
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1269

Session of
1983

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KOSINSKI, BELARDI, PETERSON, CAPPABIANCA AND COHEN, JUNE 28,
1983

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JUNE 28, 1983

AN ACT

1 Providing for the inspection of amusement rides and attractions;
2 granting powers and imposing duties on the Department of
3 Labor and Industry; creating the Amusement Ride Safety
4 Advisory Board; and imposing civil and criminal penalties.

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10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Short title.

13 This act shall be known and may be cited as the Amusement
14 Ride Inspection Act.

15 Section 2. Definitions.

16 The following words and phrases when used in this act shall
17 have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Amusement attraction." Any building or structure around,
20 over or through which people may move or walk, without the aid
21 of any moving device integral to the building or structure, that
22 provides amusement, pleasure, thrills or excitement. The term
23 does not include any enterprise principally devoted to the
24 exhibition of products of agriculture, industry, education,
25 science, religion or the arts.

26 "Amusement park." A tract or area used principally as a
27 location for permanent amusement structures or rides.

28 "Amusement ride." Any device that carries or conveys
29 passengers along, around or over a fixed or restricted route or
30 course or within a defined area, for the purpose of giving its

1 passengers amusement, pleasure, thrills or excitement.

2 "Board." The Amusement Ride Safety Advisory Board.

3 "Carnival." An itinerant enterprise consisting principally
4 of temporary amusement structures or mechanical rides.

5 "Certificate of inspection." A certificate issued by the
6 Department of Labor and Industry, subsequent to an inspection by
7 the department, that certifies that an amusement ride or
8 attraction meets all relevant provisions of this act and the
9 standards and regulations adopted under this act.

10 "Department." The Department of Labor and Industry or its
11 authorized representative.

12 "Fair." An enterprise principally devoted to the periodic
13 and recurring exhibition of products of agriculture, industry,
14 education, science, religion or the arts that has one or more
15 amusement rides or attractions operated in conjunction therewith
16 in either temporary or permanent structures.

17 "New amusement ride or attraction." An amusement ride or
18 attraction of a design not previously operated in the State and
19 for which no standards and regulations have been adopted.

20 "Operator." Any person or persons actually engaged in or
21 directly controlling the operation of an amusement ride or
22 attraction.

23 "Owner." A person who owns an amusement ride or attraction,
24 or in the event that the amusement ride or attraction is leased,
25 the lessee. The term includes the State or its political
26 subdivision.

27 "Permanent structure." A structure, enclosure or arrangement
28 of parts, used or intended to be used, for or as an amusement
29 ride or attraction, that is erected to remain a lasting part of
30 the premises.

1 "Secretary." The Secretary of Labor and Industry.

2 "Temporary structure." A structure, enclosure or arrangement
3 of parts, used or intended to be used for or as an amusement
4 ride or attraction, that is relocated from time to time with or
5 without disassembly.

6 "Working days." The period of time from Monday through
7 Friday inclusive. The term does not include any Saturday, Sunday
8 or State holiday.

9 Section 3. Nonapplication of act.

10 This act does not apply to single passenger, coin-operated,
11 manually, mechanically or electrically operated rides, except
12 where admission is charged for the use of the equipment.

13 Section 4. Powers and duties of Department of Labor and
14 Industry.

15 (a) Responsibility.--The department or its authorized
16 representative shall have the following powers and duties:

17 (1) Administer and enforce the provisions of this act.

18 (2) Prescribe safety standards relating to the operation
19 and maintenance of amusement rides or attractions.

20 (3) Conduct any necessary inspections and
21 investigations.

22 (4) Issue citations for violations of this act or any
23 rule, regulation or standard promulgated pursuant to this
24 act.

25 (5) Permit variances.

26 (6) Impose civil penalties in accordance with section
27 17.

28 (7) Establish recordkeeping and reporting procedures.

29 (8) Conduct any and all hearings in accordance with

30 Title 2 of the Pennsylvania Consolidated Statutes (relating

1 to administrative law and procedure).

