

Approved: 2-17-97  
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on January 30, 1997 in Room 519-S of the Capitol.

All members were present except: Representative Steve Lloyd, Excused

Committee staff present: Mary Galligan, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
June Evans, Committee Secretary

Conferees appearing before the committee: Steve Rarrick, Deputy Attorney General  
Doug Lawrence, K-Race  
Barbara Tombs, Executive Director, Sentencing Commission  
Representative Tom Sloan  
J. Philip Coulson, Haas & Wilkerson Insurance  
Chris Flattery, Ottaway Amusement Company, Inc.  
Alvin DeRusha, Associate Director, Outdoor Business Association, Inc.  
Harold Anderson, Kansas Fairs Association  
Bob Gottschalk, The Kansas State Fair  
Representative Dennis McKinney

Others attending: See attached list

Steve Rarrick, Consumer Protection Division, Office of the Attorney General, requested two bills be introduced: (1) Prize Notification - Amend K.S.A. 50-692 which would include oral (telemarketing) prize solicitations, change the definition of "prize notice" and eliminate all exemptions and (2) Business Opportunities - New Statute to include the following requirements of suppliers promotion business opportunities: registration/filing with the Secretary of State, disclosure to consumer and Secretary of State, right to cancel contract provisions and bonding, trust account, and letter of credit requirements for companies making assurance of profit. (Attachment #1)

Representative Swenson moved and Representative Gilbert seconded to accept request as committee bills. The motion carried.

Doug Lawrence, K-Race, requested a bill introduction concerning lotteries; providing for the operation of certain state-owned and operated lottery games at certain racetrack facilities; providing for disposition of revenues from such games; prohibiting certain acts and providing penalties for violation. (Attachment 2)

Representative Cox moved and Representative Ruff seconded to accept request as a committee bill. The motion carried.

Barbara Tombs, Executive Director, Kansas Sentencing Commission, gave a briefing on the sentencing guidelines which would impact HB 2025 as it proposes to increase the penalty from a Class A nonperson misdemeanor to a severity level 5 nonperson felony. (Attachment 3)

**HB 2024:** **Inspecting and permitting amusement rides; licensing inspectors of the rides**

Mary Torrence, Revisor of Statutes, gave a briefing on HB 2024, stating the bill would provide for the regulation of amusement park rides by the Secretary of Agriculture. It would authorize the Secretary of Agriculture to adopt rules and regulation governing the safe installation, repair, maintenance, use, operation, and inspection of rides as the secretary deems necessary for the protection of the general public. It would specifically prohibit the operation of reverse bungee jumping rides which is the reverse process where the cord is stretched and catapulted through the air. The reverse bungee would be prohibited, not the bungee jumping. The bill would require persons owning amusement rides to obtain a permit from the secretary of agriculture

CONTINUATION SHEET

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and in order to receive that permit they would have to show a certificate of inspection by a qualified inspector, proof of liability insurance and the amount set by the secretary, but not to be greater than one million dollars per occurrence. There would also be a permit fee and the maximum would be \$50 for each amusement ride and established by the secretary of agriculture by rules and regulations. The secretary could waive the requirements that the owner of the amusement ride have an inspection if the owner could submit satisfactory proof that the amusement ride passed inspection by a federal agency, any other state agency or a governmental subdivision of this or of any other state which has standards for the inspection of such an amusement ride at least as stringent as those adopted pursuant to this act. There is a provision to require the insurance company to report cancellation of that liability insurance coverage to the secretary of agriculture. There is a provision that the secretary of agriculture could inspect amusement rides without notice at any time the ride is operating in the state. It also provides for the owner of amusement rides to submit copies of accident reports to the secretary of agriculture when those reports are required to be submitted to the owners insurer. The bill provides for licensure of inspectors as necessary to carry out the provisions of this act done by the secretary of agriculture established by rules and regulations and criteria for those inspectors to be licensed. The license fees for inspectors would be established by the secretary of agriculture but not be exceed \$15. The secretary by rules and regulations may establish reasonable inspection fees for unusual rides. Each owner of amusement rides are required to maintain up-to-date maintenance inspection records and have to be made available to the secretary on request. The owners are also required on request by the secretary to provide the secretary with a tentative schedule of events. Any person under 16 years of age would be prohibited from operating any amusement ride at any time and requires an operator be in attendance at any time ride is in operation. The bill also provides for any person who knowingly operates an amusement ride in violation of this act shall be guilty of a class B misdemeanor and carries with it a jail time up to 6 months a fine up to \$1,000. The bill provides for the Attorney General to enforce the act by bringing an injunction on behalf of the secretary of agriculture or the local prosecuting attorney may apply to district court for an injunction if necessary to enforce the act.

Representative Tom Sloan testified as a proponent of **HB 2024** stating that Kansas is one of only six states that do not require amusement rides to be inspected to ensure the safety of our children. (Attachment 4)

J. Philip Coulson, Haas & Wilkerson Insurance, stated he was listed as a proponent, but that was incorrect, he was an opponent of **HB 2024** but a proponent of ride legislation. (Attachment 5)

Chris Flattery, Ottaway Amusement Co., Inc., changing from a proponent to an opponent of **HB 2024** stated he owned and operated a 16 ride show in Kansas, Oklahoma and Texas. Mr. Flattery stated he was in support of ride inspection legislation, but feels the carnival and amusement industry should be involved in the legislation. (Attachment 6)

Alvin DeRusha, Associate Director, Outdoor Amusement Business Association, Inc., changing from a proponent to an opponent of **HB 2024** stated OABA supported safety legislation which is not economically detrimental to the members. OABA was not aware of any incidents in the state that warrant such extensive and expedient legislation, but are in favor of a commission or task force being formed with representatives from the industry, the state fair and other interested parties to research other state amusement ride laws, inspection certification, and permit fees and to model the appropriate legislation for the state of Kansas. (Attachment 7)

Robert A. Gottschalk, The Kansas State Fair, testified as an opponent to **HB 2024**, stating his concern was the language that outlines the safety procedures, not its intentions. There was also concern for the costs that would be required to maintain and administer this act as it grows in coverage and responsibility. (Attachment 8)

Harold Anderson, Kansas Fairs Association, an opponent to **HB 2024**, stated there are annually about 113 county fairs held in Kansas. These have traditionally been between the middle of July through the third week of August. There are about seven carnivals in the state. Carnivals are a very important part of many fairs and there are never enough to cover all of the state fairs. (Attachment 9)

The Chairperson closed the hearing on **HB 2024**.

**HB 2039**                      **Prohibiting parents or guardians from furnishing minor child or ward cereal malt beverage on public property.**

The Chairperson opened the hearing on **HB 2039**.

Representative Dennis McKinney, proponent for **HB 2039** stated some of his constituents had very strong interest in the bill and were in court today and could not be here but sent written testimony. Last year the Kingman County Attorney's Office had a situation that illustrates the need for legislation. (Attachment 10)

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MINUTES OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS, Room 519-S  
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Representative McKinney also provided testimony by Robert J. Schmisser, District Judge, Pratt, Kansas (Attachment 11), Larry T. Solomon, Administrative/District Judge, Kingman, Kansas (Attachment 12), and James D. Mathis, District Magistrate Judge (Attachment 13)

Mary Torrence, Revisor of Statutes Office, gave a briefing on **HB 2039** stating under current law it is a crime to furnish cereal malt beverage to a minor unless they are the parent or guardian of the minor. This bill would make an exception if such cereal malt beverage is furnished to such child or ward on or to be consumed upon any public property of a governmental entity or at any event or activity open to the general public.

The Chairperson closed the hearing on **HB 2039**.

Testimony was received supporting **HB 2039** from Canda Byrne, MSN,ARNP,CS, Legislative Representative, Kansas Alcoholism and Drug Addiction Counselors Association. (Attachment 14)

Representative Gilbert moved and Representative Cox seconded to approve the minutes of January 16 and 23. The motion carried.

The meeting adjourned at 2:55 p.m.

The next meeting is scheduled for February 3, 1997.

FEDERAL & STATE AFFAIRS COMMITTEE

DATE: January 30, 1997

NAME	REPRESENTING
Amy Campbell	R. Rice Law Office
Glenn Thompson	Stand Up For Kansas
Dave Schneider	Kansas For Life At Its Best
Pat Powell	Ks. Assoc. Evangelical
Tracy Dief	State Gaming Agency
M. J. & S. J.	Ks Racing & Gaming Commission
Pam Evans	Kansas Lottery
Doug Lawrence	K-RACE
Herald & Co. Co.	Monthly Expo Show & Sale <sup>Ks</sup>
Howard Aspman	Spencer Ride
Veckie Flatters	Ottaway Amusement Co
Chris Flatters	Ottaway Amus. Co., Inc.
Don Ryan	K-RACE
Julia Sambrook	KSC
Opdie Meyer	KSC
Barbara Tomlin	KSC
Neal Whitaker	Ks Beer Wholesalers Assn
Doris Ewert	K-RACE
Jim Boyer	Sunflower
Ken Bato	Ks. Governmental Consulting
James Clark	Ks County & District Attorneys Assn
Jesse Seabell	KTLA



CARLA J. STOVALL  
ATTORNEY GENERAL

State of Kansas

## Office of the Attorney General

CONSUMER PROTECTION DIVISION

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PHONE: (913) 296-3751 FAX: 291-3699 TTY: 291-3767

CONSUMER HOTLINE  
1-800-432-2310

January 30, 1997

TO: House Federal and State Affairs  
FROM: Attorney General Carla Stovall  
RE: 1997 Legislative Recommendations

**Prize Notification** - Amend K.S.A. 50-692 to:

- a. Include oral (telemarketing) prize solicitations.
- b. Change the definition of "prize notice."
- c. Eliminate all exemptions.

**Business Opportunities** - New Statute to include the following requirements of suppliers promoting business opportunities:

- a. Registration/filing with the Secretary of State.
- b. Disclosure to consumer and Secretary of State.
- c. Right to cancel contract provisions.
- d. Bonding, trust account, and letter of credit requirements for companies making assurances of profit.

Feds State  
1-30-97  
Atch # 1

## Key Points:

### New Games

- A. Keno
  - B. Call Bingo
  - C. Instant On-Line Bingo
  - D. Pari-mutuel on-line lottery game
- Specifically authorized for Racetrack lottery retailers, but no specific prohibition or exclusive arrangement for other lottery retailers.
  - All new Racetrack Lottery games must be approved by the lottery commission and governor
  - Expense of promotion and operation for racetrack lottery games paid by racetrack lottery retailers
  - Payback to winners approved by lottery commission ranging from 80% to 95% of wagers for racetrack lottery games
  - Slot machine and VLT prohibition for lottery and racetrack lottery retailers
  - Instant on-line Bingo specifically authorized for regular lottery retailers
  - Pari-Mutuel on-line lottery game constrained to a truly pari-mutuel wager and payoffs where the players are playing against each other rather than the house.

### Operation issues

- Racetrack Lottery Retailer contracts renewed annually
- Racetrack Lottery Retailer responsible for all expenses of operation.
- Kansas Lottery expenses associated with racetrack lottery games paid first
- 10% of net game revenue to the State, with no additional expense involved (free and clear)
- 20% to enhanced purses and breeder awards to Kansas-Bred animals
- 1% Direct award to Associated Charities
- Increased commission to existing lottery retailers on existing lottery games
- Governor and Lottery Commission have final say over games to be offered at tracks.
- Lottery is placed under the slot machine and VLT prohibitions as Racetrack lottery retailers.

Feds State  
1-30-97  
Atch #2

Section by Section analysis:

Section 1: Title Section, incorporates amendments into the Kansas Lottery Act

Section 2: Definition Section

Major New Definitions include:

1. Keno
2. Pari-Mutuel On-Line Game
3. Instant On-Line Bingo
4. Racetrack Lottery Game
  - Games allowed for racetrack lottery retailers
    - Call Bingo
    - Instant On-Line Bingo
    - Keno
    - Pari-Mutuel On-Line Game
  - All games to be approved by Lottery Commission
  - Slot Machines and Video Lottery are prohibited under this definition
5. Racetrack Lottery Retailer
6. Slot Machine
7. Video Lottery Machine
8. Net Income from Racetrack lottery games

Section 3: New Section which outlines contractual requirements for Racetrack licensees

Major Provisions:

1. Annual Contracts, approved by the Kansas Racing Commission
2. Racetrack licensees responsible for all costs associated with racetrack lottery games
3. Days and Hours of operations allowed

Section 4: New Section creates the Race Track Lottery operating fund

Major Provisions:

Net Income from lottery games divided as follows:

1. Expenses of the Lottery associated with Operation of Racetrack Lottery games
2. 10% to State Gaming Revenues Fund (KSA 79-4801)
3. 20% to Breed Group accounts (amounts for specific breeds varies depending on the track involved).
4. 1% to Racetrack licensees for Charitable functions
5. Remainder to racetrack lottery retailers

Section 5: New Section Creates Breed and Purse Enhancement fund

Revenue from Breed group accounts used for purse supplements and special Breeder's awards for Owners of Kansas Bred Horses and Greyhounds.

Section 6: Amends the powers of the Lottery Executive Director to include responsibilities associated with Racetrack lottery retailers.

Section 7: Amends the Duties of the Lottery Executive Director to incorporate Racetrack Lottery Retailer category.

Section 8: Amends the rule and regulation authority of the Lottery Commission

Major new provisions include:

1. Establishment of Minimum and Maximum payouts for racetrack lottery retailers
2. Minimum and maximum payouts of on-line instant bingo for lottery retailers
3. Requires odds to be posted for racetrack lottery games
4. Requires approval of the Governor of any new racetrack lottery games
5. Establishes a minimum lottery retailer commission of 7.5%
6. Prohibits slot machines in addition to Video Lottery Machines use in any game operated by the lottery.

Section 9: Amends the state lottery operating fund statutes clarify handling of money from racetrack racetrack lottery games, and allows for commissions paid to existing lottery retailers for new instant on-line bingo.

Section 10: Amends statute governing lottery director, commission or employees interests or activities to reflect new racetrack lottery retailer category.

