANY
45 OF THE INHERENT DANGERS AND RISKS OF SUCH
46 ACTIVITY AND MAY NOT RECOVER FROM AN OWNER OF A

1 BASEBALL TEAM OR AN OWNER OF A STADIUM WHERE
2 PROFESSIONAL BASEBALL IS PLAYED FOR INJURY
3 RESULTING FROM THE INHERENT DANGERS AND RISKS OF
4 OBSERVING PROFESSIONAL BASEBALL, INCLUDING ¹ [, BUT
5 NOT LIMITED TO,] ¹ BEING STRUCK BY A BASEBALL OR A
6 BASEBALL BAT ¹ ANYWHERE ON THE PREMISES DURING A
7 PROFESSIONAL BASEBALL GAME¹.

8

9 7. This act shall take effect immediately.

10

11

12

13

14 _____
Creates the "New Jersey Baseball Spectator Safety Act of 2006."

SENATE, No. 2930

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED DECEMBER 12, 2005

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator ROBERT W. SINGER

District 30 (Burlington, Mercer, Monmouth and Ocean)

SYNOPSIS

Creates the "New Jersey Baseball Spectator Safety Act of 2005."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning baseball spectator safety and supplementing Title
2 2A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the "New Jersey
8 Baseball Spectator Safety Act of 2005."

9

10 2. The Legislature recognizes that baseball stadium owners and
11 operators have a duty to provide protected seating to spectators who,
12 seeking to avoid the risk of injury, desire protection. However, the
13 Legislature also recognizes that persons who attend professional
14 baseball games may be injured as a result of the risks inherent in being
15 a spectator at such games. The Legislature further finds that
16 attendance at such professional baseball games is a family and
17 community based activity to be encouraged. Moreover, the State
18 derives economic benefit from spectators attending professional
19 baseball games. Therefore, it is the intent of the Legislature to
20 encourage attendance at professional baseball games. Limiting the
21 civil liability of those who own professional baseball teams and those
22 who own the stadiums where professional baseball games are played
23 will help contain costs, thereby keeping ticket prices affordable.

24

25 3. As used in this act:

26 a. "Owner" means a person, including a corporation, partnership,
27 or limited liability company, who is in lawful possession and control
28 of a professional baseball team or a stadium in which a professional
29 baseball game is played. "Owner" shall also include the owner's
30 shareholders, partners, directors, officers, employees and agents.

31 b. "Professional baseball game" means any baseball game, whether
32 for exhibition or competition, in which the participating baseball teams
33 are members of a league of professional baseball clubs, commonly
34 known as a major league or a minor league, and which teams are
35 comprised of paid baseball players. "Professional baseball game" shall
36 also include pregame activities and shall include any baseball game or
37 pregame activity.

38 c. "Spectator" means a person who is present at a baseball game
39 for the purpose of observing the game, whether or not a fee is paid.

40

41 4. a. Notwithstanding any other provision of law, spectators of
42 professional baseball games are presumed to have knowledge of and
43 to assume the inherent risks of observing professional baseball games.
44 These risks include, but are not limited to, injuries which result from
45 being struck by a baseball or a baseball bat anywhere on the premises.

46 b. (1) Except as provided in section 5 of this act, the assumption

1 of risk set forth in this section shall be a complete bar to suit and shall
2 serve as a complete defense to a suit against an owner by a spectator
3 for injuries resulting from the assumed risks.

4 (2) Except as provided in section 5 of this act, an owner shall not
5 be liable for an injury to a spectator resulting from the inherent risks
6 of attending a professional baseball game. Except as provided in
7 section 5 of this act, no spectator or spectator's representative shall
8 make any claim against, maintain an action against, or recover from an
9 owner for injury, loss, or damage to the spectator resulting from any
10 of the inherent risks of attending a professional baseball game.

11 c. Nothing in this act shall preclude a spectator from bringing an
12 action against another spectator for an injury to person or property
13 resulting from such other spectator's acts or omissions.

14
15 5. Nothing in section 4 of this act shall prevent or limit the liability
16 of an owner who fails to post and maintain the warning signs required
17 pursuant to section 6 of this act.

18
19 6. a. Every owner of a stadium where professional baseball games
20 are played shall post and maintain signs which contain the warning
21 notice set forth in subsection b. of this section. Such signs shall be
22 posted in conspicuous places at the entrances outside the stadium and
23 at stadium facilities where tickets to professional baseball games are
24 sold.

