

1 *As Amended by Senate Committee*

2
3 **[As Amended by House Committee of the Whole]**

4
5 **As Amended by House Committee**

6 *Session of 2001*

7
8 **HOUSE BILL No. 2120**

9
10 By Committee on Local Government

11
12 1-23

13
14 AN ACT concerning amusement rides; relating to ~~inspection and~~ regu-
15 lation thereof; prohibiting certain acts and providing penalties and
16 remedies for violations; **also repealing [K.S.A.] 40-4801, 40-4802, 40-**
17 **4803 and 40-4804.**

18
19 *Be it enacted by the Legislature of the State of Kansas:*

20 **Section 1. This act shall be known and may be cited as the**
21 **amusement ride inspection and regulation act.**

22 Section ~~1~~ **2.** As used in this act:

23 (a) (1) "Amusement ride" means any mechanical or electrical device
24 that carries or conveys passengers along, around or over a fixed or re-
25 stricted route or course or within a defined area for the purpose of giving
26 its passengers amusement, pleasure, thrills or excitement and shall in-
27 clude but not be limited to:

28 (A) Rides commonly known as ferris wheels, carousels, parachute
29 towers, bungee jumping, reverse bungee jumping, tunnels of love and
30 roller coasters;

31 (B) equipment generally associated with winter activities, such as ski
32 lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways; ~~and~~

33 **(C) moon walks and other inflatable equipment; and**

34 ~~(D)~~ **(D)** equipment not originally designed to be used as an amuse-
35 ment ride, such as cranes or other lifting devices, when used as part of
36 an amusement ride.

37 (2) "Amusement ride" does not include:

38 (A) Games, concessions and associated structures;

39 (B) any single passenger coin-operated ride that: (i) Is manually, me-
40chanically or electrically operated; (ii) is customarily placed in a public
41 location; and (iii) does not normally require the supervision or services of
42 an operator;

43 (C) nonmechanized playground equipment, including, but not lim-

1 ited to, swings, seesaws, stationary spring-mounted animal features, rider-
2 propelled merry-go-rounds, climbers, slides, trampolines, ~~moon-walks~~
3 ~~and other inflatable equipment~~ and physical fitness devices;

4 (D) any nonprofit amusement ride owned by a political subdivision
5 of the state; or

6 (E) any amusement ride owned and operated by a not-for-profit or-
7 ganization and used by the public at not more than three events per year.

8 (b) “Certificate of inspection” means a certificate, signed and dated
9 by a qualified inspector, showing that an amusement ride has satisfactorily
10 passed inspection by such inspector.

11 (c) “Nondestructive testing” means the development and application
12 of technical methods such as radiographic, magnetic particle, ultrasonic,
13 liquid penetrant, electromagnetic, neutron radiographic, acoustic emis-
14 sion, visual and leak testing to:

15 (1) Examine materials or components in ways that do not impair the
16 future usefulness and serviceability in order to detect, locate, measure
17 and evaluate discontinuities, defects and other imperfections;

18 (2) assess integrity, properties and composition; and

19 (3) measure geometrical characters.

20 (d) “Operator” means a person actually engaged in or directly con-
21 trolling the operations of an amusement ride.

22 (e) “Owner” means a person who owns, leases, controls or manages
23 the operations of an amusement ride and may include the state or any
24 political subdivision of the state.

25 (f) “Parent or guardian” means any parent, guardian or custodian
26 responsible for the control, safety, training or education of a minor or a
27 disabled person, as defined by K.S.A. 59-3002 and amendments thereto.

28 (g) (1) “Patron” means any individual who is:

29 (A) Waiting in the immediate vicinity of an amusement ride to get
30 on the ride;

31 (B) getting on an amusement ride;

32 (C) using an amusement ride;

33 (D) getting off an amusement ride; or

34 (E) leaving an amusement ride and still in the immediate vicinity of
35 the ride.

36 (2) “Patron” does not include employees, agents or servants of the
37 owner while engaged in the duties of their employment.

38 (h) “Person” means any individual, association, partnership, corpo-
39 ration, limited liability company, government or other entity.

40 (i) “Qualified inspector” means a person who holds a current certi-
41 fication or other evidence of qualification to inspect amusement rides,
42 issued by a program specified by rules and regulations adopted under
43 section ~~3~~ 4, and amendments thereto.

