

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Chairman Carlos Mayans at 3:30 p.m. on February 9, 1999 in Room 521-S of the State Capitol.

All members were present except: Rep. Ruby Gilbert - excused
Rep. David Huff - excused
Rep. Margaret Long - excused
Rep. Joe Shriver - excused
Rep. John Toplikar - excused

Committee staff present: Michael Heim, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:

Don Moler, General Counsel, League of Kansas Municipalities
Janet Stubbs, Kansas Building Industry Association
Rep. Tom Sloan
Richard McCreary, Johnson County Old Settlers Association, Olathe
David Garrett, Vice President, Haas & Wilkerson Insurance, Shawnee Mission
Stan Nelson, Joyland Amusement Park, Wichita
Bill Ogg, General Manager, Kansas State Fair, Hutchinson
Jolene Grabill, Kansas Trial Lawyers Association
Rep. Mike Farmer
Joe Cheesman, Cheesman's Rides, Lebanon
Ray Cornelson, Big Valley Rides, Garden City
[Written Testimony - Robert W. Johnson, Outdoor amusement Business Association, Inc.,
Minneapolis, Minnesota]

Others attending: See Guest List ([Attachment 1](#))

The minutes of the meeting held on February 4, 1999 were distributed and approved.

Chairman Mayans stated two bills have been assigned to the committee since the last meeting: **HB 2310** (Abandoned property; rehabilitation), and **HB 2315** (Cities; costs of repair or reconstruction of sidewalks).

The Chairman opened the hearing on **HB 2203** (Cities and counties; planning and zoning). Don Moler, General Counsel for the League of Kansas Municipalities, testified in support of the League's requested legislation, describing the need to clarify K.S.A. 12-741 *et seq.* in five areas. The confusion surrounds the voting rights of the Mayor in actions related to zoning and planning issues. (See [Attachment 2](#) for full testimony.) Mr. Moler indicated the League's governing body, after careful consideration, developed the bill in a way to forestall possible lawsuits. The bill does not impact on commission-form cities, but intends to define "governing body" for those situations where the Mayor may cast the deciding vote.

Janet Stubbs, representing the Kansas Building Industry Association, spoke in opposition to **HB 2203**. She indicated that in the 1991 recodification of the planning and zoning laws (in which she played a part), the issue of when a Mayor may vote to break a tie was addressed. She requested that before the committee acts on the bill she be given time to research her records and perhaps bring further testimony on the subject.

Mr. Moler responded that the League does not believe the bill impacts K.S.A. 12-137 (which applies to the levy of taxes) being alluded to in Ms. Stubbs' testimony, and that it should not impact the litigation pending on the tax issue.

There being no other conferees present to testify, Chairman Mayans stated the committee will review the testimony and then closed the hearing on **HB 2203**.

The Chairman then opened the hearing on **HB 2040** (Amusement rides; liability insurance and inspections), and requested conferees to limit their verbal testimony to the different aspects and not repeat testimony of other conferees. He then introduced Representative Tom Sloan, the bill's sponsor.

Representative Sloan described the bill's provisions in written testimony and stated the bill does not include inspection of individual rides (like rocket ships) found near retail establishments. He stated the bill is a certification program to insure safety of amusement rides and establishes penalties for violations of the act. Representative Sloan stated he has challenged the fiscal note that has been issued stating the bill does not request the state to establish a bureaucracy for inspection or employ additional personnel to administer the inspection program. He said operators not willing to adhere to the bill's provisions should not be permitted to operate in Kansas. (See written testimony, [Attachment 3](#).)

Representative Sloan directed attention to the written testimony of Robert W. Johnson, Executive Director of Outdoor Amusement Business Association, Inc. in support of **HB 2040** (see [Attachment 4](#)). During questioning by members, he indicated ride operators would be responsible to document required inspections, training of operators, and liability insurance coverage to local officials when arranging contracts.

Richard McCreary, former Grounds Chairman for the Johnson County Old Settlers Association, testified in support of **HB 2040** and related some experiences he had with carnival companies. He recommended the bill be amended in Section 2, on insurance providers, to include both admitted and non-admitted insurance companies. (See testimony, [Attachment 5](#).) Chairman Mayans indicated the bill's language does not exclude non-admitted companies; and that insurance is obtainable through surplus companies.

Chairman Mayans asked the association's cost of insurance for an event, and Mr. McCreary recalled it began at \$400 and recently escalated to about \$4,000 as the grounds, buildings and equipment are now covered.

David Garrett, Vice President of Haas & Wilkerson Insurance, supported **HB 2040**. He also paralleled the provisions of the bill to his company's underwriting standards (see [Attachment 6](#)). Mr. Garrett stated, in assisting to develop the bill, his agency suggested insurance requirements that would be acceptable to the amusement ride owners and the sponsors and still provide adequate protection. He stated that it is critical to require training of ride operators and documentation of that training. He stated his company insures about 95% of the portable rides in the country; the minimum annual premium is \$3,000 with no deductible in event of an accident. The premium cost for \$1 million per occurrence/\$2 million annual aggregate would be around \$1,500 a year. Medical claims are generally settled without admitting liability. Mr. Garrett indicated his company has two full time employees who conduct loss control surveys; and the company maintains a list of about 30 inspectors who are certified by the National Association of Amusement Ride Safety. He said the individuals who are going to be operating the rides are the ones that require training.

Representative Palmer asked what role the Department of Human Resources would play in administering the act. Representative Sloan stated that accidents would be reported to the department, but otherwise would have no role in overseeing the administration of the act.

Stan Nelson, owner/operator of Joyland Amusement Park in Wichita, testified in support of **HB 2040**. His written testimony ([Attachment 7](#)) included a description of the ASTM technical committee which develops standards for testing, performance and practices for amusement rides and devices. Representative Horst asked what Joyland pays for inspections of its rides. Mr. Nelson indicated to date his insurance carrier oversees inspections of the 25/26 rides with the premium at about \$50,000. He indicated there have been few incidents of injuries—last year an employee was hurt and there have been a few "fender benders" or scrapes, but no injuries from mechanical problems.