25 b. The signs described in subsection a. of this section shall contain
26 the following warning notice:

27
28 **WARNING**

29 **UNDER NEW JERSEY LAW, A SPECTATOR OF**
30 **PROFESSIONAL BASEBALL ASSUMES THE RISK OF ANY**
31 **INJURY TO PERSON OR PROPERTY RESULTING FROM ANY**
32 **OF THE INHERENT DANGERS AND RISKS OF SUCH**
33 **ACTIVITY AND MAY NOT RECOVER FROM AN OWNER OF A**
34 **BASEBALL TEAM OR AN OWNER OF A STADIUM WHERE**
35 **PROFESSIONAL BASEBALL IS PLAYED FOR INJURY**
36 **RESULTING FROM THE INHERENT DANGERS AND RISKS OF**
37 **OBSERVING PROFESSIONAL BASEBALL, INCLUDING, BUT**
38 **NOT LIMITED TO, BEING STRUCK BY A BASEBALL OR A**
39 **BASEBALL BAT.**

40
41 7. This act shall take effect immediately.

42
43
44 **STATEMENT**

45
46 This bill which shall be known and may be cited as the "New Jersey

1 Baseball Spectator Safety Act of 2005," establishes the scope of
2 liability for professional baseball owners. Further, the bill identifies
3 the protections afforded spectators of professional baseball games.

4 Under the bill, notwithstanding any other provision of law,
5 spectators of professional baseball games are presumed to have
6 knowledge of and to assume the inherent risks of observing
7 professional baseball games. The immunity from liability established
8 under the bill does not prevent or limit the liability of an owner who
9 fails to post and maintain the warning signs required under the act.
10 Moreover, the bill provides that nothing in the act would preclude a
11 spectator from bringing an action against another spectator for an
12 injury to person or property resulting from such other spectator's acts
13 or omissions.

14 The bill would overturn the recent New Jersey Supreme Court
15 ruling in Maisonave v. The Newark Bears Professional Baseball Club,
16 Inc., 185 N.J. 70 (2005) in which the New Jersey Supreme Court held
17 that while "the limited duty rule," which restricts the tort liability of
18 owners, applies in situations where an injury occurs in the stands,
19 traditional negligence principles apply in all other areas of the stadium.
20 This bill provides that the assumption of risk shall be a complete bar
21 to suit and serve as a complete defense to a suit against an owner by
22 a spectator with certain stated exceptions.

23 This bill is modeled on the "Colorado Baseball Spectator Safety Act
24 of 1993."

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2930

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 5, 2006

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2930.

The amended bill which shall be known and may be cited as the "New Jersey Baseball Spectator Safety Act of 2006," establishes the scope of liability for professional baseball owners. Further, the bill identifies the protections afforded spectators of professional baseball games.

Under the bill as amended by the committee, notwithstanding any other provision of law, spectators of professional baseball games are presumed to have knowledge of and to assume the inherent risks of observing professional baseball games. These risks are defined as injuries which result from being struck by a baseball or baseball bat anywhere on the premises during a baseball game. The immunity from liability established under the bill does not prevent or limit the liability of an owner who fails to post and maintain the warning signs required under the act or who fails to provide protection for spectators in the most dangerous sections of the stands. Moreover, the bill provides that nothing in the act would preclude a spectator from bringing an action against another spectator for an injury to person or property resulting from such other spectator's acts or omissions.

The bill is in response to the recent New Jersey Supreme Court ruling in Maisonave v. The Newark Bears Professional Baseball Club, Inc., 185 N.J. 70 (2005) in which the New Jersey Supreme Court held that while "the limited duty rule," which restricts the tort liability of owners, applies in situations where an injury occurs in the stands, traditional negligence principles apply in all other areas of the stadium. This bill provides that the assumption of risk shall be a complete bar to suit and serve as a complete defense to a suit against an owner by a spectator with certain stated exceptions.

The committee amended the bill to specify that the inherent risks of observing a professional baseball game are defined as injuries that result from being struck by a baseball or baseball bat while anywhere on the premises during a professional baseball game. The committee also amended the bill to provide that the immunity from liability

established under the bill does not prevent or limit the liability of an owner who fails to provide protection for spectators in the most dangerous sections of the stands and that this duty may be satisfied by having a net behind home plate. Finally, the committee amendments update the name of the bill to the “New Jersey Baseball Spectator Safety Act of 2006.”