2 (9) Administer oaths, take or cause to be taken
3 dispositions, issue subpoenas and compel the attendance of
4 witnesses and the production of papers, books, documents,
5 records and other testimony.

6 (10) Adopt such rules and regulations as are necessary
7 to effectively administer the provisions of this act.

8 (b) Inspection.--The power of inspection may be delegated by
9 the department to any department, agency or political
10 subdivision of the State that presents satisfactory evidence to
11 the department of its ability to perform the inspections
12 required by this act. No delegation of power shall occur unless
13 there is a written agreement setting forth the responsibilities
14 of the respective parties. The department shall, at all times,
15 retain the right to revoke the agreement and to monitor any
16 inspection authorized by this act.

17 Section 5. Amusement Ride Safety Advisory Board.

18 (a) Establishment.--There is hereby established under the
19 jurisdiction of the department a board known as the Amusement
20 Ride Safety Advisory Board.

21 (b) Composition.--The board, appointed by the Governor with
22 the consent of a majority of the Senate, shall consist of nine
23 members of whom one member shall be a representative of the
24 amusement ride manufacturers, one shall be a representative of
25 the carnival owners, two shall be representatives of the
26 amusement park owners, one shall be a representative of the
27 State or county fairs, one shall be a mechanical engineer and
28 three shall represent the public. One of the public members
29 shall be designated by the Governor as the chairman.

30 (c) Terms of members.--The members of the board shall serve

1 a term of six years, except of the first members appointed, of
2 those representing the amusement ride manufacturers, carnival
3 owners, amusement park owners and State and county fairs, one
4 shall be appointed for three years, one shall be appointed for
5 four years, one shall be appointed for five years and one shall
6 be appointed for six years and the mechanical engineer and, of
7 those members representing the public, one shall be appointed
8 for four years, one shall be appointed for five years and one
9 shall be appointed for six years. All members shall serve until
10 their successors are appointed and qualified. Vacancies shall be
11 filled by appointment for the unexpired term in the same manner
12 as the original appointments.

13 (d) Compensation.--The members of the board when actually
14 engaged in the performance of their duties shall receive a per
15 diem compensation of \$100 and mileage.

16 (e) Reappointment.--All members of the board shall be
17 eligible for reappointment.

18 Section 6. Powers and duties of board.

19 (a) Advise and consult.--The board shall advise, consult,
20 make recommendations and propose reasonable rules, regulations
21 and standards to the department for the prevention of conditions
22 detrimental to the public in the use of amusement rides and
23 attractions as the board finds necessary for the protection and
24 safety of the public upon the basis of circumstantial evidence
25 and information available to or developed by the department, or
26 upon circumstantial evidence and information submitted by any
27 interested person at a public hearing held in accordance with
28 subsection (b). The department shall make such recommendations
29 to the board regarding rules, regulations and standards as it
30 deems necessary to carry out the intent of this act.

(b) Hearings.--The board shall hold public hearings at such time and place as the board may specify to carry out its responsibilities. All hearings shall be conducted pursuant to the act of July 19, 1974 (P.L.486, No.175), referred to as the Public Agency Open Meeting Law.

(c) Recommendations.--The board shall submit to the department its recommendations concerning proposed rules, regulations and standards, together with a report, indicating the need for the proposals and summarizing the testimony presented at any public hearing and any other information or technical data available to the board.

Section 7. Inspections.

(a) General rule.--The department shall inspect any:

(1) Amusement park ride and attraction annually.

(2) Fair and carnival amusement ride and attraction before its operation at each new location.

(3) New or modified amusement ride and attraction before its public operation commences.

(b) Owner or lessee.--An owner or lessee of a new, modified or reconstructed amusement ride or attraction shall notify the department before beginning operation.

(c) Notification.--An owner or lessee of any fair or carnival shall notify the department in writing at least 30 days before the opening of the carnival or fair at each location. If, after the notification, the owner or lessee changes his schedule of locations or dates, he immediately shall notify the department of the change.

