



Rep. Robert F Martwick

Filed: 5/2/2013

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1 AMENDMENT TO SENATE BILL 2184

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2184 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by adding  
5 Section 5.826 as follows:

6 (30 ILCS 105/5.826 new)

7 Sec. 5.826. The Amusement Ride and Patron Safety Fund.

8 Section 10. The Carnival and Amusement Rides Safety Act is  
9 amended by changing Sections 2-2, 2-6, 2-8, 2-12, 2-14, and  
10 2-15 and by adding Sections 2-8.1, 2-15.2 and 2-15.3 as  
11 follows:

12 (430 ILCS 85/2-2) (from Ch. 111 1/2, par. 4052)

13 Sec. 2-2. Definitions. As used in this Act, unless the  
14 context otherwise requires:

1           1. "Director" means the Director of Labor or his or her  
2           designee.

3           2. "Department" means Department of Labor.

4           3. "Amusement Attraction" means an enclosed building or  
5           structure, including electrical equipment which is an integral  
6           part of the building or structure, through which people walk  
7           without the aid of any moving device, that provides amusement,  
8           thrills or excitement at a fair or carnival, except any such  
9           enclosed building or structure which is subject to the  
10          jurisdiction of a local building code.

11          4. "Amusement ride" means:

12           (a) any mechanized device or combination of devices,  
13           including electrical equipment which is an integral part of  
14           the device or devices, which carries passengers along,  
15           around, or over a fixed or restricted course for the  
16           primary purpose of giving its passengers amusement,  
17           pleasure, thrills, or excitement;

18           (b) any ski lift, rope tow, or other device used to  
19           transport snow skiers;

20           (c) (blank);

21           (d) any dry slide over 20 feet in height, alpine slide,  
22           or toboggan slide;

23           (e) any tram, open car, or combination of open cars or  
24           wagons pulled by a tractor or other motorized device which  
25           is not licensed by the Secretary of State, which may, but  
26           does not necessarily follow a fixed or restricted course,

1 and is used primarily for the purpose of giving its  
2 passengers amusement, pleasure, thrills or excitement, and  
3 for which an individual fee is charged or a donation  
4 accepted with the exception of hayrack rides; ~~or~~

5 (f) any bungee cord or similar elastic device; or.

6 (g) any inflatable attraction.

7 5. "Carnival" means an enterprise which offers amusement or  
8 entertainment to the public by means of one or more amusement  
9 attractions or amusement rides.

10 6. "Fair" means an enterprise principally devoted to the  
11 exhibition of products of agriculture or industry in connection  
12 with which amusement rides or amusement attractions are  
13 operated.

14 7. "Operator" means a person, or the agent of a person, who  
15 owns or controls or has the duty to control the operation of an  
16 amusement ride or an amusement attraction at a carnival or  
17 fair. "Operator" includes an agency of the State or any of its  
18 political subdivisions.

19 8. "Carnival worker" means a person who is employed (and is  
20 therefore not a volunteer) by a carnival or fair to manage,  
21 physically operate, or assist in the operation of an amusement  
22 ride or amusement attraction when it is open to the public.

23 9. "Volunteer" means a person who operates or assists in  
24 the operation of an amusement ride or amusement attraction for  
25 an owner or operator without pay or lodging. An individual  
26 shall not be considered a volunteer if the individual is

1 otherwise employed by the same owner or operator to perform the  
2 same type of service as those for which the individual proposes  
3 to volunteer.

4 10. "Inflatable attraction" means an amusement ride or  
5 device designed for use that may include, but not be limited  
6 to, bounce, climb, slide, or interactive play, which is made of  
7 flexible fabric, is kept inflated by continuous air flow by one  
8 or more blowers, and relies upon air pressure to maintain its  
9 shape.

10 (Source: P.A. 95-397, eff. 8-24-07; 95-687, eff. 10-23-07;  
11 96-151, eff. 8-7-09.)

