

HOUSE BILL No. 2653

By Committee on Commerce, Labor and Economic Development

2-12

1 AN ACT concerning amusement rides; relating to the Kansas amusement
2 ride act; amending K.S.A. 2019 Supp. 44-1601, 44-1602, 44-1603, 44-
3 1605, 44-1610, 44-1616, 44-1618 and 44-1620 and repealing the
4 existing sections; also repealing K.S.A. 2019 Supp. 44-1609.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2019 Supp. 44-1601 is hereby amended to read as
8 follows: 44-1601. As used in this act:

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

14 (A) Rides commonly known as ferris wheels, carousels, parachute
15 towers, bungee jumping, reverse bungee jumping, tunnels of love, roller
16 coasters, boat rides, water slides, inflatable devices, ~~commercial~~ zip lines,
17 trampoline courts ~~and~~, go-karts *and climbing walls and other climbing*
18 *apparatus that utilize a controlled descent device;*

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

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

24 (2) "Amusement ride" does not include:

25 (A) Games, concessions and associated structures;

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

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

33 (D) antique amusement rides;

34 (E) limited-use amusement rides;

35 (F) registered agritourism activities;

36 (G) any ride commonly known as a hayrack ride in which patrons sit

1 in a wagon or cart that is then pulled by horses or a tractor or other motor
2 vehicle;

3 (H) any ride commonly known as a barrel train, which has a series of
4 handmade cars fashioned from barrels that are connected and pulled by a
5 tractor or other motor vehicle; or

6 (I) any amusement ride owned by an individual and operated solely
7 within a single county for strictly private use.

8 (b) "Antique amusement ride" means an amusement ride, as defined
9 in subsection (a)(1), manufactured prior to January 1, 1930.

10 (c) "Certificate of inspection" means a certificate, signed and dated
11 by a qualified inspector, showing that an amusement ride has satisfactorily
12 passed inspection by such inspector.

13 (d) "Class A amusement ride" means an amusement ride designed for
14 use primarily by individuals aged 12 or less.

15 (e) "Class B amusement ride" means an amusement ride that is not
16 classified as a class A amusement ride.

17 (f) "Department" means the department of labor.

18 (g) "Limited-use amusement ride" means an amusement ride, as
19 defined in subsection (a)(1), owned and operated by a nonprofit,
20 community-based organization that is operated for less than 20 days, or
21 160 hours, in a year and is operated at only one location each year.

22 (h) "Nondestructive testing" means the development and application
23 of technical methods in accordance with ASTM-F747 standards *adopted*
24 *by the ASTM international F24 committee, as published in ASTM*
25 *international standards volume 15.07*, such as radiographic, magnetic
26 particle, ultrasonic, liquid penetrant, electromagnetic, neutron
27 radiographic, acoustic emission, visual and leak testing to:

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

31 (2) assess integrity, properties and composition; and

32 (3) measure geometrical characters.

33 (i) "Operator" means a person actually supervising, or engaged in or
34 directly controlling the operations of an amusement ride.

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

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

43 (l) (1) "Patron" means any individual who is:

- 1 (A) Waiting in the immediate vicinity of an amusement ride to get on
2 the ride;
- 3 (B) getting on an amusement ride;
- 4 (C) using an amusement ride;
- 5 (D) getting off an amusement ride; or
- 6 (E) leaving an amusement ride and still in the immediate vicinity of
7 the ride.
- 8 (2) "Patron" does not include employees, agents or servants of the
9 owner while engaged in the duties of their employment.
- 10 (m) "Person" means any individual, association, partnership,
11 corporation, limited liability company, government or other entity.
- 12 (n) "Qualified inspector" means a person who:
- 13 (1) Is a licensed professional engineer, as defined in K.S.A. 74-7003,
14 and amendments thereto, and has completed at least two years of
15 experience in the amusement ride field, consisting of at least one year of
16 actual inspection of amusement rides under a qualified inspector for a
17 manufacturer, governmental agency, amusement park, carnival or
18 insurance underwriter, and an additional year of practicing any
19 combination of amusement ride inspection, design, fabrication,
20 installation, maintenance, testing, repair or operation;
- 21 (2) provides satisfactory evidence of completing a minimum of five
22 years of experience in the amusement ride field, at least two years of
23 which consisted of actual inspection of amusement rides under a qualified
24 inspector for a manufacturer, governmental agency, amusement park,
25 carnival or insurance underwriter, and the remaining experience consisting
26 of any combination of amusement ride inspection, design, fabrication,
27 installation, maintenance, testing, repair or operation;
- 28 (3) has received qualified training from a third party, such as
29 attainment of level I certification from the national association of
30 amusement ride safety officials (NAARSO), attainment of level I
31 certification from the amusement industry manufacturers and suppliers
32 international (AIMS), attainment of a qualified inspector certification from
33 the association for challenge course technology (ACCT), when applicable,
34 or other similar qualification from another nationally recognized
35 organization; or
- 36 (4) for purposes of inspecting inflatable devices that are rented on a
37 regular basis and erected at temporary locations, provides satisfactory
38 evidence of completing a minimum of five years of experience working
39 with inflatable devices and has received qualified training from a third
40 party, such as attainment of an advanced inflatable safety operations
41 certification from the safe inflatable operators training organization or
42 other nationally recognized organization.
- 43 (o) "Registered agritourism activity" means an amusement ride, as