(d) Amusement parks.--If an inspection discloses that an amusement ride or attraction located in an amusement park complies with all relevant provisions of this act and the

1 adopted standards and regulations, the department shall issue a
2 certificate of inspection for each ride to its owner or lessee.
3 The certificate shall be valid for not more than one year from
4 the date of issuance and shall be posted, in plain view, on the
5 amusement ride or attraction.

6 (e) Carnivals.--If an inspection discloses that a fair or
7 carnival amusement ride or attraction complies with all relevant
8 provisions of this act and the adopted standards and
9 regulations, the department shall issue a certificate of
10 inspection to its owner or lessee. The certificate shall be
11 valid for not more than 30 days and shall be posted, in plain
12 view, on the amusement ride or attraction.

13 (f) Issuance.--Except for the purposes of testing and
14 inspection, an amusement ride or attraction shall not be
15 operated until a certificate of inspection has been issued by
16 the department.

17 (g) Investigation.--The department shall inspect and
18 investigate, upon notification or information, accidents or
19 complaints involving any amusement ride or attraction.

20 Section 8. Variances.

21 (a) Application.--Any affected owner or lessee of amusement
22 rides or attractions may apply in writing to the department for
23 an order for a variance from any rule, regulation or standard.

24 (b) Exceptions.--The secretary may grant exceptions from the
25 rules, regulations and standards adopted by the department
26 pursuant to this act if:

27 (1) it is evident that action is necessary to prevent
28 undue hardship; or

29 (2) existing conditions prevent practical compliance and
30 reasonable safety of the public can, in the opinion of the

1 secretary, be assured.

2 Section 9. Notice of violation.

3 (a) Violation.--If, after inspection or investigation of any
4 amusement ride or attraction, an authorized inspector determines
5 that the amusement ride or attraction is in violation of any
6 rule, regulation or standard and that there is a substantial
7 probability of death or serious physical injury to the public
8 from its continued use, notice of the determination shall be
9 given in writing to the owner or lessee of the amusement ride or
10 attraction. A copy of the notice shall be attached to the
11 amusement ride or attraction. After the notice of violation is
12 issued, the use of the amusement ride or attraction shall be
13 prohibited. The notice shall not be removed until the amusement
14 ride or attraction is made safe for public use and the required
15 safeguards are provided. The notice may not be removed except by
16 an authorized representative of the department.

17 (b) Appeal.--Any person aggrieved by a decision of the
18 department may appeal to the Commonwealth Court. The filing of
19 an appeal does not stay the order of the department, except that
20 the court, after notice to the department and hearing, may grant
21 a stay conditioned upon the appellant posting security or bond
22 as the court may deem proper.

23 Section 10. Issuance of citation for violation.

24 (a) Citation.--If, after inspection or investigation, an
25 authorized inspector finds that this act or any rule,
26 regulation, standard or order promulgated and issued under this
27 act has been violated, he shall issue a citation with reasonable
28 promptness to the owner or lessee of an amusement ride or
29 attraction and shall describe with particularity the nature of
30 the violation including a reference to the provision of this

1 act, rule, regulation, standard or order alleged to have been
2 violated. In addition, the citation shall set a reasonable time
3 for the abatement and correction of the violation.

4 (b) Posting.--A citation issued under this act, or its copy,
5 shall be prominently posted at or near each place a violation
6 referred to in the citation has allegedly occurred.

7 (c) Time limit.--A citation may not be issued after the
8 expiration of three months following the alleged violation.

9 Section 11. Notice of issuance of citation.

10 (a) General rule.-- If, after an inspection and
11 investigation, the department issues a citation, it, within a
12 reasonable time after the date of issuance, shall notify the
13 owner or lessee of the affected amusement ride or attraction, by
14 certified mail, of the issuance of the citation, of any proposed
15 civil penalty assessed under this act and that the owner or
16 lessee has 15 working days within which to notify the department
17 in writing that he wishes to contest the citation or proposed
18 assessment of a penalty.

