

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Arlen Siegfried at 1:30 P.M. on February 5, 2008, in Room 313-S of the Capitol.

All members were present except:

Representative Nile Dillmore- excused
Representative Oletha Faust-Goudeau- excused
Representative Broderick Henderson- excused
Representative Lance Kinzer- excused
Representative Ann Mah - excused
Representative Mike Peterson- excused
Representative Louis Ruiz- excused

Committee staff present:

Dennis Hodgins, Kansas Legislative Services
Mike Heim, Revisor of Statutes
Jason Long, Revisor of Statutes
Jeannie Dillon, Committee Assistant

Conferees:

Representative Tom Sloan
Denny Stoecklein, General Manager of Kansas State Fair
Steve Zink, Kansas Department of Labor, Industrial Safety and Health

Others attending:

See attached list.

The Chairman called for bill introductions.

Representative Hawk requested a bill concerning the standardizing of mental health and medical payments to counties. The motion was seconded by Representative Swenson. Without objection, the bill was accepted.

Representative Knox requested a bill regarding the air quality and regulatory reform. Seconded by Representative Olson, without objection, the bill was accepted.

The Chairman requested a bill concerning governmental ethics requirements of lobbying expenses being reported. Representative Huebert seconded the motion and without objection, the motion was accepted.

Representative Morrison requested a bill regarding the NAFTA highway. Seconded by Representative Swenson and Representative Olson, without objection, the bill was accepted.

With no further bill introductions, The Chair opened the hearing on **HB 2616** - Amusement rides; inspection.

Mike Heim, Revisor of Statutes, provided the Committee with an overview of the Interim Committee Report and explained the current law regarding amusement rides. He stated that the idea of regulating amusement rides has been around since 1999. In that year a bill was introduced that would have required insurance be obtained by amusement ride operators and also would have provided for some regulation. The insurance segment was enacted by the legislature in 2000. The regulation section of the bill never became law. He stated that Kansas is one of the few states that does not regulate amusement rides. (Attachment 1)

Replying to a question from the committee, Mr. Heim stated that he did not think that the interim committee was "firm" on this being the final version of the bill as it was introduced. He said that it was a way to get the issue out before the legislature.

CONTINUATION SHEET

MINUTES OF THE House Federal and State Affairs Committee at 1:30 P.M. on February 5, 2008 in Room 313-S of the Capitol.

Representative Tom Sloan testified as a proponent of **HB 2616**. He stated that the intent of the bill was that parents and grandparents have some assurance that the rides are safely operated. He explained that the reason that there is a difference between a permanent site and the temporary rides is that amusement rides are more likely to have problems when they are set up and taken down frequently, and there is basically more wear and tear on the equipment. He further stated that it is equally important that the operators be trained in operations and procedures and that their training be documented. Representative Sloan concluded his testimony by saying that **HB 2616** represents the industry standards for operator and patron responsibilities and he urged the committee to consider the bill. (Attachment 2)

Responding to a question by a committee member, Representative Sloan said that he did not believe that non-mechanized rides were covered under this bill.

A committee member was concerned that this bill would put a burden on the small business owner. Representative Sloan replied that the bill was designed to put the least burden on the operator but provide the most responsibility and protections to the consumer.

The Chairman introduced Denny Stoecklein, General Manager of the Kansas State Fair. As a proponent to this bill, Mr. Stoecklein stated that the Kansas State Fair Board took action to philosophically support ride safety legislation, pending final drafting of such legislation. (Attachment 3) Mr. Stoecklein presented written letters from Mike Rinehart, Corporate Director of Safety of North American Midway Entertainment, (Attachment 4) and Patrick Clark, Haas & Wilkerson Insurance to the Committee regarding this bill. (Attachment 5)

A Committee member was concerned about the cost of inspection to the small business owner and asked what a inspection would cost. Mr. Stoecklein did not have that information.

Steve Zink, Kansas Department of Labor, Industrial Industry and Health, appeared before the Committee to testify as a neutral conferee on **HB 2616**. (Attachment 6) He stated that Kansas is one of nine states that has no requirement of fixed site amusement rides. (Attachment 7) Additionally, Kansas is one of six states that has no inspection regulations for mobile amusement rides. (Attachment 8) He offered the services of the Kansas Department of Labor if the legislature desires governmental oversight of inspection of the amusement industry.

A Committee member was concerned that if a state inspection was required that it might deter amusement operators from coming to small communities. Mr. Zink replied that they were looking for ways that they can reduce injury and accidents.

After all questions by the Committee were responded to, the Chairman thanked Mr. Zink for his testimony.

Written testimony was submitted by Robert Johnson, Outdoor Amusement Business Assn, Inc. as neutral. (Attachment 9)

The Chairman announced a Sub-Committee for **HB 2003** and **HB 2053**. The Sub-Committee members are Representative Knox, Chairperson, Representative Hawk, Representative Loganbill, Representative Morrison and Representative Bowers.

The Committee minutes of January 24, 2008, were approved.