1 defined in subsection (a)(1), that is a registered agritourism activity, as
2 defined in K.S.A. 2019 Supp. 32-1432, and amendments thereto.

3 (p) "Secretary" means the secretary of labor.

4 (q) "Serious injury" means an injury that results in:

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

7 (2) a compound fracture; or

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

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

15 (s) "Water slide" means a slide that is at least 35 feet in height and
16 that uses water to propel the patron through the ride.

17 Sec. 2. K.S.A. 2019 Supp. 44-1602 is hereby amended to read as
18 follows: 44-1602. (a) No amusement ride, *antique amusement ride*,
19 *limited-use amusement ride or registered agritourism activity* shall be
20 operated in this state unless such ride has a valid certificate of inspection.
21 An amusement ride, *antique amusement ride, limited-use amusement ride*
22 *or registered agritourism activity* erected in this state shall be inspected by
23 a qualified inspector at least every 12 months.

24 The certificate of an inspection required by this subsection shall be
25 signed and dated by the inspector and shall be available to any person
26 contracting with the owner for the operation of such amusement ride,
27 antique amusement ride, limited-use amusement ride or registered
28 agritourism activity. In addition, a visible inspection decal provided by the
29 department or other evidence of inspection shall be ~~posted~~ *displayed* in
30 plain view on or near the amusement ride, antique amusement ride,
31 limited-use amusement ride or registered agritourism activity in a location
32 where it can easily be seen.

33 (b) Inspections performed pursuant to this section shall be paid for by
34 the owner of the amusement ride, antique amusement ride, limited-use
35 amusement ride or registered agritourism activity, or in the case of a state
36 agency or political subdivision of the state, such governmental entity shall
37 pay for the inspection.

38 (c) In addition to the annual inspection required by subsection (a), the
39 operator of an amusement ride, antique amusement ride, limited-use
40 amusement ride or registered agritourism activity shall perform and record
41 daily inspections of the ride. The daily inspection shall include an
42 inspection of equipment identified for daily inspection in accordance with
43 the applicable codes and the manufacturer's recommendations.

1 (d) The secretary shall conduct random compliance audits of
2 amusement rides, *antique amusement rides, limited-use amusement rides*
3 *or registered agritourism activities* erected both at permanent locations
4 and at temporary locations. A warning citation for violation of this act ~~shall~~
5 *may* be issued against any owner or operator for a first violation.

6 (e) The secretary shall develop an ~~inspection~~ *audit* checklist, which
7 shall be posted on the department's website.

8 Sec. 3. K.S.A. 2019 Supp. 44-1603 is hereby amended to read as
9 follows: 44-1603. The owner of an amusement ride, antique amusement
10 ride, limited-use amusement ride or registered agritourism activity shall
11 retain at all times current records relating to the construction, repair and
12 maintenance of its operation, including safety, inspection, maintenance
13 records and ride operator training activities for such ride. Such records
14 shall be available to any person contracting with the owner for the
15 operation of such ride, and shall be made available to the department at
16 reasonable times, including during an ~~inspection~~ *audit*, upon the
17 department's request. *All current records, including safety, inspection and*
18 *maintenance records, ride operator training activities and records of daily*
19 *inspections* ~~must~~ *shall* be available for inspection at the location where the
20 ride or device is operated. All *such* records ~~must~~ *shall* be maintained for a
21 period of three years.