Section 11: Amends Statute governing the sale or resale of lottery tickets to include racetrack lottery games and retailers.

Section 12: Amends Statute governing the purchase of lottery tickets, prohibiting certain people from making such purchases. Incorporates racetrack lottery retailer language.

Section 13: Amends Statute governing the payment of prizes to incorporate racetrack lottery retailer classification.

Section 15: Repealers





State of Kansas  
KANSAS SENTENCING COMMISSION

COMMITTEE ON FEDERAL AND STATE AFFAIRS  
TESTIMONY  
JANUARY 30, 1997

**HISTORY OF SENTENCING GUIDELINE ACT**

In 1989, Senate Bill 50 was introduced and passed establishing the Kansas Sentencing Commission. The stated mission of the Kansas Sentencing Commission was to develop uniform sentencing guidelines that established a range of presumptive sentences, which would be based on two primary assumptions. The first assumption was that incarceration would be reserved for serious offenders and the second assumption was that the primary purposes of a prison sentence are incapacitation and punishment. Although this was a departure from the status quo, it clarified that the goal of incarceration was not rehabilitation, but rather punishment. The Commission supported this change but also believed that rehabilitation efforts should be maintained once the decision was reached to incarcerate.

The Sentencing Commission conducted a study of current sentencing practices throughout the state of Kansas. From the study Sentencing Guidelines were drafted with several established goals: 1) to promote public safety by incarcerating violent offenders; 2) to reduce sentencing disparity by eliminating racial, geographical, or other forms of bias; 3) to establish sentences proportional to the seriousness of the offense and the degree of injury to the victim; 4) to develop a range of presumptive sentences that promote "truth in sentencing;" 5) to provide state and local correctional authorities with information to assist with population projections; and 6) to provide policy makers with information that will aid in decisions regarding resource allocations

The Sentencing Guidelines Act was passed by the 1992 Kansas Legislature and has been amended during the 1993, 1994, 1995, and 1996 Sessions. Sentencing Guidelines became effective on July 1, 1993 and are applicable for any felony offense committed on or after that date. The Guidelines Act utilized sentencing grids, based on offense severity and criminal history of the offender, to determine sentence lengths for all felony offenses committed on or after its effective date. Felony offenses are categorized as person and nonperson crimes, with person crimes designated as the more serious felony offenses. In addition, a retroactive provision was incorporated for incarcerated offenders who would have been considered candidates

In addition to the prison portion of a sentence imposed under Sentencing Guidelines, all offenders are required to serve a period of post release supervision, plus the amount of good time earned and retained while imprisoned. The established period of post-release supervision is either 12/24 or 24/36 months depending on the severity level of the offense and the date the offense was committed.

#### **OPERATIONAL ASPECTS OF THE SENTENCING GUIDELINES:**

Sentencing Guidelines were designed to address two issues: who goes to prison and the length of an individual's sentence. The sentencing grids apply only to felony convictions. Misdemeanor and city ordinance convictions are excluded, except for their calculation in an offender's criminal history. The grid contains a dispositional line; any grid cells above the dispositional line are considered presumptive prison and grid cells below the dispositional line are considered presumptive probation.

Sentencing Guidelines, in Kansas, determine sentence length by correlating criminal history with offense severity level, which is determined by statute. Kansas utilizes two separate sentencing grids: one for nondrug offenses and one for drug offenses. The severity level of the offense is located on the left hand vertical axis of the sentencing grid. Severity levels range from I to X, with level I being the most serious and level X being the least serious. Criminal history categories are presented on the top horizontal axis of the grid, ranging from I to A, with I representing no or minimal criminal and A indicating an extensive criminal history. Offense severity level is matched with the appropriate criminal history category to indicate the sentencing cell that designates the appropriate sentence length.

Within each sentencing cell on the grid are three different sentence lengths indicated. The middle number represents the standard sentence length for that specific severity level and criminal history category. The upper number specifies a sentence in the aggravated range and the lower number specifies the sentence in the mitigated range. This range of numbers permits the judge to impose a sentence that takes into consideration factors surrounding the commission of the offense.

In addition to the sentencing range presented in each grid cell, the judge may also impose a departure, if there are extenuating or specific circumstances surrounding a crime. The Sentencing Guideline Act sets forth a nonexclusive list of departure factors which the judge must state at the time of departure. Departures are defined as dispositional, durational or a combination of dispositional and durational. Dispositional departures, for example, place an offender on probation for an offense that the sentencing grid would indicate as presumptive prison or vice versa. Durational departures would either increase or decrease the designated sentence lengths state within a grid cell. Departures are subject to appeal under the Sentencing Guideline Act.

Finally, both the drug and nondrug grid contain certain cells that are defined as border boxes. Border boxes reflect presumptive prison sentences but permit the judge to impose an presumptive nonprison sentence if certain criteria is met. The imposition of a nonprison sentence is not appealable in the border boxes.

### **IMPACT OF SENTENCING GUIDELINES ON PRISON POPULATION**

One of the primary roles of the Sentencing Commission centers around the issue of the ever increasing state prison population. Although guidelines were never designed nor enacted with the goal of reducing prison population, they were implemented to help aid correctional authorities with population projections and management options. In addition, the Commission has a legislative mandate under K.S.A. 1994 Supp. 21-4725 to consult with the Secretary of Corrections to try to develop mechanisms for reducing or managing the prison population when the state prison population reaches 90% capacity.

Sentencing guidelines did enact longer sentences for serious and violent person felonies, but at the same time reduced sentences or replaced incarceration with probation for less serious property and non-person felonies. The changes in sentence lengths were in accordance with the expressed public and legislative concern for increasing public safety. The length of sentences becomes a very important issue in projecting prison population. Even if admission rates remain stable or demonstrate a slight increase, a shortage of prison bedspace will occur over time simply because offenders are incarcerated for longer periods of time. This situation is commonly known as a "stacking effect". Thus, it is not just the number of offenders incarcerated but the length of incarceration that becomes a critical factor.

The retroactivity provision of the Guidelines provided a short term reduction in prison population by releasing approximately 2,500 inmates. It reduced the stock population immediately and accelerated the release of other inmates. However, this reduction was temporary and normal admission patterns returned the population to its previous level within two years.

When a state decides to implement guidelines, it must recognize that all four correctional components (jails, probation, prison, and parole systems) as well as the courts will be affected by the sentencing reform. Although some of the offenders who previously may have been sentenced to prison are now diverted, this might result in an even larger group of probationers, who could then recidivate and eventually spend time incarcerated in prison or county jails. Further, along with changes in the attributes of the offenders within the various correctional system components, one can expect changes in the management needs and outcome measures of each system. For example, offenders incarcerated under pre-guideline sentences, who were not eligible for retroactivity, may have offender characteristics which impacts on the rate at which parole board decides to grant releases. Both changes in the length of post-release supervision and offender characteristics may have further affects on the rate at which offenders on post-release supervision are returned to prison, which will impact on the prison population also. Estimating prison population is a much more complex process than just subtracting releases from admissions.

Another area of concern relating to guideline sentences is the amount of "lag time" experienced between implementation of the guidelines and offenders entering state correctional facilities under a guideline sentence. As of the end of fiscal year 1996, slightly less than 60% of admissions to prison were under guideline sentences. This figure would indicate that although sentencing guidelines have been effect for over three years, it is not anticipated that all prison admissions will be guidelines sentences until around July of 1997.

Finally, even though sentencing guidelines determines the length of a prison or probation term, the guidelines do not govern revocation procedures for probation or parole/post-release violators. The amount of time an individual offender must serve when revocation is imposed is determined by the guidelines, but the criteria for revocation is not defined. Thus, when the number of revocations increase, additional prison beds are required to accommodate that group of offenders.

### **PRISON POPULATION PROJECTIONS**

The Kansas Sentencing Commission initiated a contract with the National Council On Crime And Delinquency (NCCD) in July of 1995, to develop a computer based simulation prison population projection model known as Prophet. The Prophet Model utilizes a modeling technique that is a combination of stochastic entity simulation and a Monte Carlo simulation. The stochastic or probabalistic technique utilizes a random number process to simulate the movement offenders through the correctional system. Simply stated the Prophet model bring offenders into the prison system, holds them in a specific status, moves them among statuses and finally exits them from the prison system. The status placement of offenders is based upon transition statistical probabilities provided by the programmer, which are formulated on a combination of historical data and assumptions provided by the Consensus group.

A ten year forecast period was developed, which provided a baseline prison population projection by severity level up to the year 2006 (Table 1). The baseline projections also include the projected number beds needed for conditional parole/post-release violators that will enter correctional facilities in that same ten year period. In addition, projected bedspace savings from the implementation of border boxes on the drug grid are indicated.

The prophet model is also utilized to project additional bedspace needs that would result from new legislation that is brought before various committees. If a proposed bill enhances penalties or creates a new offense category, then historical data and the appropriate assumptions are programmed into the model to project the number of beds would be needed to accommodate that specific piece of legislation. The Sentencing Commission completed over 56 individual legislative impacts during the previous session.

Attached please find the legislative impact that was completed for HB 2025, which amends K.S.A. 21-4318 relating to the infliction of great bodily harm, poisoning, or killing of a police or arson dog. The bill proposes to increase the penalty from a Class A nonperson misdemeanor to a severity level 5 nonperson felony. Attached is the a list of the assumptions used in the bedspace projection for HB 2025 and several scenarios for projected additional beds required under the changes proposed in this bill.

For more information contact:

Barbara Tombs  
Executive Director  
Kansas Sentencing Commission

## Bed Space Impact Assessment House Bill 2025

### KEY ASSUMPTIONS

- \* Bed Space impacts are in relation to the baseline forecast produced in October 1996, by the Kansas Sentencing Commission.
- \* Percentage of targeted inmate sentences served in prison is assumed to be 85 percent, less estimated good time lost and jail credits under current policy.
- \* Scenario #1 assumes that one offender is sentenced to prison every two years under Statute # 21-4318.
- \* Scenario #2 assumes that one offender is sentenced to prison every one year under Statute # 21-4318.
- \* Scenario #3 assumes that two offenders are sentenced to prison every one under Statute # 21-4318.
- \* Scenario #4 assumes that five offenders are sentenced to prison year under Statute # 21-4318.
- \* If the targeted offenders under Statute # 21-4318 are raised from misdemeanor A to felony nonperson level 5, the length of stay is assumed to be 49 months.

### FINDINGS

Currently there are no offenders housed in a state correctional facility nor anyone is sentenced to probation under Statute # 21-4318 in our database.

If one offender is admitted to prison every two years, a total of 2 beds are needed by the year 2006.

If one offender is admitted to prison every year, a total of 4 beds are needed by the year 2006.

If two offenders are admitted to prison every year, a total of 7 beds are needed by the year 2006.

If five offenders are admitted to prison every year, a total of 18 beds would be needed by the year 2006.

**Bed Space Impact Assessment**  
**Statute # 21-4318 Raised from Misdemeanor A to Felony Nonperson Level 5**

June of Each Year	Scenario #1	Scenario #2	Scenario #3	Scenario #4
1997	1	1	2	5
1998	1	2	4	10
1999	2	3	6	15
2000	1	3	7	18
2001	2	4	7	17
2002	2	4	7	17
2003	2	4	7	17
2004	2	3	7	18
2005	2	4	7	18
2006	2	4	7	18

Note: Scenario #1 - one person every two year.  
 Scenario #2 - one person every one year.  
 Scenario #3 - two persons every one year.  
 Scenario #4 - five persons every one year.

TABLE #1  
 Kansas Sentencing Commission  
 FY 1997 Adult Inmate Population Update

6 Months Border Box Impact Lag

Id Group	July 1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Total Increase	Percent Increase
Level 1	448	468	506	537	570	603	629	652	682	700	728	280	62.5%
Level 2	560	583	616	659	680	719	753	767	785	791	805	245	43.7%
Level 3	1,246	1,258	1,295	1,325	1,343	1,361	1,355	1,377	1,382	1,370	1,427	181	14.5%
Level 4	289	306	325	340	362	381	388	396	390	396	408	119	41.3%
Level 5	867	974	1,021	1,030	1,068	1,118	1,142	1,117	1,182	1,182	1,230	363	41.8%
Level 6	158	161	180	151	142	158	178	159	156	154	171	13	8.5%
Level 7	650	710	736	740	777	799	829	829	839	896	894	244	37.5%
Level 8	211	300	330	307	226	234	248	235	223	234	250	39	18.5%
Level 9	302	311	329	340	334	321	346	352	348	352	360	58	19.2%
Level 10	33	38	41	42	36	40	49	56	46	54	52	19	58.9%
Level D1	19	26	34	39	49	59	60	64	65	69	70	51	266.3%
Level D2	164	184	196	206	202	220	214	224	227	234	237	73	44.5%
Level D3	746	801	760	716	744	733	759	754	765	765	788	42	5.6%
Level D4	326	349	370	381	384	413	431	419	407	410	417	91	27.8%
Offgrid	442	480	527	576	621	672	718	762	829	880	940	498	112.7%
Conditional Violator	1,002	892	787	704	596	532	508	530	470	467	469	-533	-53.2%
<b>TOTAL</b>	<b>7,463</b>	<b>7,841</b>	<b>8,033</b>	<b>8,093</b>	<b>8,134</b>	<b>8,360</b>	<b>8,607</b>	<b>8,694</b>	<b>8,798</b>	<b>8,954</b>	<b>9,246</b>	<b>1,783</b>	<b>23.9%</b>
Drug Level Border Box Diversion Bed Savings	0	-78	-163	-198	-256	-242	-260	-280	-293	-296	-300		



## SENTENCING RANGE - NONDRUG OFFENSES

9-8

Category⇒	A	B	C	D	E	F	G	H	I
Severity Level ↓	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanor	1 Misdemeanor No Record
I	816 776 740	772 732 692	356 340 322	334 316 300	308 292 276	282 268 254	254 244 230	232 220 208	206 194 184
II	616 584 552	576 548 520	270 256 242	250 238 226	230 218 206	210 200 190	192 182 172	172 164 154	154 146 136
III	206 194 184	190 180 172	89 85 80	83 78 74	77 73 68	69 66 62	64 60 57	59 55 51	51 49 46
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

<b>LEGEND</b>
Presumptive Probation
Border Box
Presumptive Imprisonment

**Recommended probation terms are:**

36 months for felonies classified in Severity Levels 1 - 5  
 24 months for felonies classified in Severity Levels 6 - 10

**Postrelease terms are:**

For felonies committed before 4/20/95

24 months for felonies classified in Severity Levels 1 - 6  
 12 months for felonies classified in Severity Level 7 - 10

For felonies committed on or after 4/20/95

36 months for felonies classified in Severity Levels 1 - 6  
 24 months for felonies classified in Severity Level 7 - 10

### SENTENCING RANGE - DRUG OFFENSES

Category ⇒	A	B	C	D	E	F	G	H	I
Severity Level ↓	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
III	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	26 24 23	23 22 20	19 18 17	16 15 14
IV	42 40 37	36 34 32	32 30 28	26 24 23	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

**LEGEND**

Presumptive Probation

Border Box

Presumptive Imprisonment

**Recommended probation terms are:**

36 months for felonies classified in Severity Levels 1 - 3  
 24 months for felonies classified in Severity Level 4

**Postrelease supervision terms are:**

For felonies committed before 4/20/95  
 24 months for felonies classified in Severity Levels 1 - 3  
 12 months for felonies classified in Severity Level 4

For felonies committed on or after 4/20/95  
 36 months for felonies classified in Severity Levels 1 - 3  
 24 months for felonies classified in Severity Level 4

**TOM SLOAN**  
REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY

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LAWRENCE, KANSAS 66049-4174  
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TOPEKA

HOUSE OF  
REPRESENTATIVES  
TESTIMONY: HB 2024 - SAFETY INSPECTION OF AMUSEMENT RIDES

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE - JANUARY 30, 1997

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. I APPRECIATE THE OPPORTUNITY TO BRING THIS COMMON SENSE, NON-BUREAUCRATIC, CONSUMER PROTECTION BILL BEFORE YOU.

