



Sen. Michael Noland

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09800SB3125sam001

LRB098 18405 MGM 56792 a

1 AMENDMENT TO SENATE BILL 3125

2 AMENDMENT NO. _____. Amend Senate Bill 3125 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Carnival and Amusement Rides Safety Act is
5 amended by changing Sections 2-1, 2-2, 2-3, 2-10, 2-15, 2-17,
6 and 2-20 as follows:

7 (430 ILCS 85/2-1) (from Ch. 111 1/2, par. 4051)

8 Sec. 2-1. This Article shall be known and may be cited as
9 the "Amusement Ride and Attraction Safety Act" ~~"Carnival and
10 Amusement Rides Safety Act"~~.

11 (Source: P.A. 83-1240.)

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:

15 1. "Director" means the Director of Labor or his or her

1 designee.

2 2. "Department" means Department of Labor.

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

10 4. "Amusement ride" means:

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

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

19 (c) (blank);

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

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

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

4 (f) any bungee cord or similar elastic device; or

5 (g) any inflatable attraction.

6 5. "Carnival" or "amusement enterprise" means an
7 enterprise which offers amusement or entertainment to the
8 public by means of one or more amusement attractions or
9 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,
17 amusement enterprise, or fair. "Operator" includes an agency of
18 the State or any of its political subdivisions.

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

25 9. "Volunteer" means a person who operates or assists in
26 the operation of an amusement ride or amusement attraction for

1 an owner or operator without pay or lodging. An individual
2 shall not be considered a volunteer if the individual is
3 otherwise employed by the same owner or operator to perform the
4 same type of service as those for which the individual proposes
5 to volunteer.

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

12 (Source: P.A. 98-541, eff. 8-23-13.)

13 (430 ILCS 85/2-3) (from Ch. 111 1/2, par. 4053)

14 Sec. 2-3. There is hereby created the Amusement Ride and
15 Attraction Safety Board ~~Carnival Amusement Safety Board~~,
16 hereafter in this Act referred to as the "Board", to consist of
17 9 members. One member shall be the Director. Eight members
18 shall be appointed by the Governor with the advice and consent
19 of the Senate. The term of members shall be 4 years. Of the 8
20 appointed members of the Board, 2 shall be operators of
21 amusement rides, 1 shall be a registered professional engineer,
22 1 shall represent the insurance industry, and 4 shall represent
23 the general public. The Board shall advise the Department on
24 carnival, amusement enterprise, and amusement safety matters.

25 (Source: P.A. 97-737, eff. 7-3-12.)

1 (430 ILCS 85/2-10) (from Ch. 111 1/2, par. 4060)

2 Sec. 2-10. No amusement ride or amusement attraction shall
3 be operated at a carnival, amusement enterprise, or fair in
4 this State without a permit having been issued by the Director
5 to an operator of such equipment. At least 30 days prior to the
6 first day of operation or the expiration of the permit, any
7 person required to obtain a permit by this Act shall apply to
8 the Director for a permit on a form furnished by the Director
9 which form shall contain such information as the Director may
10 require. The Director may waive the requirement that an
11 application for a permit must be filed at least 30 days prior
12 to the first day of operation or the expiration of the permit
13 if the applicant gives satisfactory proof to the Director that
14 he could not reasonably comply with the date requirement and if
15 the applicant immediately applies for a permit after the need
16 for a permit is first determined. For the purpose of
17 determining if an amusement ride or amusement attraction is in
18 safe operating condition and will provide protection to the
19 public using such amusement ride or amusement attraction, each
20 amusement ride or amusement attraction shall be inspected by
21 the Director before it is initially placed in operation in this
22 State, and shall thereafter be inspected at least once each
23 year.

24 If, after inspection, an amusement ride or amusement
25 attraction is found to comply with the rules adopted under this

1 Act, the Director shall issue a permit for the operation of the
2 amusement ride or amusement attraction. The permit shall be
3 issued conditioned upon the payment of the permit fee and any
4 applicable inspection fee at the time the application for
5 permit to operate is filed with the Department and may be
6 suspended as provided in the Department's rules.

7 If, after inspection, additions or alterations are
8 contemplated which change a structure, mechanism,
9 classification or capacity, the operator shall notify the
10 Director of his intentions in writing and provide any plans or
11 diagrams requested by the Director.

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

13 (430 ILCS 85/2-15) (from Ch. 111 1/2, par. 4065)

14 Sec. 2-15. Penalties.

15 (a) Criminal penalties.

16 1. Any person who operates an amusement ride or
17 amusement attraction at a carnival, amusement enterprise,
18 or fair without having obtained a permit from the
19 Department or who violates any order or rule issued by the
20 Department under this Act is guilty of a Class A
21 misdemeanor. Each day shall constitute a separate and
22 distinct offense.