19 (b) Failure to contest citation or assessment.--If, within
20 15 working days from the receipt of the notice issued by the
21 department, the owner or lessee of the affected amusement ride
22 or attraction does not notify the department that he intends to
23 contest the citation or assessment or a penalty, the citation
24 and assessment shall become final.

25 Section 12. Notice of failure to correct violation.

26 (a) Notification.--If the secretary has reason to believe
27 that an owner or lessee of an amusement ride or attraction has
28 not corrected a violation for which a citation has been issued
29 within the period permitted for its correction, the secretary
30 shall notify the owner or lessee by certified mail:

1 (1) Of the failure to correct the violation and pay any
2 penalty.

3 (2) That the owner or lessee has 15 working days within
4 which to notify the department in writing that he wishes to
5 contest the secretary's notification or the assessed penalty.

6 (b) Penalty.--If within 15 working days from the receipt of
7 notification issued by the department, the owner or lessee does
8 not notify the department of his intention to contest the
9 notification or the assessed penalty, the notification and
10 penalty shall become final.

11 Section 13. Hearings.

12 (a) Hearing.--Whenever an owner or lessee of an amusement
13 ride or attraction notifies the department in writing that the
14 owner or lessee intends to contest any citation or notice issued
15 pursuant to section 10, 11 or 12, the secretary shall grant a
16 hearing within 30 days after receipt of notification by the
17 department.

18 (b) Hearing examiner.--The secretary may appoint a hearing
19 examiner to conduct hearings and make determinations upon any
20 proceeding instituted before the secretary and any motion in
21 connection therewith. The hearing examiner shall prepare an
22 official record with testimony and report his determination in
23 writing.

24 (c) Report.--The report of the hearing examiner shall become
25 final unless, within 20 working days after it is issued, any
26 affected owner or lessee requests in writing a review by the
27 secretary of the proceedings before the hearing examiner.

28 (d) Order.--After a review of the proceedings the secretary
29 shall, with or without a hearing, issue an order, affirming,
30 modifying or vacating the citation or civil penalty, or

1 directing other appropriate relief. The secretary's order shall
2 become final 15 days after its issuance.

3 (e) Abatement.--After an opportunity for hearing as provided
4 in this section, the secretary, upon a showing by an amusement
5 ride or attraction owner or lessee of a good faith effort to
6 comply with the abatement requirements of a citation, may issue
7 an order affirming or modifying the abatement requirements in
8 the citation.

9 Section 14. Appeals.

10 Any person adversely affected or aggrieved by any rule,
11 regulation, standard or order of the department issued under
12 this act may appeal to the Commonwealth Court. The commencement
13 of appellate proceedings does not operate as a stay of any rule,
14 regulation, standard or order issued by the department or
15 secretary under the provisions of this act, except that the
16 court, after notice to the department and hearing, may grant a
17 stay conditioned upon the appellant posting security or bond as
18 the court may deem proper.

19 Section 15. Records.

20 (a) Owner or lessee.--Every owner or lessee of amusement
21 rides or attractions operated in this Commonwealth shall:

22 (1) Make, keep and preserve and make available to the
23 department for inspection records relating to his activities
24 with regard to this act.

25 (2) Maintain accurate records of and make periodic
26 reports on injuries to the public incurred in the use of an
27 amusement ride or attraction other than minor injuries
28 requiring only first-aid treatment and which do not involve
29 medical treatment or loss of consciousness.

30 (3) On the basis of the records made and kept, file

reports with the department.

(b) Reports.--Notwithstanding any other provision of this section, every owner or lessee of an amusement ride or attraction shall report, in writing or orally, to the department, within 72 hours, the occurrence of any accident, other than those requiring only minor first aid, resulting in serious injury or death suffered during the operation of any amusement ride or attraction. When a serious physical injury or death occurs as a result of the operation of an amusement ride or attraction, the operator shall immediately close the ride or attraction until it has been inspected. The department shall inspect the ride or attraction within 24 hours after receiving notification of an accident.