Bill Ogg, General Manager of the Kansas State Fair, indicated support of **HB 2040** and recommended its passage (see [Attachment 8](#)). He offered to research the safety record for amusement rides at the State Fair and forward it to the committee. Mr. Ogg also disagreed with the fiscal note. He indicated responsibility should be placed on the operators and their insurance companies. In the case of the State Fair, the state is the self-insurer. Mr. Ogg also stated as the State Fair, it is important that amusement ride owners document the safety of their rides and training of their workers; and the State Fair has required this for several years. Representative Dahl asked what needed to be fixed with the legislation and Mr. Ogg

replied the formality that it is the responsibility of the owners and operators to do that.

Jolene Grabill, representing the Kansas Trial Lawyers Association, supported **HB 2040** with its safeguards for the safety of Kansas children and the prevention of litigations by preventing injuries. She recommended a balloon amendment to the bill; on page 5, section 8(D)(2), line 5, regarding patron's responsibility, by striking the words "the severity of," and to delete lines 11 and 12, section 8(D)(3)(d) on page 5, because it is unrealistic and not needed under Kansas law. K.S.A. Chapter 60, on comparative negligence, sorts out who is responsible for injuries. Ms. Grabill indicated the Kansas Court of Appeals case *Fitzpatrick v. Allen* is a case in point. (See testimony, Attachment 9.)

Representative O'Connor questioned the use of "all" in the wording on page 4, section 7, line 22. Ms. Grabill answered that as a non-lawyer, she did not believe the word was needed. Chairman Mayans asked about the requirement in section 22 for posting certification when patrons are not English speaking. Ms. Grabill compared that to the requirement for dental hygienists enacted last session.

Joe Cheesman, owner of Chessman's Rides, Lebanon, testified in opposition to **HB 2040** and listed his reasons in written testimony (see Attachment 10). He indicated his company works about 26 days a year, netting about \$10,000 a year. Mr. Cheesman stated there are only four insurance companies in the country who write this type of insurance. He also indicated that the fastest ride he owns only reaches 7-1/2 revolutions per minute. He indicated the bill would require him to have six inspections a year because of his schedule and pay for each inspection. When asked what would be the cost, he answered he didn't know, but in Oklahoma it is \$750 an inspection. Mr. Garrett indicated the cost would be a minimum of \$500, possibly as much as \$750 per inspection.

Ray Cornelson, owner/operator of Big Valley Rides, Garden City, testified in opposition to **HB 2040**. He indicated he operates a 10-ride carnival in western Kansas from May through September, and employees as many as 10 to operate the rides; and for 40 years of operation has not had a ride accident or problem. Mr. Cornelson stated if this bill is passed it would make it harder for someone to make a living.

Representative Hermes asked why moon-walks and other small rides used at school carnivals are not covered in the bill. Representative Sloan indicated they could be included if the committee so decided. Representative Flowers asked why the bill was introduced. Representative Sloan answered that his wife and daughter had questioned him about the subject and after research the state laws determined the bill was needed to insure safe rides and secured financial responsibility for amusement ride companies in Kansas.

There being no others present to testify, the hearing on **HB 2040** was closed.

The Chairman asked members to review the bills that have been assigned to the committee and be ready to discuss and possibly act on them at upcoming meetings.

The meeting was adjourned at 5:20 p.m.

The next meeting is scheduled for February 11, 1999.



**League
of Kansas
Municipalities**

LEGAL DEPARTMENT · 300 S.W. 8TH TOPEKA, KS 66603 · TELEPHONE (785) 354-9565 · FAX (785) 354-4186

LEGISLATIVE TESTIMONY

TO: House Local Government Committee

FROM: Don Moler, General Counsel

RE: Support for HB 2203

DATE: February 9, 1999

First I would like to thank the Committee for allowing the League to appear today to support this League requested legislation, which will clarify provisions of the state planning and zoning law found at K.S.A. 12-741 *et seq.* Since the act became effective on January 1, 1992, city officials have contacted the League concerning the confusion raised in five specific places in the act where a supermajority vote of the governing body is required to take an action.

The confusion involves two matters. The first is whether the mayor, in a mayor/council city, counts towards the number of votes necessary to achieve a 2/3 or 3/4 vote of the governing body. For example, most cities in Kansas have a five member council and a mayor. When you do the math you find that a 3/4 vote of a 5 member council is 4. On the other hand if we count the mayor as part of the governing body we have a 3/4 vote of 6 which is 5. Thus, whether we count, or do not count, the mayor makes a significant difference in how many votes are necessary for passage. An example of this in a larger city, using the 2/3 vote requirement, reaches the same point of confusion. In Topeka, for example, there is a nine-member council and a mayor. When you do the math here you find that 2/3 of 9 is 6, while 2/3 of 10 is 7. Thus, whether the mayor counts towards the supermajority needed is important and can change the outcome of the vote.

The second question involves whether the mayor has an original vote on the governing body in these special instances. As we understand it, some cities count the mayor and allow the mayor an original vote, and some cities do not count the mayor nor do they allow the mayor to vote. In an effort to clarify this very confusing situation, the League suggested language, which is modeled on the language found in K.S.A. 12-3002, answers the above questions so that there will be no confusion when cities use the planning and zoning law of the State of Kansas.

In an nutshell, the League suggested language would: (1) only count the councilmembers-elect for the purposes of how many votes are needed; and (2) allow the mayor to vote **only** when the number of favorable votes is one less than required, then allow the mayor the power to cast the deciding vote. We believe these changes will greatly improve the law and remove the cloud of confusion which now hangs over all supermajority votes required by the statute. We would prefer that this issue be settled by the legislature as a matter of good public policy, rather than wait for the inevitable lawsuit where the courts will be left to decide how the statutes should be interpreted.

Thank you again for allowing us to request HB 2203 and appear today in support of its passage.

HOUSE LOCAL GOVERNMENT
Attachment 2-1
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CURRENT CONFUSION FOUND IN K.S.A. 12-741 et seq.

Five member council with mayor

2/3 of 5=4 3/4 of 5=4
2/3 of 6=4 3/4 of 6=5

Seven member council with mayor

2/3 of 7=5 3/4 of 7=6
2/3 of 8=6 3/4 of 8=6

Nine member council with mayor

2/3 of 9=6 3/4 of 9=7
2/3 of 10=7 3/4 of 10=8

Ten member council with mayor

2/3 of 10=7 3/4 of 10=8
2/3 of 11=8 3/4 of 11=9

TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTY

TOPEKA

HOUSE OF
REPRESENTATIVESSTATE CAPITOL BUILDING
ROOM 446-N
TOPEKA, KANSAS 66612-1504
(785) 296-7677
1-800-432-3924

772 HWY 40
LAWRENCE, KANSAS 66049-4174
(785) 841-1526

Testimony to House Local Government Committee on HB 2040 – February 9, 1999

Mr. Chairman, Members of the Committee, thank you for the opportunity to speak with you about a public safety issue, especially for children. Kansas is one of only six states that do not require the inspection of amusement rides for safety purposes. We are also one of the few states that do not address operator safety training requirements and the responsibility of amusement ride riders to observe safety procedures.

