

As Amended by House Committee

Session of 2008

HOUSE BILL No. 2616

By Special Committee on Federal and State Affairs

1-10

10 AN ACT concerning amusement rides; relating to inspection and regu-
11 lation thereof; prohibiting certain acts and providing penalties and
12 remedies for violations.

13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. As used in this act:

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

21 (A) Rides commonly known as ferris wheels, carousels, parachute
22 towers, bungee jumping, reverse bungee jumping, tunnels of love and
23 roller coasters;

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

26 (C) equipment not originally designed to be used as an amusement
27 ride, such as cranes or other lifting devices, when used as part of an
28 amusement ride.

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

30 (A) Games, concessions and associated structures;

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

35 (C) nonmechanized playground equipment, including, but not lim-
36 ited to, swings, seesaws, stationary spring-mounted animal features, rider-
37 propelled merry-go-rounds, climbers, slides, trampolines, moon walks
38 and other inflatable equipment and physical fitness devices.

39 (b) "Certificate of inspection" means a certificate, signed and dated
40 by a qualified inspector, showing that an amusement ride has satisfactorily
41 passed inspection by such inspector.

42 (c) "Department" means the department of labor.

43 (d) "Nondestructive testing" means the development and application

- 1 of technical methods such as radiographic, magnetic particle, ultrasonic,
2 liquid penetrant, electromagnetic, neutron radiographic, acoustic emis-
3 sion, visual and leak testing to:
- 4 (1) Examine materials or components in ways that do not impair the
5 future usefulness and serviceability in order to detect, locate, measure
6 and evaluate discontinuities, defects and other imperfections;
 - 7 (2) assess integrity, properties and composition; and
 - 8 (3) measure geometrical characters.
 - 9 (e) “Operator” means a person actually engaged in or directly con-
10 trolling the operations of an amusement ride.
 - 11 (f) “Owner” means a person who owns, leases, controls or manages
12 the operations of an amusement ride and may include the state or any
13 political subdivision of the state.
 - 14 (g) “Parent or guardian” means any parent, guardian or custodian
15 responsible for the control, safety, training or education of a minor or an
16 adult or minor with an impairment in need of a guardian or a conservator,
17 or both, as those terms are defined by K.S.A. 59-3051 and amendments
18 thereto.
 - 19 (h) (1) “Patron” means any individual who is:
 - 20 (A) Waiting in the immediate vicinity of an amusement ride to get
21 on the ride;
 - 22 (B) getting on an amusement ride;
 - 23 (C) using an amusement ride;
 - 24 (D) getting off an amusement ride; or
 - 25 (E) leaving an amusement ride and still in the immediate vicinity of
26 the ride.
 - 27 (2) “Patron” does not include employees, agents or servants of the
28 owner while engaged in the duties of their employment.
 - 29 (i) “Person” means any individual, association, partnership, corpora-
30 tion, limited liability company, government or other entity.
 - 31 (j) “Qualified inspector” means a person who holds a current certi-
32 fication or other evidence of qualification to inspect amusement rides,
33 issued by a program specified by rules and regulations adopted under
34 section 3, and amendments thereto.
 - 35 (k) “Secretary” means the secretary of labor.
 - 36 (l) “Serious injury” means an injury that results in:
 - 37 (1) Death, dismemberment, significant disfigurement or permanent
38 loss of the use of a body organ, member, function or system;
 - 39 (2) a compound fracture; or
 - 40 (3) other significant injury or illness that requires immediate admis-
41 sion and overnight hospitalization and observation by a licensed physician.
 - 42 (m) “Sign” means any symbol or language reasonably calculated to
43 communicate information to patrons or their parents or guardians, in-

1 cluding placards, prerecorded messages, live public address, stickers, pic-
2 tures, pictograms, guide books, brochures, videos, verbal information and
3 visual signals.

4 Sec. 2. (a) The secretary shall adopt rules and regulations specifying
5 programs that issue certification or other evidence of qualification to in-
6 spect amusement rides and that the secretary determines require edu-
7 cation, experience and training at least equivalent to those required on
8 the effective date of this act for a level I certification by the national
9 association of amusement ride safety officials. **The secretary shall de-**
10 **velop an inspection check list which shall be posted on the de-**
11 **partment web site.**

12 (b) No amusement ride shall be operated in this state unless such
13 ride has a valid certificate of inspection. An amusement ride erected at a
14 permanent location in this state shall be ~~inspected~~ **self-inspected** by a
15 qualified inspector at least every 12 months. An amusement ride erected
16 at a temporary location in this state shall have been ~~inspected~~ **self-in-**
17 **spected** by a qualified inspector within the preceding 30 days. The cer-
18 tificate of an inspection required by this subsection shall be signed and
19 dated by the inspector and shall be available to any person contracting
20 with the owner for the amusement ride's operation. In addition, a visible
21 inspection decal or other evidence of inspection shall be posted in plain
22 view on or near the amusement ride, in a location where it can easily be
23 seen.

