

CHAPTER 142

SENATE Substitute for HOUSE BILL No. 2504°

AN ACT concerning amusement rides; relating to inspection and regulation thereof; prohibiting certain acts and providing penalties and remedies for violations.

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

Section 1. As used in this act:

(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; and

(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.

(2) “Amusement ride” does 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; or

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

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

(c) “Department” means the department of labor.

(d) “Nondestructive testing” means the development and application of technical methods such as radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual and leak testing to:

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

(2) assess integrity, properties and composition; and

(3) measure geometrical characters.

(e) “Operator” means a person actually engaged in or directly controlling the operations of an amusement ride.

(f) “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.

(g) “Parent or guardian” means any parent, guardian or custodian responsible for the control, safety, training or education of a minor or an adult or minor with an impairment in need of a guardian or a conservator, or both, as those terms are defined by K.S.A. 59-3051 and amendments thereto.

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

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

(B) getting on an amusement ride;

(C) using an amusement ride;

(D) getting off an amusement ride; or

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

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

(i) “Person” means any individual, association, partnership, corporation, limited liability company, government or other entity.

(j) “Qualified inspector” means a person who holds a current certification or other evidence of qualification to inspect amusement rides,

issued by a program specified by rules and regulations adopted under section 3, and amendments thereto.

(k) "Secretary" means the secretary of labor.

(l) "Serious injury" means an injury that results in:

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

(2) a compound fracture; or

(3) other significant injury or illness that requires immediate admission and overnight hospitalization and observation by a licensed physician.

(m) "Sign" means any symbol or language reasonably calculated to communicate information to patrons or their parents or guardians, including placards, prerecorded messages, live public address, stickers, pictures, pictograms, guide books, brochures, videos, verbal information and visual signals.

Sec. 2. (a) The secretary shall adopt rules and regulations specifying programs that issue certification or other evidence of qualification to inspect amusement rides and that the secretary determines require education, experience and training at least equivalent to those required on the effective date of this act for a level 1 certification by the national association of amusement ride safety officials. The secretary shall develop an inspection check list which shall be posted on the department web site.

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

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

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

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

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

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

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

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

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

Sec. 6. No amusement ride shall be operated in this state unless there is posted in plain view on or near the ride, in a location where they can be easily read, all safety instructions for the ride.

Sec. 7. (a) Each patron of an amusement ride, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.

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

- (1) Exercise the judgment and act in the manner of an ordinary prudent person while participating in an amusement ride;
- (2) obey all instructions and warnings, written or oral, prior to and during participation in an amusement ride;
- (3) refrain from participation in an amusement ride while under the influence of alcohol or drugs;
- (4) engage all safety devices that are provided;
- (5) refrain from disconnecting or disabling any safety device except at the express direction of the owner's agent or employee; and
- (6) refrain from extending arms and legs beyond the carrier or seating area except at the express direction of the owner's agent or employee.

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

- (A) The name, address and phone number of the injured person;
- (B) a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;
- (C) the cause of the injury, if known; and
- (D) the names, addresses and phone numbers of any witnesses to the incident.

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

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

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

Sec. 8. Any person contracting with an owner for the amusement ride's operation shall ensure that:

- (a) Inspection certificates required by section 2, and amendments thereto, are available;
- (b) maintenance and inspection records required by section 3, and amendments thereto, are available; and
- (c) safety instructions for the ride are posted as required by section 6 and amendments thereto.

Sec. 9. Whenever a serious injury results from the operation of an amusement ride:

- (a) Operation of the ride shall immediately be discontinued;
- (b) operation of the ride shall not be resumed until it has been inspected and the qualified inspector has approved resumption of operation; and
- (c) the owner, within 30 days after the injury, shall notify the manufacturer of the ride, if the manufacturer is known and in existence at the time of the injury.

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

(b) It is a class C misdemeanor knowingly to violate the provisions of section 8 and amendments thereto.

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

Sec. 11. The attorney general, or the county or district attorney in a county in which an amusement ride is located or operated, may apply to the district court for an order enjoining operation of any amusement ride operated in violation of this act.

Sec. 12. The governing body of any city or county may establish and enforce safety standards for amusement rides in addition to, but not in conflict with, the standards established by this act.

Sec. 13. This act shall take effect and be in force from and after January 1, 2009, and its publication in the statute book.