HB 2040 is the result of two years of work to craft a safety inspection bill that will protect Kansas riders, be endorsed by the responsible members of the amusement ride industry, be cost-effective, and not create a new state bureaucracy.

HB 2040 requires:

- Annual safety inspections of permanently erected amusement rides (rides in front of grocery stores, Wal-Mart, etc. not normally requiring services of an operator are excluded) by certified inspectors
- Amusement rides coming to Kansas must have been inspected within 30 days by a certified inspector
- Owners of amusement rides must have at least \$1 million of liability insurance and the insurance policy is available for inspection by persons contracting with the ride operator
- Training of amusement ride operators must be documented and available for inspection by persons contracting for the ride
- An inspection decal shall be posted on or near the ride in plain view of riders
- All safety instructions for safely riding the amusement equipment must be posted on or near the ride in plain view of riders
- Riders must obey operator instructions and exercise the judgment of an ordinary prudent person while participating in the rides
- Maintenance and inspection records must be available to persons contracting for the ride
- Local governing bodies may establish safety standards in addition to, but not in conflict with, the standards imposed by this statute (by reference, the requirements established by the manufacturers of the rides)
- If a serious accident occurs, the ride must be immediately shut down and not restarted until a complete safety inspection has been completed

These requirements on the amusement ride industry are more stringent than many states have, but are eminently fair and reputable operators can and will achieve them. You will hear from representatives of the amusement ride industry, insurance provider, fair contractors, and others who will endorse this common sense approach to safe amusement ride operations. Neither the State nor local communities have employees with the expertise necessary to appropriately and adequately inspect these rides, it takes specialists to know when the machines are safe.

In summary, HB 2040 requires that amusement ride operators carry at least \$1 million of liability insurance, utilize nationally certified safety inspectors, the results of those inspections be available to persons contracting for the rides or using them, and employees be properly trained to operate the equipment. Amusement ride operators unwilling or unable to comply with these reasonable and responsible safety inspection and employee training standards should not be permitted to operate in our State. I encourage you to report HB 2040 favorable for passage.



OUTDOOR AMUSEMENT BUSINESS ASSOCIATION, INC.



4600 WEST 77TH STREET
MINNEAPOLIS,
MINNESOTA 55435
1-800-517-OABA
(612) 831-4643
Fax (612) 831-4642
E-Mail: oaba@aol.com
www.oaba.org

February 8, 1999

(via facsimile)

OFFICERS

- Buddy Merten
President
- Sam Johnston
1st Vice President
- Jeffrey Blomness
2nd Vice President
- Dominic Vivona
Acting 3rd Vice President
- Jackie Swika
Treasurer
- Robert W. Johnson
Executive Director

Representative Tom Sloan
Kansas House of Representatives
772 Highway 40
Lawrence, KS 66049-4174

RE: HB No. 2040

DIRECTORS

- Eric Bates
- Steve Bratsky
- Alan Cockerham
- Robert Commerford
- Don Deggeller
- Tony Diaz, Jr.
- Danny Huston
- Jack Keough
- Guy Leavitt
- Bill Lowery
- Harry Mason
- Stan Minker
- Cidre Morton
- Dawn Murphy
- David Norton
- Gary Otterbacher
- Charles Panacek
- David Smith
- James Strates
- Morris Vivona
- Mike Williams

Dear Representative Sloan:

It's my understanding that the above referenced bill is scheduled to be heard in the Local Government and Community Committee on Tuesday, February 9th at 3:30pm. While we may have some representatives from the industry present, I wanted you to have this letter from the OABA for this hearing.

Working with you last year regarding your ideas on amusement ride safety for patrons in Kansas and the OABA's 33 years of experience with amusement ride inspection and patron safety laws throughout the country, we believe your bill as introduced is right on the mark. Having talked with our members that attended the recent Kansas Association of Fairs meeting with you, and others who participated on the panel, this bill will not only raise the level of safety among ride owners but will give patrons added surety that they and their children are further protected and educated by this state law.

You have the OABA's support and we wish you well in getting this bill passed in this year's legislative session.

Sincerely,

Robert W. Johnson
Executive Director

PAST PRESIDENTS

- Richard Janas - 1997
- Jean Clair - 1996
- James Murphy - 1995
- Dominic Vivona - 1994
- Bill Dillard, Sr. - 1993
- Torr Atkins - 1992
- Red Wood - 1991
- Billy Burr - 1990
- Bob Coleman, Sr. - 1989
- Milt F. Kaufman - 1988
- Andy Andersen - 1987
- John Vivona - 1986
- Mike Farino - 1985
- James H. Drew III - 1984
- Gerald L. Murphy - 1983
- John Campi - 1982
- *Buster L. Brown - 1981
- Hub Luehrs - 1980
- Lloyd Hilligoss - 1979
- *Hal F. Eifort - 1978
- Alfred H. Kunz - 1977
- P.E. Reithoffer, Jr. - 1976
- Bernard P. Thomas - 1975
- E. James Strates - 1974
- * Rod Link - 1973
- C.J. Sedlmayr - 1972
- *John Portemont - 1971
- *William T. Collins - 1966-70
- W.G. Wade - 1965
- *Deceased

HOUSE LOCAL GOVERNMENT
Attachment 4-1
2-9-99

THE LARGEST TRADE ASSOCIATION FOR THE CARNIVAL INDUSTRY PROVIDING OVER 32 YEARS OF SERVICE TO OUR MEMBERS



HAAS & WILKERSON INSURANCE

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

Faxed To: 785-368-6365

February 8, 1999

Representative Tom Sloan
45th District - Douglas County
State Capitol - 446-N
Topeka, Kansas 66612-1504

Re: House Bill Number 2040

Dear Representative Sloan:

This will confirm that I plan to attend and be available for support of House Bill 2040 at the Government and Community Committee on Tuesday, February 9th at 3:30 PM.