The meeting was adjourned at 3:00 pm. The next meeting is scheduled for Monday, February 11, 2008.

HOUSE FEDERAL & STATE COMMITTEE GUEST LIST

DATE: 2/5/08

NAME	REPRESENTING
Denny Stoecklein	Kansas State Fair
Steve Zink	KDOL
HERB Houmberg	KDOL
Jeff Bohanberg	State Farm

Special Committee on Federal and State Affairs

REGULATION AND OVERSIGHT OF AMUSEMENT RIDES

CONCLUSIONS AND RECOMMENDATIONS

The Committee believes that state regulation and oversight of amusement rides is required; therefore, the Committee is requesting that the 1999 House Bill 2040 be updated as needed to reflect current government structure and be introduced to the Legislature as a House bill for the 2008 Session.

Proposed Legislation: The Committee recommends the introduction of two bills.

BACKGROUND

The Legislative Coordinating Council (LCC) asked that the Committee study the need for state regulation and oversight of amusement rides. In addition, the LCC instructed the Committee to review the need to establish minimum safety standards for the installation, assembly, repair, maintenance, use, operation, disassembly, and inspection of amusement rides at carnivals, fairs, and theme parks.

COMMITTEE ACTIVITIES

An oral presentation by staff was made of Representative Tom Sloan's written testimony in which it was explained that 1999 House Bill 2040 provided regulation of amusement rides and related matters. The Bill identified the Secretary of Human Resources (now Kansas Department of Labor) as being responsible for administration of the Bill. Under conditions of the Act the Secretary would have been expected to:

- Adopt rules and regulations to provide oversight of amusement rides. The rules would have included standards for the nondestructive testing of amusement rides that are determined to be at least equal to those of the American Society for Testing

and Materials. The rules also would have included certification requirements for inspectors equal to those of the National Association of Amusement Ride Safety Officials.

- Have each permanent ride inspected yearly. Rides on temporary sites would have to be inspected within 30 days of installation. Certificates of inspection would have to be posted on the ride.
- Require that a copy of the insurance company's report, in the event of an accident, be provided to the Secretary.
- Require owners to keep operator training and ride inspection records and make those records available to the Secretary on request.
- Require operators to have a \$2.0 million insurance policy with coverage of at least \$1.0 million per occurrence against liability for injuries from the operation of the rides. The insurance policy would be made available to any person contracting with the owner to operate the ride. Operators of rides would be required to have instructions on the safe operation of the ride, and be in

attendance when the ride is in operations.

Staff from the Revisor of Statutes Office presented an overview of the current statutes governing amusement rides. Under current law, the owner of the amusement ride is required to have a minimum insurance coverage of \$1.0 million, except this requirement does not apply if the owner is the State, any subdivision of the State or a not-for-profit organization. In addition, the insurance policy must name, as an additional insured, any person contracting with the owner for the amusement ride's operation. Current statute KSA 40-4803 provides that "The governing body of any city or county may establish and enforce safety standards for amusement rides and may require insurance in an amount which exceeds the amount required by KSA 40-4802 and amendments thereto. The governing body of any city or county may allow, in lieu of an insurance policy, an owner or operator to be self-insured." The staff also reviewed amusement ride laws in other states, including Pennsylvania, and in the region.

Mr. Steve Zink, Director, Division of Industrial Safety and Health, Kansas Department of Labor, informed the Committee that Kansas was one of nine states that has no regulations or inspection requirements for fixed-site amusement rides. In addition, Kansas is one of six states that has no regulations or inspection requirements for mobile amusement rides. He offered the Department's services if the Legislature should choose to proceed with the regulation of the amusement industry. If regulation and inspection became part of the Department of Labor's duties, Mr. Zink stated that the fees charged for the inspection or regulation would be based upon the type of inspection, and there would be a broad range of charges.

Mr. Denny Stoecklein, General Manager, Kansas State Fair, provided information from the North American Midway Entertainment, the operator of amusement rides for the Kansas State Fair, outlining its policies toward ride safety.

Included in the information were the policies on safety training for newly hired operators, proficiency programs, inspections at time of each set-up, and periodic contract with independent ride inspection firms to perform final pre-opening inspections. In addition, North American Midway Entertainment provides the insurance and the Kansas State Fair is an additional insured on its policy. The additional insured process is an additional step the Fair takes not only with Midway, but with every commercial exhibitor, concessionaire, or anyone that rents the facilities through the year.

Patrick Clark, Producer, Haas and Wilkerson Insurance, explained that his Company participated very actively on behalf of amusement operators with Representative Sloan when he introduced legislation in 1999 and 2001. He also informed the Committee that the final product was a "big disappointment to everyone in that all of the safety issues were removed by amendments and the final product only contained an insurance requirement." His recommendation to the Committee was that any law also should include underwriting and loss control standards as part of the insurance regulation, and the standards that are in HB 2040 would be adequate today.