Section 16. Insurance.

(a) Minimum.--An amusement ride or attraction may not operate unless the owner or lessee of the ride or attraction has purchased insurance in an amount of not less than \$300,000 against liability for injury to persons arising out of the use of the amusement ride or attraction.

(b) Policy.--The insurance policy shall be procured from any insurer that is acceptable to the Insurance Commissioner.

(c) Certificate.--A certificate of insurance shall be furnished to the department prior to the issuance of a certificate of inspection.

Section 17. Civil penalties.

(a) Serious violations.--

(1) Any person who operates an amusement ride or attraction without a certificate of inspection from the department or who willfully or repeatedly violates any provision of this act or any rule, regulation, standard or

1 order promulgated pursuant to this act is subject to a civil
2 penalty not to exceed \$2,000 for each violation.

3 (2) Any owner or lessee of an amusement ride or
4 attraction who has received a citation for a serious
5 violation of any provision of this act or any rule,
6 regulation, standard or order promulgated pursuant to this
7 act is subject to a civil penalty not to exceed \$1,000 for
8 each violation.

9 (3) For the purposes of this subsection, a serious
10 violation shall be deemed to exist if there is a substantial
11 probability of death or serious physical injury to the
12 members of the public from an unsafe condition or from one or
13 more practices, means or methods of operation which are in
14 use by the owner or lessee of an amusement ride or attraction
15 unless such owner or lessee did not and could not with the
16 exercise of reasonable diligence, know of the presence of the
17 violation.

18 (b) Nonserious violations.--Any owner or lessee of an
19 amusement ride or attraction who has received a citation for a
20 violation of any provision of this act or any rule, regulation,
21 standard or order promulgated pursuant to this act where the
22 violation is specifically determined not to be of a serious
23 nature is subject to a civil penalty not to exceed \$500 for each
24 violation.

25 (c) Citation violation.--Any owner or lessee of an amusement
26 ride or attraction who does not correct a violation for which a
27 citation has been issued within the period permitted for its
28 correction is subject to a civil penalty not to exceed \$500 for
29 each day during which the violation continues.

30 (d) Posting.--Any owner or lessee of an amusement ride or

1 attraction who violates any of the posting requirements, as
2 prescribed under the provisions of this act, is subject to a
3 civil penalty not to exceed \$500 for each violation.

4 (e) Factors.--Under this act the secretary shall in
5 assessing penalties give due consideration to the
6 appropriateness of the penalty with respect to the size of the
7 business of the amusement ride or attraction owner or lessee
8 being charged, the gravity of the violation, the good faith of
9 the owner or lessee and the owner's or lessee's history of
10 previous violations.

11 Section 18. Criminal penalties.

12 (a) Violations resulting in death.--Any owner or lessee of
13 an amusement ride or attraction who willfully violates any
14 provision of this act or any rule, regulation, standard or order
15 promulgated pursuant to this act, where the violation causes
16 death to any member of the public exposed to the violation,
17 commits a misdemeanor of the third degree and shall, upon
18 conviction, be sentenced to pay a fine not exceeding \$2,500 or
19 to a term of imprisonment not exceeding six months, or both. If
20 the conviction is for a violation committed after a first
21 conviction, the offender shall be sentenced to pay a fine not
22 exceeding \$5,000 or to a term of imprisonment not exceeding one
23 year, or both.

24 (b) False representations.--A person who knowingly makes any
25 false statement, representation or certification in any
26 application, record, report, plan or other document filed or
27 required to be maintained pursuant to this act commits a
28 misdemeanor of the third degree and shall, upon conviction, be
29 sentenced to pay a fine not exceeding \$2,500 or to a term of
30 imprisonment not exceeding six months, or both.

1 Section 19. Effective date.

2 This act shall take effect in 60 days.