

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The State Finance Act is amended by adding
Section 5.826 as follows:

(30 ILCS 105/5.826 new)

Sec. 5.826. The Amusement Ride and Patron Safety Fund.

Section 10. The Carnival and Amusement Rides Safety Act is
amended by changing Sections 2-2, 2-6, 2-8, 2-12, 2-14, and
2-15 and by adding Sections 2-8.1, 2-15.2 and 2-15.3 as
follows:

(430 ILCS 85/2-2) (from Ch. 111 1/2, par. 4052)

Sec. 2-2. Definitions. As used in this Act, unless the
context otherwise requires:

1. "Director" means the Director of Labor or his or her
designee.

2. "Department" means Department of Labor.

3. "Amusement Attraction" means an enclosed building or
structure, including electrical equipment which is an integral
part of the building or structure, through which people walk
without the aid of any moving device, that provides amusement,

thrills or excitement at a fair or carnival, except any such enclosed building or structure which is subject to the jurisdiction of a local building code.

4. "Amusement ride" means:

(a) any mechanized device or combination of devices, including electrical equipment which is an integral part of the device or devices, which carries passengers along, around, or over a fixed or restricted course for the primary purpose of giving its passengers amusement, pleasure, thrills, or excitement;

(b) any ski lift, rope tow, or other device used to transport snow skiers;

(c) (blank);

(d) any dry slide over 20 feet in height, alpine slide, or toboggan slide;

(e) any tram, open car, or combination of open cars or wagons pulled by a tractor or other motorized device which is not licensed by the Secretary of State, which may, but does not necessarily follow a fixed or restricted course, and is used primarily for the purpose of giving its passengers amusement, pleasure, thrills or excitement, and for which an individual fee is charged or a donation accepted with the exception of hayrack rides; ~~or~~

(f) any bungee cord or similar elastic device; or

(g) any inflatable attraction.

5. "Carnival" means an enterprise which offers amusement or

entertainment to the public by means of one or more amusement attractions or amusement rides.

6. "Fair" means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with which amusement rides or amusement attractions are operated.

7. "Operator" means a person, or the agent of a person, who owns or controls or has the duty to control the operation of an amusement ride or an amusement attraction at a carnival or fair. "Operator" includes an agency of the State or any of its political subdivisions.

8. "Carnival worker" means a person who is employed (and is therefore not a volunteer) by a carnival or fair to manage, physically operate, or assist in the operation of an amusement ride or amusement attraction when it is open to the public.

9. "Volunteer" means a person who operates or assists in the operation of an amusement ride or amusement attraction for an owner or operator without pay or lodging. An individual shall not be considered a volunteer if the individual is otherwise employed by the same owner or operator to perform the same type of service as those for which the individual proposes to volunteer.

10. "Inflatable attraction" means an amusement ride or device designed for use that may include, but not be limited to, bounce, climb, slide, or interactive play, which is made of flexible fabric, is kept inflated by continuous air flow by one

or more blowers, and relies upon air pressure to maintain its shape.

(Source: P.A. 95-397, eff. 8-24-07; 95-687, eff. 10-23-07; 96-151, eff. 8-7-09.)

(430 ILCS 85/2-6) (from Ch. 111 1/2, par. 4056)

Sec. 2-6. (a) The Director, after consultation with ~~the~~ ~~consent~~ of the Board at a meeting of the Board, shall promulgate and formulate definitions, rules and regulations for the safe installation, repair, maintenance, use, operation, training standards for operators, and inspection of all amusement rides and amusement attractions as the Director finds necessary for the protection of the general public using amusement rides and amusement attractions. These rules and standards shall be adopted pursuant to the procedures set forth in the Illinois Administrative Procedure Act. The rules shall be based upon generally accepted engineering standards and shall be concerned with, but not necessarily limited to, engineering force stresses, safety devices, and preventive maintenance. Whenever such standards are available in suitable form they may be incorporated by reference. The rules shall provide for the reporting of accidents and injuries incurred from the operation of amusement rides or amusement attractions. In addition to the permit fee herein provided, the Director may promulgate rules to establish a schedule of fees for inspections.

(b) After consultation with the Board, the Director is authorized to adopt by reference, in whole or in part, any code, standard, or bulletin issued by a nationally or internationally recognized organization, such as the Consumer Product Safety Commission or ASTM International, after a finding that the adoption of the code, standard, or bulletin would promote the purposes of this Act.