ASSEMBLY, No. 4479

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED DECEMBER 8, 2005

Sponsored by:

Assemblyman PATRICK DIEGNAN, JR.

District 18 (Middlesex)

Co-Sponsored by:

Assemblymen Chivukula and Biondi

SYNOPSIS

Creates the "New Jersey Baseball Spectator Safety Act of 2005."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/10/2006)

1 AN ACT concerning baseball spectator safety and supplementing Title
2 2A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the "New Jersey
8 Baseball Spectator Safety Act of 2005."

9

10 2. The Legislature recognizes that baseball stadium owners and
11 operators have a duty to provide protected seating to spectators who,
12 seeking to avoid the risk of injury, desire protection. However, the
13 Legislature also recognizes that persons who attend professional
14 baseball games may be injured as a result of the risks inherent in being
15 a spectator at such games. The Legislature further finds that
16 attendance at such professional baseball games is a family and
17 community based activity to be encouraged. Moreover, the State
18 derives economic benefit from spectators attending professional
19 baseball games. Therefore, it is the intent of the Legislature to
20 encourage attendance at professional baseball games. Limiting the
21 civil liability of those who own professional baseball teams and those
22 who own the stadiums where professional baseball games are played
23 will help contain costs, thereby keeping ticket prices affordable.

24

25 3. As used in this act:

26 a. "Owner" means a person, including a corporation, partnership,
27 or limited liability company, who is in lawful possession and control
28 of a professional baseball team or a stadium in which a professional
29 baseball game is played. "Owner" shall also include the owner's
30 shareholders, partners, directors, officers, employees and agents.

31 b. "Professional baseball game" means any baseball game, whether
32 for exhibition or competition, in which the participating baseball teams
33 are members of a league of professional baseball clubs, commonly
34 known as a major league or a minor league, and which teams are
35 comprised of paid baseball players. "Professional baseball game" shall
36 also include pregame activities and shall include any baseball game or
37 pregame activity.

38 c. "Spectator" means a person who is present at a baseball game
39 for the purpose of observing the game, whether or not a fee is paid.

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41 4. a. Notwithstanding any other provision of law, spectators of
42 professional baseball games are presumed to have knowledge of and
43 to assume the inherent risks of observing professional baseball games.
44 These risks include, but are not limited to, injuries which result from
45 being struck by a baseball or a baseball bat anywhere on the premises.

46 b. (1) Except as provided in section 5 of this act, the assumption

1 of risk set forth in this section shall be a complete bar to suit and shall
2 serve as a complete defense to a suit against an owner by a spectator
3 for injuries resulting from the assumed risks.

4 (2) Except as provided in section 5 of this act, an owner shall not
5 be liable for an injury to a spectator resulting from the inherent risks
6 of attending a professional baseball game. Except as provided in
7 section 5 of this act, no spectator or spectator's representative shall
8 make any claim against, maintain an action against, or recover from an
9 owner for injury, loss, or damage to the spectator resulting from any
10 of the inherent risks of attending a professional baseball game.

11 c. Nothing in this act shall preclude a spectator from bringing an
12 action against another spectator for an injury to person or property
13 resulting from such other spectator's acts or omissions.

14
15 5. Nothing in section 4 of this act shall prevent or limit the liability
16 of an owner who fails to post and maintain the warning signs required
17 pursuant to section 6 of this act.

18
19 6. a. Every owner of a stadium where professional baseball games
20 are played shall post and maintain signs which contain the warning
21 notice set forth in subsection b. of this section. Such signs shall be
22 posted in conspicuous places at the entrances outside the stadium and
23 at stadium facilities where tickets to professional baseball games are
24 sold.

25 b. The signs described in subsection a. of this section shall contain
26 the following warning notice:

27
28 **WARNING**

29 **UNDER NEW JERSEY LAW, A SPECTATOR OF**
30 **PROFESSIONAL BASEBALL ASSUMES THE RISK OF ANY**
31 **INJURY TO PERSON OR PROPERTY RESULTING FROM ANY**
32 **OF THE INHERENT DANGERS AND RISKS OF SUCH**
33 **ACTIVITY AND MAY NOT RECOVER FROM AN OWNER OF A**
34 **BASEBALL TEAM OR AN OWNER OF A STADIUM WHERE**
35 **PROFESSIONAL BASEBALL IS PLAYED FOR INJURY**
36 **RESULTING FROM THE INHERENT DANGERS AND RISKS OF**
37 **OBSERVING PROFESSIONAL BASEBALL, INCLUDING, BUT**
38 **NOT LIMITED TO, BEING STRUCK BY A BASEBALL OR A**
39 **BASEBALL BAT.**

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41 7. This act shall take effect immediately.