As the nation's largest privately owned insurance agency providing services to the outdoor amusement industry, we are extremely pleased with the legislation and its potential impact on carnivals operating in the State of Kansas. I have attached highlights of your bill that also form the backbone of our underwriting and loss control requirements for those accounts we service not only in Kansas, but nationwide.

Thank you again for the opportunity to be of service.

Sincerely,

David Garrett
Vice President

jk

Attachment

ST. PETERSBURG, FL • ST. LOUIS, MO • NEW YORK, NY • PHILADELPHIA, PA • LOS ANGELES, CA

IMPORTANT PROVISIONS OF HOUSE BILL 2040 THAT PARALLEL HAAS & WILKERSON UNDERWRITING AND/OR LOSS CONTROL STANDARDS

1. Insurance requirements: \$1,000,000 per occurrence
\$2,000,000 annual aggregate
This is the minimum liability limits which we offer to amusement ride owners participating in our program.
2. Automatic Additional Insured Status: The legislation requires coverage be automatically extended to the sponsor, an important provision of our policies for many years.
3. Thirty (30) Day Written Cancellation Clause: An important provision so the sponsor and/or State of Kansas be advised upon major alteration or cancellation of the policy prior to the expiration date or non-renewal for any reason.
4. Inspector Certification and/or Training Requirements - National Association of Amusement Ride Safety Official Level I Inspector Certification is the minimum acceptable standard proposed in the legislation and also the minimum acceptable standard for inspectors or loss control representatives implementing our insurance program.
5. Preparation and Retention of Maintenance Documentation: Critically important provision. A standard requirement of our insureds which are not only reviewed in the event of an incident, but during safety surveys.
6. Non-Destructive Testing Per Manufacturer Requirements: At a very minimum all manufacturer non-destructive testing must be performed and documented annually with certification reviewed by the inspector or the underwriter.
7. Implementation and Documentation of Operator Training: This has been an important underwriting and loss control requirement for many years to assure safe and proper operation of the equipment.
8. Safety Instructions/Signage: Originally recommending and then requiring safety instructions or height and size requirements in addition to rider limitations at each device has been a standard underwriting requirement for several years.
9. Prompt Incident Reporting Provisions: All amusement customers are required to promptly report each and every incident, no matter how minor, promptly as our insurance policies carry no deductible provision and pay from the first dollar for any and all liability claims.

House Bill No. 2040

Response:

In regard to the above Bill, my experience comes from being Grounds Chairmen for Johnson County Old Settlers Assn. For over 20 years. I retired myself two years ago.

In Sept 1983, we had a carnival that purchased our contract from the carnival that we had the prior two years. We were not notified that our contract had been sold. We did not know anything about it until the carnival showed up for our celebration.

Our celebration runs Thursday, Friday, and Saturday. On Saturday evening, there was a slight shower. A lady that was descending from the Merry Go Round was electrocuted when she stepped from the ride to the wet ground.

The electrical shock was severe enough that she never recovered any of faculties. She became a vegetable.

After that happened, I was determined to have the best carnival possible for our celebration. I have inspected many carnivals that operate in our area from Texas to Minnesota. Most of the operators of these carnivals, I never introduced myself to for the reason that I would not have them setup at our celebration.

I believe that House Bill No. 2040 is a sound bill. If it keeps just one accident from happening, such as it happened to us, it is worth it weight in gold.

Another problem that is very severe is the patrons of the rides that will not follow the rules of the ride.

For example, I was a block away from the new ferris wheel that we had at our celebration and I was watching the lights on the wheel as it turns. To me, it is a beautiful sight at night. As I was watching, the ride was loading new patrons when a young man climbed out of his seat as the wheel was stopped with his seat at the top of the wheel, he climbed out of his seat and stood on top of the wheel.

Our radios are not on the frequency as the Carnival's radios, so I could not notify them of what was going on. By the time I could get there; he was off the ride.

However, if the young man had fell in excess of 60 feet from the top of the wheel, I am very sure that his parents would of filed a lawsuit against the Carnival and our Association for having a faulty, ride.

I am very happy that this is covered under Section 8, and if

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any stronger language could be used in this Bill, it should be done. The Patron has a responsibility to use common sense to follow the rules and to not do stupid stunts as I have described above.

Last item that I want to clarify is Section 2, pertaining to the Insurance requirements. I believe that the words, "Admitted Markets, and Non-admitted Markets should be added to an insurance company authorized to do business in Kansas.

I have spent 37 years in the insurance business as an Agent and an Agency owner.

If by chance, the insurance industry gets itself into a situation as it did in the early 1980's, where you could not buy a policy thru a standard market, the non-admitted market will be needed to fill this void. I believe that this wording should be included in the Bill.

Sincerely,


Richard L McCreary
601 So. Honeysuckle Drive
Olathe, Ks 66061-4228



HAAS & WILKERSON INSURANCE

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

Faxed To: 785-368-6365

February 8, 1999

Representative Tom Sloan
45th District - Douglas County
State Capitol - 446-N
Topeka, Kansas 66612-1504

Re: House Bill Number 2040

Dear Representative Sloan:

This will confirm that I plan to attend and be available for support of House Bill 2040 at the Government and Community Committee on Tuesday, February 9th at 3:30 PM.

As the nation's largest privately owned insurance agency providing services to the outdoor amusement industry, we are extremely pleased with the legislation and its potential impact on carnivals operating in the State of Kansas. I have attached highlights of your bill that also form the backbone of our underwriting and loss control requirements for those accounts we service not only in Kansas, but nationwide.

Thank you again for the opportunity to be of service.