~~Before adopting, modifying or amending any rule consistent with and necessary for the enforcement of this Act, the Director shall hold a public hearing on the proposed rule, modification or amendment to a rule. Any interested person may appear and be heard at the hearing, in person or by agent or counsel. The Director shall give the news media notice of each hearing at least 30 days in advance of the hearing date and shall make available a copy of the proposed rule, or modification or amendment to a rule to any person requesting same. The provisions of this Section are in addition to all other existing requirements pertaining to the promulgation of administrative rules and regulations.~~

(Source: P.A. 94-801, eff. 5-25-06; 95-397, eff. 8-24-07.)

(430 ILCS 85/2-8) (from Ch. 111 1/2, par. 4058)

Sec. 2-8. The Director, after consultation with and the consent of the Board, shall determine a schedule of permit fees for each amusement ride or amusement attraction.

(Source: P.A. 94-801, eff. 5-25-06.)

(430 ILCS 85/2-8.1 new)

Sec. 2-8.1. Suspension and revocation of permit to operate.

(a) The Department shall have the power to suspend or revoke an owner's permit for any good cause under the meaning and purpose of this Act. If a person whose permit has been suspended or revoked, or whose application for a permit has been denied, believes that the violation or condition justifying suspension, revocation, or denial of the permit does not exist, the person may apply to the Department for reconsideration through a hearing within 10 working days after the Department's action. A hearing shall be scheduled, unless otherwise mutually agreed by the parties, within 48 hours after the request for hearing.

(b) Service of notice of a hearing shall be made by personal service or certified mail to the address shown on the application for permit, or to any other address on file with the Department and reasonably believed to be the current address of the permit holder.

(c) The written notice of a hearing shall specify the time, date, and location of the hearing and the reasons for the action proposed by the Department.

(d) At the hearing, the Department shall have the burden of establishing good cause for its action. Good cause exists if the Department establishes that the permit holder has failed to comply with the requirements of a permit under this Act and its

rules.

(e) All hearings held under this Section shall comply with Article 10 of the Administrative Procedure Act and the Department's rules of procedure in administrative hearings, except that formal discovery, such as production requests, interrogatories, requests to admit, and depositions shall not be allowed. The parties shall exchange documents and witness lists prior to hearing and may request third party subpoenas to be issued.

(f) The final determination by the Department of Labor shall be rendered within 5 working days after the conclusion of the hearing.

(g) Final determinations made under this Section are subject to the Administrative Review Law.

(430 ILCS 85/2-12) (from Ch. 111 1/2, par. 4062)

Sec. 2-12. Order for cessation of operation of amusement ride or attraction.

(a) ~~The Director or an inspector hired by the~~ Department of Labor may order, in writing, a temporary and immediate cessation of operation of any amusement ride or amusement attraction if it:

(1) has been determined after inspection to be hazardous or unsafe;

(2) is in operation before the Director has issued a permit to operate such equipment; or

(3) the owner or operator is not in compliance with the insurance requirements contained in Section 2-14 of this Act and any rules or regulations adopted hereunder.

(b) Operation of the amusement ride or amusement attraction shall not resume until:

(1) the unsafe or hazardous condition is corrected to the satisfaction of the Director or such inspector;

(2) the Director has issued a permit to operate such equipment; or

(3) the owner or operator is in compliance with the insurance requirements contained in Section 2-14 of this Act and any rules or regulations adopted hereunder, respectively.

(c) The Department shall notify the owner or operator in writing of the grounds for the cessation of operation of the amusement ride or attraction and of the conditions in need of correction at the time the order for cessation is issued.

(d) The owner or operator may appeal an order of cessation by filing a request for a hearing. The Department shall afford the owner or operator 10 working days after the date of the notice to request a hearing. Upon written request for hearing, the Department shall schedule a formal administrative hearing in compliance with Article 10 of the Administrative Procedure Act and pursuant to the provisions of the Department's rules of procedure in administrative hearings, except that formal discovery, such as production requests, interrogatories,

requests to admit, and depositions will not be allowed. The parties shall exchange documents and witness lists prior to hearing and may request third party subpoenas to be issued.

(e) The final determination by the Department of Labor shall be rendered within 5 working days after the conclusion of the hearing.

(f) The provisions of the Administrative Review Law shall apply to and govern all proceedings for the judicial review of a final determination under this Section.

(Source: P.A. 94-801, eff. 5-25-06.)