1 (j) “Serious injury” means an injury that results in:

2 (1) Death, dismemberment, significant disfigurement or permanent
3 loss of the use of a body organ, member, function or system;

4 (2) a compound fracture; or

5 (3) other significant injury or illness that requires immediate admis-
6 sion and overnight hospitalization and observation by a licensed physician.

7 (k) “Sign” means any symbol or language reasonably calculated to
8 communicate information to patrons or their parents or guardians, in-
9 cluding placards, prerecorded messages, live public address, stickers, pic-
10 tures, pictograms, guide books, brochures, videos, verbal information and
11 visual signals.

12 ~~Sec. 2.~~ **3.** (a) No amusement ride shall be operated in this state un-
13 less at the time of operation the owner has in effect an insurance policy,
14 written by an insurance company authorized to do business in Kansas,
15 insuring the owner and operator against liability for bodily injury to per-
16 sons arising out of the operation of the amusement ride. Such insurance
17 policy shall:

18 (1) Provide for coverage in an amount not less than \$1,000,000 per
19 occurrence and not less than \$2,000,000 in the annual aggregate; and

20 (2) name as an additional insured any person contracting with the
21 owner for the amusement ride’s operation.

22 (b) An insurance policy required by this section shall provide that the
23 insurer may not cancel or refuse to renew the policy without 30 days’
24 written notice to the insured unless inspection reveals the ride is unsafe
25 and appropriate repairs cannot or will not be made, in which case cov-
26 erage may be canceled immediately to force closure of the ride.

27 (c) A copy of the insurance policy required by this section shall be
28 available for inspection by any person contracting with the owner for the
29 amusement ride’s operation.

30 **(d) The governing body of a city or county may allow, in lieu
31 of an insurance policy, an owner or operator to be self-insured.**

32 ~~Sec. 3. 4. No amusement ride shall be operated in this state unless
33 such: (a) Such ride has a valid certificate of inspection by a person who
34 holds current certification evidencing compliance with the standards re-
35 quired on January 30, 1998, for at least a level 1 (basic) inspector certi-
36 fication of the national association of amusement ride [safety] officials
37 or the amusement industry manufacturers and suppliers interna-
38 tional; and (b) a copy of such inspection certificate first has been
39 filed with the manager of the state fair. An amusement ride erected
40 at a permanent location in this state shall be inspected by a qualified
41 inspector at least every 12 months. An amusement ride erected at a tem-
42 porary location in this state shall have been inspected by a qualified in-
43 specter before it is first operated in this state in any calendar year. The~~

~~May 1, of such year and shall have been inspected at least once every 12 months. The certificate of an inspection required by this subsection shall be signed and dated by the inspector and shall be available to any person contracting with the owner for the amusement ride's operation. In addition, a visible inspection decal or other evidence of inspection shall be posted in plain view on or near the amusement ride, in a location where it can easily be seen.~~

Sec. ~~4. 5.~~ **4.** The owner of an amusement ride shall retain at all times current maintenance and **any** inspection records for such ride. Such records shall be available to any person contracting with the owner for the amusement ride's operation.

Nothing in this section shall be construed as requiring the inspection of an amusement ride.

Sec. ~~5. 6.~~ **5.** No amusement ride shall be operated in this state unless nondestructive testing of the ride has been conducted in accordance with the recommendations of the manufacturer of the ride and in conformance with standards at least equivalent to those of the American society for testing and materials that are in effect on the effective date of this act.

Sec. ~~6. 7.~~ **6.** (a) No amusement ride shall be operated in this state unless the operator has satisfactorily completed training that includes, at a minimum:

(1) Instruction on operating procedures for the ride, the specific duties of the operator, general safety procedures and emergency procedures;

(2) demonstration of physical operation of the ride; and

(3) supervised observation of the operator's physical operation of the ride.

(b) No amusement ride shall be operated in this state unless the name of each operator trained to operate the ride and the certificate of each such operator's satisfactory completion of such training, signed and dated by the trainer, is available to any person contracting with the owner for the amusement ride's operation on the premises where the amusement ride is operated, during the hours of operation of the ride.

Sec. ~~7. 8.~~ **7.** No amusement ride shall be operated in this state unless there is posted in plain view on or near the ride, in a location where they can be easily read, safety instructions **and warnings** for the ride.