22 Sec. 4. K.S.A. 2019 Supp. 44-1605 is hereby amended to read as
23 follows: 44-1605. (a) No amusement ride, *antique amusement ride,*
24 *limited-use amusement ride or registered agritourism activity* shall be
25 operated in this state unless the operator has satisfactorily completed
26 training that includes, at a minimum:

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

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

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

33 (b) No amusement ride, *antique amusement ride, limited-use*
34 *amusement ride or registered agritourism activity* shall be operated in this
35 state unless the name of each operator trained to operate the ride and the
36 certificate of each such operator's satisfactory completion of such training,
37 signed and dated by the trainer, is available to any person contracting with
38 the owner for ~~the amusement~~ *such* ride's operation on the premises where
39 ~~the amusement~~ *such* ride is operated, during the hours of operation of the
40 ride.

41 (c) No inflatable device that is rented on a regular basis and erected at
42 a temporary location shall be operated in this state unless the operator has
43 been trained by a person who has attained a basic inflatable safety

1 operations certification from the safe inflatable operators training
2 organization or other nationally recognized organization.

3 (d) No slide that uses water to propel the patron through the ride and
4 that is at least 15 feet in height shall be operated in this state unless there is
5 an attendant stationed at such slide to ensure patrons are properly adhering
6 to the safety standards in place.

7 Sec. 5. K.S.A. 2019 Supp. 44-1610 is hereby amended to read as
8 follows: 44-1610. (a) It is a class B misdemeanor for an owner or operator
9 of an amusement ride, antique amusement ride, limited-use amusement
10 ride or registered agritourism activity knowingly to operate, or cause or
11 permit to be operated, any amusement ride, antique amusement ride,
12 limited-use amusement ride or registered agritourism activity without a
13 valid permit issued by the secretary.

14 (b) A *warning citation* or notice of violation may be issued by the
15 department when an amusement ride, antique amusement ride, limited-use
16 amusement ride or registered agritourism activity is found to be out of
17 compliance with the provisions of this act, or any rules or regulations
18 adopted pursuant thereto. The notice of violation may include an order to
19 cease and desist operation of the specific ride until all violations are
20 satisfactorily corrected.

21 (c) Within 10 business days after a notice of violation has been
22 issued, the person issued such notice may file a written request with the
23 department for an informal conference regarding the notice. If the person
24 issued the notice of violation does not request an informal conference
25 within this time frame, all provisions of the notice shall become final. If
26 the notice of violation is not resolved within the prescribed time frame, the
27 department may seek judicial enforcement of the notice of violation, or an
28 enforcement order may be issued.

29 (d) The secretary may impose a fine of not more than \$1,000 for any
30 violation of the provisions of this act, or any rules or regulations adopted
31 pursuant thereto. All fines received by the secretary pursuant to this
32 section shall be remitted by the secretary to the state treasurer in
33 accordance with the provisions of K.S.A. 75-4215, and amendments
34 thereto. Upon receipt of each such remittance, the state treasurer shall
35 deposit the entire amount in the state treasury to the credit of the
36 amusement ride safety fund.

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

38 (f) The provisions of this section shall be subject to the Kansas
39 administrative procedure act.

40 Sec. 6. K.S.A. 2019 Supp. 44-1616 is hereby amended to read as
41 follows: 44-1616. (a) No amusement ride shall be operated in this state
42 unless a valid permit for such ride has been issued by the department. The
43 owner of an amusement ride shall make application for a permit for such

1 amusement ride to the secretary on such form and in such manner as
2 prescribed by the secretary. The application for a permit shall include, but
3 is not limited to, the following:

4 (1) The name of the owner ~~and operator~~ of the amusement ride;
5 (2) ~~the location of the amusement ride, or the location where such~~
6 ~~ride is stored when not in use~~ *the name of the operator of the amusement*
7 *ride if:*

8 (A) *The owner is the operator of the amusement ride; or*
9 (B) *there is a written agreement between the owner and the operator*
10 *for the operation of such ride;*

11 (3) (A) *the location of the ride if the ride is a permanent amusement*
12 *ride; or*