(430 ILCS 85/2-14) (from Ch. 111 1/2, par. 4064)

Sec. 2-14. No ~~(1) Except as provided in subsection (2) of this Section no~~ person shall operate an amusement ride or attraction unless there is in force: ~~(a)~~ a liability insurance policy or policies in an ~~aggregate~~ amount of not less than \$1,000,000 ~~\$100,000~~ for bodily injury to or death of one or more persons, damage to or destruction of property of others, or a combination thereof ~~person in any one accident,~~ and, subject to the per occurrence limit ~~for one person,~~ in an aggregate amount of not less than \$2,000,000 ~~\$1,000,000~~ for bodily injury to or death of two or more persons, or damage to or destruction of property of others, in any one policy period, ~~accident,~~ and in an amount of not less than ~~\$50,000~~ for injury to or destruction of property of others in any one accident, insuring the operator against liability for injury, ~~or death,~~

~~or property damage suffered by a person attending a fair or carnival; or (b) a bond in like amount, the aggregate liability of the surety of which shall not exceed the face amount thereof; or (c) a deposit with the Illinois Department of Labor of cash or other security acceptable to the Director.~~

~~(2) With respect to the operation of an amusement ride or attraction under this Act for a carnival located at a permanent site which has 5 or fewer amusement rides, none of which operates at a height exceeding 8 feet, the insurance policy, bond, or cash or security deposit amount required for bodily injury to or death of 2 or more persons in any one accident shall be not less than \$500,000.~~

(Source: P.A. 94-801, eff. 5-25-06.)

(430 ILCS 85/2-15) (from Ch. 111 1/2, par. 4065)

Sec. 2-15. Penalties.

(a) Criminal penalties.

1. Any person who operates an amusement ride or amusement attraction at a carnival or fair without having obtained a permit from the Department ~~Director~~ or who violates any order or rule issued by the Department ~~Director~~ under this Act is guilty of a Class A misdemeanor. Each day shall constitute a separate and distinct offense.

2. Any person who interferes with, impedes, or obstructs in any manner the Director or any authorized representative of the Department in the performance of

their duties under this Act is guilty of a Class A misdemeanor.

(b) Civil penalties. Unless otherwise provided in this Act, any person who operates an amusement ride or amusement attraction without having obtained a permit from the Department in violation of this Act is subject to a civil penalty not to exceed \$2,500 per violation for a first violation and not to exceed \$5,000 for a second or subsequent violation.

Prior to any determination, or the imposition of any civil penalty, under this subsection (b), the Department shall notify the operator in writing of the alleged violation. The Department shall afford the operator 10 working ~~15~~ days after ~~from~~ the date of the notice to request a hearing ~~present any written information that the operator wishes the Department to consider in connection with its determination in the matter.~~ Upon written request of the operator, the Department shall schedule a formal administrative hearing in compliance with Article 10 of the Administrative Procedure Act and the Department's rules of procedure in administrative hearings, except that formal discovery, such as production requests, interrogatories, requests to admit, and depositions shall not be allowed. The parties shall exchange documents and witness lists prior to hearing and may request third party subpoenas to be issued. The final determination by the Department of Labor shall be rendered within 5 working days after the conclusion of the hearing. Final determinations made under this Section are

~~subject to the provisions of the Administrative Review Law~~
~~convene an informal fact-finding conference, provided such~~
~~request is received by the Department within 15 days of the~~
~~date of the notice of the alleged violation.~~ In determining the
amount of a penalty, the Director may consider the
appropriateness of the penalty to the person or entity charged,
upon determination of the gravity of the violation. The
penalties, when finally determined, ~~Penalties~~ may be recovered
in a civil action brought by the Director of Labor in any
circuit court. In this litigation, the Director of Labor shall
be represented by the Attorney General.

(Source: P.A. 96-151, eff. 8-7-09.)

(430 ILCS 85/2-15.2 new)

Sec. 2-15.2. Injunction to compel compliance.

(a) The Department shall have the power to bring injunctive
proceedings in any court of competent jurisdiction to compel
compliance with any order made by the Department under this
Act.

(b) The Department shall also have the power to bring
temporary and immediate injunctive relief in any court of
competent jurisdiction when necessary for the protection of the
health and safety of the general public using amusement rides
and amusement attractions.

(430 ILCS 85/2-15.3 new)

Sec. 2-15.3. Amusement Ride and Patron Safety Fund. All moneys received by the Department as fees and penalties under this Act shall be deposited into the Amusement Ride and Patron Safety Fund and shall be used by the Department, subject to appropriation by the General Assembly, in addition to any General Revenue funds, for administration, investigation, and other expenses incurred in carrying out its powers and duties under this Act. The Department shall hire as many inspectors and other personnel as may be necessary to carry out the purposes of this Act. Any moneys in the Fund at the end of a fiscal year in excess of those moneys necessary for the Department to carry out its powers and duties under this Act shall be available to the Department for the next fiscal year for any of the Department's duties and may be transferred from the Amusement Ride and Patron Safety Fund to the various accounts available to the Department, as needed.

Section 99. Effective date. This Act takes effect upon becoming law.