Mike Hutfles, representing the Schlitterbahn Vacation Village, a water park to be built in Wyandotte County, did not foresee any problems with the bill introduction; however, the Company would like a "Disney exception" as provided for by Florida law, which allows for company inspection, in conjunction with the state, for any operator that employs more than 1,000 employees within the park.

Ron Seeber, representing the Restaurant and Hospitality Association, hoped that the bill would exempt McDonalds and other similar establishments with playgrounds.

CONCLUSIONS AND RECOMMENDATIONS

The Committee believes that state regulation and oversight of amusement rides is required; therefore, the Committee is requesting that 1999

House Bill 2040 be updated as needed to reflect current government structure and be introduced to the Legislature as a House bill for the 2008 Session.

40-4801. Amusement ride insurance act; definitions. As used in K.S.A. 40-4801 through 40-4803 and amendments thereto:

(a) (1) "Amusement ride" means any mechanical or electrical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement and shall include but not be limited to:

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

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

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

(D) any inflatable equipment or other device that does not have a rigid structure or frame and which is inflated or otherwise supported by air pressure; and

(E) any amusement ride not excluded under paragraph (2) of this subsection.

(2) "Amusement ride" shall not include:

(A) Games, concessions and associated structures;

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

(C) nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines and physical fitness devices.

(b) "Operator" means a person actually engaged in or directly controlling the operations of an amusement ride.

(c) "Owner" means a person who owns, leases, controls or manages the operations of an amusement ride and may include the state or any political subdivision of the state.

History: L. 2000, ch. 147, § 54; July 1.

40-4802. Same; financial responsibility requirements; exceptions. No amusement ride shall be operated in this state unless at the time of operation the owner has in effect an insurance policy insuring the owner and operator against liability for bodily injury to persons arising out of the operation of the amusement ride. The insurance policy shall be written by an insurance company doing business in Kansas. Such insurance policy shall:

(a) Provide for coverage in an amount not less than \$1,000,000 except that this requirement shall not apply if the owner of such amusement ride is the state, any subdivision of the state or a not-for-profit organization organized under the laws of Kansas; and

(b) name as an additional insured any person contracting with the owner for the amusement ride's operation.

History: L. 2000, ch. 147, § 55;L. 2005, ch. 77, § 1; July 1.

40-4803. Same; local government, insurance and safety standards. The governing body of any city or county may establish and enforce safety standards for amusement rides and may require insurance in an amount which exceeds the amount required by K.S.A. 40-4802, and amendments thereto. The governing body of any city or county may allow, in lieu of an insurance policy, an owner or operator to be self-insured.

History: L. 2000, ch. 147, § 56; July 1.

40-4804. Same; citation of act; effective date. (a) K.S.A. 40-4801 through 40-4804 and amendments thereto shall be known as the amusement ride insurance act.

(b) The amusement ride insurance act shall take effect and be in force on and after January 1, 2001.

History: L. 2000, ch. 147, § 57; July 1.

TOM SLOAN
 REPRESENTATIVE, 45TH DISTRICT
 DOUGLAS COUNTY

STATE CAPITOL BUILDING
 ROOM 113-S
 TOPEKA, KANSAS 66612
 (785) 296-7654
 1-800-432-3924

772 HWY 40
 LAWRENCE, KANSAS 66049-4174
 (785) 841-1526
 sloan@house.state.ks.us



TOPEKA
 HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 VICE CHAIRMAN: GOVERNMENT EFFICIENCY
 AND TECHNOLOGY
 MEMBER: ENERGY AND UTILITIES
 TRANSPORTATION

Testimony: HB 2616 – Amusement Ride Inspection Bill
 House Federal and State Affairs Committee February 5, 2007

Mr. Chairman, Members of the Committee: In 1999, I introduced similar legislation with the assistance of Haas and Wilkerson Insurance, the Outdoor Amusement Business Association, Chance Industries (manufacturer), and Bill Ogg of the Kansas State Fair. I am extremely pleased that the Interim Federal and State Affairs Committee revisited this issue and developed a simpler bill.

HB 2040, as introduced, was very similar to your HB 2616 as it:

1. Required that amusement rides, with the same basic exemptions contained in the current bill, be safety inspected by qualified persons;
2. Required that operators be trained in safety procedures and that such training be documented;
3. Required that information about the safety inspections and safe operation training be available for inspection;
4. Patron responsibilities were specified; and
5. Steps to take if an accident occurs were listed.

These requirements are standard across states. When Gail and I visited our grandchildren and their parents in North Carolina last fall, we visited their State Fair. Posted prominently were signs reporting that the rides had been safety inspected, patron responsibilities, and where to go to view inspection and operator training verifications.

Knowing that the Interim Federal and State Affairs Committee was looking at this issue, I took photographs of the signs to share with you. Regrettably, those photos are somewhere in our home – no doubt in a “safe” place – but not available.

In 1999, several legislators objected to the safety inspection requirement because they were concerned that small towns would not be able to attract carnival rides. Representatives from the insurance and manufacturing industries and I understood their concerns, but we were more interested in ensuring that the amusement rides that our

House Fed and State Committee
 February 5, 2008

Attachment

2

children and grandchildren ride are as safe as possible and that the operators are trained to deal with emergencies.

