

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 2933

Session of  
1980

INTRODUCED BY DOMBROWSKI, PRATT, SCHWEDER, BOWSER, LAUGHLIN,  
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CAPPABIANCA, MILLER, DAVIES AND PERZEL, SEPTEMBER 22, 1980

REFERRED TO COMMITTEE ON STATE GOVERNMENT, SEPTEMBER 22, 1980

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; imposing civil and criminal penalties.

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8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the "Amusement  
12 Ride Inspection Act."

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall  
15 have, unless the context clearly indicates otherwise, the  
16 meanings given to them in this section.

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

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

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

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

1 "Carnival." An itinerant enterprise consisting principally  
2 of temporary amusement structures or mechanical rides.

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

8 "Department." The Department of Labor and Industry or its  
9 authorized representative.

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

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

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

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

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

29 "Secretary." The Secretary of the Department of Labor and  
30 Industry.

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

5 "Working days." The term means the period of time between  
6 Monday and Friday inclusive but does not include any Saturday,  
7 Sunday or State holiday.

8 Section 3. Nonapplication of act.

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

12 Section 4. Powers and duties of the Department of Labor and  
13 Industry.

14 (a) The department or its authorized representative shall  
15 have the following powers and duties:

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

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

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

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

24 (5) Permit variances.

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

27 (7) Establish record-keeping and reporting procedures.

28 (8) Conduct any and all hearings in accordance with  
29 Title 2 of the Pennsylvania Consolidated Statutes (relating  
30 to administrative law and procedure).

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

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

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

16   Section 5. Amusement Ride Safety Advisory Board.

17      (a) There is hereby established under the jurisdiction of  
18      the Department of Labor and Industry a board known as the  
19      Amusement Ride Safety Advisory Board.

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

29      (c) The members of the board shall serve a term of six  
30      years, except of the first members appointed, of those

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

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

15 (e) All members of the board shall be eligible for  
16 reappointment to such board.

17 Section 6. Powers and duties of the board.

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

30 (b) The board shall hold public hearings at such time and

1 place as the board may specify to carry out the responsibilities  
2 imposed pursuant to this act. All hearings shall be conducted  
3 pursuant to the act of July 19, 1974 (P.L.486, No.176), referred  
4 to as the Public Agency Open Meeting Law.

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

#### 11 Section 7. Inspections.

12 (a) The department shall inspect any:

13 (1) Amusement park ride and attraction annually.

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

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

18 (b) (1) An owner or lessee of a new, modified or  
19 reconstructed amusement ride or attraction shall notify the  
20 department before beginning operation thereof.

21 (2) An owner or lessee of any fair or carnival shall  
22 notify the department in writing at least 30 days before the  
23 opening of the carnival or fair at each location. If, after  
24 the notification, the owner or lessee changes his schedule of  
25 locations or dates, he immediately shall notify the  
26 department of the change.

27 (c) (1) If an inspection discloses that an amusement ride or  
28 attraction located in an amusement park complies with all  
29 relevant provisions of this act and the adopted standards and  
30 regulations, the department shall issue a certificate of

inspection for each ride to its owner or lessee.

(2) The certificate shall be valid for not more than one year from the date of issuance.

(3) The certificate shall be posted, in plain view, on the amusement ride or attraction.

(d) (1) If an inspection discloses that a fair or carnival amusement ride or attraction complies with all relevant provisions of this subtitle and the adopted standards and regulations, the department shall issue a certificate of inspection to its owner or lessee.

(2) The certificate shall be valid for not more than 30 days.

(3) Certificates shall be posted, in plain view, on the amusement ride or attraction.

(e) Except for the purposes of testing and inspection, an amusement ride or attraction shall not be operated until a certificate of inspection has been issued by the department.

(f) The department shall inspect and investigate, upon notification or information, accidents or complaints involving any amusement ride or attraction.

#### Section 8. Variances.

(a) Any affected owner or lessee of amusement rides or attractions may apply in writing to the department for an order for a variance from any rule, regulation or standard promulgated under this act.

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

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



1           (2) existing conditions prevent practical compliance and  
2       reasonable safety of the public can in the opinion of the  
3       secretary be assured.

4   Section 9. Notice of violation.

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

20       (b) Any person aggrieved by a decision of the department  
21  made pursuant to the provisions of this section may appeal to  
22  the Commonwealth Court.

23       (c) The filing of an appeal does not stay the order of the  
24  department, except that the court, after notice to the  
25  department and hearing, may grant a stay conditioned upon the  
26  appellant posting security or bond as the court may deem proper.

27  Section 10. Issuance of citation for violation.

28       (a) If, after inspection or investigation, an authorized  
29  inspector finds that this act or any rule, regulation, standard  
30  or order promulgated and issued under this act has been

1 violated, he shall issue a citation with reasonable promptness  
2 to the owner or lessor or an amusement ride or attraction and  
3 shall describe with particularity the nature of the violation  
4 including a reference to the provision of this act, rule,  
5 regulation, standard or order alleged to have been violated. In  
6 addition, the citation shall set a reasonable time for the  
7 abatement and correction of the violation.

8 (b) A citation issued under this act, or its copy, shall be  
9 prominently posted at or near each place a violation referred to  
10 in the citation has allegedly occurred.

11 (c) A citation may not be issued after the expiration of  
12 three months following the alleged violation.

13 Section 11. Notice of issuance of citation.

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

23 (2) If, within 15 working days from the receipt of the  
24 notice issued by the department, the owner or lessee of the  
25 affected amusement ride or attraction does not notify the  
26 department that he intends to contest the citation or  
27 assessment or a penalty, the citation and assessment shall  
28 become final.

