

Before the House Committee on Federal and State Affairs

**Neutral Testimony on SB 307
Presented on March 13, 2018**

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Mr. Chairman and Honorable Members of the Committee:

Thank you for the opportunity to appear before you today on behalf of Secretary Lana Gordon and the Kansas Department of Labor to testify as neutral regarding Senate Bill 307.

The Department has worked diligently to implement the amendments made on July 1, 2017 to K.S.A. 44-1601 et. seq., known as the Kansas Amusement Ride Act. The Amusement Ride Act now requires that every amusement ride have a permit issued by the Department of Labor in order to legally operate. To be permitted, an amusement ride must pass an inspection, and the Department must be provided proof that the owner is insured, among other requirements. Owners and operators of amusement rides must maintain records, including inspection records, maintenance records, and operator training records. To help ensure compliance, the Act requires the Department to conduct random on-site audits to review records and other statutory requirements.

While the proposed amendments deal primarily with home owned amusement rides and rides used in agritourism, other changes are proposed in SB 307. The definition of a “home owned amusement ride” in Section 4 of SB 307 as amended by the Senate Committee of the Whole is “an amusement ride, as defined in subsection (a)(1), owned and operated by a nonprofit, community-based organization that is operated for less than 20 days in a year and is operated at only one

location each year. To qualify as an agritourism ride, a ride must be registered as an agritourism activity, as defined in K.S.A. 2017 Supp. 32-1432.

The Department of Labor hosted a public hearing on September 7, 2017 regarding the Amusement Ride Act. The Department has a link for the public to hear a recording of the testimony on our website. The vast majority of comments submitted were regarding home owned and agritourism rides, along with the costs of complying with the Amusement Ride Act.

One noteworthy proposed change is found in Section 4 of SB 307 as amended by the Senate Committee of the Whole and amends the definition of an amusement ride. Currently K.S.A. 44-1601 states,

- (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 all rides and devices included under ASTM [American Society for Testing and Materials] international F24 committee standards, including, but not be limited to:
 - (A) Rides commonly known as ferris wheels, carousels, parachute towers, bungee jumping, reverse bungee jumping, tunnels of love, roller coasters, boat rides, water slides, inflatable devices, commercial zip lines, trampoline courts and go-karts;
 - (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.

The proposed change removes the highlighted portion of the definition above. As currently written, the Department is required to regulate any device that the ASTM international F24 committee chooses to include. The current inclusion of all rides listed under ASTM results in a conflict between the apparent intent to limit coverage of certain rides by including many rides that may not otherwise be expected to fall under the Kansas definition of an amusement ride. Removing the highlighted portion from the definition of an amusement ride will clarify which rides are to be included under the Act. SB 307 as amended by the Senate Committee of the Whole

further modifies K.S.A. 44-1601 (a)(2) to specifically exclude hayrack rides and barrel trains, stating:

- (2) "Amusement ride" does not include:...
- (F) any ride commonly known as a hayrack ride in which patrons sit in a wagon or cart that is then pulled by horses or a tractor or other motor vehicle;
- (G) any ride commonly known as a barrel train, which has a series of handmade cars fashioned from barrels that are connected and pulled by a tractor or other motor vehicle;...

Additionally SB 307 as amended by the Senate Committee of the Whole modifies the definition of a water slide in K.S.A. 44-1601(s), stating: (s) "Water slide" means a slide that is at least 20 feet in height and that uses water to propel the patron through the ride, but does not include any such slide that is owned or operated by a municipality as defined in K.S.A. 75-6102, and amendments thereto. This modification would exclude all water slides less than 20 feet tall and all water slides, regardless of height, owned or operated by a municipality.

A second noteworthy proposed change is in Section 17 of Senate Bill 307 as amended by the Senate Committee of the Whole and modifies K.S.A 44-1616. Currently, K.S.A. 44-1616 (a) states,

- (a) No amusement ride shall be operated in this state unless a valid permit for such ride has been issued by the department. The owner of an amusement ride shall make application for a permit for such amusement ride to the secretary on such form and in such manner as prescribed by the secretary. The application for a permit shall include, but is not limited to, the following:
 - (1) The name of the owner and operator of the amusement ride;
 - (2) the location of the amusement ride, or the location where such ride is stored when not in use;
 - (3) valid certificate of inspection;
 - (4) proof of insurance; and
 - (5) certification that such ride meets the applicable ASTM international F24 committee standards.

The proposed changes amend the above highlighted portion of K.S.A. 44-1616 (a)(5) to read:

- (a)(5)(A) for amusement rides manufactured prior to July 1, 2018, certification that such ride qualifies as service proven, as that term is used in the applicable ASTM international F24 committee standards; and

(B) for amusement rides manufactured on and after July 1, 2018, certification that such ride meets the applicable ASTM international F24 committee standards **pertaining to ride maintenance and operation.**

Since July 1, 2017, implementation of K.S.A. 44-1616 (a)(5) requiring “certification that such ride meets the applicable ASTM international F24 committee standards” has been difficult for multiple reasons.

First, there are currently twenty-one (21) ASTM internal F24 committee standards governing amusement rides. Some of the ASTM standards govern all amusement rides and some relate only to specific amusement rides. Many amusement rides were manufactured decades prior to the publication of this ASTM standard governing amusement rides which makes getting a certification that meets (current) ASTM design standards very difficult.

With the proposed modification of K.S.A. 44-1616 (a)(5) to include “(A) for amusement rides manufactured prior to July 1, 2018, certification that such ride qualifies as service proven, as that term is used in the applicable ASTM international F24 committee standards, older amusement rides will still be able to operate if they are “service proven.” ASTM F747-15 defines service proven as “an amusement ride, device, or major modification to an amusement ride or device of which (1) unit(s) have been in service to the public for a minimum of five years, and (2) unit(s) that have been in service have done so without any significant design related failures or significant design related safety issues that have not been mitigated.” So, as long as an owner can certify an older amusement ride as “service proven,” that ride would be allowed to continue to operate.

The Department believes that the proposed changes to the Kansas Amusement Ride Act made in Senate Bill 307 as amended by the Senate Committee of the Whole address many of the questions and concerns initially raised regarding home owned and agritourism rides, as well as concerns that have arisen since the implementation of the new requirements set forth in the Amusement Ride Act.

While the Department of Labor is neutral regarding the changes brought by SB 307, it is important to note that the Department anticipates no additional costs to the agency if the amendments are enacted.

Respectfully submitted,



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