Accidents happen – at Disney World, state fairs, and small town carnivals. The goal of HB 2616 is to ensure that accidents are truly rare and largely unpreventable. In 1999, Kansas was one of only six states that did not require safety inspections of amusement rides.

HB 2616 represents the industry standards for operator and patron responsibilities. I encourage your positive consideration of the measure.

Thank you Mr. Chairman. I will be pleased to respond to questions.



February 4, 2008

Rep. Arlen Siegfried
Chair, Federal and State Affairs
300 SW 10th Ave., Room 161-W
State Capitol
Topeka, KS 66612

Rep. Siegfried and Members of the Committee:

Good afternoon, Mr. Chairman and members of the Committee. My name is Denny Stoecklein, General Manager of the Kansas State Fair.

For the past thirteen years, the State Fair has contracted with North American Midway Entertainment to provide the midway at the State Fair.

North American Midway performs at events at more than a dozen states and in Canada. The Fair has been very comfortable in its relationship with North American Midway and the steps they take to ensure the safety of riders and their employees.

For the committee's review, I have a letter from Mike Rinehart, Corporate Director of Safety for North American Midway.

Some highlights of this letter include:

- Extensive ride safety training for newly hired operators and attendants
- Annual training with all operators and attendants
- Inspections at each set-up by ride supervisors, an operations supervisor, and additionally by an experienced ride inspector and Safety Coordinator.
- Periodic inspections by independent ride inspection firms
- Daily pre-opening inspections with ride-specific checklists throughout the course of an event
- Drug testing on all newly hired personnel as well as random drug testing during events.

House Federal and State Committee

Date 2-5-08

Attachment 3

- Extensive involvement in the National Association of Amusement Ride Safety Officials (NAARSO), which is recognized internationally as one of the best training programs for amusement ride inspectors.

North American Midway has reviewed the drafted legislation and provided their feedback. A copy of this is also attached.

In addition, I have attached feedback from the Outdoor Amusement Business Association and Haas & Wilkerson Insurance. Both organizations regret not being able to attend.

The Kansas State Fair Board held discussion during its July, 2007 meeting regarding ride safety and took action to philosophically support ride safety legislation, pending final drafting of such legislation.

I thank you for the opportunity to share this information and would be happy to stand for any questions.

Sincerely,


Denny Stoecklein
General Manager



October 5, 2007

Mr. Denny Stoecklein
Kansas State Fair

Dear Mr. Stoecklein:

North American Midway Entertainment (NAME) has adopted one of the most, if not the most, stringent policies toward ride safety. This includes extensive ride operation-safety training for all operators and attendants, as well as inspection programs and safety procedures that are individually created for each ride's operation.

We start by conducting extensive ride safety training for newly hired operators and attendants prior to even introducing them to their rides. Ride supervisors then take over with training on the operation of the individual rides and their safety procedures. The ride safety training is repeated annually to all operators and attendants.

We also place all operators into our proficiency program that allows them to be recognized at different, and more difficult, levels of proficiency. This training in turn allows those capable to eventually become supervisors.

Our rides are inspected at the time of each set up by our ride supervisors, our operations supervisor and finally by our own experienced ride inspector and Safety Coordinator. Additionally, we periodically contract with independent ride inspection firms to perform final pre-opening inspections.

During the course of a fair/exposition our operators, attendants, and supervisors perform comprehensive daily pre-opening inspections. These daily inspections are done using ride specific check lists. These check lists were created using the individual ride manuals and the supervisors' personal experiences.

During ride operations, our operators and supervisors are taught to be attentive to their rides' operation and to perform constant observational inspections to be aware of the sounds and even smells emanating from their ride that might indicate a problem.

NAME performs drug tests on all newly hired personnel as well as conducting random drug testing during fairs and expositions. We also perform drug tests on any operator or attendant involved in a guest's or co-worker's injury or ride accident.

NAME has more "National Association of Amusement Ride Safety Officials" (NAARSO) certified ride operators and supervisors than any other amusement ride company. NAARSO is recognized internationally as one of the best training programs for amusement ride inspectors. NAME also takes pride in sending 15 to 20 supervisors

House Federal and State Committee

Date 2-5-08

Attachment 4

and operators to NAARSO's annual training course. Several of our supervisors are, or have been, instructors for NAARSO.

Our Safety Policies and Procedures Manual includes the following sections that I will email to you separately from this memorandum :

- A. Operator and Attendant Safety Handbook
- B. Employee Safety Program
- D. U.S. Drug Policy
- F. Incident-Claim Reporting Procedures
- J. Operator Behavior Sampling (Used when supervisor observes operators)
- K. Tests for Five Part OABA Training (Test given for operator to achieve higher Level of proficiency)
- M. New Employee Brochure
- N. Guest Service Standards
- O. Drug Consent Form
- P. Operating Standards (For Employees)
- Q. N.A.M.E. Ride Height Requirements

Mr. Williams would like for you to feel free to use any or all of the above, or any of the enclosed material, when you testify about proposed Kansas amusement ride legislation.