Sincerely,

David Garrett
Vice President

jk

Attachment

HOUSE LOCAL GOVERNMENT
Attachment 6-1
2-9-99

IMPORTANT PROVISIONS OF HOUSE BILL 2040 THAT PARALLEL HAAS & WILKERSON UNDERWRITING AND/OR LOSS CONTROL STANDARDS

1. Insurance requirements: \$1,000,000 per occurrence
\$2,000,000 annual aggregate
This is the minimum liability limits which we offer to amusement ride owners participating in our program.
2. Automatic Additional Insured Status: The legislation requires coverage be automatically extended to the sponsor, an important provision of our policies for many years.
3. Thirty (30) Day Written Cancellation Clause: An important provision so the sponsor and/or State of Kansas be advised upon major alteration or cancellation of the policy prior to the expiration date or non-renewal for any reason.
4. Inspector Certification and/or Training Requirements - National Association of Amusement Ride Safety Official Level I Inspector Certification is the minimum acceptable standard proposed in the legislation and also the minimum acceptable standard for inspectors or loss control representatives implementing our insurance program.
5. Preparation and Retention of Maintenance Documentation: Critically important provision. A standard requirement of our insureds which are not only reviewed in the event of an incident, but during safety surveys.
6. Non-Destructive Testing Per Manufacturer Requirements: At a very minimum all manufacturer non-destructive testing must be performed and documented annually with certification reviewed by the inspector or the underwriter.
7. Implementation and Documentation of Operator Training: This has been an important underwriting and loss control requirement for many years to assure safe and proper operation of the equipment.
8. Safety Instructions/Signage: Originally recommending and then requiring safety instructions or height and size requirements in addition to rider limitations at each device has been a standard underwriting requirement for several years.
9. Prompt Incident Reporting Provisions: All amusement customers are required to promptly report each and every incident, no matter how minor, promptly as our insurance policies carry no deductible provision and pay from the first dollar for any and all liability claims.

LADIES AND GENTLEMEN:

REFERENCE : HOUSE BILL #2040

By Representatives Sloan, Benlon, Bethell, Compton,
Feuerborn, Findley, Freeborn, Huff, E. Peterson,
Stone, and Vickrey

I need to qualify myself on House Bill #2040.....

I have not been involved in the deliberations nor in the writing
of this bill.....the opinions I express are my own as to its
content.

I have read House Bill #2040 presented to you by Rep. Tom Sloan
and others.....I have no objections to its content. I feel that
Rep. Sloan has done a very good job with a difficult subject.

I have passed around a Foreward and information on the
ASTM Committee F-24, because it is referred to in the Bill.

FOREWORD

This compilation is sponsored by ASTM Committee F-24 on Amusement Rides and Devices. The contents include nine standards relating to the design and manufacture, testing, operation, maintenance, inspection, quality assurance, and terminology of amusement rides and devices.

This compilation is intended for use by ride manufacturers, ride operators, park owners, and inspectors. Suggestions and comments to increase the compilation's utility are welcome and should be directed to Product Manager, Publications.

ASTM AND COMMITTEE F-24

ASTM, founded in 1898, is a developer and publisher of technical information designed to promote the understanding and advancement of technology and to ensure the quality of commodities and services and the safety of products.

ASTM's primary mission is to develop voluntary full consensus standards for materials, products, systems, and services. It provides a forum for producers, users, ultimate consumers, and those having a general interest (representatives of government and academia) to meet on a common ground and write standards that best meet their needs.

Committee F-24 is one of 131 ASTM technical committees. The scope of the committee is the development of standard methods of test, performance specifications, definitions, practices, and guides for amusement rides and devices.

The committee currently has eleven subcommittees: F24.10 on Test Methods, F24.20 on Specifications, F24.22 on Quality Assurance, F24.24 on Design and Manufacture, F24.30 on Maintenance, F24.40 on Operations, F24.50 on Inspection, F24.60 on Water-Related Attractions and Devices, F24.91 on Terminology, F24.92 on Public Relations, and F24.93 on Long-Range Planning.

For additional information on committee activities and membership, see the application at the end of this book, or contact ASTM Member Services.

- Background Information -

Name = STANLEY R NELSON

AMUSEMENT INDUSTRY AFFILIATION:

JOYLAND AMUSEMENT Co., INC, WICHITA, Ks.

POSITION = PRESIDENT AND CEO

PERSONAL = H.S. GRADUATE, MT. VERNON, NY

WICHITA STATE UNIVERSITY.

B.A. BUSINESS / ACCOUNTING.

ARMED

SERVICE = AIR FORCE NAVIGATOR. / CHINA, BURMA, INDIA THEATRE
1942 - 1946

AMUSEMENT BUSINESS EXPERIENCE =

- JOYLAND PARK 1950 --- AND COUNTING
- INTERNATIONAL ASSOCIATION OF AMUSEMENT PARKS
AND ATTRACTIONS 1959 - STILL ACTIVE MEMBER
- IAAPA. PRES. 1972
- SAFETY COMMITTEE CHAIRMAN 1973 - 1990

PROGRAMS = DEVELOPED SUPPORT FOR

1973 - AREA SAFETY SEMINAR ORIGINATING
IN WICHITA BY CHANCE MFG., , , NOW
CALLED AIMS SEMINARS WHICH HAVE
BECOME ONE OF THE KEYS TO BECOMING A
QUALIFIED INSPECTOR.

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ORGANIZATIONAL MEETING TO FORM THE
ASTM COMMITTEE F24 ON AMUSEMENT
RIDES AND DEVICES - STILL A MEMBER. 7-3

February 9, 1999

The Honorable Carlos Mayans, Chairperson
Kansas House Committee on Local Government
Statehouse, Room 115-S
Topeka, KS 66612

Dear Representative Mayans,

Subject: Support for HB 2040

HB 2040 by Representative Sloan, et.al., concerns amusement ride safety and rider responsibility.

The proposed legislation was developed by the Kansas Fairs Association and the Outdoor Amusement Business Association in cooperation with Representative Sloan.

It addresses reasonable expectations on the part of amusement ride operators and host organizations to ensure due diligence and pro-active preventative safety checks are performed regularly to protect the Kansas patrons of these riding devices. Further, it formalizes the rider responsibility in choosing to participate on the amusement ride.

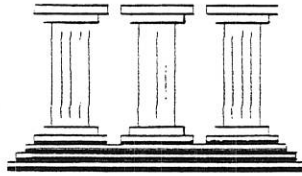
This proposed legislation parallels functional and time-tested legislation that is already law in many states. It does not require extraordinary expense on any party.

It is worthy legislation and I respectfully request your favorable endorsement, support and passage of HB 2040.

Sincerely,



Bill Ogg
General Manager
Kansas State Fair



House Local Government Committee
Tuesday, February 9th

Testimony of Jolene M. Grabill on behalf of the
Kansas Trial Lawyers Association
House Bill 2040

Thank you for this opportunity to testify before you today in support of House Bill 2040. My name is Jolene Grabill and I am appearing today on behalf of the Kansas Trial Lawyers Association. The Kansas Trial Lawyers Association is a statewide, nonprofit organization of over 850 attorneys who advocate for the safety of Kansas families.