KANSAS IS ONE OF ONLY SIX STATES THAT DO NOT REQUIRE AMUSEMENT RIDES TO BE INSPECTED TO ENSURE THE SAFETY OF OUR CHILDREN. WHILE LEGISLATIVE RESEARCH HAS HAD DIFFICULTY OBTAINING RELIABLE STATISTICS ON THE NUMBER OF INJURIES THAT OCCUR ANNUALLY DUE TO RIDER MISTAKES OR EQUIPMENT FAILURES (HOSPITALS APPARENTLY DO NOT REGULARLY REPORT THAT CATEGORY), THAT REALLY IS NOT THE ISSUE.

THIS SIMPLE BILL SAYS THAT THE STATE OF KANSAS HAS A VESTED INTEREST IN ENSURING THAT THE AMUSEMENT RIDES AT OUR COUNTY FAIRS, CHURCH BAZZARS, THE STATE FAIR, AND OTHER EVENTS ARE SAFE FOR OUR CHILDREN AND GRANDCHILDREN TO RIDE.

HB 2024 IS DERIVED FROM THE STATUTES IN PLACE IN THE OTHER 44 STATES, BUT HAS BEEN MODIFIED TO REFLECT KANSAS VALUES AND CONDITIONS:

1. AN AMUSEMENT RIDE MUST ONLY BE INSPECTED AT THE FIRST KANSAS EVENT, NOT AT EVERY COUNTY FAIR, CHURCH, OR OTHER FESTIVAL FOR WHICH IT IS CONTRACTED.
2. THE STATE IS DIRECTED TO CONTRACT WITH PRIVATE VENDORS TO PERFORM THE INSPECTIONS AND ISSUE THE NECESSARY CERTIFICATES, THEREBY NOT CONTRIBUTING TO A BURGEONING STATE BUREAUCRACY. IT IS ANTICIPATED THAT THE INSPECTORS WILL EITHER BE PERSONS AFFILIATED WITH INSURANCE COMPANIES OR PERSONS WITH ELECTRICAL AND MECHANICAL CONTRACTING EXPERIENCE, THOUGH THIS IS NOT SPECIFIED IN THE BILL.
3. THE STATE AGENCY WITH REGULATORY OVERSIGHT MAY ESTABLISH REASONABLE INSPECTION FEES, BUT NOT MORE THAN \$50 PER AMUSEMENT RIDE.
4. THE STATE OF KANSAS WILL RECOGNIZE VALID INSPECTION CERTIFICATES FROM STATES WITH INSPECTION STANDARDS COMPARABLE TO THOSE ESTABLISHED IN KANSAS.

THIS INSPECTION SYSTEM WILL NOT BE AN UNREASONABLE BURDEN OR UNWARRENTEED FINANCIAL DRAIN ON HONEST AMUSEMENT RIDE OPERATORS WHO PROPERLY MAINTAIN THEIR EQUIPMENT AND TRAIN THEIR EMPLOYEES. HOWEVER, IT WILL PROTECT OUR CHILDREN FROM THE UNSCRUPULOUS OPERATOR WITH POORLY MAINTAINED EQUIPMENT AND UNQUALIFIED STAFF.

Fed+state  
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I HAVE FOUND THAT QUALITY BUSINESS MEN AND WOMEN DO NOT OBJECT TO LEGITIMATE OVERSIGHT OF THEIR INDUSTRIES (E.G., TRUCKING INSPECTIONS BY THE MOTOR CARRIER DIVISION OF THE HIGHWAY PATROL, SCALE OPERATORS BY THE DEPT. OF AGRICULTURE'S AGENTS). SUCH COMPANIES AS YELLOW FREIGHT AND ROADWAY ARE ON RECORD AS BELIEVING THE MINIMAL INCONVENIENCE AND EXPENSE THEY EXPERIENCE IS WORTH IT TO PREVENT DANGEROUS TRUCKS AND UNSCRUPULOUS OPERATORS ACCESS TO THE NATION'S HIGHWAYS.

A LITTLE INCONVENIENCE TO AMUSEMENT RIDE OPERATORS IS A SMALL PRICE TO PAY FOR CUSTOMER SAFETY. IN FACT, PASSING THE INSPECTIONS OUGHT TO BE A MARKETING TOOL BY THESE OPERATORS TO ENCOURAGE PARENTS TO LET THEIR CHILDREN TAKE AND ENJOY EVEN MORE RIDES.

AMUSEMENT INDUSTRY POSITION:

THE INTERNATIONAL AMUSEMENT AND LEISURE DEFENSE ASSOCIATION AND THE OUTDOOR AMUSEMENT BUSINESS ASSOCIATION HAVE JOINED FORCES TO URGE THE PASSAGE OF RIDER RESPONSIBILITY ACTS IN EACH STATE. THE PURPOSE OF SUCH LAWS IS TO SPECIFY APPROPRIATE OR INAPPROPRIATE RIDER ACTIONS.

THERE IS NOTHING WRONG WITH SUCH LEGISLATION. RIDERS SHOULD BEAR RESPONSIBILITY FOR STUPID ACTS ON THEIR PART, BUT THAT DOES NOT MEAN THE STATE SHOULD ABDICATE ITS RESPONSIBILITY TO ENSURE THAT THE RIDES THEMSELVES ARE SAFE.

HB 2024 AND A RIDER RESPONSIBILITY LAW ARE NOT CONTRADICTORY OR MUTUALLY EXCLUSIVE. I SIMPLY AM SUGGESTING THAT THIS LEGISLATURE ADDRESS A CONSUMER PROTECTION ISSUE --- THAT THE AMUSEMENT RIDES VISITING OUR COUNTY FAIRS AND CHURCHES BE SAFE.

POSSIBLE AMENDMENT:

AS DRAFTED, THE STATE AGENCY OVERSEEING THE AMUSEMENT RIDE INSPECTION PROGRAM IS THE DEPARTMENT OF AGRICULTURE. THE REVISOR OF STATUTES AND I DISCUSSED THE MOST LOGICAL PLACE FOR THIS PROGRAM AND DETERMINED THAT BECAUSE MOST AMUSEMENT RIDES ARE ASSOCIATED WITH COUNTY FAIRS, THE LOGICAL REPOSITORY FOR OVERSIGHT WAS THE DEPARTMENT OF AGRICULTURE.

WHILE THE DEPARTMENT OF AGRICULTURE WILL ACCEPT THE RESPONSIBILITY IF DESIRED BY THE LEGISLATURE, THEY CORRECTLY POINT OUT THAT THE DEPARTMENT OF HUMAN RESOURCES INCLUDES A WORKERS COMPENSATION DIVISION WITH RESPONSIBILITY FOR BOILER SAFETY, INDUSTRIAL SAFETY AND HEALTH, AND ACCIDENT PREVENTION. IT THEREFORE MAY BE MORE APPROPRIATE TO PLACE THE AMUSEMENT RIDE INSPECTION PROGRAM UNDER AUSPICES OF THE DEPARTMENT OF HUMAN RESOURCES.

CLARIFICATIONS NECESSARY:

BECAUSE HB 2024 PERMITS AMUSEMENT RIDES TO OPERATE IN KANSAS IF THEY HAVE AN INSPECTION CERTIFICATE FROM A STATE WITH COMPARABLE STANDARDS TO THOSE IMPLEMENTED BY THE KANSAS AGENCY OVERSEEING THIS PROGRAM, IT IS APPROPRIATE TO CLARIFY THE BILL ON PAGE 3, BEGINNING AT LINE 9 THAT THE SECRETARY MAY WAIVE THE INSPECTION AND THE PERMIT FEE.

ALSO, THE INTENT OF THE BILL IS THAT THE PERMIT TO OPERATE IN KANSAS IS TIED TO THE INSPECTION, THUS ON PAGE 3, LINE 7 THE PERMIT WOULD BE VALID ONLY FOR THE CALENDAR YEAR (NOT 12 MONTHS) IN WHICH THE EQUIPMENT WAS INSPECTED.

CONCLUSION:

THIS IS A CONSUMER PROTECTION MEASURE DIRECTED LARGELY IN DEFENSE OF OUR CHILDREN AND GRANDCHILDREN.

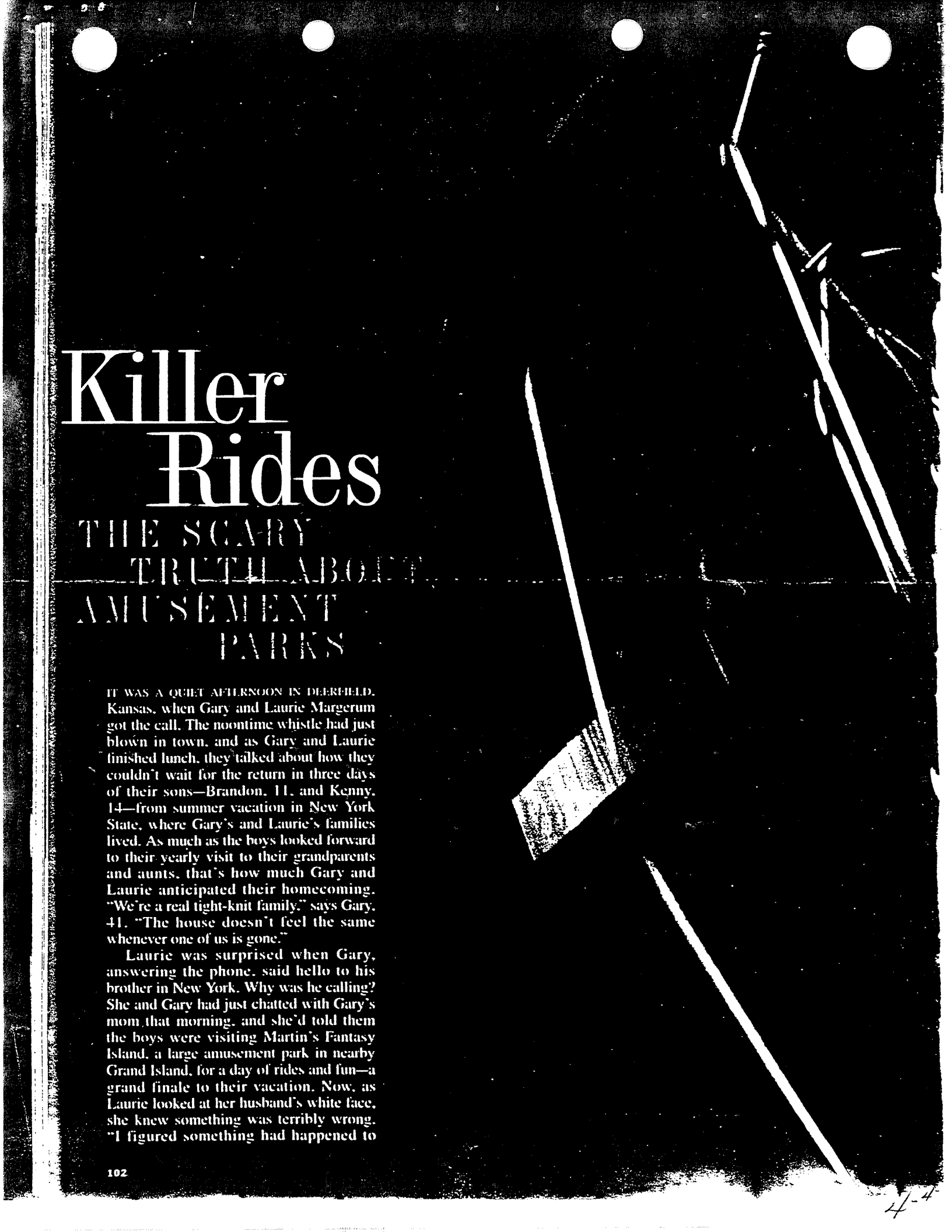
HONEST, CONSCIENTIOUS AMUSEMENT RIDE OPERATORS SHOULD NOT OBJECT TO REASONABLE INSPECTIONS.