29 Section 12. Notice of failure to correct violation.

30 (a) If the secretary has reason to believe that an owner or

1 lessee of an amusement ride or attraction has not corrected a  
2 violation for which a citation has been issued within the period  
3 permitted for its correction, the secretary shall notify the  
4 owner or lessee by certified mail:

5 (1) of the failure to correct the violation and pay any  
6 penalty; and

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

10 (b) If within 15 working days from the receipt of  
11 notification issued by the department, the owner or lessee does  
12 not notify the department of his intention to contest the  
13 notification or the assessed penalty, the notification and  
14 penalty shall become final.

#### 15 Section 13. Hearings.

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

22 (b) (1) The secretary may appoint a hearing examiner to hear  
23 and make a determination upon any proceeding instituted  
24 before the secretary and any motion in connection therewith.

25 (2) The hearing examiner shall prepare an official  
26 record that includes testimony and exhibits and make a report  
27 in writing of his determination.

28 (3) The report of the hearing examiner shall become  
29 final unless within 20 working days after it is issued, any  
30 affected owner or lessee requests in writing a review by the

1 secretary of the proceedings before the hearing examiner.

2 (c) (1) After a review of the proceedings the secretary  
3 shall, with or without a hearing, issue an order, affirming,  
4 modifying or vacating the citation or civil penalty, or  
5 directing other appropriate relief.

6 (2) The secretary's order shall become final 15 days  
7 after its issuance.

8 (d) After an opportunity for hearing as provided in this  
9 section, the secretary, upon a showing by an amusement ride or  
10 attraction owner or lessee of a good faith effort to comply with  
11 the abatement requirements of a citation, may issue an order  
12 affirming or modifying the abatement requirements in the  
13 citation.

#### 14 Section 14. Appeals.

15 (1) Any person adversely affected or aggrieved by any  
16 rule, regulation, standard or order of the department issued  
17 under this act may appeal to the Commonwealth Court.

18 (2) The commencement of appellate proceedings does not  
19 operate as a stay of any rule, regulation, standard or order  
20 issued by the department or secretary under the provisions of  
21 this act, except that the court, after notice to the  
22 department and hearing, may grant a stay conditioned upon the  
23 appellant posting security or bond as the court may deem  
24 proper. discretion, seem proper.

#### 25 Section 15. Records.

26 (a) Every owner or lessee of amusement rides or attractions  
27 operated in the State shall:

28 (1) make, keep and preserve and make available to the  
29 department for inspection records relating to his activities  
30 with regard to this act;

1           (2) maintain accurate records of and make periodic  
2 reports on injuries to the public incurred in the use of an  
3 amusement ride or attraction other than minor injuries  
4 requiring only first-aid treatment and which do not involve  
5 medical treatment or loss of consciousness; and

6           (3) on the basis of the records made and kept, file  
7 reports with the department.

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

20 Section 16. Insurance.

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

26       (b) The insurance policy shall be procured from any insurer  
27 that is acceptable to the Insurance Commissioner of  
28 Pennsylvania.

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

1 Section 17. Civil penalties.

2 (a) (1) Any person who operates an amusement ride or  
3 attraction without a certificate of inspection from the  
4 Department of Labor and Industry or who willfully or  
5 repeatedly violates 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 \$2,000 for  
8 each violation.

9 (2) Any owner or lessee of an amusement ride or  
10 attraction who has received a citation for a serious  
11 violation of any provision of this act, or any rule,  
12 regulation, standard or order promulgated pursuant to this  
13 act is subject to a civil penalty not to exceed \$1,000 for  
14 each violation.

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

24 (b) Any owner or lessee of an amusement ride or attraction  
25 who has received a citation for a violation of any provision of  
26 this act or any rule, regulation, standard or order promulgated  
27 pursuant to this act where the violation is specifically  
28 determined not to be of a serious nature, is subject to a civil  
29 penalty not to exceed \$500 for each violation.

30 (c) Any owner or lessee of an amusement ride or attraction

1 who does not correct a violation for which a citation has been  
2 issued within the period permitted for its correction is subject  
3 to a civil penalty not to exceed \$500 for each day during which  
4 the violation continues.

5 (d) Any owner or lessee of an amusement ride or attraction  
6 who violates any of the posting requirements, as prescribed  
7 under the provisions of this act, is subject to a civil penalty  
8 not to exceed \$500 for each violation.

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

15 Section 18. Criminal penalties.

16 (a) Any owner or lessee of an amusement ride or attraction  
17 who willfully violates any provision of this act or any rule,  
18 regulation, standard or order promulgated pursuant to this act,  
19 where the violation causes death to any member of the public  
20 exposed to the violation, commits a misdemeanor and upon  
21 conviction shall be sentenced to pay a fine not exceeding  
22 \$2,500, or to undergo imprisonment for a term not exceeding six  
23 months, or both, except that if the conviction is for a  
24 violation committed after a first conviction, he shall be  
25 sentenced to pay a fine not exceeding \$5,000 or to undergo  
26 imprisonment for a term not exceeding one year, or both.

27 (b) A person who knowingly makes any false statement,  
28 representation or certification in any application, record,  
29 report, plan or other document filed or required to be  
30 maintained pursuant to this act, commits a misdemeanor and upon

1 conviction shall be sentenced to pay a fine not exceeding \$2,500  
2 or to undergo imprisonment for a term not exceeding six months,  
3 or both.

4 Section 19. Effective date.

5 This act shall take effect January 1, 1981.