House Bill 2040 is a balanced bill that safeguards the safety of Kansas children and could well prevent litigation through the prevention of serious injury to Kansas children.

KTLA is pleased to see the balanced set of requirements in the bill. The most important aspect of the bill are the inspection and insurance requirements. We also welcome the requirement to inform consumers by posting safety instructions for each ride. Section 10 of the bill holds a powerful requirement that the ride manufacturer be notified whenever a serious injury results from the operation of the ride, a laudable requirement which could well preserve the lives of Kansas children.

We would respectfully request that two references be stricken from the bill. On page 5, line 5, the words "the severity of" should be stricken. We doubt the authors' of the bill intend to foster litigation over whether the child's injuries were "severe enough" to allow parents or guardians to file an accident report after the accident, rather than at the time of the accident. To avoid such legal entanglements, we simply suggest the words "the severity of" be stricken from the bill.

Secondly, lines 11 and 12 on page 5 should also be stricken. It is unrealistic for parents or guardians of children to know the details of this act. Furthermore, this language, subsection (d) of Section 8, is simply not needed given that existing Kansas law already imposes upon parents a legal responsibility or duty to reasonably supervise their children. In fact, adding subsection (d) to the law could generate unnecessary confusion, and so it should be deleted.

The law is a beautiful thing, but even more beautiful is a law that doesn't confuse, conflict with or duplicate existing statutes. After making these suggested deletions, KTLA encourages passage of an amended House Bill 2040, a bill which would go far to insure the safety of Kansas children. Thank you.

HOUSE LOCAL GOVERNMENT
Attachment 9-1
2-9-99

KTLA proposes the following amendment to HB 2040:

Page 5

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

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

4 (2) If a patron, or a patron's parent or guardian on a patron's behalf,
5 is unable to file a report because of ~~the severity of the patron's injuries,~~
6 the patron or the patron's parent or guardian on the patron's behalf shall
7 file the report as soon as reasonably possible.

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

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

13 Sec. 9. Any person contracting with an owner for the amusement
14 ride's operation shall ensure that:

15 (a) Inspection certificates required by section 3 and amendments
16 thereto are available;

17 (b) maintenance and inspection records required by section 4 and
18 amendments thereto are available; and

19 (c) safety instructions for the ride are posted as required by section
20 7 and amendments thereto.

21 Sec. 10. Whenever a serious injury results from the operation of an
22 amusement ride:

23 (a) Operation of the ride shall immediately be discontinued;

24 (b) operation of the ride shall not be resumed until it has been in-
25 spected and the qualified inspector has approved resumption of opera-
26 tion; and

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

30 Sec. 11. (a) It is a class B misdemeanor for an owner or operator of
31 an amusement ride knowingly to operate, or cause or permit to be op-
32 erated, any amusement ride in violation of this act.

33 (b) It is a class C misdemeanor knowingly to violate the provisions of
34 section 9 and amendments thereto.

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

36 Sec. 12. The attorney general, or the county or district attorney in a
37 county in which an amusement ride is located or operated, may apply to
38 the district court for an order enjoining operation of any amusement ride
39 operated in violation of this act.

40 Sec. 13. The governing body of any city or county may establish and
41 enforce safety standards for amusement rides in addition to, but not in
42 conflict with, the standards established by this act.

Opposing House Bill No. 2040

Dear Sirs:

(1)

All House members have a copy of my letter. This Bill was introduced in the House in 1998 as Bill No. 2722. This bill didn't get out of committee in '98.

(2)

The reason we do not need this legislation is because the State of Kansas hasn't had an accident in the carnival business in 15 years or more. But the amusement parks have had accidents. One was last year in Wichita, and one in Kansas City, but I don't know when.

(3)

The only ones pushing this bill are: the insurance company, Haas-Wilkerson Insurance, the highest cost insurance company in the nation, Chance Rides of Wichita, Ride Manufacturing Co., to sell new rides, and Bill Ogg, general manager of Kansas State Fair, Outdoor Amusement Business Association from out-of-state. One member of this organization is a ride owner in Kansas.

(4)

There are 111 county fairs in Kansas. Sixty-four fairs, more or less, didn't have rides to their fair in 1998, due to being too small for the bigger carnivals. Because of the ride inspection in Oklahoma, every time you set a ride up it has to be inspected. In Oklahoma just the bigger fairs of counties of 20,000 or more get carnival rides. Carnivals don't come to Kansas that winter in Texas so they can by-pass Oklahoma on their way north in the spring and south in the fall. Oklahoma fairs are in late August and September.

(5)

I run my rides about 26 days a year in Kansas. Most are one day celebrations. I do some small towns and some cities of 5,000 or larger. I do some county fairs that are larger than 5,000 in the city because they can't get a carnival. I am the last resort for rides.

(6)

The inspection bill calls for rides to be inspected 30 days before the event. Some months I only go to two events like in May and June, September and October. I won't be able to pay an inspector to inspect me just for two days because I don't gross that much.

(7)

There are 14 counties and towns that have their own rides. They have them insured, but they won't pass inspections because some are homemade. They are good rides but were not made by a manufacturer and don't have a manufacturer plate on them.

(8)

The State of Kansas insurance requires \$300,000 each occurrence, \$1,000,000. This bill requires \$1,000,000 - \$2,000,000.

(9)

Some fairs and celebrations have trains and hayrack rides pulled by farm tractors because no other rides are available. I believe that these should be inspected if the bill is passed.

(10)

I have enclosed the fair dates from the Kansas Farmer June 1998, and have sent you a list of cheaper rides for sale. So you know how much some of these county fair boards have in their rides. I have enclosed a letter from Bill Ogg to me on Jan. 25, 1999

Sincerely, Joe N. Cheesman, Cheesman's Rides, Rt. 2, Box 18, Lebanon, KS 66952.
Phone 785-389-6631..

HOUSE LOCAL GOVERNMENT
Attachment 10-1,
2-9-99



OUTDOOR AMUSEMENT BUSINESS ASSOCIATION, INC.



