

TESTIMONY ON SB 356

House Federal & State Affairs

April 26, 2012

By Karin Brownlee

Thank you for the opportunity to testify in support of SB 356 as amended on the amusement ride act. This act came to our attention this past summer when an accident was reported which involved a home-owned carnival. The home-owned carnivals are currently exempt from the act.

Attached is a summary of how commercial amusement rides are overseen by KDOL. You will notice that this is not overly burdensome but does provide a minimal structure to encourage compliance by the amusement ride owners. The responsibility is on the amusement ride owner to be sure the rides are officially inspected, tested, and the safety instructions available. There are no penalties for deficiencies. There is no money appropriated for the work done by KDOL in this area.

We are requesting that the home-owned carnivals submit proof of their general liability insurance to KDOL annually and make the insurance information available upon request. KDOL would also have the ability to write any needed rules and regulations to carry out this act. I would guess this would be minimal, if any.

The purpose of requiring the proof of insurance is that inspection then becomes the function of the insurance. If an insurance company is willing to insure these rides, they share the interest of reducing the risk associated with this coverage.

In closing, we recognize the unique culture we have in our rural counties and the value they place on sustaining this culture. I have come to know that these home-owned carnivals are a part of this culture and respect the fact that they would like for this to continue for years to come. We at KDOL do not want to create a structure which would be too costly or overly burdensome. We have worked with the owners and area legislators to try to strike this balance. On the other hand, we also want to ensure that the children who would ride any amusement rides in our state would have a reasonable expectation that their safety is of the utmost importance to us.

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Date: 4-26-12

Attachment # 1

Four injured when carnival ride breaks

7/30/2011

By the Salina Journal

NORTON -- Four juveniles were taken to the hospital Thursday night after part of the arm of a carnival ride they were riding fell off, dropping them four to six feet to the ground.

Norton County Sheriff Troy Thomson said one arm of the octopus ride broke in half about 10:15 p.m. after the ride had stopped for loading and unloading.

Thomson said he didn't know the extent of injuries to the four young people, who were taken by ambulance to Norton County Hospital.

He said the ride was barely in motion when the break occurred, and the car was near the ground instead of high up in its rotation.

He said although the carnival will continue tonight, the octopus ride will remain closed. He said sheriff's deputies cordoned off the ride, and he is awaiting a return call from the Kansas Department of Labor about whether further inspection of the ride will be required.

The ride is among several owned by the Norton County Amusement Association, a local nonprofit organization formed to operate and procure carnival rides for the Norton County Fair.

Curtis Eveleigh, president of the Norton County Amusement Association, did not return phone calls from the Journal seeking comment.

Matt Manda, communications director for the Kansas Department of Labor, said Norton's home-owned amusement rides, like those in several counties that are operated temporarily during fair time, are exempt from the Kansas Amusement Rides Act.

Manda said local carnival organizers are responsible for making their own arrangements for inspections by a certified inspector affiliated with the National Association of Amusement Ride Safety Officials.

KDOL/ISH PROCEDURES
In Accordance with the Kansas Amusement Ride Act

- Owner of ride(s) gets the itinerary form from our website, fills it out and then submits it to our office.
- Theoretically, all operators of traveling shows and owners of rides at fixed sites are to submit completed copies of the online form to the ISH Division. Traveling shows would detail every location and dates of operation for every stop they plan to make in KS for the year or season. The itinerary is to be filed at least 30 days prior to the owner/operator setting up at a location. Fixed locations are to file the itinerary form with the Division once a year.
- The Amusement Ride Coordinator (Herb Holmberg, ISH) is to randomly select several of the locations reported to the ISH office by the ride owners for a records inspection each quarter of the year. There is no set number that has been established for inspection, simply that there will be several of the locations selected for the records review.
- The Amusement Ride Coordinator is to go to the location where the show and rides have been set up and meet with the owner/operator of the ride(s)
- The Amusement Ride Coordinator is to ask the ride owner/operator for their documented records of written inspection for the ride(s) in operation at the site. Records for inspection would include the following.
 - (1) The current certification of an inspector's qualifications to inspect amusement rides;
 - (2) The current certificate of inspection signed by a qualified inspector;
 - (3) The current maintenance and inspection records; (these are to be available at the site where the ride is in operation)
 - (4) The current results of nondestructive testing; at a minimum, each owner shall conduct a nondestructive test every 30 days on each temporary amusement ride and once a year on each permanent amusement ride.
 - (5) Each amusement ride manufacturer's operational manual;
 - (6) Each amusement ride manufacturer's nondestructive testing recommendations; and
 - (7) Each amusement ride manufacturer's inspection guidelines.
- The Amusement Ride Coordinator shall also assure the owner has affixed the safety instructions for each amusement ride in a conspicuous location under a waterproof covering that allows patrons to read the instructions before boarding the amusement ride.
- Once the Coordinator has reviewed the documentation and postings indicated above assuming everything is found in order the inspection is deemed complete and the ISH Amusement Ride Inspector can conclude the records inspection with the owner/operator and leave the site.

What if something is missing or insufficient?

There is no provision in the Amusement Ride Act for monetary or other such action to be taken against a non compliant Amusement Ride operator/owner regardless the level of deficiency. Meaning any infraction from a lack of inspection paperwork to the fatality of a ride patron cannot be directly addressed by ISH or KDOL under these provisions. The Amusement Ride Coordinator/Inspector is to notify the ISH Director, who will in turn notify KDOL legal in the event significant deficiencies or problems were found with an amusement ride owner/operator and the failure of an inspection visit. KDOL Legal is to then refer the matter to the District Attorney for the jurisdiction in which the deficiencies were identified in the event they want to pursue the matter.

Regarding the parameters or limitations of the Amusement Ride Act:

- The Act clearly indicates the KDOL/ISH Amusement Ride Act is strictly limited to a review of the owner/operators inspection of their rides, either through their own in house NAARSO Level 1 or higher inspector, or through a contracted third party inspector. The KDOL/ISH Amusement Ride Coordinator can only inspect the records indicated above.
- Inspections by KDOL ISH staff are not hands-on inspections. This is an important note, not one nut, bolt, screw or any other piece or part of any ride is to be inspected by the ISH Amusement Ride Coordinator. The KDOL/ISH inspection is solely a review of the ride operators inspection efforts and related paperwork and postings.
- There are no fees in place related to the inspection of Amusement Ride Inspection at this time. There are no permit fees, no licensing, inspection, or non-compliant citation fees either. There is not one dollar strictly allocated for the administration of the Amusement Ride Inspection program at this time. The Division Director, Terri Sanchez has approved using public sector funding and/or Accident Prevention funding.
- The Amusement Ride Act also has no provisions to monetarily or punitively penalize offending owner/operators of deficient rides for KDOL beyond referring the matter to the local District Attorney for follow up if they so wish.