

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1777 Session of
1993

INTRODUCED BY BELFANTI, TULLI, GORDNER, FAJT, PHILLIPS,
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SCHEETZ, CLARK AND THOMAS, JUNE 14, 1993

REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT,
JUNE 14, 1993

AN ACT

1 Relating to the protection of amusement riders and for actions
2 against amusement ride operators.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Amusement
7 Rider Safety and Fair Liability Act.

8 Section 2. Definitions.

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

12 "Amusement park." A tract or area used principally as a
13 location for amusement structures or rides. The term includes
14 fairs, carnivals and water parks.

15 "Amusement ride." Any device, including a water-based
16 device, that carries or conveys passengers along, around or over

1 a fixed or restricted route or course or within a defined area
2 for the purpose of giving its passengers amusement, pleasure,
3 thrills or excitement.

4 "Amusement ride operator." Any person, firm or corporation
5 that is engaged in operating for the public an amusement
6 structure or ride at an amusement park, fair, carnival or water
7 park.

8 "Rider." A person utilizing an amusement ride. The term
9 includes any person who is an invitee, whether or not the person
10 pays consideration.

11 Section 3. Rider's responsibility.

12 A rider is deemed to have knowledge of and to assume the
13 inherent risks of amusement rides and shall abide by the
14 following:

15 (1) A rider may not board or dismount from an amusement
16 ride except at a designated area if one is provided.

17 (2) A rider may not throw or expel any object or matter
18 from an amusement ride.

19 (3) A rider may not act in any manner contrary to posted
20 and oral rules while boarding, riding on or dismounting from
21 any amusement ride.

22 (4) A rider may not engage in any act or activity by his
23 frolicking or horseplay which may tend to injure others.

24 (5) While using amusement rides that require steering or
25 control of himself or a car device, every rider shall
26 maintain reasonable control of his speed and course at all
27 times. A rider shall not steer the ride in such a manner as
28 to intentionally harm another person.

29 (6) A rider may not disconnect, disable or attempt to
30 disconnect or disable any safety device, seat belt, harness

1 or other restraining device before, during or after movement
2 of the ride has started except at the express instruction of
3 the operator.

4 (7) A rider may not disembark or attempt to disembark
5 from any amusement ride before, during or after movement of a
6 ride has started except upon the express instruction of the
7 operator.

8 (8) A rider may not board or attempt to board any
9 amusement ride if he is under the influence of alcohol or any
10 controlled substance as defined in the act of April 14, 1972
11 (P.L.233, No.64), known as The Controlled Substance, Drug,
12 Device and Cosmetic Act, which impacts his ability to safely
13 use the ride and abide by the posted and oral instructions.
14 The operator may prevent a rider who is perceptibly or
15 apparently under the influence of drugs or alcohol from
16 riding on an amusement ride. An operator who prevents a rider
17 from boarding a ride in accordance with this paragraph shall
18 not be criminally or civilly liable in any manner or to any
19 extent whatsoever if the operator has a reasonable basis for
20 believing that the rider is under the influence of drugs or
21 alcohol.

22 (9) A rider may not alter or enhance the intended speed,
23 course or direction of a ride by using any unauthorized
24 device, instrument or method.

25 (10) A rider 13 years of age or older may not board an
26 amusement ride unless he has sufficient knowledge and ability
27 to use the ride. If the rider does not have such knowledge or
28 ability, it is his responsibility to ask for and receive
29 written or oral instructions prior to using the ride or
30 device.

1 (11) A rider 13 years of age or older embarking on a
2 ride without authority or failing to pay appropriate
3 consideration for its use shall be considered to be a
4 trespasser.

5 (12) A rider shall not attempt to gain access to
6 controls of an amusement ride designed solely to be operated
7 by employees of amusement parks.

8 (13) Riders shall conduct themselves within the limits
9 of their individual size and ability and shall not act in a
10 manner that may cause or contribute to the injury of
11 themselves or others.

12 Section 4. Actions against amusement ride operators.

13 A rider 13 years of age or older is deemed to have knowledge
14 of and to assume the inherent risks of amusement rides, insofar
15 as those risks are open and obvious to a reasonable person. It
16 shall be the duty of each rider to heed all posted and oral
17 warnings and to refrain from acting in a manner which may
18 knowingly cause or contribute to the injury of himself or others
19 or in a manner contrary to prohibited acts for riders set forth
20 in section 3. Notice of these prohibited acts shall be displayed
21 as set forth in section 5. Proof that a rider sustained an
22 injury in the course of knowingly acting contrary to section 3
23 shall serve as a defense to a suit against an operator by that
24 rider, unless the operator has violated his duties or
25 responsibilities under section 7, so as to cause or contribute
26 to the rider's injuries, in which case the provisions of 42
27 Pa.C.S. § 7102 (relating to comparative negligence) shall apply.

28 Section 5. Posting of notice.

29 Every operator shall post the safety responsibilities of
30 riders based upon standards set forth by the American Society

1 for Testing Materials, Department of Agriculture regulations and
2 as set forth in section 3 in a conspicuous place at each ride.
3 The language and symbols used shall be the same as designated by
4 the American Society for Testing Materials.

5 Section 6. Report of injury.

6 (a) Time limit.--As a precondition to bringing any suit in
7 connection with an injury against an operator, a rider shall
8 report in writing to the operator all of the details of any
9 accident as soon as possible, but in no event longer than 90
10 days from the time of the incident giving rise to the suit.

11 (b) Contents.--The report under subsection (a) shall include
12 the rider's name and address, a brief description of the
13 incident, including the location and alleged cause, the name and
14 address of the ride operator, others involved and witnesses, if
15 any. If it is not practicable to give the report because of
16 severe physical disability resulting from the accident or
17 incident, the report shall be given as soon as practicable.

18 (c) Additional time.--A rider who fails to give the report
19 under subsection (a) within 90 days from the time of the
20 accident or incident may be permitted to give the report at any
21 time within one year after the accident or incident in the
22 discretion of a judge of the court of common pleas if the
23 operator is not substantially prejudiced thereby.

24 (d) Applicability.--This section is not applicable with
25 respect to an operator unless the operator conspicuously posts
26 notice of this requirement in English and one other language
27 when deemed appropriate by the operator in at least five
28 different locations on the premises, including each entrance and
29 exit, each place designated for receiving reports of accidents
30 and injuries during business hours and each place designated as

1 a first aid station. The operator shall provide the rider or his
2 representative with a copy of the accident report upon request.

3 Section 7. Nonapplicability.

4 Nothing contained in this section shall be construed as
5 limiting or otherwise affecting the liability and
6 responsibilities of an amusement park operator under the act of
7 June 18, 1984 (P.L.384, No.81), known as the Amusement Ride
8 Inspection Act, or as preventing the maintenance of an action
9 against an amusement operator for negligent construction,
10 maintenance or operation of an amusement ride. In addition,
11 nothing in this section shall be construed as limiting or
12 otherwise affecting the responsibility and liability of an
13 amusement park operator to provide reasonable supervision for
14 riders.

15 Section 8. Effective date.

16 This act shall take effect in 60 days.