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MINNESOTA 55435
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Fax (612) 831-4642
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www.oaba.org

December 18, 1998

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Acting 3rd Vice President
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Executive Director

TO: AMUSEMENT RIDE OWNERS

FROM: Bob Johnson
Executive Director

SUBJECT: KANSAS AMUSEMENT RIDE SAFETY LEGISLATION

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Alan Cockerham
Robert Commerford
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Bill Lowery
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Claire Morton
Dawn Murphy
David Norton
Gary Otterbacher
Charles Panacek
David Smith
James Strates
Morris Vivona
Mike Williams

As expected, after his successful re-election Representative Tom Sloan will re-introduce the bill we all worked on last year concerning amusement ride safety and inspections. I have spoken with Tom as he will be involved in a panel discussion at the **Kansas Fair Association gathering in Topeka on January 9th at 10:30AM, at the Holiday Inn-Holidome.** Others on the panel will be Jeff Roth, corporate counsel for Chance Rides; Bill Ogg, general manager of the state fair and Phillip Coulsen or a representative with Haas-Wilkerson Insurance.

Its important that you make this meeting as you will have a chance to provide input on any concerns you have about Sloan's bill. If you recall last year we got this bill revised to a point, working with Sloan, which we supported that would be good for the industry and patron safety. It also included rider safety/responsibility provisions.

Enclosed for your reference is a copy of Sloan's bill.
Again, please try to attend this meeting.

PAST PRESIDENTS
Richard Janas - 1997
Jean Clair - 1996
James Murphy - 1995
Dominic Vivona - 1994
Bill Dillard, Sr. - 1993
Tom Atkins - 1992
Red Wood - 1991
Billy Burr - 1990
Bob Coleman, Sr. - 1989
Milt F. Kaufman - 1988
Andy Andersen - 1987
John Vivona - 1986
Mike Farino - 1985
James H. Drew III - 1984
Gerald L. Murphy - 1983
John Campi - 1982
*Buster L. Brown - 1981
Hub Luehrs - 1980
Lloyd Hilligoss - 1979
*Hal F. Eifort - 1978
Alfred H. Kunz - 1977
P.E. Reithoffer, Jr. - 1976
Bernard P. Thomas - 1975
E. James Strates - 1974
* Rod Link - 1973
C.J. Sedlmayr - 1972
*John Portemont - 1971
*William T. Collins - 1966-70
W.G. Wade - 1965
*Deceased

County Fairs: Kansas' best tradition

Whether it's raising an animal for show, baking a masterpiece pie or crafting a beautiful piece of furniture or clothing, county fairs have something for everyone. Few things reward hard work as much as a handshake and a ribbon. And even if you don't win, there's the satisfaction of knowing you did your best.

Attend your local county fair this year and support the people that make it happen. Even more rewarding: call your Extension office to volunteer your time. Then you can say you had a hand in making this year's edition the best ever.

Of course, the best in your county will face the best of other counties at the "Party on the Prairie," the Kansas State Fair, Sept. 11-20 in Hutchinson. ❖

Allen County Fair

Iola, Aug. 3-7

Anderson County Fair

Garnett, July 28-30

Atchison County Fair

Effingham, Aug. 18-21

Barber County Fair Assn.

Hardtner, July 31-Aug. 2

Barton County Fair Assn.

Great Bend, July 7-12

Bourbon County Fair

Fort Scott, July 19-25

Brown County Free Fair

Horton, July 14-17

Butler County Fair Assn.

El Dorado, July 25-29

Central Kansas Free Fair

Abilene, Aug. 17-22

Chase County Fair

Cottonwood Falls, Aug. 10-13

Chautauqua County Fair

Sedan, July 20-Aug. 1

Cherokee County Free Fair

Columbus, July 20-25

Cheyenne County Fair

St. Francis, Aug. 5-8

Clark County Fair

Ashland, July 23-25

Clay County Fair Assn.

Clay Center, Aug. 4-8

Cloud County Fair

Concordia, July 21-25

Coffey County Free Fair

Burlington, July 24-27

Comanche County Free Fair

Coldwater, July 19-25

Cowley County Fair

Winfield, July 30-Aug. 3

Crawford County Fair Assn.

Girard, Aug. 2-6

Decatur County Fair

Oberlin, Aug. 4-8

Doniphan County Fair

Troy, July 27-Aug. 1

Douglas County Fair

Lawrence, Aug. 3-8

Edwards County Fair

Kinsley, July 13-17

Elk County Fair

Howard, July 16-18

Ellis County Fair

Hays, July 18-25

Ellsworth County Fair

Ellsworth, July 27-31

Finney County Fair

Garden City, Aug. 5-9

Five States Free Fair

Liberal, Aug. 8-16

Ford County Fair

Dodge City, July 17-20

Franklin County Fair

Ottawa, July 15-19

Geary County 4-H Fair

Junction City, July 27-31

Graham County Fair

Hill City, July 25-29

Grant County Free Fair

Ulysses, Aug. 3-8

Gray County Fair

Cimarron, July 20-23

Greeley County Fair

Tribune, July 29-Aug. 1

Greenwood County Fair

Eureka, Aug. 7-10

Hamilton County Fair

Syracuse, July 29-Aug. 1

Harper County Agriculture and 4-H Fair

Harper, Aug. 5-8

Harvey County Free Fair

Newton, July 31-Aug. 4

Haskell County Fair

Sublette, July 28-Aug. 1

Hodgeman County Fair

Jetmore, July 17, 19-23

Interstate Fair and Rodeo

Coffeyville, Aug. 8-16

Jackson County Fair

Holton, July 27-30

Jefferson County 4-H Fair

Valley Falls, Aug. 1-6

Jewell County Fair

Mankato, July 19-22

Johnson County Fair

Gardner, Aug. 4-8

Kearny County Fair

Lakin, July 21-24

Kingman County Fair

Kingman, July 24-27

Kiowa County 4-H and Free Fair

Greensburg, July 20-23

Labette County Fair

Oswego, July 28-Aug. 1

Lane County Fair

Dighton, July 23-25

Lane-Franklin County Fair

Lane, Aug. 7-9

Leavenworth County Fair

Tonganoxie, Aug. 11-15

Lincoln County-Sylvan Grove Fair

Sylvan Grove, July 29-31

Linn County Fair and Rodeo

Mound City, Aug. 4-8

Logan County Fair

Oakley, July 21-25

Lyon County Free Fair

Emporia, Aug. 1-8

Marion County Fair

Hillsboro, July 29-Aug. 1

Marshall County Fair

Blue Rapids, July 20-24

McPherson County Fair Assn.