THIS IS A SIMPLE BILL BASED ON THE EXPERIENCE AND STATUTES OF 44 OTHER STATES. IT IS NOT A RADICAL INFRINGEMENT ON BUSINESSMEN AND WOMEN'S ABILITY TO EARN A LIVING IN KANSAS.

THE AMUSEMENT RIDE OPERATOR CAN MEET THE BILL'S REQUIREMENTS BY PASSING A SAFETY INSPECTION APPROVED BY THE APPROPRIATE STATE AGENCY OR BY PRESENTING AN INSPECTION CERTIFICATE FROM ONE OF THE OTHER 44 STATES WITH INSPECTION STANDARDS COMPARABLE TO KANSAS.

OTHER SPEAKERS REPRESENTING THE AMUSEMENT INDUSTRY AND INSURERS MAY HAVE ADDITIONAL LANGUAGE TO STRENGTHEN CONSUMER PROTECTIONS IMPLICIT IN THIS MEASURE. I WELCOME THEIR CONTRIBUTIONS.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, THANK YOU FOR YOUR ATTENTION. I WILL RESPOND TO ANY QUESTIONS YOU MAY HAVE REGARDING THIS SIMPLE CONCEPT AND BILL.



# Killer Rides

## THE SCARY TRUTH ABOUT AMUSEMENT PARKS

IT WAS A QUIET AFTERNOON IN DEERFIELD, Kansas, when Gary and Laurie Margerum got the call. The noontime whistle had just blown in town, and as Gary and Laurie finished lunch, they talked about how they couldn't wait for the return in three days of their sons—Brandon, 11, and Kenny, 14—from summer vacation in New York State, where Gary's and Laurie's families lived. As much as the boys looked forward to their yearly visit to their grandparents and aunts, that's how much Gary and Laurie anticipated their homecoming. "We're a real tight-knit family," says Gary, 41. "The house doesn't feel the same whenever one of us is gone."

Laurie was surprised when Gary, answering the phone, said hello to his brother in New York. Why was he calling? She and Gary had just chatted with Gary's mom that morning, and she'd told them the boys were visiting Martin's Fantasy Island, a large amusement park in nearby Grand Island, for a day of rides and fun—a grand finale to their vacation. Now, as Laurie looked at her husband's white face, she knew something was terribly wrong. "I figured something had happened to

Gary's mom," she recalls. "I never thought it was about one of the kids."

Gary hung up the phone and turned to his wife, stunned. "There was an accident at the amusement park," he choked out. "Kenny's at the hospital. He's hurt really bad."

Laurie started to shake as Gary quickly dialed the hospital number his brother had given him. He was connected to the emergency room, where his uncle, an ophthalmologist on staff, was waiting for his call. There'd been an accident on the Ferris wheel, he said. Kenny had been sitting in one chair; Brandon was in the seat above him; the boys' two aunts were seated below. The wheel had just begun to move when Kenny's seat somehow dislodged on one side, spilling Kenny sideways. For several horrific seconds, as the wheel continued to turn, he desperately gripped the bar that was supposed to hold the seat in place, dangling ever higher,

*Tom Sloan*  
would build a ride like this if it weren't safe, we reassure ourselves, as we buy our tickets and prepare to be terrified. As one observer once said about the allure of the midway, "When we go to an amusement park, we're invited to check our worries at the gate."

And, statistically speaking, that invitation is an honest one. According to Dennis Speigel, president of International Theme Park Services, a Cincinnati consulting company, "More people are hurt by playing billiards than by going to an amusement park." Figures from the U.S. Consumer Product Safety Commission seem to back him. In 1994, the commission estimates, 122,718 people were injured from drinking glasses, 80,818 from lawn mowers, 25,486 on skateboards, and 604,567 on bicycles. By comparison, among the 270 million people who visited theme, amusement, and water parks in the United States last year,

"That's an injury rate of about .000025 percent," says Speigel, "making us one of the safest industries in the world."

Maybe that's why horrific amusement park accidents, when they do happen, make headlines—some more indelible than others. It's been over a decade, but many still recall reading about the 1984 haunted house fire at Six Flags Great Adventure in Jackson Township, New Jersey, which killed eight teenagers. Or last year's disaster at Coney Island in New York, where a breakdown of the more than 20-year-old Hell Hole—a drumlike contraption that spins so fast that centrifugal force pins occupants to its sides—caused injuries among 13 people hurled around the ride.

But critics of the amusement industry argue that "lesser" accidents—resulting in such nonfatal but still-serious injuries as broken bones and concussions—often go unreported because government-mandated

## The quick movement knocked 6-year-old Michael off

screaming in terror. Then, as the wheel crested, the bar broke. Kenny plummeted headfirst onto the asphalt below, in full view of his aunts and brother. Paramedics rushed him to the hospital, but it was too late. Kenny died a half hour after he arrived at the hospital.

"You never, ever think something like this will happen to you," says Laurie, 39, recalling that day five years ago when she lost her firstborn child. "Amusement parks are supposed to be safe places where the only thing bad that happens is your kids eat too much cotton candy or get nauseous on a roller coaster. The thought that your child could actually die is absolutely unthinkable." She pauses, then says quietly, "Well, the unthinkable happened to us."

### Behind the Perfect Picture

What could be more evocative of all-American family fun than an amusement park in summer? Part circus, part neon-lit thrill show, warmed by the scent of roasted peanuts and choreographed against a score of whirring motors and shrieks of fright, amusement parks throb with a delicious sense of controlled terror. The sheer outrageousness of some of the rides—roller coasters that plunge at heart-stopping speeds, whirligigs that suck the wind from your lungs, space-age capsules that casually flip their occupants upside down—actually adds to the feeling of safety. *No one*

only 7,200 of them (the numbers fluctuate slightly, depending on the agency) required emergency room treatment.

### HOW TO TELL IF YOUR PARK IS SAFE

**RESEARCH** Ask your state inspections department if you can see the park's injury-reporting records. If every stubbed toe appears on the list, there's a good chance management is diligent about overall safety.

**CHECK CONDITIONS OF THE GROUNDS** If they're dirty and poorly tended, there's no telling where else management may have cut corners.

**WATCH OPERATORS BEFORE GETTING ON RIDES** Do they seem in control of their ride? Do they seem confident, knowledgeable, and authoritative?

**ASSESS THE RIDE ITSELF** Is there visible rust, peeling paint, missing bolts or screws? If management isn't spending time on the most visible upkeep of its rides, who knows what sort of attention it's paying to structural maintenance?

**USE YOUR HEAD** If you don't like the looks of the rowdy kids climbing onto a ride with you, get off and alert the operator. If you've got a physical condition—bad back, weak heart—that might be exacerbated by the ride, stay off.

**ADHERE TO ALL RULES** Not every safety harness comes in one-size-fits-all, so observe restrictions regarding height or weight of riders.

reporting guidelines differ from state to state and within the industry itself. Water parks, for example, are regulated differently from fixed-site amusement parks, whose reporting guidelines differ vastly from those of the traveling carnival industry. Under-reporting of accidents is "a plague in the industry," says one inspector, with some parks reporting every Band-Aid dispensed and others neglecting to report even severe concussions.

The result is that, though the amusement park industry may show good numbers overall regarding incident of injuries, the statistics don't indicate exactly where, geographically, those injuries are most likely to occur or within what sort of venue.

"The truth is, we don't know what the real numbers are," says Anne P. McHugh, a Princeton, New Jersey, attorney and harsh critic of the amusement park industry, who recently won a \$4 million settlement for a young man paralyzed after following instructions to sail headfirst down a water-park slide. She also says the numbers that do exist represent more serious injuries than ever before. "Today's rides are extremely physical—like water slides and gravity rides—so the result of human failure is much more dramatic than it was 20 or 30 years ago," says McHugh. "The level of competence of the rider, the expertise of the ride operator, and the overall diligence with which the ride is supervised and

maintained have never been more critical, because any injuries that might result are potentially more serious than ever. But the truth is, the quality and level of supervision at these parks is no

community center in his hometown of Ansonia, Connecticut. "Oh, he felt like such a grown-up," recalls Mills, 55, beginning to cry at the memory of the spunky little boy. "He was going to this big amusement park, and that afternoon I was going to buy him clothes

Ferris wheel) can turn deadly from a simple act of patron mischief. Hijinks also resulted in tragedy at the Pavilion in Myrtle Beach, South Carolina, in 1991, when a 17-year-old allegedly ignored repeated warnings not to rock his Ferris wheel seat. The seat finally flipped, tossing him to the ground, and knocking riders from their seats along the way. The boy died of his injuries; others were left

**Left to right, victims of seemingly safe rides: Kenny Margerum died at 14 of a fall from a Ferris wheel; 6-year-old Michael Mills was crushed beneath a moving ride; Jean Matranza, here with her granddaughter Bethy, died after being thrown from a sleigh; Michelle Shepard, 17, miraculously survived her fall from the Gravitron.**



**off the Twister, dragging him under the moving track.**

better than it was 50 years ago. You still have 18-year-old kids supervising most of these rides."

Industry leaders don't quibble with the push for strict training and supervision, but they also argue that most mishaps are caused by patron error. "Horseplay, not paying attention to the warnings, disrupting a ride—these are what cause 85 percent of the incidents," says Lary I. Zucker, an industry lawyer and secretary of the International Amusement and Leisure Defense Association. "The industry has come a long way in the last 30 years in terms of engineering sophistication and safety standards. But we can only go so far in preventing patron misconduct. We can't get on the rides with them to make sure they take the rules seriously."

All of which leaves parents with a tough question to answer: How do they know their kids will be safe?

## The Threat from Other Riders

Serina Mills wakes up every day wishing someone had taken the rules seriously regarding the ride that killed her grandson at Quassy Amusement Park in Middlebury, Connecticut, on August 11, 1994. Six-year-old Michael Mills Jr., whose mother is still too traumatized by his death to speak about it, had been looking forward all week to the trip to Quassy, organized by the

for first grade, which he was starting the next month. He was my little man."

Mills will not talk in great detail about the accident (a lawsuit against the park is pending), but according to court documents, Michael and a friend were aboard the Twister, a ride whose two-seat cars run on an oblong track elevated a foot or so from the ground, twisting and spinning riders along the way. As the ride came to a stop, police reports show, several teenage riders decided to play a prank on Twister's 18-year-old operator. She, meanwhile, noticed that Michael and his buddy were having trouble lifting the bar that had held them in their seats. When she went to help them, leaving the ride's control panel unattended, the Twister suddenly began to move. The quick movement knocked Michael off the ride, dragging him under the moving track until the operator was able to hit the off switch. By then, however, Michael had been crushed beneath the ride; he died several hours later at the hospital. The teenagers have never been found.

The Mills lawsuit charges Quassy with negligence on a number of counts, among them failure to supply adequate personnel to assist patrons in getting off the Twister and failure to protect access to the ride's control panel by unauthorized people. But if anything, Michael Mills's horrific death also shows how a deceptively safe-looking ride (the Twister has neither the speed of a roller coaster nor the height of a

clinging to the structure until they could be rescued, or fell to the ground.

Unfortunately, the very culture of amusement parks seems to foster such mischief. The lights, the noise, the feeling of recklessness, and the frequent presence of alcohol all raise the stakes against patron safety and are exacerbated by a final fact: lack of parental supervision. "Most people at the park are young people on school or church outings, so mom and dad aren't there to say, 'No, don't go on this ride, it doesn't look safe' or to pull their child off a ride if they see another patron acting up," says attorney McHugh. "So supervision has to be provided by the parks."

Howard Gage, Ph.D., an associate professor of industrial engineering at the New Jersey Institute of Technology who has served a few times as an expert witness in amusement park litigation, says that even if patrons are at fault, rides to a reasonable extent should still be designed to prevent accidents when they get carried away. "People, especially kids, do crazy things," he stated in an investigative report in *The Ashbury Park Press*. "But you're still under an obligation to safeguard them."

## Operators, Young and Inexperienced

On June 10, 1993, 67-year-old Jean Matranza headed out with her daughters and (continued on page 114)



# Killer Rides

(continued from page 105)

grandchildren to spend the day at Santa's Village in East Dundee, Illinois, a tradition she'd started some 20 years before, when the first of her eight grandchildren was born. "This was my mother's thing," says Joy Donatucci, 39, of Hoffman Estates, Illinois. "Every year she'd pay for the whole family to spend the day at Santa's Village, where her favorite ride was the Candy Cane Sleigh. It was a tame ride, kind of boring, actually, but she loved it and all the grandchildren would ride it with her—even the older ones, because they knew she loved it. These kids adored her."

The sleigh was large, holding 12 to 15 passengers and a driver, and was pulled on runners along a long, circular track by two horses. Its top speed was perhaps three miles an hour. That day the sleigh's driver was a 17-year-old girl who had equestrian experience but had never commandeered the team of sleigh horses. Of course, the Matranza family didn't know this nor that the horses had been acting up that morning nor that the equipment securing the horses to the driver's reins was improperly fitted.

Six grandchildren were on the sleigh with Jean that day, ranging in age from 8 to 17. Joy and her sister Judy Arrington, 47, watched from the sidelines. The ride started out as usual but it suddenly became apparent that something was wrong. The horses, which were supposed to lazily clip-clop their way around the track, broke into a full gallop, and the driver couldn't rein them in. Joy and Judy watched in horror as the sleigh headed into a curve, its occupants screaming, and veered off the track and into a tree. Says Joy: "The kids spilled out of the sleigh—they either fell or jumped—but my mom flew about 15 feet into the air and landed on the cement."

Judy and Joy quickly ascertained that the children were okay, but one look at their mother told them she'd taken the brunt of the spill. "Blood was pouring from the back of her head, and she had this faraway look in her eyes," Joy remembers. "It was clear we were losing her." Then she sort of came to, moaned that she was in pain and lost consciousness again as blood began seeping from her ears and nose. "The kids were hysterical and so were we. We were kneeling over my mom, yelling for her to come back, while her

blood ran across the cement and down a drain. It's an image I will never forget." Jean Matranza died five hours later, leaving her family in grief and horror.

Despite her loss, Joy says she feels bad for the teenage driver of the sleigh. "I don't blame her personally for what happened. She was just a kid herself. But the park clearly had not trained her properly. And when the horses took off, she didn't know what to do to bring them under control."