Sec. ~~8.~~ (a) ~~Each patron of an amusement ride, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.~~

~~(b) Each patron of an amusement ride has a duty to:~~

~~(1) Exercise the judgment and act in the manner of an ordinary prudent person while participating in an amusement ride;~~

Sec. ~~9. 8.~~ (a) Each patron shall:

1 **(1) Exercise reasonable care under all circumstances while (A)**
 2 **waiting in the immediate vicinity of an amusement ride to get on**
 3 **the ride; (B) getting on an amusement ride; (C) using an amuse-**
 4 **ment ride; (D) getting off an amusement ride; or (E) leaving an**
 5 **amusement ride and still in the immediate vicinity of the ride;**

6 (2) obey all instructions and warnings, written or oral, prior to and
 7 during participation in an amusement ride;

8 (3) refrain from participation in an amusement ride while under the
 9 influence of alcohol or drugs **such that the patron is unable to safely**
 10 **use the amusement ride;**

11 (4) engage all **functioning** safety devices that are provided;

12 (5) refrain from disconnecting or disabling any safety device except
 13 at the ~~express~~ direction of the owner's agent or employee; and

14 (6) refrain from extending arms and legs beyond the carrier or seating
 15 area except at the ~~express~~ direction of the owner's agent or employee.

16 ~~(e)~~ **(b)** (1) A patron, or a patron's parent or guardian on a patron's
 17 behalf, shall report in writing to the owner any injury sustained on an
 18 amusement ride before leaving the premises, including:

19 (A) The name, address and phone number of the injured person;

20 (B) a full description of the incident, the **known** injuries claimed, any
 21 treatment received and the location, date and time of the injury;

22 (C) the cause of the injury, if known; and

23 (D) the names, addresses and phone numbers of any witnesses to the
 24 incident.

25 (2) If a patron, or a patron's parent or guardian on a patron's behalf,
 26 is unable to file a report because of the patron's injuries, the patron or
 27 the patron's parent or guardian on the patron's behalf shall file the report
 28 as soon as reasonably possible.

29 (3) The failure of a patron, or the patron's parent or guardian on a
 30 patron's behalf, to report an injury under this subsection shall have no
 31 effect on the patron's right to commence a civil action.

32 ~~(d) Any parent or guardian of a patron shall have a duty to reasonably~~
 33 ~~ensure that the patron complies with all provisions of this act.~~

34 Sec. ~~9~~, **10**, **9**. Any person contracting with an owner for the amuse-
 35 ment ride's operation shall ensure that:

36 ~~(a) Inspection certificates required by section 3 4, and amendments~~
 37 ~~thereto, Any inspection certificates~~ are available;

38 (b) maintenance and inspection records required by section ~~4 5~~ **4**,
 39 and amendments thereto, are available; and

40 (c) safety instructions **and warnings** for the ride are posted as re-
 41 quired by section ~~7 8~~ **7**, and amendments thereto.

42 Sec. ~~10~~, ~~11~~, **10**. Whenever a serious injury results from the operation
 43 of an amusement ride:

1 (a) Operation of the ride shall immediately be discontinued;
 2 (b) operation of the ride shall not be resumed until it has been in-
 3 spected and the qualified inspector has approved resumption of opera-
 4 tion; and

5 (c) the owner, within 30 days after the injury, shall notify the man-
 6 ufacturer of the ride, if the manufacturer is known and in existence at
 7 the time of the injury.

8 ~~Sec. 11. 12. 11.~~ (a) It is a class B misdemeanor for an owner or
 9 operator of an amusement ride knowingly to operate, or cause or permit
 10 to be operated, any amusement ride in violation of this act.

11 (b) It is a class C misdemeanor knowingly to violate the provisions of
 12 section ~~9 10 9~~, and amendments thereto.

13 (c) Each day a violation continues shall constitute a separate offense.

14 ~~Sec. 12. 13. 12.~~ The attorney general, or the county or district at-
 15 torney in a county in which an amusement ride is located or operated,
 16 may apply to the district court for an order enjoining operation of any
 17 amusement ride operated in violation of this act.

18 ~~Sec. 13. 14. 13.~~ The governing body of any city or county may es-
 19 tablish and enforce safety standards for amusement rides in addition to,
 20 but not in conflict with, the standards established by this act.

21 **~~Sec. 15. 14. K.S.A. 40-4801, 40-4802, 40-4803 and 40-4804 are~~**
 22 **hereby repealed.**

23 ~~Sec. 14. 16. 15.~~ This act shall take effect and be in force from and
 24 after January 1, 2002, and its publication in the statute book.

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