Canton, July 16-19

McPherson County 4-H Fair

McPherson, July 26-30

Meade County Fair

Meade, July 20-24

continued on page 26

NTY FAIRS

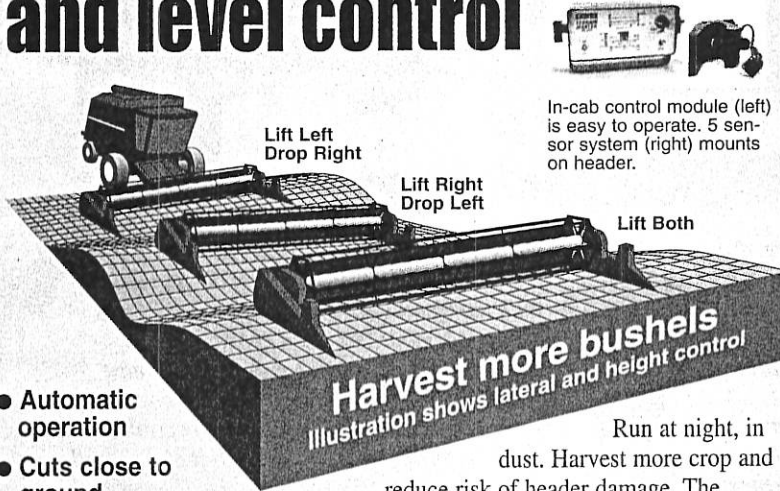
continued from page 24

Miami County Fair and Rodeo
Paola, July 27-Aug. 1
Mitchell County Fair
Beloit, July 15-18
Montgomery County 4-H Fair
Independence, July 24-27
Morris County Fair
Council Grove, Aug. 2-6
Morton County Fair
Elkhart, Aug. 3-8
Nemaha County Free Fair
Seneca, July 24-27
Neosho County Fair
Erie, July 24-27
Ness County Fair
Ness City, July 19-22
North Central Kansas Free Fair
Belleville, July 28-Aug. 1
Northwest Kansas District Free Fair
Goodland, Aug. 3-8
Norton County Fair
Norton, July 20-25
Osage County Fair
Osage City, Aug. 9-12

Osage County 4-H Fair
Melvern, July 23-25
Osborne County Fair
Osborne, Aug. 3-6
Ottawa County Fair
Minneapolis, July 15-18
Overbrook-Osage County Fair
Overbrook, Aug. 12-15
Pawnee County Fair
Larned, July 22-26
Phillips County Fair
Phillipsburg, July 27-30
Pottawatomie County Fair
Onaga, July 20-Aug. 2
Pratt County Fair
Pratt, July 29-Aug. 1
Rawlins County Fair
Atwood, July 21-23
Reno County Fair
Hutchinson, July 25-30
Rice County 4-H Fair
Lyons, July 20-25
Richmond Free Fair
Richmond, July 12-14
Riley County Fair
Manhattan, July 23-27
Rooks County Free Fair

Stockton, Aug. 10-15
Rush County Fair
LaCrosse, July 30-Aug. 1
Russell County Fair
Russell, July 29-Aug. 1
Scott County Free Fair
Scott City, July 29-Aug. 2
Sedgwick County Fair
Cheney, July 15-18
Shawnee County Fair
Topeka, July 30-Aug. 2
Sheridan County Fair
Hoxie, July 20-25
Smith County Fair
Smith Center, July 20-23
Stafford County Fair
Stafford, July 15-18
Stanton County 4-H Fair
Johnson, July 23-27
Stevens County Fair
Hugoton, Aug. 3-8
Sumner County Fair
Caldwell, Aug. 12-15
Thomas County Free Fair
Colby, July 27-Aug. 1
Trego County Fair
Wakeeney, Aug. 5-8
Tri-County Free Fair Inc.
Herington, July 9-11
Tri-Rivers Fair and Rodeo
Salina, Aug. 5-9
Wabunsee County Fair
Alma, Aug. 3-5
Wallace County Free Fair
Sharon Springs, July 30-Aug. 1
Washington County Fair
Washington, July 23-25
Wichita County Fair
Leoti, Aug. 5-8
Wilson County Fair
Fredonia, July 24-27
Woodson County Fair
Yates Center, July 12-17
Wyandotte County Fair
Kansas City, July 24-Aug. 1

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Spiders--Eyerly--THREE, w/trls	\$55,000 - \$65,000
Gravitrons--Wisdom--TWO	\$72,500 - \$85,000
Scrambler--Eli, G/M, Elect. Drive, Imported, Mich. inspected ..	\$22,000
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Flying Comet	\$7,500
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Merry Go Round--J. Warner, 34', Center, T/M, w/pup trailer ...	\$25,000
Tempest--Watkins T/M	\$42,500
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Side Winder--Eyerly, T/M	\$40,000
Rock O Plane--Eyerly G/M	CALL
Twister--Chance T/M	CALL
Flying Scooter--Busch R. --T/M	CALL
Ferris Wheel--Eli Hy 5, T/M	\$45,000
Ferris Wheel--Aristocrat, 16 seat, G/M	\$60,000
Skyfighter--A.H., T/M	\$9,500
Kiddy Ferris Wheel--SARW, T/M	\$5,000
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Red Baron--Chance T/M and Red Baron G/M.....	\$35,000 ea.
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BILL OGG, *General Manager*
JOAN R. BROWN, *Operations Manager*
LARRY ANKERHOLZ, *Physical Plant Manager*

Starting the first Friday after Labor Day.

January 25, 1999

Dear Kansas Fairs Association Members and other interested parties:

Enclosed is a copy of House Bill No. 2040 which pertains to the regulation and inspection of carnival amusement rides and related equipment. This is a very important piece of legislation affecting our industry and we suggest you become familiar with it and how it pertains to your fair or festival.

The Kansas Fairs Association and Outdoor Amusement Business Association (OABA) support and endorse this bill. We encourage you to contact your local legislators and ask their support of House Bill No. 2040.

Should you have any questions or need additional information regarding this important ride safety legislation, don't hesitate to call the Kansas State Fair at (316) 669-3600 or Rep. Tom Sloan at (785) 296-7677. Thank you for your support!

Sincerely,

Bill Ogg
General Manager

cc: Rep. Tom Sloan
Elmer Denning, Kansas Fairs Association

1999 Kansas State Fair – "Party on the Prairie"
September 10 - 19