If we may be of any further assistance in regard to this matter please do not hesitate to write or call me, or Mr. Williams, any time you need to.

Mike Rinehart
Corporate Director of Safety
North American Midway Entertainment
601-842-1026
FAX 815-572-5934



North American Midway Entertainment

February 1, 2008

Mr. Denny Stoecklein
Kansas State Fair
2000 N. Poplar St.
Hutchinson, KS 67502

RE: Proposed Legislation HB 2616

Dear Mr. Stoecklein:

After a careful review of the above we are of the opinion that as it is presently written it will have no impact on our operations in Kansas, our safety programs are already over and above what is required in the proposed bill.

As we discussed, we are in agreement that legislation such as this is needed for the purpose of striving to provide safe amusement rides.

Please let us know if there is any additional information you may require.

Sincerely,

Michael W. Rinehart
NAME Director of Safety

Outdoor Amusement Business Association, Inc.

A national trade organization representing the mobile amusement industry since 1965 and assisting states and provinces in the establishment of amusement ride laws and regulations throughout North America.

*Comments on Kansas HB No. 2616
Committee on Federal and State Affairs*

Section 1.

- (a) (1) "Amusement ride" definition should correspond to **ASTM International Standards** definition, "**Amusement Ride or Device**" – a device or combination of devices or elements that carry, convey, or direct a person(s) over or through a fixed or restricted course or within a defined area, for the primary purpose of amusement or entertainment."*

*We would also recommend that, where applicable, **ASTM** be defined in the law and specific standards, such as Practice for Operation, Guide for Testing Performance, Practice for Maintenance Procedures, be referenced by their number. Committee F 24 establishes such standards, internationally for the amusement ride and device industry.*

- (A) Most state laws don't include a list of rides, devices or attractions and the list provided is dated and not necessary in the bill. Again ASTM uses terms such as flat-ride, high ride and kiddie ride with definitions for each one.*

*No where in the bill is the establishment of an "**Amusement Advisory Board**" that is common in most state laws where there are experts from the fair and amusement industry, plus members of the regulating authority and the public, who advise the regulatory authority, in this case the Department of Labor and assist with setting rules or regulations that affect the industry. The OABA recommends this Board be established by law.*

- (h) (1) "Patron", (E) is too vague and should not be included in the definition.*

- (j) Definition refers to additional information concerning a "Qualified Inspector" program specified by rules and regulations adopted under Section 3. However Section 3 refers to maintenance and inspection records for such rides. This is confusing and doesn't correlate to any such additional information.*

***Section 2 (B)** Discusses inspections for temporary locations for amusement rides with an inspection by a qualified inspector in the previous 30 days. Does*

this means that the State will accept an out-of-state inspection, or third-party inspection by insurance company or other qualified inspector? Some carnivals may only be in the State for one event. For those carnivals that operate only in the State, this may be costly and not necessary. Inspections by qualified, third-party individuals may cost over \$2,000, per inspection.

Section 6 *Refers to "all safety instructions" for the ride. This should state that these instructions, per the ride manufacturer's manual, refer only to the operation of the amusement ride or device only. For example, you don't want the public to see maintenance or inspection safety instructions posted.*

Section 9 (c) *States that the ride manufacturer must be notified within 30 days after an injury. This should only refer to a malfunction of the ride caused by an electrical or mechanical component failure of the ride, and not such injury caused by a patron or ride operator. We would suggest a notification period of less than 30 days, say within 48 hours, as other owners with similar rides may have such a failure and it's up to the ride manufacturer to notify them in the best interest of patron safety.*

Submitted by:

Robert W. Johnson
President
OABA
February 1, 2008

Stoecklein, Denny

From: Patrick Clark [Patrick.Clark@hwins.com]
Sent: Monday, February 04, 2008 9:38 AM
To: Stoecklein, Denny
Cc: David Garrett
Subject: Kansas HB 2616

Denny,

We have received your email and noted the date of the next meeting. Unfortunately, we cannot attend as we will all be in Gibsonton, Florida all of next week for the IISA Trade Show.

We have also received Bob Johnson's response to the proposed legislation and are in agreement with him.

One glaring problem we have found with the legislation proposed is in Sec. 2, "An amusement ride erected at a temporary location in this state shall have been inspected by a qualified inspector with in the preceding 30 days." We feel this is totally unreasonable for a carnival in Kansas to meet these requirements. For one, inspections can run anywhere from \$2000 to \$3500 each and the qualified inspectors to perform these are simply not available. Any other state law that relies on 3rd party inspections requires it once annually. A more reasonable requirement would to have each carnival be inspected annually by July 30th.

If you have the chance, please relay our message and thoughts as we are still very interested in having a voice in the legislation.