12 (430 ILCS 85/2-6) (from Ch. 111 1/2, par. 4056)

13 Sec. 2-6. (a) The Director, after consultation with ~~the~~  
14 ~~consent~~ of the Board at a meeting of the Board, shall  
15 promulgate and formulate definitions, rules and regulations  
16 for the safe installation, repair, maintenance, use,  
17 operation, training standards for operators, and inspection of  
18 all amusement rides and amusement attractions as the Director  
19 finds necessary for the protection of the general public using  
20 amusement rides and amusement attractions. These rules and  
21 standards shall be adopted pursuant to the procedures set forth  
22 in the Illinois Administrative Procedure Act. The rules shall  
23 be based upon generally accepted engineering standards and  
24 shall be concerned with, but not necessarily limited to,  
25 engineering force stresses, safety devices, and preventive

1 maintenance. Whenever such standards are available in suitable  
2 form they may be incorporated by reference. The rules shall  
3 provide for the reporting of accidents and injuries incurred  
4 from the operation of amusement rides or amusement attractions.  
5 In addition to the permit fee herein provided, the Director may  
6 promulgate rules to establish a schedule of fees for  
7 inspections.

8 (b) After consultation with the Board, the Director is  
9 authorized to adopt by reference, in whole or in part, any  
10 code, standard, or bulletin issued by a nationally or  
11 internationally recognized organization, such as the Consumer  
12 Product Safety Commission or ASTM International, after a  
13 finding that the adoption of the code, standard, or bulletin  
14 would promote the purposes of this Act.

15 ~~Before adopting, modifying or amending any rule consistent~~  
16 ~~with and necessary for the enforcement of this Act, the~~  
17 ~~Director shall hold a public hearing on the proposed rule,~~  
18 ~~modification or amendment to a rule. Any interested person may~~  
19 ~~appear and be heard at the hearing, in person or by agent or~~  
20 ~~counsel. The Director shall give the news media notice of each~~  
21 ~~hearing at least 30 days in advance of the hearing date and~~  
22 ~~shall make available a copy of the proposed rule, or~~  
23 ~~modification or amendment to a rule to any person requesting~~  
24 ~~same. The provisions of this Section are in addition to all~~  
25 ~~other existing requirements pertaining to the promulgation of~~  
26 ~~administrative rules and regulations.~~

1 (Source: P.A. 94-801, eff. 5-25-06; 95-397, eff. 8-24-07.)

2 (430 ILCS 85/2-8) (from Ch. 111 1/2, par. 4058)

3 Sec. 2-8. The Director, after consultation with and the  
4 consent of the Board, shall determine a schedule of permit fees  
5 for each amusement ride or amusement attraction.

6 (Source: P.A. 94-801, eff. 5-25-06.)

7 (430 ILCS 85/2-8.1 new)

8 Sec. 2-8.1. Suspension and revocation of permit to operate.

9 (a) The Department shall have the power to suspend or  
10 revoke an owner's permit for any good cause under the meaning  
11 and purpose of this Act. If a person whose permit has been  
12 suspended or revoked, or whose application for a permit has  
13 been denied, believes that the violation or condition  
14 justifying suspension, revocation, or denial of the permit does  
15 not exist, the person may apply to the Department for  
16 reconsideration through a hearing within 10 working days after  
17 the Department's action. A hearing shall be scheduled, unless  
18 otherwise mutually agreed by the parties, within 48 hours after  
19 the request for hearing.

20 (b) Service of notice of a hearing shall be made by  
21 personal service or certified mail to the address shown on the  
22 application for permit, or to any other address on file with  
23 the Department and reasonably believed to be the current  
24 address of the permit holder.

1       (c) The written notice of a hearing shall specify the time,  
2 date, and location of the hearing and the reasons for the  
3 action proposed by the Department.

4       (d) At the hearing, the Department shall have the burden of  
5 establishing good cause for its action. Good cause exists if  
6 the Department establishes that the permit holder has failed to  
7 comply with the requirements of a permit under this Act and its  
8 rules.

9       (e) All hearings held under this Section shall comply with  
10 Article 10 of the Administrative Procedure Act and the  
11 Department's rules of procedure in administrative hearings,  
12 except that formal discovery, such as production requests,  
13 interrogatories, requests to admit, and depositions shall not  
14 be allowed. The parties shall exchange documents and witness  
15 lists prior to hearing and may request third party subpoenas to  
16 be issued.

17       (f) The final determination by the Department of Labor  
18 shall be rendered within 5 working days after the conclusion of  
19 the hearing.

20       (g) Final determinations made under this Section are  
21 subject to the Administrative Review Law.

