

SENATE BILL NO. 110

INTRODUCED BY W. MCKAMEY, K. WALSH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO AMUSEMENT RIDES AND SAFETY; REQUIRING INSPECTIONS BY QUALIFIED INSPECTORS; DEFINING "QUALIFIED INSPECTOR" AND "SERIOUS INJURY OR ILLNESS"; REQUIRING OPERATOR LIABILITY INSURANCE; EXPANDING PASSENGER SAFETY RESPONSIBILITIES; AND AMENDING SECTIONS 27-1-741, 27-1-742, 27-1-743, 27-1-744, AND 27-1-745, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

- NEW SECTION. Section 1. Inspections and inspection certification -- qualified inspectors -- fees.** (1) All amusement rides must be inspected by a qualified inspector at least once every 12 months, measured from the date the previous inspection certificate was issued.
- (2) An amusement ride may not be operated for the public if a qualified inspector has not issued an inspection certificate. A qualified inspector who determines that a ride is unsafe for public use shall immediately notify the operator of the unsafe condition. A qualified inspector may not issue an inspection certificate for the ride until the unsafe condition has been corrected to the satisfaction of the qualified inspector.
- (3) Before a passenger may be admitted to an amusement ride that has undergone a major modification, the ride must be inspected by a qualified inspector.
- (4) After completing a satisfactory inspection, a qualified inspector shall issue an inspection certificate to the operator of the amusement ride certifying that the ride is safe for public use. The certificate must show compliance with one or both of the following standards, as adopted by ASTM international:
- (a) ASTM F770-22, also known as the Standard Practice for Ownership, Operation, Maintenance, and Inspection of Amusement Rides and Devices;
- (b) ASTM F2376-22, also known as the Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems.
- (5) An inspection certificate issued by a qualified inspector pursuant to the laws of a foreign

jurisdiction under standards substantially equivalent to the standards of this state must satisfy the requirements of subsection (1).

(6) Fees for annual inspections must be determined by the qualified inspector and paid by the operator of the amusement ride.

Section 2. Section 27-1-741, MCA, is amended to read:

"27-1-741. Purpose. The legislature finds that:

(1) amusement rides are used by a large number of Montana's citizens and attract a large number of nonresidents, significantly contributing to Montana's tourism industry and tax base;

(2) the safety of the public using amusement rides is an important matter of public policy;

(3) there are inherent risks associated with the machinery, equipment, or animals that are impracticable or impossible for an amusement ride owner or operator to eliminate with all reasonable safety precautions;

(4) an informed patron is in the best position to avoid risks inherent to amusement rides; and

(5) the safety of amusement rides will be greatly improved at minimal cost if operators maintain minimum safety standards and riders are subject to minimum safety standards for their own protection and the protection of others."

Section 3. Section 27-1-742, MCA, is amended to read:

"27-1-742. Definitions. As used in 27-1-741 through 27-1-745, the following definitions apply:

(1) (A) "Amusement ride" or "ride" means a movable, portable, or nonpermanent structure that features or employs a mechanical, aquatic, or other device or attraction that carries passengers over a fixed or restricted route or that operates in a fixed or restricted area, primarily for the passengers' amusement.

(B) This definition ~~applies~~ DOES NOT APPLY to amusement rides that are set up and operate in any location in Montana for not more than 30 days.

(2) "Operator" means a person, business, or other entity that owns, leases, manages, or operates amusement rides.

(3) "Passenger" means a person:

- 1 (a) waiting in the immediate vicinity of an amusement ride to board the ride;
2 (b) entering or boarding an amusement ride;
3 (c) using an amusement ride;
4 (d) getting off or exiting from an amusement ride; or
5 (e) leaving the immediate vicinity of an amusement ride after getting off or exiting the ride.
6 (4) "Qualified inspector" means an individual who is not employed by the operator and is:
7 (a) a professional engineer; or
8 (b) an inspector holding a minimum of:
9 (i) a level 1 maintenance certification from AIMS international, also known as amusement industry
10 manufacturers and suppliers international; or
11 (ii) a level 1 certification from the national association of amusement ride safety officials.
12 (5) "Serious injury or illness" means an injury to or illness of a person that results in death,
13 dismemberment, significant disfigurement, the permanent loss of the use of a body organ, member, function, or
14 system, a compound fracture, or any other significant injury or illness that requires immediate admission and
15 overnight hospitalization and observation by a licensed physician."

16
17 **Section 4.** Section 27-1-743, MCA, is amended to read:

18 **"27-1-743. Operator's responsibilities.** An operator shall:

- 19 (1) exercise reasonable care in constructing, erecting, maintaining, operating, and supervising
20 amusement rides to ensure the safety of passengers;
21 (2) ensure that there is an adequately staffed first-aid station and a location for reporting injuries
22 and accidents. For the purposes of this section, one adequately staffed first-aid station and a single location for
23 reporting injuries and accidents on a site where multiple operators are grouped in a fair or carnival formation
24 are sufficient.
25 (3) ensure that when supervising or operating a ride, the operator or an employee of the operator
26 is not under the influence of alcohol or drugs; ~~and~~
27 (4) post in a conspicuous place on the amusement ride grounds an easily readable sign that lists
28 the passenger and operator responsibilities and prohibitions contained in 27-1-744 and this section, as well as

1 additional language or another sign near the entrance to each ride that includes:

2 (a) operational instructions, if any;

3 (b) safety guidelines for the ride, if any;

4 (c) restrictions on the use of the amusement ride, if any;

5 (d) behavior or activities that are prohibited, if any; and

6 (e) the following statement: "State law requires riders and passengers to obey all warnings and

7 directions for this ride and behave in a manner that will not cause or contribute to injury to themselves or others.