13 (B) *the itinerary for such ride if the ride is a temporary amusement*
14 *ride;*

15 (4) valid certificate of inspection;

16 ~~(4)~~(5) proof of insurance; and

17 ~~(5)~~(6) (A) for amusement rides manufactured prior to July 1, ~~2018~~
18 ~~2013~~, certification that such ride qualifies as service proven, as that term is
19 used in the ~~applicable~~ ASTM ~~international F24 committee~~ standards
20 *adopted by the ASTM international F24 committee, as published in ASTM*
21 *international standards volume 15.07; and*

22 (B) for amusement rides manufactured on and after July 1, ~~2018~~
23 ~~2013~~, certification that such ride meets the applicable ASTM international
24 F24 committee standards pertaining to ride maintenance and operation.

25 (b) Each applicant shall submit a permit fee along with the
26 application in an amount as follows:

27 (1) For amusement rides erected at a permanent location, \$75 for a
28 class A amusement ride, and \$100 for a class B amusement ride;

29 (2) for amusement rides erected at a temporary location, \$30; and

30 (3) for amusement rides owned or operated by a municipality or a
31 nonprofit entity, whether erected at a permanent or temporary location,
32 \$10.

33 (c) Upon approval of an application and receipt of the required fee,
34 the secretary shall issue a permit for the amusement ride. Such permit shall
35 be valid for one year from the date of issuance. *Upon issuance, the permit*
36 *shall be displayed in plain view on or near the amusement ride in a*
37 *location where it can easily be seen.* Any permit fee paid by an applicant
38 shall be returned to the applicant if the application is denied.

39 (d) In addition to the permit fees required under subsection (b), no
40 amusement ride shall be operated in this state unless the owner of such
41 ride has registered as an amusement ride owner with the department.
42 Registration shall be valid for a period of one year. The owner of an
43 amusement ride shall register with the department in such form and in

1 such manner as prescribed by the secretary, and by paying a registration
2 fee as follows:

- 3 (1) For amusement rides erected at a permanent location, \$500;
- 4 (2) for amusement rides erected at a temporary location, \$250; and
- 5 (3) for amusement rides owned by a municipality or nonprofit entity,
6 whether erected at a permanent or temporary location, \$50.

7 The fee required under this subsection shall be an annual fee paid by
8 the owner, regardless of the number of amusement rides owned by such
9 owner.

10 (e) All fees received by the secretary pursuant to this section shall be
11 remitted by the secretary to the state treasurer in accordance with the
12 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
13 each such remittance, the state treasurer shall deposit the entire amount in
14 the state treasury to the credit of the amusement ride safety fund.

15 Sec. 7. K.S.A. 2019 Supp. 44-1618 is hereby amended to read as
16 follows: 44-1618. (a) (1) A patron, or a patron's parent or guardian on a
17 patron's behalf, shall report in writing to the owner any injury sustained on
18 an amusement ride, antique amusement ride, limited-use amusement ride
19 or registered agritourism activity before leaving the premises. Such report
20 shall include:

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

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

31 (3) The owner shall prominently display signage at the point of
32 admission or ticket sale and at least two other locations in close proximity
33 to the amusement ride, antique amusement ride, limited-use amusement
34 ride or registered agritourism activity explaining a patron's duty to report
35 injuries sustained on such ride. Such signage shall include instructions on
36 how to contact the owner's representatives if immediate assistance is
37 needed and how to make an injury report.

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

41 (b) *Whenever a serious injury results from the operation of an*
42 *amusement ride, antique amusement ride, limited-use amusement ride or*
43 *registered agritourism activity:*

1 (1) *Operation of the ride shall immediately be discontinued;*

2 (2) *except as provided in subsection (d), the owner of an amusement*
3 *such ride, antique amusement ride, limited-use amusement ride or*
4 *registered agritourism activity shall notify the department of any such*
5 *serious injury reported by a patron, or any injury caused by a malfunction*
6 *or failure of a ride or caused by an operator or patron error. Such*
7 *notification shall be submitted to the department within 72 48 hours of the*
8 *time that the operator becomes aware of the injury;*

9 (3) *operation of the ride shall not be resumed until the ride has been*
10 *inspected and a qualified inspector has approved resumption of operation*
11 *of such ride; and*