INSURING YOUR SUCCESS

Patrick A. Clark
913.676.9397
patrick.clark@hwins.com
Haas & Wilkerson Insurance
4300 Shawnee Mission Parkway, Fairway, KS 66205
www.hwins.com

All requests that coverage be bound must be made by speaking directly with a licensed representative of Haas & Wilkerson Insurance or its affiliates. Requests made by other means will not be honored.

This transmission is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this transmission is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender by reply transmission and delete or destroy the message without copying or disclosing it.

House Federal and State Committee

Date 2-5-08

Attachment 5

2/4/2008

Testimony Regarding House Bill 2616
House Committee on Federal and State Affairs
Steve Zink, Director
Kansas Dept. of Labor, Division of Industrial Safety and Health
5 February 2008

Chairman Siegfried and Members of the Committee:

My name is Steve Zink and I serve as the Director of the Division of Industrial Safety and Health for the Kansas Department of Labor.

Thank you for the opportunity to appear today and share some information on behalf of the Kansas Department of Labor on the topic of regulation of the amusement industry. My comments focus mostly on the administration of such regulations.

Kansas is one of nine states that has no regulations or inspection requirements for fixed site amusement rides. Additionally, Kansas is one of six states that has no regulations or inspection requirements for mobile amusement rides. I have attached a couple of maps showing the states and their respective level of oversight of the amusement industry.

Information provided by the U.S. Consumer Product Safety Commission (October 2006), illustrates how each state is ensuring that amusement rides are safe. This information details what each state requires in the way of inspections, insurance or qualifications for the amusement ride operators.

The analysis of this information illustrates that most states have insurance requirements by the amusement ride operators of \$1,000,000 per operation for mobile sites, and more for fixed sites. Additionally, most states require some type of inspection must be completed by a qualified inspector. The majority of states that require inspections have placed their inspection units in their state Departments of Labor. Other states have placed such operations in their Departments of Administration or Commerce, or in a separate industrial codes enforcement bureau. For most states, insurance and inspection requirements go hand-in-hand. The inspection requirements help ensure the rides are safe before a person enters the ride; the insurance requirements protect the operation after an incident occurs.

HB 2616 would require that operators of amusement ride in the State of Kansas have certificates of inspection by qualified inspectors and provides specific definitions and operational criteria for both fixed and mobile amusement rides. The bill, however, does not specify who would be responsible for inspection of the amusement rides or for monitoring compliance with the requirements in the bill. The only responsibility for

House Federal and State Committee

Date 2-5-08

Attachment 6

KDOL in this legislation is to develop a list of certified programs to train qualified amusement ride inspectors.

I am here today to offer our services if the Legislature desires governmental oversight of inspections of the amusement industry. The Department of Labor is a very appropriate place in state government to take on this responsibility.

Under the department's Division of Industrial Safety & Health, there are currently three operating groups, providing services to private employers, state agencies and local municipalities. These three units are:

- a. Boiler Safety
- b. Safety Consultation
- c. Health Consultation

The division has Certified Safety Professionals (CSP) and Certified Industrial Hygienists (CIH). There also are consultants on staff who are authorized to teach the OSHA 10- and 30- hour Construction Safety, and OSHA 10- and 30- hour General Industry Safety courses. During the last year, the division has conducted approximately 16 of these courses, with over 360 attendees.

