



Sen. John G. Mulroe

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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 Carnival 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.

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

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

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

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

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

1 same type of service as those for which the individual proposes
2 to volunteer.

3 10. "Inflatable attraction" means an amusement ride or
4 attraction that is made of flexible fabric, is kept inflated by
5 continuous air flow by one or more blowers, relies upon air
6 pressure to maintain their shape, and consists of an air-filled
7 structure designed for uses specified by the manufacturer, that
8 may include, but are not limited to, bouncing, climb, sliding,
9 or other interactive playing.

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

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

7 (b) After consultation with the Board, the Director is
8 authorized to adopt by reference, in whole or in part, any
9 code, standard, or bulletin issued by a nationally recognized
10 organization, such as the Consumer Product Safety Commission,
11 after a finding that the adoption of the code, standard, or
12 bulletin would promote the purposes of this Act. The Director
13 is further authorized to recognize, in whole or in part, any
14 code or standard issued by an internationally recognized
15 organization upon a finding that its provisions are equivalent
16 to codes or standards adopted under this Act.

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

1 ~~other existing requirements pertaining to the promulgation of~~
2 ~~administrative rules and regulations.~~

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

4 (430 ILCS 85/2-8) (from Ch. 111 1/2, par. 4058)

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

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

9 (430 ILCS 85/2-8.1 new)

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

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

22 (b) Service of notice of a hearing shall be made by
23 personal service or certified mail to the address shown on the
24 application for permit, or to any other address on file with

1 the Department and reasonably believed to be the current
2 address of the permit holder.

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

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

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

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

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

24 (430 ILCS 85/2-12) (from Ch. 111 1/2, par. 4062)

25 Sec. 2-12. Order for cessation of operation of amusement

1 ride or attraction.

2 (a) The ~~Director or an inspector hired by the~~ Department of
3 Labor may order, in writing, a temporary and immediate
4 cessation of operation of any amusement ride or amusement
5 attraction if it:

6 (1) has been determined after inspection to be
7 hazardous or unsafe;

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

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

13 (b) Operation of the amusement ride or amusement attraction
14 shall not resume until:

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

17 (2) the Director has issued a permit to operate such
18 equipment; or

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

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

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

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

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

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

20 (430 ILCS 85/2-14) (from Ch. 111 1/2, par. 4064)

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

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

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

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

23 (430 ILCS 85/2-15) (from Ch. 111 1/2, par. 4065)

24 Sec. 2-15. Penalties.

25 (a) Criminal penalties.

1 1. Any person who operates an amusement ride or
2 amusement attraction at a carnival or fair without having
3 obtained a permit from the Department Director or who
4 violates any order or rule issued by the Department
5 ~~Director~~ under this Act is guilty of a Class A misdemeanor.
6 Each day shall constitute a separate and distinct offense.

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

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

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

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

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

22 (430 ILCS 85/2-15.2 new)

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

24 (a) The Department shall have the power to bring injunctive
25 proceedings in any court of competent jurisdiction to compel

1 compliance with any order made by the Department under this
2 Act.

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

8 (430 ILCS 85/2-15.3 new)

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

24 Section 99. Effective date. This Act takes effect upon

1 becoming law.".