22       (430 ILCS 85/2-12) (from Ch. 111 1/2, par. 4062)

23       Sec. 2-12. Order for cessation of operation of amusement  
24 ride or attraction.

25       (a) ~~The Director or an inspector hired by the~~ Department of

1 Labor may order, in writing, a temporary and immediate  
2 cessation of operation of any amusement ride or amusement  
3 attraction if it:

4 (1) has been determined after inspection to be  
5 hazardous or unsafe;

6 (2) is in operation before the Director has issued a  
7 permit to operate such equipment; or

8 (3) the owner or operator is not in compliance with the  
9 insurance requirements contained in Section 2-14 of this  
10 Act and any rules or regulations adopted hereunder.

11 (b) Operation of the amusement ride or amusement attraction  
12 shall not resume until:

13 (1) the unsafe or hazardous condition is corrected to  
14 the satisfaction of the Director or such inspector;

15 (2) the Director has issued a permit to operate such  
16 equipment; or

17 (3) the owner or operator is in compliance with the  
18 insurance requirements contained in Section 2-14 of this  
19 Act and any rules or regulations adopted hereunder,  
20 respectively.

21 (c) The Department shall notify the owner or operator in  
22 writing of the grounds for the cessation of operation of the  
23 amusement ride or attraction and of the conditions in need of  
24 correction at the time the order for cessation is issued.

25 (d) The owner or operator may appeal an order of cessation  
26 by filing a request for a hearing. The Department shall afford

1 the owner or operator 10 working days after the date of the  
2 notice to request a hearing. Upon written request for hearing,  
3 the Department shall schedule a formal administrative hearing  
4 in compliance with Article 10 of the Administrative Procedure  
5 Act and pursuant to the provisions of the Department's rules of  
6 procedure in administrative hearings, except that formal  
7 discovery, such as production requests, interrogatories,  
8 requests to admit, and depositions will not be allowed. The  
9 parties shall exchange documents and witness lists prior to  
10 hearing and may request third party subpoenas to be issued.

11 (e) The final determination by the Department of Labor  
12 shall be rendered within 5 working days after the conclusion of  
13 the hearing.

14 (f) The provisions of the Administrative Review Law shall  
15 apply to and govern all proceedings for the judicial review of  
16 a final determination under this Section.

17 (Source: P.A. 94-801, eff. 5-25-06.)

18 (430 ILCS 85/2-14) (from Ch. 111 1/2, par. 4064)

19 Sec. 2-14. No ~~(1) Except as provided in subsection (2) of~~  
20 ~~this Section no~~ person shall operate an amusement ride or  
21 attraction unless there is in force: ~~(a)~~ a liability insurance  
22 policy or policies in an ~~aggregate~~ amount of not less than  
23 \$1,000,000 ~~\$100,000~~ for bodily injury to or death of one or  
24 more persons, damage to or destruction of property of others,  
25 or a combination thereof ~~person in any one accident,~~ and,

1 subject to the per occurrence limit ~~for one person~~, in an  
2 aggregate amount of not less than \$2,000,000 ~~\$1,000,000~~ for  
3 bodily injury to or death of two or more persons, or damage to  
4 or destruction of property of others, in any one policy period,  
5 ~~accident, and in an amount of not less than \$50,000 for injury~~  
6 ~~to or destruction of property of others in any one accident~~,  
7 insuring the operator against liability for injury, ~~or death,~~  
8 or property damage ~~suffered by a person attending a fair or~~  
9 ~~carnival; or (b) a bond in like amount, the aggregate liability~~  
10 ~~of the surety of which shall not exceed the face amount~~  
11 ~~thereof; or (c) a deposit with the Illinois Department of Labor~~  
12 ~~of cash or other security acceptable to the Director.~~

13 ~~(2) With respect to the operation of an amusement ride or~~  
14 ~~attraction under this Act for a carnival located at a permanent~~  
15 ~~site which has 5 or fewer amusement rides, none of which~~  
16 ~~operates at a height exceeding 8 feet, the insurance policy,~~  
17 ~~bond, or cash or security deposit amount required for bodily~~  
18 ~~injury to or death of 2 or more persons in any one accident~~  
19 ~~shall be not less than \$500,000.~~

20 (Source: P.A. 94-801, eff. 5-25-06.)