After the accident, Francis Patrick Murphy, a Chicago attorney, brought a lawsuit on behalf of the Matranza family against the North Pole Corporation, the owner of Santa's Village, stating that the driver's inexperience, the horses' restlessness, and the ill fit of their equipment all contributed to Jean's

**There are no national laws regarding amusement park safety. Unfortunately, it sometimes takes a tragedy to realize new laws are needed.**

death. The suit was eventually settled for \$675,000. "It means nothing to us," says Judy. "Not only did we lose our mother, we also lost 20 years of the most wonderful memories of her special ritual at the park, something that gave her and us such joy. I am very, very bitter."

## A Need for Federal Regulation?

The faster the rides have become over the years, the bigger the thrill. And the bigger the thrill, the greater the need for safety laws to address the new level of risk. Unfortunately, it sometimes takes a tragedy to realize new laws are needed: The state of Pennsylvania enacted the Amusement Ride Inspection Act in the 1980s, for example, in response to the death of a child aboard a traveling carnival ride.

"But there are no *national* laws regarding amusement park safety," says Joe Filoromo, the amusement ride safety supervisor for Pennsylvania. "What we do in Pennsylvania can differ greatly from what's done in other states." For example, though Florida and Pennsylvania, widely considered national leaders in ride safety, have full-time inspectors who evaluate nothing but amusement park rides, other states have only a handful who inspect everything from elevators to carousels, and so may

lack the specific knowledge needed to make informed inspections of rides.

Still, Filoromo stresses that good, efficient safety programs needn't require a huge budget nor dozens of state employees. Rather, it takes ongoing education about the latest testing methods, vigilant state enforcement of those tests by the amusement industry and insurers who underwrite the rides, commitment by the state to repeat those tests every day if necessary—as opposed to once a season in some states—and the clout to levy strict fines when safety standards aren't met. "We think these kinds of comprehensive, well-written programs are worth the effort," says Filoromo. "Some states don't. The only way to change that is by lobbying for change."

Currently, all but six states—Alabama, Arizona, Kansas, Missouri, Montana, and Vermont—have some type of amusement ride safety programs. Safety officials say they're impressed by the responsiveness of the amusement industry in those states where strict rules apply. "They've really come on board," says Filoromo. "They know these laws are in everyone's best interest. As for some of those states where safety standards have yet to be instituted, I wouldn't go near a ride there."

## The Importance of One Little Pin

Perhaps more than any other type of amusement operation, traveling carnivals provide the quintessential "family" venue. The rides—often set up on large, flatbed trucks—serve as the centerpiece for church and community fund-raising carnivals, and provide inexpensive fun to small towns far from fixed-site amusement parks. For a few days or weeks, the fair is the only game in town, its very impermanence part of its allure.

Charlotte and Steven Shepard thought nothing of allowing their only child, 12-year-old Michelle, to attend the Missouri State Fair, a traveling carnival, back in August 1991. "We both had great memories of going to the fair as children," (continued on page 116)

4-7

# Killer Rides

(From page 114)

Michelle, 35, of Sedalia, Missouri, to town for ten days, and even the guests." The Shepards dropped off Michelle and a girlfriend at the fair, and returned for them at 10 P.M. But the minutes ticked by and Michelle never showed. "We could see there was quite a commotion going on," recalls Steven. "There were ambulances and we could hear sirens, but we never thought our daughter needed help. It just never crossed our minds."

What the Shepards soon learned was that just 45 minutes earlier, an accident had occurred on the Gravitron, a spinning cylinder (similar to Coney Island's ill-fated Hell Hole) that presses riders to the walls by centrifugal force. Michelle was one of the children on the ride when a three-quarter-inch pin sheared off, which caused a side panel to come loose. Riders were thrown to the ground.

The time the Shepards arrived at the fair, Michelle, who'd slammed headfirst into the metal railing surrounding the ride, had already been rushed to the hospital. "We didn't know how badly she was hurt," says Charlotte. At the hospital, they learned Michelle had a fractured skull (and broken arm) and would need to be airlifted to a regional trauma center an hour's ride away.

When the Shepards arrived at the center, they were told that due to swelling on her brain, doctors wouldn't know for 72 hours the extent of Michelle's head injuries nor her prognosis. The girl lay in the intensive care unit for six days. Finally she came to, with some hearing loss but, miraculously, no impairments that couldn't be redressed through physical therapy. "She had to learn to walk and balance herself all over again, but she hadn't lost her ability to think and reason," says Charlotte. Today Michelle's a happy-go-lucky 17-year-old high school senior.

Her parents say that with the money they received from their lawsuit against the owners of the Gravitron, they can afford the best medical care for Michelle, but that the 17-year-old will probably never fully regain her hearing. Still, they've become aware of many amusement park horror stories since Michelle's accident and consider themselves lucky. "We're just so thankful she didn't die," says Charlotte.

The Shepards were stunned to learn that the very same kind of ride that injured their daughter is now back on

the state fair midway. "I thought for sure that after what happened to Michelle they would get rid of it. The only difference is that they changed its name," says Steven. He also finds it bizarre that the accident has actually increased the ride's cachet for some fairgoers. "It's a thrill for them to get on a ride that almost killed someone," he says, adding wryly, "There are a lot of morbid people out there."

## Human Error or Negligence?

After learning exactly what caused their son to plummet to his death, Gary and Laurie Margerum brought a negligence suit against Martin's Fantasy Island, which was settled three years

**A three-quarter-inch pin sheared off the Gravitron, causing a side panel to come loose. Michelle slammed headfirst into the railing and was thrown to the ground.**

ago for an undisclosed sum. In the end, Kenny's death revealed a scenario of human error of heartbreaking proportion. "Apparently, at the end of each day, a seat or two was routinely removed to take the Ferris wheel out of balance so it wouldn't spin in the wind overnight. The next day, the seat would be bolted at each end into the frame of the Ferris wheel," explains Harry Lorenzo, the Buffalo lawyer the Margerums hired. "Well, one side wasn't bolted properly; the error was that simple. Unfortunately, that was the seat Kenny was in."

Kenny's brother and aunts say Kenny knew almost immediately something was wrong with the seat and was motioning to them to that effect. "He was yelling, trying to get the operator's attention, but with all the noise and commotion of the park, he wasn't heard," his father explains. "It wasn't until his chair actually broke and other people on the ride started screaming, too, that the operator saw what had happened."

Despite the love and support of their small town following Kenny's death, the Margerums soon realized that they needed to be closer to their families, and they moved back to New York. "Laurie and I was a total basket case, but my way of coping was to shut down completely," Gary says. "For nearly 18 months, I was unable to shed a tear or be a support for

Laurie or Brandon. I was a stone, like a public of letting in Kenny's death." So solid was the wall of pain between Gary and his family that he and Laurie considered divorce. Thankfully, he says, about a year and half after Kenny's death, he simply broke down one day, began to cry and could not stop. With the tears came the first chance for healing. "Losing a child is like nothing you could ever experience," says Laurie. "But at some point, if you don't want to die yourself, you make the decision to keep on living. That's what we did, for ourselves, and for Brandon."

The family underwent counseling to deal with the trauma of Kenny's death; slowly they learned to cope with their loss. Today they are a happy family, though holidays and Kenny's birthday

remain tough events to endure. And Brandon, now 16, rarely mentions his brother or what he saw that day five years ago. "I know Kenny's death has had a huge effect on him, because he and Brandon were so close," says Laurie.

Gary says none of them will ever set foot in an amusement park again, neither will their friends and family. "I now believe that these parks, in general, treat accidents as just the cost of doing business. They look at the low numbers of injuries and deaths and figure, 'Hey, we have a pretty good average. We're doing a great job,'" says Gary. "We never received any sort of apology from the park, even though it was clear they were at fault. I think Kenny's death was just a legal nuisance that had to be dealt with."

Ask if anything good has come from his son's death and Gary Margerum, a devout Catholic, will answer that it has made him realize more than ever how life can change in an instant, that no one is immune from tragedy, that the only thing that endures is love, and that the best way we can make it through our days is to lean on God. "And I'll tell you something," he sighs. "We've sure leaned on him a lot these past five years." □

*Ronnie Polaneczek lives in Philadelphia and writes frequently about women's and family issues.*

Present

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January 28, 1997

Representative Thomas Sloan  
Kansas Legislature  
State Capital Building  
300 SW 10th Ave. Room 446 North  
Topeka. KS 66612-1504

RE: House Bill 2024

Dear Representative Sloan:

I serve as corporate counsel to Chance Industries, Inc., a manufacturer of amusement rides located in Wichita, Kansas. We, following our predecessor Chance Manufacturing Company, have watched the amusement ride industry grow over the last 35 years. When we learned of House Bill 2024 we thought we could serve as a resource on the topic of amusement ride safety.

In 1945, Connecticut adopted the oldest amusement ride safety program still in operation, shortly after a circus tent fire killed numerous patrons in Hartford, Connecticut. This was followed by Oregon's amusement ride statute in 1959 and 4 more states in the 1960's. In the related industry of passenger tramways and ski lifts, a similiar regulatory scheme evolved. Three states first promulgated passenger tramway safety standards in the late 1950's, and they were joined by 13 more in the 1960's. Many of these, and subsequent states, regulate amusement rides and passenger tramways under the same regulatory scheme. To date all but 11 states currently have ride safety and inspection regulations. As you know, Kansas has none.

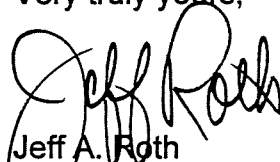
Twenty or thirty years ago, the systematic study and regulation of amusement ride safety was just starting to gain momentum. Chance has long been involved in the effort, first when the American Recreational Equipment Association held the industry's first amusement ride safety seminar in 1974 and as recently as two weeks ago when the industry's 23rd annual seminar was held in Cleveland, Ohio.

It is time for the momentum to make its way to Kansas. I am providing you with a compendium of amusement ride regulations to illustrate how many states have

4-9

reached this point before us. We applaud your effort on behalf of public safety. Let us know how we can be of assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeff Roth". The signature is fluid and cursive, with the first name "Jeff" and last name "Roth" clearly distinguishable.

Jeff A. Roth  
Corporate Counsel  
Chance Industries, Inc.

JAR/jr  
Enclosure  
f:\sloan.lt1

4-10

ited States  
CONSUMER PRODUCT SAFETY COMMISSION  
Washington, D.C. 20207

MEMORANDUM

DATE: JUL 20 1995

TO : James A. DeMarco, CECA

Through: Mary Ann Danello, Ph.D., Associate Executive Director  
Directorate for Epidemiology and Health Sciences  
Robert E. Frye, Director, Hazard Analysis Division

FROM : Suzanne P. Cassidy, EHHA

SUBJECT: Deaths and Injuries Associated with Amusement Rides

This memorandum provides information on deaths and emergency room-treated injuries associated with amusement rides in calendar year 1994. It updates an earlier memorandum discussing amusement ride incidents for the years 1973 through 1993.1/

"Ride" incidents were limited to those defined by Section 3(a)(1) of the Consumer Product Safety Act as:

"...any mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route within a defined area for the purpose of giving its passengers amusement, which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to that device, and which is not permanently fixed to a site."

While fixed-site rides are not considered consumer products under the Act, both mobile and fixed-site rides are included in the following analysis for purposes of comparison.

#### Injuries

Hospital emergency room data on amusement ride-related injuries for 1994 were obtained from the National Electronic Injury Surveillance System (NEISS). Free text descriptive comments for all injuries within the amusement attraction (including rides) category were screened to eliminate out-of-scope injuries such as those involving coin-operated rides or attractions usually found at restaurants, shopping malls, and children's play attractions. Injuries associated with alpine and water slide-type amusements, water attractions such as wave machines, "moon walks," and "mechanical bulls" were also eliminated, as well as those where it appeared that playground equipment might have been involved.

1/ Cassidy, S., "Deaths and Injuries Associated with Amusement Rides," July 18, 1994.

[Page 2]

After elimination of the out-of-scope injuries described above, NEISS data show that in 1994 an estimated 7,200 persons were treated in hospital emergency rooms for injuries associated with amusement rides. The type of facility (i.e., amusement park, carnival, etc.) was identified in about 60 percent of the records. Of these cases, assuming that rides in permanent theme parks and traditional amusement parks would be fixed-site types and that rides at carnivals would be mobile, NEISS comments show that for 1994 just over half (54 percent) of the injuries occurred at fixed site locations, with about 46 percent involving mobile rides such

those typically found at carnivals and fairs. Most injuries appeared to be minor for both mobile and fixed rides, with less than one percent of the victims admitted for hospitalization. (The overall NEISS hospitalization rate for 1994 was about 4 percent.)

Appendix A shows a listing of sample cases by state. However, caution must be exercised when using this information since it reflects only actual cases treated in emergency rooms of hospitals participating in the NEISS. It is not a complete count because NEISS hospitals are not located in every state, and in those states with NEISS hospitals the entire area of any of the 36 states is not covered. Thus, it cannot be assumed that the absence of any state from the list indicates that there were no amusement ride injuries in that area.

#### Deaths

The Commission's files of in-depth investigations (INDP), death certificates (DTHS), injury or potential injury incidents (IPII) and data from the NEISS contain reports of 98 deaths associated with amusement rides from 1973 through 1994. Two of these fatalities occurred in 1994. The distribution of non-occupational fatalities by year and type of facility is shown in Table 1. A list of fatalities by site and type of ride is shown in Table 2. These numbers do not represent a sample of known probability of selection nor a complete count of all amusement-related deaths, but they do provide some information about the circumstances involved in the incidents. Occupational deaths are not included, but those reported to CPSC indicate that the work-related deaths mostly occurred during assembly or disassembly of the rides.