24 (c) **The secretary shall conduct random inspections of amuse-**
25 **ment rides erected both at permanent locations and at temporary**
26 **locations. A warning citation for violation of this act shall be issued**
27 **against any owner or operator for a first violation but no criminal**
28 **proceeding shall be brought.**

29 Sec. 3. The owner of an amusement ride shall retain at all times
30 current maintenance and inspection records for such ride. Such records
31 shall be available to any person contracting with the owner for the amuse-
32 ment ride's operation.

33 Sec. 4. No amusement ride shall be operated in this state unless non-
34 destructive testing of the ride has been conducted in accordance with the
35 recommendations of the manufacturer of the ride and in conformance
36 with standards at least equivalent to those of the American society for
37 testing and materials that are in effect on the effective date of this act.

38 Sec. 5. (a) No amusement ride shall be operated in this state unless
39 the operator has satisfactorily completed training that includes, at a
40 minimum:

41 (1) Instruction on operating procedures for the ride, the specific du-
42 ties of the operator, general safety procedures and emergency
43 procedures;

- 1 (2) demonstration of physical operation of the ride; and
2 (3) supervised observation of the operator's physical operation of the
3 ride.
- 4 (b) No amusement ride shall be operated in this state unless the name
5 of each operator trained to operate the ride and the certificate of each
6 such operator's satisfactory completion of such training, signed and dated
7 by the trainer, is available to any person contracting with the owner for
8 the amusement ride's operation on the premises where the amusement
9 ride is operated, during the hours of operation of the ride.
- 10 Sec. 6. No amusement ride shall be operated in this state unless
11 there is posted in plain view on or near the ride, in a location where they
12 can be easily read, all safety instructions for the ride.
- 13 Sec. 7. (a) Each patron of an amusement ride, by participation, ac-
14 cepts the risks inherent in such participation of which an ordinary prudent
15 person is or should be aware.
- 16 (b) Each patron of an amusement ride has a duty to:
- 17 (1) Exercise the judgment and act in the manner of an ordinary pru-
18 dent person while participating in an amusement ride;
- 19 (2) obey all instructions and warnings, written or oral, prior to and
20 during participation in an amusement ride;
- 21 (3) refrain from participation in an amusement ride while under the
22 influence of alcohol or drugs;
- 23 (4) engage all safety devices that are provided;
- 24 (5) refrain from disconnecting or disabling any safety device except
25 at the express direction of the owner's agent or employee; and
- 26 (6) refrain from extending arms and legs beyond the carrier or seating
27 area except at the express direction of the owner's agent or employee.
- 28 (c) (1) A patron, or a patron's parent or guardian on a patron's behalf,
29 shall report in writing to the owner any injury sustained on an amusement
30 ride before leaving the premises, including:
- 31 (A) The name, address and phone number of the injured person;
- 32 (B) a full description of the incident, the injuries claimed, any treat-
33 ment received and the location, date and time of the injury;
- 34 (C) the cause of the injury, if known; and
- 35 (D) the names, addresses and phone numbers of any witnesses to the
36 incident.
- 37 (2) If a patron, or a patron's parent or guardian on a patron's behalf,
38 is unable to file a report because of the severity of the patron's injuries,
39 the patron or the patron's parent or guardian on the patron's behalf shall
40 file the report as soon as reasonably possible.
- 41 (3) The failure of a patron, or the patron's parent or guardian on a
42 patron's behalf, to report an injury under this subsection shall have no
43 effect on the patron's right to commence a civil action.

- 1 (d) Any parent or guardian of a patron shall have a duty to reasonably
2 ensure that the patron complies with all provisions of this act.
- 3 Sec. 8. Any person contracting with an owner for the amusement
4 ride's operation shall ensure that:
- 5 (a) Inspection certificates required by section 2, and amendments
6 thereto, are available;
- 7 (b) maintenance and inspection records required by section, 3 and
8 amendments thereto, are available; and
- 9 (c) safety instructions for the ride are posted as required by section
10 6 and amendments thereto.
- 11 Sec. 9. Whenever a serious injury results from the operation of an
12 amusement ride:
- 13 (a) Operation of the ride shall immediately be discontinued;
- 14 (b) operation of the ride shall not be resumed until it has been in-
15 spected and the qualified inspector has approved resumption of opera-
16 tion; and
- 17 (c) the owner, within 30 days after the injury, shall notify the man-
18 ufacturer of the ride, if the manufacturer is known and in existence at
19 the time of the injury.
- 20 Sec. 10. (a) It is a class B misdemeanor for an owner or operator of
21 an amusement ride knowingly to operate, or cause or permit to be op-
22 erated, any amusement ride in violation of this act.
- 23 (b) It is a class C misdemeanor knowingly to violate the provisions of
24 section 8 and amendments thereto.
- 25 (c) Each day a violation continues shall constitute a separate offense.
- 26 Sec. 11. The attorney general, or the county or district attorney in a
27 county in which an amusement ride is located or operated, may apply to
28 the district court for an order enjoining operation of any amusement ride
29 operated in violation of this act.
- 30 Sec. 12. The governing body of any city or county may establish and
31 enforce safety standards for amusement rides in addition to, but not in
32 conflict with, the standards established by this act.
- 33 Sec. 13. This act shall take effect and be in force from and after
34 **January 1, 2009, and** its publication in the statute book.