12 (4) *the owner, within 30 days after the occurrence of such injury,*
13 *shall notify the manufacturer of the ride, if the manufacturer is known and*
14 *in existence at the time of the injury.*

15 (c) If a serious injury occurs, the equipment or conditions that caused
16 the injury shall be preserved for the purpose of an investigation by the
17 department ~~and such ride shall be immediately removed from service.~~
18 Except as provided in subsection (d), upon notification, the department
19 shall acknowledge receipt of such notice and determine if an investigation
20 of a serious injury is necessary. If an investigation is not commenced
21 within 24 hours after the department receives notification of such injury,
22 then an investigation shall be deemed unnecessary.

23 (d) If the serious injury results in the death of a patron, the owner
24 shall notify the department of the injury as soon as possible. Such
25 notification shall be by telephone initially with a written notification sent
26 within 24 hours after the initial notice. ~~If the patron's death is related to a~~
27 ~~major malfunction of the ride, an investigation shall be required and~~ The
28 department shall commence ~~such an~~ investigation within 24 hours after
29 receiving initial notice of the injury. No part of the ride or the ride itself,
30 shall be moved or repaired without the written approval of the secretary, or
31 the secretary's designee, except that nothing in this subsection shall be
32 construed so as to hinder emergency response personnel from performing
33 their duties, or to prevent the elimination of an obvious safety hazard. The
34 owner shall provide the department with complete access to the ride and
35 all related premises for the purposes of the investigation and shall provide
36 all information related to the cause of the injury to the department.

37 Sec. 8. K.S.A. 2019 Supp. 44-1620 is hereby amended to read as
38 follows: 44-1620. (a) No antique amusement ride, limited-use amusement
39 ride or registered agritourism activity shall be operated in this state unless
40 a valid permit for such ride has been issued by the department. The owner
41 of any such ride shall make application for a permit for such ride to the
42 secretary on such form and in such manner as prescribed by the secretary.
43 The application for a permit shall include, but is not limited to, the

1 following:

- 2 (1) The name of the owner ~~and operator~~ of the antique amusement
3 ride, limited-use amusement ride or registered agritourism activity;
4 (2) ~~the location of the ride, or the location where such ride is stored~~
5 ~~when not in use~~ the name of the operator of the ride if:
6 (A) The owner is the operator of the ride; or
7 (B) there is a written agreement between the owner and the operator
8 for the operation of such ride;
9 (3) (A) the location of such ride if the ride is a permanent ride; or
10 (B) the itinerary for such ride if the ride is a temporary ride;
11 (4) valid certificate of inspection; and
12 ~~(4)~~(5) proof of insurance.

13 (b) Each applicant shall submit a permit fee of \$50 along with the
14 application.

15 (c) Upon approval of an application and receipt of the required fee,
16 the secretary shall issue a permit for the antique amusement ride, limited-
17 use amusement ride or registered agritourism activity. Such permit shall be
18 valid for one year from the date of issuance. Any permit fee paid by an
19 applicant shall be returned to the applicant if the application is denied.

20 (d) In addition to the permit fee required under subsection (b), no
21 antique amusement ride, limited-use amusement ride or registered
22 agritourism activity shall be operated in this state unless the owner of such
23 ride has registered as an antique amusement ride, limited-use amusement
24 ride or registered agritourism activity owner with the department.
25 Registration shall be valid for a period of one year. The owner of an
26 antique amusement ride, limited-use amusement ride or registered
27 agritourism activity shall register with the department in such form and in
28 such manner as prescribed by the secretary and by paying a registration fee
29 of \$50. The fee required under this subsection shall be an annual fee paid
30 by the owner, regardless of the number of rides owned by such owner.

31 (e) All fees received by the secretary pursuant to this section shall be
32 remitted by the secretary to the state treasurer in accordance with the
33 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
34 each such remittance, the state treasurer shall deposit the entire amount in
35 the state treasury to the credit of the amusement ride safety fund.

36 Sec. 9. K.S.A. 2019 Supp. 44-1601, 44-1602, 44-1603, 44-1605, 44-
37 1609, 44-1610, 44-1616, 44-1618 and 44-1620 are hereby repealed.

38 Sec. 10. This act shall take effect and be in force from and after its
39 publication in the statute book.