

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1777 Session of
1993

INTRODUCED BY BELFANTI, TULLI, GORDNER, FAJT, PHILLIPS,
FAIRCHILD, S. H. SMITH, M. N. WRIGHT, FARGO, GEIST, MELIO,
CLYMER, MCGEEHAN, OLASZ, D. W. SNYDER, STEELMAN, ROONEY,
BELARDI, COWELL, YEWIC, FLEAGLE, SATHER, MILLER, SCHEETZ,
CLARK, THOMAS, ALLEN AND ROBERTS, JUNE 14, 1993

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 5, 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~~ ONLY PERMANENT AMUSEMENT 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~~ A <—
7 PERMANENT AMUSEMENT or water park.

8 "Rider." A person ~~13~~ 14 years of age or older utilizing an <—
9 amusement ride. The term includes any person who is an invitee,
10 whether or not the person pays consideration.

11 Section 3. Rider's responsibility.

12 ~~A rider is deemed to have knowledge of and to assume the~~ <—
13 ~~inherent risks~~

14 (A) RESPONSIBILITIES.--A RIDER IS RESPONSIBLE FOR OBEYING <—
15 THE POSTED RULES OR ORAL INSTRUCTIONS of amusement rides and
16 shall abide by the following:

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

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

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

24 (4) A rider may not engage in any RECKLESS act or <—
25 activity ~~by his frolicking or horseplay~~ which may tend to <—
26 injure HIMSELF OR others. <—

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

1 to intentionally harm another person.

2 (6) A rider may not disconnect, disable or attempt to
3 disconnect or disable any safety device, seat belt, harness
4 or other restraining device before, during or after movement
5 of the ride has started except at the express instruction of
6 the operator.

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

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

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

28 ~~(10) A rider 13 years of age or older may not board an~~ <—
29 ~~amusement ride unless he has sufficient knowledge and ability~~
30 ~~to use the ride. If the rider does not have such knowledge or~~

1 ~~ability, it is his responsibility to ask for and receive~~
2 ~~written or oral instructions prior to using the ride or~~
3 ~~device.~~

4 ~~(11)~~ A rider 13 (10) A RIDER 14 years of age or older <—
5 embarking on a ride ~~without authority or~~ AFTER failing to pay <—
6 appropriate consideration for its use, WHEN REQUIRED BY <—
7 AMUSEMENT PARK RULES AND REGULATIONS, shall be considered to
8 be a trespasser.

9 ~~(12)~~ (11) A rider shall not attempt to gain access to <—
10 controls of an amusement ride designed solely to be operated
11 by employees of amusement parks.

12 ~~(13)~~ ~~Riders shall conduct themselves within the limits~~ <—
13 ~~of their individual size and ability and shall not act in a~~
14 ~~manner that may cause or contribute to the injury of~~
15 ~~themselves or others.~~

16 (B) EXCEPTIONS.--SUBSECTION (A) SHALL NOT APPLY TO AN <—
17 INDIVIDUAL WHO BECAUSE OF DEAFNESS, BLINDNESS, MENTAL LIMITATION
18 OR A LANGUAGE BARRIER IS NOT CAPABLE OF UNDERSTANDING THE POSTED
19 RULES OR ORAL INSTRUCTIONS.

20 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
21 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
22 SUBSECTION:

23 "BLINDNESS." A CONDITION SUCH THAT AN INDIVIDUAL HAS 3/60 OR
24 10/200 OR LESS NORMAL VISION.

25 "DEAFNESS." A CONDITION SUCH THAT AN INDIVIDUAL IS TOTALLY
26 DEAF OR WHOSE HEARING IS SO IMPAIRED THAT HE IS UNABLE TO
27 UNDERSTAND OR COMMUNICATE THE SPOKEN ENGLISH LANGUAGE.

28 Section 4. Actions against amusement ride operators.

29 ~~A rider 13 years of age or older is deemed to have knowledge~~ <—
30 ~~of and to assume the inherent risks of amusement rides, insofar~~

1 ~~as those risks are open and obvious to a reasonable person. It~~
2 shall be the duty of each rider to heed all posted and oral
3 warnings and to refrain from acting in a manner which may
4 knowingly cause or contribute to the injury of himself or others
5 or in a manner contrary to prohibited acts for riders set forth
6 in section 3. Notice of these prohibited acts shall be displayed
7 as set forth in section 5. Proof that a rider sustained an
8 injury in the course of knowingly acting contrary to section 3
9 shall ~~serve as a defense to~~ BE EVIDENCE OF COMPARATIVE <—
10 NEGLIGENCE IN a suit against an operator by that rider, ~~unless~~ <—
11 ~~the operator has violated his duties or responsibilities under~~
12 ~~section 7, so as to cause or contribute to the rider's injuries,~~
13 ~~in which case the provisions of 42 Pa.C.S. § 7102 (relating to~~
14 ~~comparative negligence) shall apply.~~

15 Section 5. Posting of notice.

16 Every operator shall post the safety responsibilities of
17 riders based upon standards set forth by the American Society
18 for Testing Materials, Department of Agriculture regulations and
19 as set forth in section 3 in a conspicuous place at each ride.
20 The language and symbols used shall be the same as designated by
21 the American Society for Testing Materials.

22 Section 6. Report of ~~injury~~ INCIDENT. <—

23 ~~(a) Time limit. As a precondition to bringing any suit in~~ <—
24 ~~connection with an injury against an operator, a rider shall~~
25 ~~report in writing to the operator all of the details of any~~
26 ~~accident as soon as possible, but in no event longer than 90~~
27 ~~days from the time of the incident giving rise to the suit.~~

28 ~~(b) Contents. The report under subsection (a) shall include~~
29 ~~the rider's name and address, a brief description of the~~
30 ~~incident, including the location and alleged cause, the name and~~

~~address of the ride operator, others involved and witnesses, if
any. If it is not practicable to give the report because of
severe physical disability resulting from the accident or
incident, the report shall be given as soon as practicable.~~

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

~~(d) Applicability. This section is not applicable with
respect to an operator unless the operator conspicuously posts
notice of this requirement in English and one other language
when deemed appropriate by the operator in at least five
different locations on the premises, including each entrance and
exit, each place designated for receiving reports of accidents
and injuries during business hours and each place designated as
a first aid station. The operator shall provide the rider or his
representative with a copy of the accident report upon request.~~

(A) REPORTING.--A RIDER SHALL REPORT IN WRITING TO THE
OPERATOR ALL OF THE DETAILS OF ANY INCIDENT AS SOON AS POSSIBLE.
THE REPORT SHALL INCLUDE THE RIDER'S NAME AND ADDRESS, A BRIEF
DESCRIPTION OF THE INCIDENT AND INJURIES CLAIMED, INCLUDING THE
LOCATION, DATE, TIME AND ALLEGED CAUSE, THE NAME AND ADDRESS OF
THE RIDE OPERATOR, OTHERS INVOLVED AND WITNESSES, IF ANY.

(B) APPLICABILITY.--THIS SECTION SHALL HAVE NO EFFECT ON A
RIDER'S RIGHT TO COMMENCE A CIVIL ACTION.

Section 7. Nonapplicability.

Nothing contained in this section shall be construed as
limiting or otherwise affecting the liability and

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

10 Section 8. Effective date.

11 This act shall take effect in 60 days.