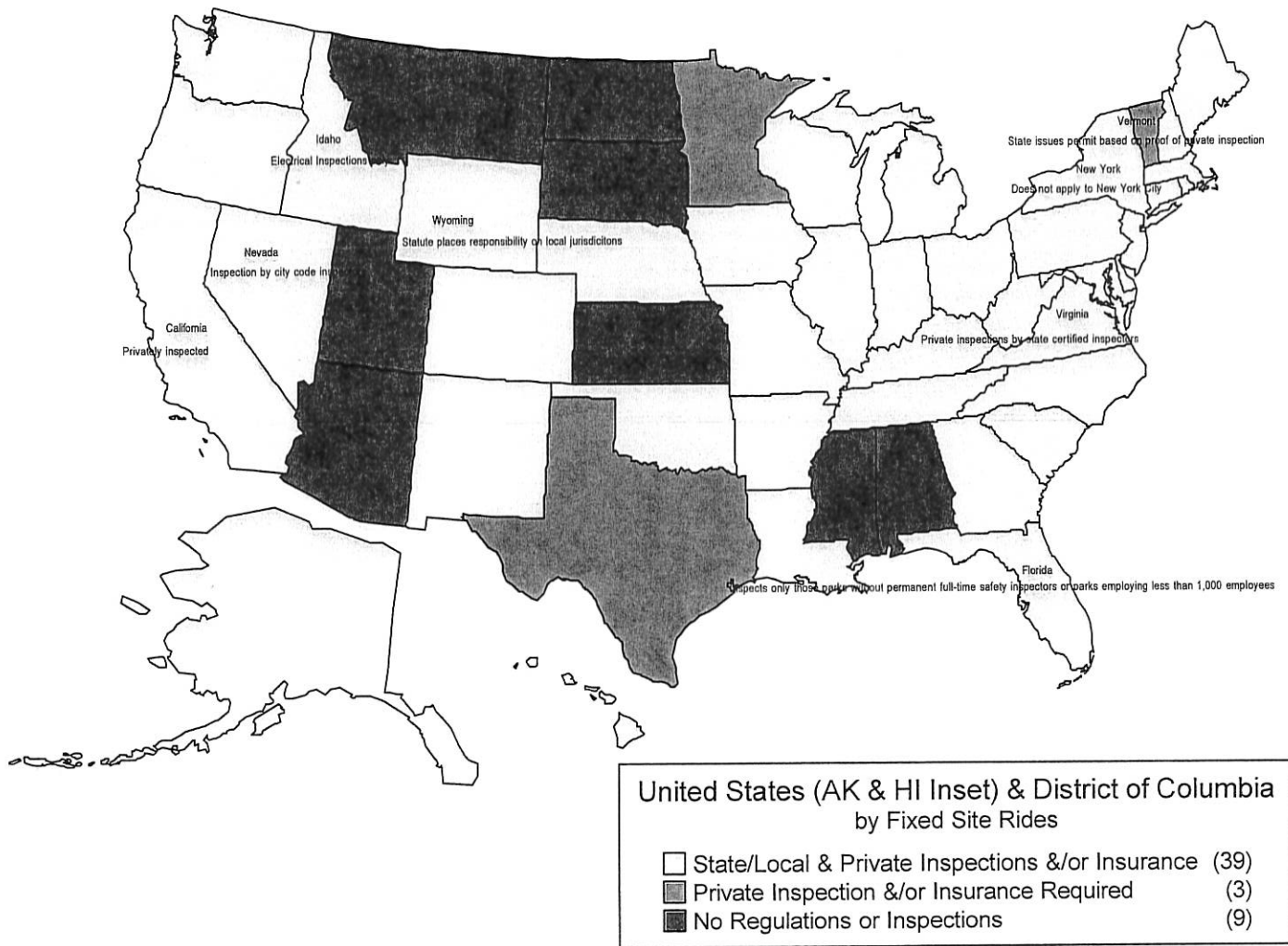
In addition to the off-site OSHA training, each year KDOL holds an annual Safety & Health Conference, with attracts over 300 participants. During the conference, a wide range of safety and health courses are taught by experts in the representative fields. This includes boiler inspection procedures, construction site hazard abatement and public sector safety. This would be a perfect venue to conduct amusement park ride operator training.

The agency would likely have some additional costs with additional responsibilities regulating amusement rides. However, these costs could be covered by assessing a fee for inspections and certifications of insurance. This is the same method by which our Boiler Safety unit is currently funded.

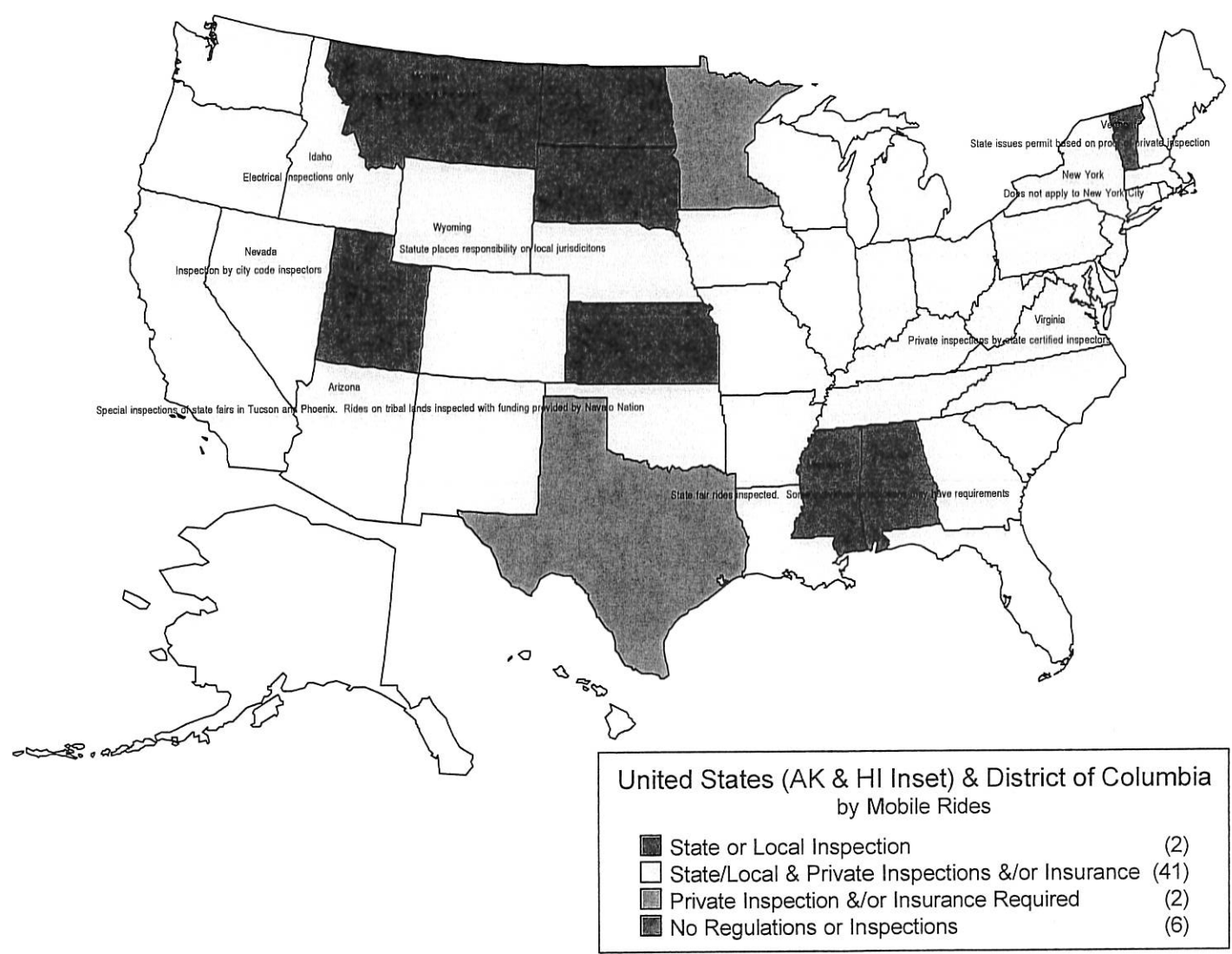
In summary, the Kansas Department of Labor and its Division of Industrial Safety and Health, stand ready to take on as much responsibility for oversight of the safety of the amusement ride industry as the Legislature seeks to pursue – whether it be the simple compilation of a list of training programs for inspectors as set out in the current version of this bill or more extensive oversight similar to our boiler inspection programs. We welcome the opportunity to work with you in this endeavor. Thank you again for the chance to share these comments on HB 2616 today.