Of the two non-occupational deaths reported for calendar year 1994, both took place at fixed site locations. One occurred in Connecticut in August 1994 when a 6-year-old boy was swept beneath the arm of a car on a whirling type ride. It was reported that another person pushed the "on" button while passing the control panel, causing the ride to begin moving as the child attempted to exit the ride. The other fatality was in South Carolina in July 1994 and involved a 6-year-old girl who fell from a bumper boat at an amusement park and drowned when her shirt apparently caught in the propeller, holding her under water. (In addition to these fatalities, in 1994, a death recently occurred on July 1, 1995, when a 14-year-old girl fell 25 feet to her death from a roller coaster at a fixed-site amusement park in Missouri.)

[Page 3]

Appendix B is a listing of the 29 reported fatalities associated with mobile rides for the period 1973 through 1994. As stated earlier, these rides, found at facilities such as carnivals and fairs, are considered consumer products under the Consumer Product Safety Act. In addition, 46 deaths during the 1973-1994 period were classified as fixed-site rides, and in 23 cases the type of facility could not be determined from available information.

#### Attachments

[Page 4]

Table 1  
AMUSEMENT RIDES  
NON-OCCUPATIONAL FATALITIES  
REPORTED BY YEAR AND TYPE OF FACILITY  
1973- 1994

Year	Total	Mobile	Fixed	Unknown
Total	98	29	46	23
1994	2	--	2	--
1993	2	1	1	--
1992	1	1	--	--
1991	3	--	3	--
1990	--	--	--	--
1989	3	--	3	--
1988	5	3	2	--
1987	4	--	4	--
1986	5	4	--	1
1985	2	1	1	--
1984	5	3	2	--
1983	5	1	4	--
1982	2	1	1	--
1981	8	3	3	2
1980	5	1	3	1
1979	7	4	3	--
1978	15	2	10	3
1977	5	2	1	2
1976	9	--	2	7
1975	1	--	1	--
1974	6	1	--	5
1973	3	1	--	2

Source: National Electronic Injury Surveillance System (NEISS), Death Certificate, In-Depth Investigation, and Injury and Potential Injury Incident Files, 1973-1994 U.S. Consumer Product Safety Commission

[Page 5]

Table 2  
AMUSEMENT RIDES  
NON-OCCUPATIONAL FATALITIES BY  
SITE AND TYPE OF RIDE  
1973 - 1994

Type	Total	Mobile	Fixed	Unknown
Total	98	29	46	23
Whirling Rides	29	17	9	3
Roller Coasters	25	1	16	8
Ferris Wheels	12	5	2	5
Tramways, Skyrides	5	--	5	--
Bumper Cars	2	--	2	--
Other	10	--	9	1
Unknown	15	6	3	6

Source: National Electronic Injury Surveillance System (NEISS), In-Depth Investigation, Death Certificate, and Injury and Potential Injury Incident Files, 1973-1994, U.S. Consumer Product Safety Commission

[Page 6]

Appendix A

NON-OCCUPATIONAL AMUSEMENT RIDE INJURIES - 1994

## NUMBER OF SAMPLE CASES BY STATE AND TYPE OF RIDE 1/

State	Total	Mobile	Fixed	Unknown
Alabama	3	--	2	1
Arizona	12	10	--	2
California	3	1	1	1
Connecticut	5	1	2	2
Georgia	7	--	5	2
Illinois	6	4	--	2
Indiana	5	2	1	2
Iowa	1	--	--	1
Maryland	13	5	3	5
Massachusetts	1	--	--	1
Michigan	6	4	1	1
Minnesota	3	1	2	--
Mississippi	3	1	--	2
Missouri	1	--	1	--
New Jersey	26	1	24	1
New York	16	5	8	3
North Carolina	6	1	3	2
Ohio	4	2	2	--
Pennsylvania	11	--	8	3
Rhode Island	17	--	17	--
South Dakota	1	--	--	1
Tennessee	3	--	2	1
Texas	3	--	--	3
Utah	2	--	--	2
Virginia	2	2	--	2
Washington	4	--	1	3
Wisconsin	1	1	--	--
Wyoming	2	2	--	--

1/ This table reflects only actual cases treated in U.S. hospital emergency rooms participating in the NEISS during 1994. It does not show total estimated injuries nor is it a complete count since NEISS hospitals are not located in every state and, in states with NEISS hospitals, the entire state area is not covered.

Source: National Electronic Injury Surveillance System (NEISS) 1994, U.S. Consumer Product Safety Commission

[Page 7]

## Appendix B

NON-OCCUPATIONAL MOBILE AMUSEMENT RIDE FATALITIES, 1973 THROUGH 1994  
NUMBER OF CASES BY DATE, STATE, VICTIM AND TYPE OF RIDE

Year 1/	State	Victim Age/Sex	Type of Ride	Document No.
1973	New York	unk. F	whirling	K7C0548
1974	Ohio	20 F	ferris wheel	439052827
1977	Alabama	14 F	unknown	701012519
1977	Pennsylvania	14 F	whirling	7708260PD7133
1978	Wisconsin	21 M	ferris wheel	780818AOR1218
1978	North Carolina	57 M	unknown	837038890
1979	Pennsylvania	6 M	whirling	790612CEP0843
1979	Wisconsin	3 M	ferris wheel	790712HIA0828
1979	Montana	7 F	unknown	930004131
1979	Arkansas	26 M	whirling	791004SEA5002
1980	New York	24 M	ferris wheel	800513HLA0006
1981	New Hampshire	15 F	whirling	810708CEP1264
1981	Pennsylvania	19 M	whirling	830524CCCC1191
1981	Wisconsin	3 M	whirling	810923CEP2310
1982	Florida	22 F	whirling	850819HCC3409
1983	Texas	19 M	whirling	831019DAL5008
1984	Illinois	36 M	whirling	840605CHI0859

4-14



1984	North Dakota	9 M	roller coaster	840730CHI1114
1984	Minnesota	22 M	ferris wheel	851212HCC1058
1985	Texas	18 F	unknown	548070157
1986	Michigan	23 M	unknown	G670254A2
1986	Colorado	65 M	merry go round	608015205
1986	Utah	9 M	unknown	649005703
1986	Florida	26 M	unknown	871013CCC0019
1988	Florida	15 M	whirling	880331CCC0266
1988	Georgia	4 F	whirling	880517CEN1089
1988	Florida	17 F	whirling	881125NYC5011
1992	New Mexico	22 F	whirling	920730CWE6001
1993	Texas	50 M	unknown	348090

1/ No fatalities were reported for mobile rides in 1975, 1976, 1987, 1989, 1990, 1991, and 1994.

Source: National Electronic Injury Surveillance System (NEISS), Death Certificate, In-Depth Investigation, and Injury or Potential Injury Incident Files, 1973-1994, U.S. Consumer Product Safety Commission

4-15



## HAAS & WILKERSON INSURANCE

4300 Shawnee Mission Parkway, Shawnee Mission, Kansas 66205  
913-432-4400 • 800-821-7703 • FAX 913-676-9389

January 30, 1997

To: Federal and State Affairs Committee

Re: State of Kansas  
House Bill 2024

Ladies and Gentlemen:

This letter is to introduce J. Philip Coulson, President of Haas & Wilkerson Insurance Agency located in Shawnee Mission, Kansas. Haas & Wilkerson Insurance is the leading insurer of amusements in the United States.

I have never participated in a hearing of this nature prior to today, so please bear with me.

As a result of the many relationships with operators, fairs and celebrations I was asked to address the proposed legislation under discussion today.

I have been listed as a proponent of this bill and this is incorrect. I am a proponent of Ride Legislation, but am an opponent of this particular bill. I apologize for any misunderstanding.

For any legislation to be effective the following parties must be involved:

- Proposed regulatory parties
- Operators of the equipment
- Manufacturers of the equipment
- Parties affected
  1. Fairs
  2. Celebrations
  3. Insurance representation

Weaknesses of HB2024 appears to be:

- Input from involved parties outlined above has not taken place
- No financial impact of the bill on any of the parties has taken place
- National guidelines are developed by the American Society of Testing Materials (ASTM) and are not addressed

If the State of Kansas wishes to pursue Ride Legislation (and a rider responsibility act), a committee should be formed - including all interested parties - and a quality effective act could be developed. This could then be proposed during the next session.

I applaud Representative Sloan for bringing this to everyone's attention - now let's develop quality legislation.

Sincerely,

J. Philip Coulson





c/o Chris Flattery  
Rt. 1, Box 22A  
Onaga, Ks 66521

913-889-4540  
Fax#913-889-4327

January 30, 1997

I am Chris Flattery, co-owner of Ottaway Amus. Co., Inc. a carnival based out of Derby, Ks. We own and operate a 16 ride show in Kansas, Oklahoma and Texas. We appreciate the opportunity to comment on the proposed Kansas HB 2024 from a ride owners perspective.

1. We are in favor of and support ride inspection legislation. We do request that prior to its approval that the input of the carnival and amusement industry be utilized.

2. Section 8 of HB 2024 requires "any accident report" be submitted to the secretary. We would propose the language be changed to require accident reports be submitted to the secretary involving "severe incidents or deaths".

3. Section 5(c) waives inspections outlined under Section 5(a)(2). Does this also waive all inspection and permit fees since they have already been paid in the earlier inspection?

Thankyou for the opportunity to voice our opinion on this important legislation and for any further need to contact me, I can be reached by phone at 1-913-889-4540 or Fax 1-913-889-4327.

Sincerely,

Chris Flattery  
Ottaway Amus. Co., Inc.



A RELIABLE NAME IN THE AMUSEMENT BUSINESS SINCE 1944

FedoState  
1-30-97  
Atch #6



# OUTDOOR AMUSEMENT BUSINESS ASSOCIATION, INC.



4600 WEST 77TH STREET  
MINNEAPOLIS,  
MINNESOTA 55435  
(612) 831-4643  
(800) 517-OABA  
Fax (612) 831-4642  
e-mail: oaba@aol.com

January 30, 1997

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\*William T. Collins - 1966-70  
W.G. Wade - 1965  
\* Deceased

RE: State of Kansas  
House Bill 2024  
Representative Sloan

Dear Federal and State Affairs Committee:

Good afternoon ladies and gentlemen.

My name is Al DeRusha, associate director of the Outdoor Amusement Business Association (OABA). The OABA is a trade association that represents over 4,500 members involved in North American carnivals, manufacturers and suppliers. For over 30 years our association has represented its members on both federal and state legislative issues pertinent to this mobile, family owned entertainment industry. There are over 20 organized OABA carnival members that provide entertainment to Kansas' state, county and municipality events, raising money for charitable causes, such as fire departments and Lions Clubs.

The OABA supports safety legislation which is not economically detrimental to our members, supports legislation that protects patrons and supports legislation that is in the best interest of the safety and maintenance of amusement rides, as recognized by industry standards.

I am here today to comment on the proposed, referenced legislation with all due respect to the intentions of Representative Sloan.

Our amusement industry and members have worked very hard to establish safety and inspection standards, throughout the United States. Manufacturers, insurance companies and industry safety consultants have been involved in developing nationally recognized standards, such as American Standards for Testing and Materials (ASTM) F-24, National Association for Amusement Ride Safety Officials (NAARSO) inspection standards and National Electrical Code (NEC) Section 525 compliance. These standards are referenced in many state amusement ride laws and inspectors of such equipment are trained with these standards for NAARSO certification.

We are not aware of any incidents in the state that warrant such extensive and expedient legislation, but are in favor of a commission or task force being formed with representatives from our industry, the state fair and other interested parties, to research other state amusement ride laws, inspection certification, and permit fees and to model the appropriate legislation for the state of Kansas. In light of our member's seasonal business and the ramifications of such short notice to comply with such a state law, we would recommend that if anything is to be passed that it would take effect in 1998.

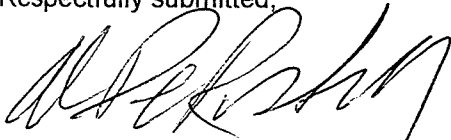
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1-30-97  
Atch #7

The OABA is willing to participate in any way to help construct the most practicable insurance requirements, inspection program and non-bureaucratic amusement ride regulations for your state. Safety for patrons and responsibility of riders are two very important factors to consider in your amusement ride regulations. Many state incident statistics point to the fact that over 70% of all incidents are caused by patrons taking irresponsible risks, endangering their lives and the lives of others, patrons not complying with the ride's warning signage, or patrons who may be intoxicated by alcohol or affected by illegal substances. In addition the US Consumer Product Safety Commission (CPSC) has monitored serious incidents and deaths for over 20 years in both fixed site amusement parks and the mobile carnival rides industry. Their data indicates that compared to the 250-300 million riders of mobile carnival rides each year, the serious incidents and deaths are less than 1/10 of 1% each year; An amusement ride safety record which is significantly better than other forms of participatory entertainment.

The OABA strongly believes that to save lives and prevent accidents, rider conduct must also be regulated. A rider should have the same duty to obey a sign on an amusement ride as a driver does on the road. The threat of legal sanctions for not wearing seat belts in automobiles has proven successful in promoting safety, and a similar effect could be expected under a rider responsibility statute. Over a dozen states have adopted some form of rider responsibility legislation in conjunction with their amusement ride safety laws.

I would like to thank the Committee and Representative Sloan for the opportunity to address this Committee today and furthermore that the OABA looks forward to working with the appropriate individuals in the future in drafting the best patron safety legislation for the state of Kansas.

Respectfully submitted,



Alvin DeRusha  
Associate Director

North Poplar • Hutchinson, Kansas 67502-5598  
(316) 669-3600  
Fax: (316) 669-3640

The  
Kansas  
State  
Fair



Starting the first Friday after Labor Day.

ROBERT A. GOTTSCHALK, *General Manager*  
JOAN R. BROWN, *Operations Manager*  
LARRY ANKERHOLZ, *Physical Plant Manager*

January 30, 1997

Representative Garry Boston, Chairman  
Federal & State Affairs Committee

Dear Mr. Chairman & Committee Members:

Enclosed is my testimony on House Bill 2024 as it relates to the Amusement Ride Industry.

I would like to emphasize that the Kansas State Fair has been involved in promoting, implementing and designing safety requirements related to the Amusement Rides and Attractions business since its inception.