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44 **STATEMENT**

45
46 This bill which shall be known and may be cited as the "New Jersey

1 Baseball Spectator Safety Act of 2005," establishes the scope of
2 liability for professional baseball owners. Further, the bill identifies
3 the protections afforded spectators of professional baseball games.

4 Under the bill, notwithstanding any other provision of law,
5 spectators of professional baseball games are presumed to have
6 knowledge of and to assume the inherent risks of observing
7 professional baseball games. The immunity from liability established
8 under the bill does not prevent or limit the liability of an owner who
9 fails to post and maintain the warning signs required under the act.
10 Moreover, the bill provides that nothing in the act would preclude a
11 spectator from bringing an action against another spectator for an
12 injury to person or property resulting from such other spectator's acts
13 or omissions.

14 The bill would overturn the recent New Jersey Supreme Court
15 ruling in Maisonave v. The Newark Bears Professional Baseball Club,
16 Inc., 185 N.J. 70 (2005) in which the New Jersey Supreme Court held
17 that while "the limited duty rule," which restricts the tort liability of
18 owners, applies in situations where an injury occurs in the stands,
19 traditional negligence principles apply in all other areas of the stadium.
20 This bill provides that the assumption of risk shall be a complete bar
21 to suit and serve as a complete defense to a suit against an owner by
22 a spectator with certain stated exceptions.

23 This bill is modeled on the "Colorado Baseball Spectator Safety Act
24 of 1993."

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4479

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2005

The Assembly Judiciary Committee reports favorably Assembly Bill No. 4479.

This bill would provide immunity to owners of baseball stadiums and baseball teams under certain circumstances.

Under the provisions of the bill, stadium and team owners would be immune for injuries to spectators resulting from the inherent risks of attending the game, which include the risk of injury from being struck by a baseball or a baseball bat anywhere on the premises. Every stadium owner would be required to post and maintain warning signs at the entrance outside the stadium and where tickets are sold. An owner who fails to post and maintain the warning signs would not enjoy immunity under the bill.

The bill would not preclude a spectator from bringing an action against another spectator for an injury to person or property resulting from such other spectator's acts or omissions.

The bill would overturn the recent New Jersey Supreme Court ruling in Maisonave v. The Newark Bears Professional Baseball Club, Inc., 185 N.J. 70 (2005). In this case, the Supreme Court allowed a plaintiff injured at a minor league baseball game to proceed with his suit against the stadium owners. The plaintiff had been struck in the eye by a foul ball as he was buying a beverage in the concourse of Riverfront Stadium in Newark. The Supreme Court's ruling upheld the "limited duty rule" for injuries that occur in the stands of a baseball stadium. The "limited duty rule" limits the liability of stadium owners by providing that stadiums that offer protected seating for those spectators who seek it, and provide screening in the most dangerous sections of the stands, are immune for injuries to spectators.

The court held that in other areas of the stadium, such as the mezzanine and concourse, traditional rules of negligence apply and in those areas, "a commercial sports facility is no different than any other commercial establishment" as far as liability for negligence.

This bill provides that spectators of professional baseball games are presumed to have knowledge of, and to assume the inherent risks of, observing professional baseball games, and that this assumption of risk is a complete bar to suit and serves as a complete defense to a suit against an owner by a spectator for injuries resulting from the assumed risks.

This bill is modeled on the "Colorado Baseball Spectator Safety Act of 1993," C.R.S. 13-21-120.

STATEMENT TO
ASSEMBLY, No. 4479

with Assembly Floor Amendments
(Proposed By Assemblyman DIEGNAN)

ADOPTED: JANUARY 9, 2006

These floor amendments would amend the bill to specify that the inherent risks of observing a professional baseball game are defined as injuries that result from being struck by a baseball or baseball bat while anywhere on the premises during a professional baseball game.

In addition, the amendments would provide that the immunity from liability established under the bill does not prevent or limit the liability of an owner who fails to provide protection for spectators in the most dangerous sections of the stands and that this duty may be satisfied by having a net behind home plate.

The amendments would also update the name of the bill to the "New Jersey Baseball Spectator Safety Act of 2006."