21 (430 ILCS 85/2-15) (from Ch. 111 1/2, par. 4065)

22 Sec. 2-15. Penalties.

23 (a) Criminal penalties.

24 1. Any person who operates an amusement ride or  
25 amusement attraction at a carnival or fair without having

1       obtained a permit from the Department ~~Director~~ or who  
2       violates any order or rule issued by the Department  
3       ~~Director~~ under this Act is guilty of a Class A misdemeanor.  
4       Each day shall constitute a separate and distinct offense.

5             2. Any person who interferes with, impedes, or  
6       obstructs in any manner the Director or any authorized  
7       representative of the Department in the performance of  
8       their duties under this Act is guilty of a Class A  
9       misdemeanor.

10       (b) Civil penalties. Unless otherwise provided in this Act,  
11       any person who operates an amusement ride or amusement  
12       attraction without having obtained a permit from the Department  
13       in violation of this Act is subject to a civil penalty not to  
14       exceed \$2,500 per violation for a first violation and not to  
15       exceed \$5,000 for a second or subsequent violation.

16       Prior to any determination, or the imposition of any civil  
17       penalty, under this subsection (b), the Department shall notify  
18       the operator in writing of the alleged violation. The  
19       Department shall afford the operator 10 working ~~15~~ days after  
20       ~~from~~ the date of the notice to request a hearing ~~present any~~  
21       ~~written information that the operator wishes the Department to~~  
22       ~~consider in connection with its determination in the matter.~~  
23       Upon written request of the operator, the Department shall  
24       schedule a formal administrative hearing in compliance with  
25       Article 10 of the Administrative Procedure Act and the  
26       Department's rules of procedure in administrative hearings,

1 except that formal discovery, such as production requests,  
2 interrogatories, requests to admit, and depositions shall not  
3 be allowed. The parties shall exchange documents and witness  
4 lists prior to hearing and may request third party subpoenas to  
5 be issued. The final determination by the Department of Labor  
6 shall be rendered within 5 working days after the conclusion of  
7 the hearing. Final determinations made under this Section are  
8 subject to the provisions of the Administrative Review Law  
9 ~~convene an informal fact finding conference, provided such~~  
10 ~~request is received by the Department within 15 days of the~~  
11 ~~date of the notice of the alleged violation.~~ In determining the  
12 amount of a penalty, the Director may consider the  
13 appropriateness of the penalty to the person or entity charged,  
14 upon determination of the gravity of the violation. The  
15 penalties, when finally determined, Penalties may be recovered  
16 in a civil action brought by the Director of Labor in any  
17 circuit court. In this litigation, the Director of Labor shall  
18 be represented by the Attorney General.

19 (Source: P.A. 96-151, eff. 8-7-09.)

20 (430 ILCS 85/2-15.2 new)

21 Sec. 2-15.2. Injunction to compel compliance.

22 (a) The Department shall have the power to bring injunctive  
23 proceedings in any court of competent jurisdiction to compel  
24 compliance with any order made by the Department under this  
25 Act.

1       (b) The Department shall also have the power to bring  
2 temporary and immediate injunctive relief in any court of  
3 competent jurisdiction when necessary for the protection of the  
4 health and safety of the general public using amusement rides  
5 and amusement attractions.

6           (430 ILCS 85/2-15.3 new)

7       Sec. 2-15.3. Amusement Ride and Patron Safety Fund. All  
8 moneys received by the Department as fees and penalties under  
9 this Act shall be deposited into the Amusement Ride and Patron  
10 Safety Fund and shall be used by the Department, subject to  
11 appropriation by the General Assembly, in addition to any  
12 General Revenue Funds, for administration, investigation, and  
13 other expenses incurred in carrying out its powers and duties  
14 under this Act. The Department shall hire as many inspectors  
15 and other personnel as may be necessary to carry out the  
16 purposes of this Act. Any moneys in the Fund at the end of a  
17 fiscal year in excess of those moneys necessary for the  
18 Department to carry out its powers and duties under this Act  
19 shall be available to the Department for the next fiscal year  
20 for any of the Department's duties and may be transferred from  
21 the Amusement Ride and Patron Safety Fund to the various  
22 accounts available to the Department, as needed.

23       Section 99. Effective date. This Act takes effect upon  
24 becoming law.".