The Kansas State Fair, in cooperation with the Fair Industry through the International Association of Fairs and Expositions (IAFE), and the Outdoor Amusement Business Association (OABA), has always been a strong supporter of consumer safety. We strive to accommodate those who choose to take advantage of all the Kansas State Fair has to offer.

My comments, as you can see, concern the language that outlines the safety procedures on HB 2024, not its intentions. We also have a concern for the costs that will be required to maintain and administer this act as it grows in coverage and responsibility.

We would also like to point out that a great many safety procedures are in place in the industry and more specifically at Kansas fairs that have amusement rides as part of their Fair programs and we see a number of duplications in HB 2024.

Your consideration of my testimony will be appreciated.

Sincerely,

  
Robert A. Gottschalk  
General Manager

dn

Feds State  
1-30-97  
Atch #8

**TESTIMONY--THURSDAY, JANUARY 30, 1997**

**HB 2024--AMUSEMENT RIDE SAFETY**

SECTION 4. BASIS FOR DECLARING REVERSE BUNGEE JUMPING ILLEGAL BUT NOT BUNGEE JUMPING.

SECTION 5. (c) THE LANGUAGE HERE WOULD APPEAR THAT THE CERTIFICATE OF INSPECTION IS BEING WAIVED, BUT A PERMIT FEE IN (a) (4), AS ESTABLISHED IN SECTION 9, WOULD BE REQUIRED EVEN THOUGH NO INSPECTION WAS MADE UNDER THIS REQUIREMENT AS IT IS NOT WAIVED.

SECTION 5 (b) WOULD ALLOW AN AMUSEMENT RIDE TO OPERATE WITH A PERMIT DURING THE 1997 KANSAS STATE FAIR SEPTEMBER 5 - 14 WITHOUT BEING INSPECTED PRIOR TO PLAYING THE INTERSTATE FAIR IN COFFEYVILLE AUGUST OF 1998.

SECTION 9. ALTHOUGH (a) (1) AND (2) PRESCRIBE A FEE SCHEDULE, (b) WOULD ALLOW THE COST OF ADMINISTERING THIS ACT BE THE DETERMINING FACTOR OF THE LEVEL OF FEES.

SECTION 10. AGAIN EMPHASIZES THAT THE ADMINISTRATION COSTS OF THIS ACT WILL BE BORN BY THE PRESCRIBED FEES.

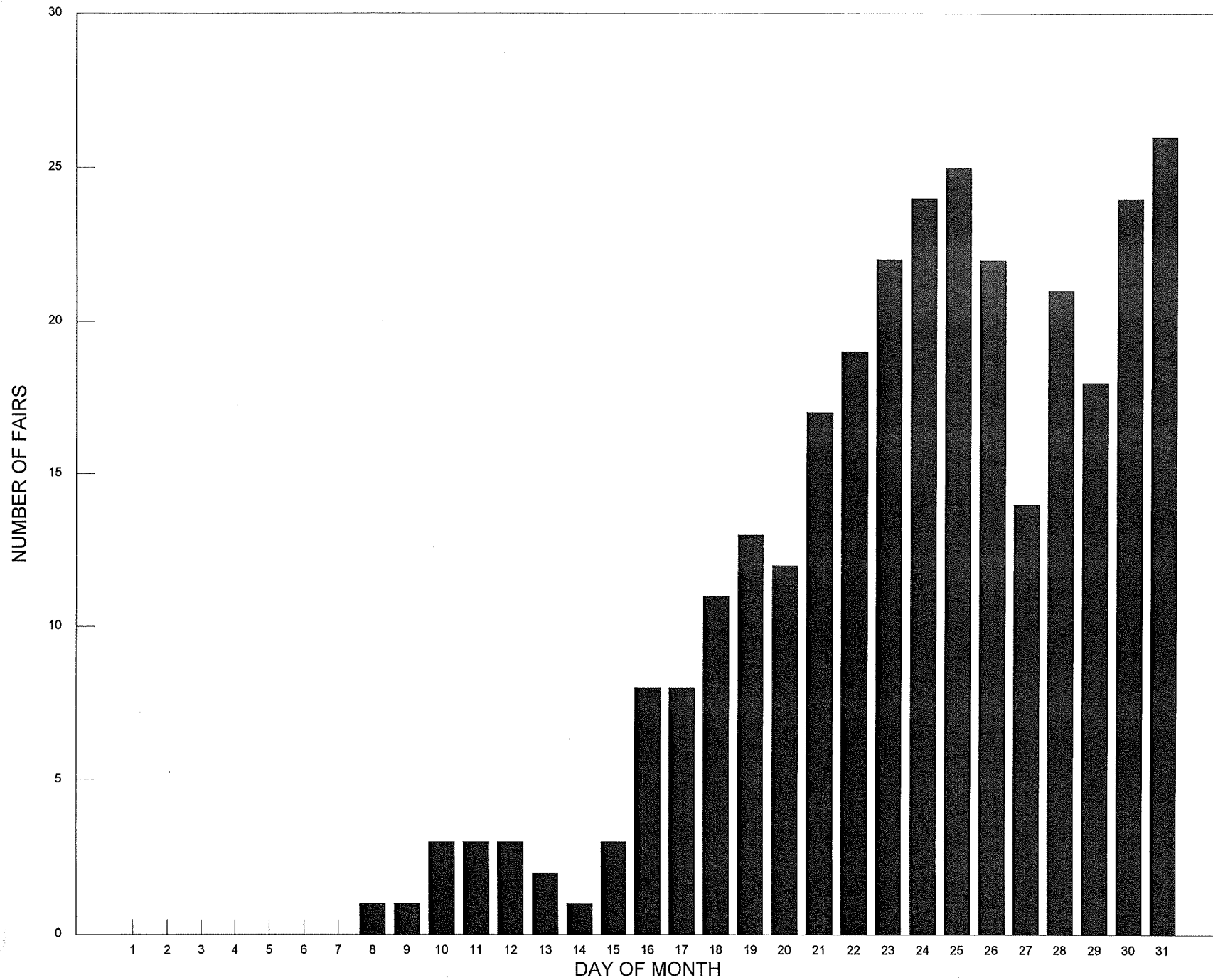
SECTION 11. SEE THE ENCLOSED GRAPH THAT CHARTS THE DAYS THE 110 COUNTY AND REGIONAL FAIRS OPERATE. THIS MIGHT GIVE SOME INSIGHT AS TO THE SIZE OF THE INSPECTION FORCE NEEDED TO PROPERLY CARRY OUT THE REQUIREMENTS OF THIS ACT. THE KANSAS STATE FAIR WOULD BE ON AN EVEN MORE CRITICAL TIME SCHEDULE.

SECTION 12. THIS SECTION AGAIN APPEARS TO LEAVE THE FEE SCHEDULE OPEN ENDED.

SECTION 13. SEE ENCLOSED EXCERPTS FROM THE KANSAS STATE FAIR CARNIVAL OPERATIONS CONTRACT AND AGREEMENT SPECIFICALLY RELATING TO THE RIDE SAFETY ISSUE. ALSO ENCLOSED ARE INSPECTION FORMS THAT WERE DEVISED BY THE IAFE.

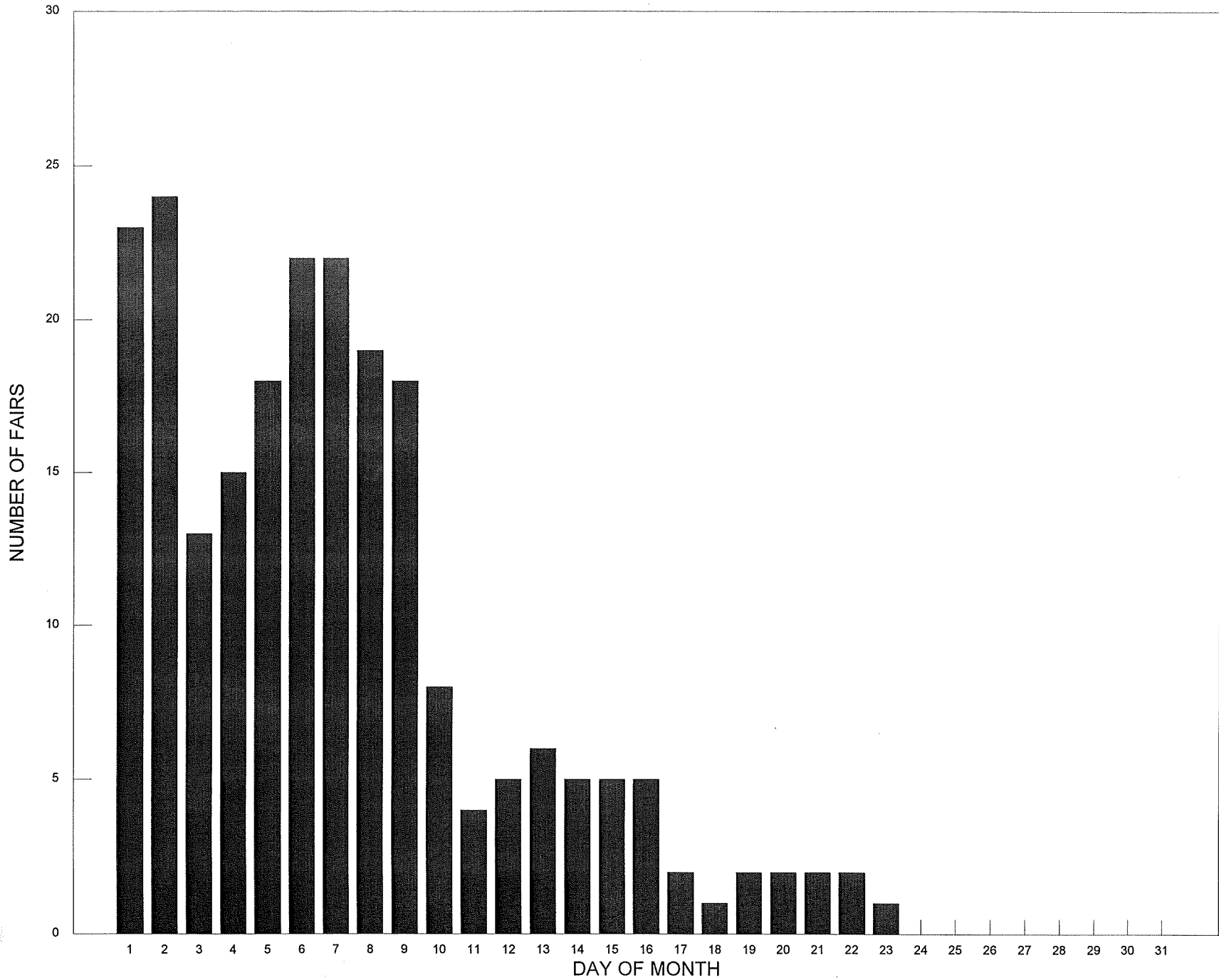


# JULY COUNTY FAIRS



# AUGUST COUNTY FAIRS

8-5



**CARNIVAL OPERATION  
CONTRACT AND AGREEMENT**

THIS CONTRACT AND AGREEMENT is made and entered into this 13th day of October 1994, by and between the KANSAS STATE FAIR, herein referred to as the KSF, and FARROW AMUSEMENT CO. INC., herein referred to as FARROW, for the 1995, 1996 and 1997 Kansas State Fairs, with the KSF retaining the option to renew and extend this agreement for one (1) or two (2) additional years (1998 and 1999), by written addendum, signed by both parties. The referred to addendum may include adjustments and/or alterations to this agreement providing it does not substantially alter the original specifications of this agreement.

WHEREAS, FARROW agrees to provide and make available to the KSF on the Kansas State Fairgrounds, as outlined on the attached grounds map, during times specified as the first Friday after Labor Day through the second Sunday following (10 days), a full, complete carnival of the highest quality, with rides, shows and concessions in an above average, operationally safe mechanical condition. The Midway, including the surrounding grounds areas, must be kept clean and tended to avoid unsightly trash, oil residue or other such appearance, with special attention to unpleasant odors. Midway appearances, including FARROW employees and operators, must be given the highest priority by FARROW as an integral part of the total carnival presentation.

11. Supply the KSF with a Certificate of Insurance showing general automobile, fire, worker compensation, and product liability coverage in the amount of \$5,000,000 (five million) and showing the Kansas State Fair and the State of Kansas as an ADDITIONAL NAMED INSURED on all policies that pertain to the operations contract and agreement between the parties.

15. Insure that all games, shows, rides and concessions operate within the laws of the State of Kansas, as well as any applicable local and municipal laws and ordinances.

16. Prior to accepting public ridership each day covered by the term of this contract, FARROW agrees to supply the KSF with a written inspection report for each midway ride, including all independent rides, on the ride manufacturer's check list, if available, or the IAFE or OABA approved inspection form. The inspection is to be by a qualified ride safety inspector who has experience in this area. Report must be signed by FARROW representative and ride owner, with time and date of inspection.

In the event of any malfunction, where a shutdown is required, the unit (ride/attraction) must be reinspected as outlined above. A written inspection report from FARROW'S insurance carrier or company is also to be submitted PRIOR TO any ride operating. If a manufacturer's operational and maintenance checklist is not available, the IAFE or OABA approved inspection forms will be approved.

# OPENING INSPECTION CHECKLIST

(THIS FORM TO BE COMPLETED PRIOR TO FIRST OPENING.)

**KNOW THE LOCATION OF THE FIRST AID STATION, FIRE EXTINGUISHER AND PROPER EMERGENCY PROCEDURES. ANY INCIDENT, NO MATTER HOW SMALL, MUST BE REPORTED TO THE OFFICE AT ONCE.**

RIDE NAME:	LOCATION:	DATE:
MFG. BY:		
OWNED BY:		
OPERATED BY:		

IT WILL BE THE RESPONSIBILITY OF THE OPERATOR OF THIS DEVICE TO INSURE CLEANLINESS AND PROPER MAINTENANCE OF THE DEVICE AND RELATED EQUIPMENT. REPORT ANY PROBLEMS TO THE MAINTENANCE DEPARTMENT.