SUMMARY MAPS

Inspection by State of Fixed Site Amusement Rides



Inspection by State of Mobile Amusement Rides



Outdoor Amusement Business Association, Inc.

A national trade organization representing the mobile amusement industry since 1965 and assisting states and provinces in the establishment of amusement ride laws and regulations throughout North America.

*Comments on Kansas HB No. 2616
Committee on Federal and State Affairs*

Section 1.

*(a) (1) "Amusement ride" definition should correspond to **ASTM International Standards** definition, "**Amusement Ride or Device**" – a device or combination of devices or elements that carry, convey, or direct a person(s) over or through a fixed or restricted course or within a defined area, for the primary purpose of amusement or entertainment."*

*We would also recommend that, where applicable, **ASTM** be defined in the law and specific standards, such as Practice for Operation, Guide for Testing Performance, Practice for Maintenance Procedures, be referenced by their number. Committee F 24 establishes such standards, internationally for the amusement ride and device industry.*

(A) Most state laws don't include a list of rides, devices or attractions and the list provided is dated and not necessary in the bill. Again ASTM uses terms such as flat-ride, high ride and kiddie ride with definitions for each one.

*No where in the bill is the establishment of an "**Amusement Advisory Board**" that is common in most state laws where there are experts from the fair and amusement industry, plus members of the regulating authority and the public, who advise the regulatory authority, in this case the Department of Labor and assist with setting rules or regulations that affect the industry. The OABA recommends this Board be established by law.*

(h) (1) "Patron", (E) is too vague and should not be included in the definition.

(j) Definition refers to additional information concerning a "Qualified Inspector" program specified by rules and regulations adopted under Section 3. However Section 3 refers to maintenance and inspection records for such rides. This is confusing and doesn't correlate to any such additional information.

Section 2 (B) Discusses inspections for temporary locations for amusement rides with an inspection by a qualified inspector in the previous 30 days. Does

House Federal and State Committee

Date *2-5-08*

Attachment

9

this means that the State will accept an out-of-state inspection, or third-party inspection by insurance company or other qualified inspector? Some carnivals may only be in the State for one event. For those carnivals that operate only in the State, this may be costly and not necessary. Inspections by qualified, third-party individuals may cost over \$2,000, per inspection.

Section 6 *Refers to "all safety instructions" for the ride. This should state that these instructions, per the ride manufacturer's manual, refer only to the operation of the amusement ride or device only. For example, you don't want the public to see maintenance or inspection safety instructions posted.*

Section 9 (c) *States that the ride manufacturer must be notified within 30 days after an injury. This should only refer to a malfunction of the ride caused by an electrical or mechanical component failure of the ride, and not such injury caused by a patron or ride operator. We would suggest a notification period of less than 30 days, say within 48 hours, as other owners with similar rides may have such a failure and it's up to the ride manufacturer to notify them in the best interest of patron safety.*

Submitted by:

Robert W. Johnson
President
OABA
February 1, 2008