8 Riders must report injuries before leaving the premises."

9 (5) conduct a daily pre-opening inspection of all amusement rides, in accordance with the pre-

10 opening inspection requirements of ASTM F770-22 and ASTM F1193-22, section 6; and

11 (6) maintain liability insurance on the operation of the ride with an insurer authorized or approved

12 to write this type of insurance in the state. The insurance must provide coverage, exclusive of daily interest and

13 costs, of at least \$500,000 for bodily injury or death of one person in each occurrence and at least \$1 million for

14 bodily injury or death of two or more persons in each occurrence."

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16 **Section 5.** Section 27-1-744, MCA, is amended to read:

17 **"27-1-744. Passenger responsibilities and prohibitions.** (1) A passenger may not:

18 (a) enter or exit an amusement ride except at a time and place, if any, designated by an operator

19 or employee and in the manner and under the supervision of an operator or employee;

20 (b) ~~throw, or drop, or expel~~ an object from or ~~in the direction of toward~~ an amusement ride;

21 (c) ~~fail or refuse to comply with the instructions from an operator or employee of an amusement~~

22 ~~ride or from posted signs, including but not limited to warning signs, instructions signs, and direction signs;~~

23 ~~instructions of an operator or employee operating or supervising an amusement ride;~~

24 (d) act in ~~a any~~ manner that could cause or contribute to injury to self or others or that could

25 interfere with the safe operation of an amusement ride or with the safety of a passenger;

26 (e) ~~disable, disconnect, or attempt to disable any safety or restraining device, except at the~~

27 express instruction of an operator;

28 (f) alter or enhance the designed speed, course, or direction of an amusement ride;

(g) operate or attempt to operate amusement ride controls designed to be operated only by the operator or employee operating the ride; or

(h) extend arms or legs beyond the carrier or seating area, except at the express direction of an operator or employee;

(i) fail to properly use all safety equipment on the amusement ride in accordance with the instructions of operators and posted signs; or

~~(h)(j)~~ use an amusement ride when under the influence of alcohol or drugs ~~to the point that the ability of the passenger to safely use the ride is diminished~~ any other intoxicating substance. An operator or employee may prohibit a person from using or continuing a ride if the operator or employee reasonably believes that ~~the person is under the influence of alcohol or drugs to the point that the person's ability to safely use or continue the ride is diminished.~~

(2) A passenger shall:

(a) follow warnings and other information posted by or orally given to the passenger by an operator or employee; and

(b) obey all posted signs pertaining to the amusement ride, including but not limited to warning signs, instruction signs, and directions signs.

(3) A passenger who violates the provisions of this section is subject to immediate removal from the amusement facility without a refund of any portion of the admission charge."

Section 6. Section 27-1-745, MCA, is amended to read:

"27-1-745. Injury reports and investigations. (1) (a) A passenger who is injured on or by an amusement ride is encouraged to report the injury to the operator before leaving the amusement ride premises. The passenger shall, if possible, not later than 6 months after the injury, report the injury to the operator or to the owner of the premises where the amusement ride was located at the time of the injury. The report must include:

(i) the passenger's name, address, and telephone number;

(ii) a brief description of the injury and how it occurred, including the date, approximate time, location, and amusement ride ~~upon~~ on which the injury occurred; and

(iii) the names, addresses, and telephone numbers of known witnesses to the injury.

(b) The operator shall provide to the person who was injured and who has filed an injury report:

(i) the individual operator's name, current address, and telephone number;

(ii) a brief description of the ride, the maintenance schedule for the ride, and the manufacturer of the ride; ~~and~~

(iii) the names, current addresses, and telephone numbers of all known witnesses to the injury; AND

(iv) A COPY OF THE MOST RECENT INSPECTION CERTIFICATE AS REQUIRED BY [SECTION 1] AND THE INSPECTOR'S NAME, CURRENT ADDRESS, AND TELEPHONE NUMBER.

(2) The report must be kept by the operator for at least 3 years after its receipt and must be made available for inspection by the injured passenger or the passenger's agent during business hours.

(3) (a) In the event of a serious injury or illness reported pursuant to subsection (1), the operator shall initiate an investigation conducted by a qualified inspector. The amusement ride may not be reopened to the public until the investigation is complete and the qualified inspector determines the ride to be safe for public use.

(b) The cost of an investigation resulting from the serious injury or illness must be paid by the operator.

(c) If the qualified inspector determines that the serious injury or illness was caused by the rider's failure to comply with the posted safety rules or with instructions given by the ride operators, the investigation must be concluded."

NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [section 1].

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