CHECKLIST	OK-SATIS. UN-UNSATIS. NA-NOT APPL.	COMMENTS
1) SAFETY BELLS, BARS, LOCKS AND OTHER PASSENGER RESTRAINTS		
2) ALL AUTOMATIC AND MANUAL SAFETY DEVICES		
3) SIGNAL SYSTEMS, BRAKES AND CONTROL DEVICES		
4) SAFETY PINS AND KEYS		
5) FENCING, GUARDS, BARRICADES, STAIRWAYS AND RAMPS		
6) RIDE STRUCTURE AND MOVING PARTS		
7) TIGHTNESS OF BOLTS AND NUTS		
8) BLOCKING, SUPPORT BRACES AND JACKSTANDS		
9) ELECTRICAL EQUIPMENT		
10) LUBRICATION AS PER MANUFACTURER'S INSTRUCTIONS		
11) HYDRAULIC AND/OR PNEUMATIC EQUIPMENT		
12) CHECK COMMUNICATION EQUIPMENT NECESSARY FOR OPERATION (IF APPLICABLE)		
13) PRIOR TO OPENING, OPERATE RIDE THROUGH ONE COMPLETE CYCLE OF PROPER FUNCTIONING		
COMPLETED BY:		
REFER TO RIDE MANUFACTURERS'S SAFETY CHECKLIST. FOR RIDES NOT COVERED BY SUCH, REFER TO ACCEPTED PRACTICES.		

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# DAILY INSPECTION CHECKLIST

(THIS FORM TO BE COMPLETED PRIOR TO DAILY OPENING.)

**KNOW THE LOCATION OF THE FIRST AID STATION, FIRE EXTINGUISHER AND PROPER EMERGENCY PROCEDURES. ANY INCIDENT, NO MATTER HOW SMALL, MUST BE REPORTED TO THE OFFICE AT ONCE.**

NAME OF RIDE:	LOCATION:	DATE:
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IT WILL BE THE RESPONSIBILITY OF THE OPERATOR OF THIS RIDE TO INSURE CLEANLINESS AND PROPER MAINTENANCE OF THE RIDE AND RELATED EQUIPMENT. REPORT ANY PROBLEMS TO THE MAINTENANCE DEPARTMENT.

CHECKLIST	OK-SATIS. UN-UNSATIS. NA-NOT APPL.	COMMENTS	INITIALS
1) SAFETY BELLS, BARS, LOCKS AND OTHER PASSENGER RESTRAINTS			
2) ALL AUTOMATIC AND MANUAL SAFETY DEVICES			
3) SIGNAL SYSTEMS, BRAKES AND CONTROL DEVICES			
4) SAFETY PINS AND KEYS			
5) FENCING, GUARDS, BARRICADES, STAIRWAYS AND RAMPS			
6) RIDE STRUCTURE AND MOVING PARTS			
7) TIGHTNESS OF BOLTS AND NUTS			
8) BLOCKING, SUPPORT BRACES AND JACKSTANDS			
9) ELECTRICAL EQUIPMENT			
10) LUBRICATION AS PER MANUFACTURER'S INSTRUCTIONS			
11) HYDRAULIC AND/OR PNEUMATIC EQUIPMENT			
12) CHECK COMMUNICATION EQUIPMENT NECESSARY FOR OPERATION (IF APPLICABLE)			
13) PRIOR TO OPENING, OPERATE RIDE THROUGH ONE COMPLETE CYCLE OF PROPER FUNCTIONING			
COMPLETED BY:			
REFER TO RIDE MANUFACTURERS'S SAFETY CHECKLIST. FOR RIDES NOT COVERED BY SUCH, REFER TO ACCEPTED PRACTICES.			

*g-8*

KANSAS FAIRS ASSOCIATION

FACT SHEET

CARNIVALS

Annually about 115 county fairs are held in Kansas. These fairs have traditionally been between the middle to July through the third week of August (depending on when school starts, as the schools have been starting earlier each year). Last year school was starting as early as August 22nd.

We have only about seven carnivals in the State of Kansas.

It is impossible for these carnivals to provide midways to all of our fairs within a six weeks period of time.

Carnivals are a very important part of many fairs. Some carnivals based in other states play our county fairs, but we never have enough carnivals to cover all of the fairs in the state.

It costs two dollars or more a mile per vehicle to move their shows from one location to another. In addition, the carnivals must carry costly insurance policies.

Many of our carnivals are financial fair contributors to the county fairs. In addition to providing entertainment, the carnival returns a small percentage of the gross receipts back to the fair to help them with capital improvements and general operating expenses of the fair. Some carnivals will bid at the 4-H livestock sales to help out our youth programs.

*Harold Anderson*

*Feds State  
1-30-97  
Atch #9*

OFFICE OF THE  
**KINGMAN COUNTY ATTORNEY**  
LAUREL D. MCCLELLAN

152 N. Main  
P. O. Box 72  
Kingman, KS 67068  
(316) 532-5381

January 28, 1997

The Honorable Gary Boston  
Chairman of the House Com. on  
Federal and State Affairs  
State Capitol Building  
Topeka, KS 66612

RE: House Bill 2039

Dear Mr. Chairman:

I would like to offer my support for House Bill number 2039.

K.S.A. 21-3610a currently makes the furnishing of cereal malt beverages to a minor a class B person misdemeanor. However, it is a defense to this crime if a parent or legal guardian furnishes cereal malt beverages to his or her minor child or ward.

In 1996 we had a situation arise in Kingman County during the annual Kingman Rodeo that illustrates the need for House Bill 2039. This rodeo is open to the general public and those who attend pay an admission to enter and observe the rodeo. During the rodeo performance, a person unknown to local law enforcement officers was observed giving cereal malt beverages to a young man whom law enforcement officers knew to be under the age of twenty-one years. This occurred while these people were in the grandstand area. The officers arrested the older gentlemen for violating K.S.A. 21-3610a. In preparing for the trial in this matter, I learned that the young man to whom the cereal malt beverages were given was the son of the defendant, even though they had different last names. The case was thereafter dismissed.

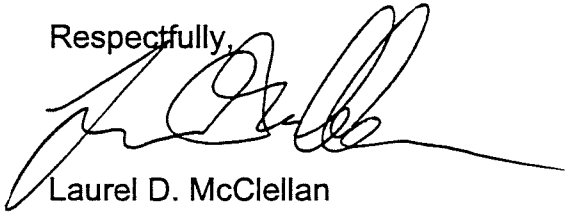
My point is that I believe that if parents or guardians are to be able to freely provide cereal malt beverages to their children or wards, the providing of such beverages should take place only in the parent's residence or in other private settings. It is difficult for the public in general to comprehend how at public events one person under the age of twenty-one may drink cereal malt beverages provided to him while another person under the age of twenty-one years may not. I submit that it would be much better that if

Fed. State  
1-30-97  
Atch #10

parents and guardians are to be allowed to furnish cereal malt beverages to their children and wards, that they be restricted from doing so in public places. I further submit that it would be in the interest of justice and fair play that all persons under the age of twenty-one years be prohibited from consuming cereal malt beverages in public places so that we avoid questions of selective law enforcement and injustice.

I fully support House Bill 2039 and hope your committee will act favorably upon it.

Respectfully,

A handwritten signature in black ink, appearing to read 'L. D. McClellan', with a long horizontal flourish extending to the right.

Laurel D. McClellan  
Kingman County Attorney

LDM:jeh





STATE OF KANSAS  
THIRTIETH JUDICIAL DISTRICT

ROBERT J. SCHMISSEUR  
DISTRICT JUDGE  
COURTHOUSE

January 28, 1997

Representative Dennis McKinney  
State Capitol-278-W  
Topeka, KS 66612-1504

RE: House Bill No. 2039

Dear Rep. McKinney:

Thank you for your letter dated January 23, 1997  
enclosing a copy of House Bill No. 2039.

I agree completely that the exercise of parental  
discretion in furnishing cereal malt beverage to a child  
should be limited to very private circumstances. It is  
not appropriate for a parent to furnish beer to a child at  
a state lake, a Wichita Wings ballgame, the City park or  
the local beer joint.

I would be willing to present written testimony in  
support of this bill if that would be appropriate.

Very truly yours,

ROBERT J. SCHMISSEUR  
DISTRICT JUDGE

RJS/tm

*State of Kansas*  
*Thirtieth Judicial District*

*Larry T. Solomon*  
*District Judge*  
*Courthouse*

*Box 495*  
*Kingman, Ks. 67068-0495*  
*Phone 316-532-5151*

January 27, 1997

Representative Dennis McKinney  
State Capitol-278-W  
Topeka, KS 66612-1504

Re: House Bill 2039

Dear Representative McKinney:

Thank you for your letter of January 23, 1997, regarding the above referenced bill. I received your letter in today's mail.

Please consider this letter my written testimony on the bill.

As I understand it, the proposed legislation was requested by District Magistrate Judge, James D. Mathis, and Kingman County Attorney, Laurel McClellan, because of an incident that occurred here in Kingman County last summer. Apparently, some parents were purchasing cereal malt beverages at a rodeo at the Kingman County Fairgrounds/Activity Center and allowing their underage children to consume the beverages on the rodeo grounds. The Kingman County Attorney filed charges against the children and/or their parents pursuant to K.S.A. 21-3610a. Defense counsel later successfully argued that subsection (c) of the above referenced statute was a legal defense to the charges and they were dismissed.

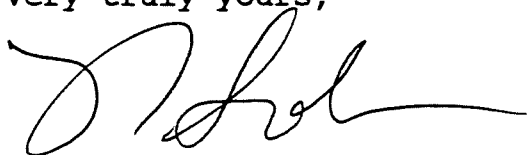
Based on the above scenario, it makes sense for the Legislature to more specifically define the circumstances under which subsection (c) of the statute provides a defense to parents and/or minors. It is my belief that the Legislature intended to excuse underage cereal malt beverage consumption when the alcohol was provided by the parent or guardian at the parent's/child's home. The proposed language in amended subsection (c) of House Bill 2039 would appear to excuse home consumption by a minor while prohibiting all other types of public consumption. I believe that is appropriate in this day and age and would fully support the bill as drafted.

FedxState  
1-30-97  
Atch #12

Page 2  
January 27, 1997  
Representative Dennis McKinney

Thank you for the opportunity to comment on this legislation.

Very truly yours,

A handwritten signature in black ink, appearing to read "L. Solomon", with a long horizontal flourish extending to the right.

Larry T. Solomon  
Administrative/District Judge

LTS:mh  
xc: Judge James D. Mathis  
Laurel D. McClellan

Kingman County  
**DISTRICT COURT**

30th Judicial District  
P.O. Box 495  
Kingman, KS 67068-0495  
(316) 532-5151

**James D. Mathis**  
District Magistrate Judge

**Judy Smith**  
Clerk of District Court

January 28, 1997

Representative Dennis McKinney  
State Capitol - 278-W  
Topeka, KS 66612-1504

Re: House Bill 2039

Dear Representative McKinney:

Thank you for your phone call of January 27, 1997, as well as your letter which I received later in the day at my home address regarding the above referenced matter.

Since I will not be available to come to Topeka to testify in person, please consider this letter my written testimony.

In 1996, Mr. McClellan, Kingman County Attorney, commenced a criminal action alleging a violation pursuant to K.S.A. 21-3610a. The County Attorney later dismissed the case, as counsel for the defendant successfully argued in my court that subsection (c) of the above referenced statute was a legal defense to the charge.

To enlighten you on the scenario of the case, the defendant, which was the natural father of the minor, purchased a cereal malt beverage at a rodeo at the Kingman County Fairgrounds/Activity Center and allowed the minor to consume the beverage on the rodeo grounds under parental supervision. Due to the above situation, the case was dismissed under subsection (c) of K.S.A. 21-3610a.

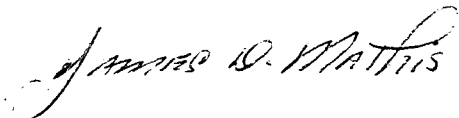
Based on the above experience by both the Court and the County Attorney, it makes sense to the Court that the Legislature should specifically clarify subsection (c) of the statute. I feel that the Legislators intention was to allow consumption by a minor of a cereal malt beverage when the beverage was provided by a parent and/or guardian, supervised by a parent and/or guardian and at the home of the parent and/or guardian. The proposed language in House Bill 2039 amending subsection (c) appears to allow consumption by a minor at the minor/parent's home under a parent's supervision and prohibits all other types of consumption in public. With the issue of alcohol and minors in this day and age, I wholly support the bill as clarified.

*Fed & State*  
*1-30-97*  
*Atch #13*

Page 2  
Representative Dennis McKinney  
January 28, 1997

I appreciate the opportunity to comment on this legislation.

Sincerely,

A handwritten signature in cursive script that reads "James D. Mathis".

James D. Mathis  
District Magistrate Judge

JDM:mh  
xc: Judge Larry T. Solomon  
Laurel D. McClellan, CA



January 29, 1997

The Honorable Garry Boston  
Room 156E  
State Capitol  
Topeka, Kansas 66612

Dear Representative Boston:

I am writing to you as the Legislative Representative for Kansas Alcohol and Drug Addictions Counselors (KADACA) and the Alliance for Alcohol and Other Drug Services, Inc. The Kansas Alcohol and Drug Addiction Counselors Association is a membership organization that represents over 500 alcoholism and drug addiction counselors around the state of Kansas. KADACA's primary task is the certification of addiction counselors. The Alliance on Alcohol and Other Drug Services, Inc. is representative of groups including the Kansas Multi-Cultural Association on Substance Abuse, the Regional Prevention Centers Directors Association, Mothers Against Drunk Drivers and KADACA.

I would like to express our support for HB 2039. We do agree with the addition of new language that makes it a misdemeanor to furnish your own child or ward a cereal malt beverage that is consumed on public property. We continue to feel a "Keg registration" law is necessary to stop the consumption of alcohol that occurs in parks and at lakes where youth are in attendance and hope another bill for "keg registration" will be introduced this year.

Please accept this letter as our support of the changes provided in HB 2039.  
Thank you.

Sincerely,

Canda Byrne, MSN, ARNP, CS  
Legislative Representative