23 2. Any person who interferes with, impedes, or
24 obstructs in any manner the Director or any authorized
25 representative of the Department in the performance of

1 their duties under this Act is guilty of a Class A
2 misdemeanor.

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

9 Prior to any determination, or the imposition of any civil
10 penalty, under this subsection (b), the Department shall notify
11 the operator in writing of the alleged violation. The
12 Department shall afford the operator 10 working days after the
13 date of the notice to request a hearing. Upon written request
14 of the operator, the Department shall schedule a formal
15 administrative hearing in compliance with Article 10 of the
16 Illinois Administrative Procedure Act and the Department's
17 rules of procedure in administrative hearings, except that
18 formal discovery, such as production requests,
19 interrogatories, requests to admit, and depositions shall not
20 be allowed. The parties shall exchange documents and witness
21 lists prior to hearing and may request third party subpoenas to
22 be issued. The final determination by the Department of Labor
23 shall be rendered within 5 working days after the conclusion of
24 the hearing. Final determinations made under this Section are
25 subject to the provisions of the Administrative Review Law. In
26 determining the amount of a penalty, the Director may consider

1 the appropriateness of the penalty to the person or entity
2 charged, upon determination of the gravity of the violation.
3 The penalties, when finally determined, may be recovered in a
4 civil action brought by the Director of Labor in any circuit
5 court. In this litigation, the Director of Labor shall be
6 represented by the Attorney General.

7 (Source: P.A. 98-541, eff. 8-23-13; revised 11-15-13.)

8 (430 ILCS 85/2-17) (from Ch. 111 1/2, par. 4067)

9 Sec. 2-17. A municipality within its corporate limits and a
10 county within unincorporated areas within its boundaries may
11 inspect, license or regulate any amusement ride or amusement
12 attraction operated at a carnival, amusement enterprise, or
13 fair, provided that any safety standards or regulations
14 implemented by a municipality or county in connection therewith
15 shall be at least as stringent as those provided for in this
16 Act and the rules and regulations adopted hereunder. Any
17 municipality or county which inspects, licenses, or otherwise
18 regulates amusement rides or amusement attractions may impose
19 reasonable fees to cover the costs thereof.

20 (Source: P.A. 83-1240.)

21 (430 ILCS 85/2-20)

22 Sec. 2-20. Employment of carnival and amusement enterprise
23 workers.

24 (a) Beginning on January 1, 2008, no person, firm,

1 corporation, or other entity that owns or operates a carnival,
2 amusement enterprise, or fair shall employ a carnival or
3 amusement enterprise worker who (i) has been convicted of any
4 offense set forth in Article 11 of the Criminal Code of 1961 or
5 the Criminal Code of 2012, (ii) is a registered sex offender,
6 as defined in the Sex Offender Registration Act, or (iii) has
7 ever been convicted of any offense set forth in Article 9 of
8 the Criminal Code of 1961 or the Criminal Code of 2012.

9 (b) A person, firm, corporation, or other entity that owns
10 or operates a carnival, amusement enterprise, or fair must
11 conduct a criminal history records check and perform a check of
12 the National Sex Offender Public Registry for carnival or
13 amusement enterprise workers at the time they are hired, and
14 annually thereafter except if they are in the continued employ
15 of the entity.

16 The criminal history records check performed under this
17 subsection (b) shall be performed by the Illinois State Police,
18 another State or federal law enforcement agency, or a business
19 belonging to the National Association of Professional
20 Background Check Screeners. Any criminal history checks
21 performed by the Illinois State Police shall be pursuant to the
22 Illinois Uniform Conviction Information Act.

23 Individuals who are under the age of 17 are exempt from the
24 criminal history records check requirements set forth in this
25 subsection (b).

26 (c) Any person, firm, corporation, or other entity that

1 owns or operates a carnival, amusement enterprise, or fair must
2 have a substance abuse policy in place for its workers, which
3 shall include random drug testing of carnival or amusement
4 enterprise workers.

5 (d) Any person, firm, corporation, or other entity that
6 owns or operates a carnival, amusement enterprise, or fair that
7 violates the provisions of subsection (a) of this Section or
8 fails to conduct a criminal history records check or a sex
9 offender registry check for carnival or amusement enterprise
10 workers in its employ, as required by subsection (b) of this
11 Section, shall be assessed a civil penalty in an amount not to
12 exceed \$1,000 for a first offense, not to exceed \$5,000 for a
13 second offense, and not to exceed \$15,000 for a third or
14 subsequent offense. The collection of these penalties shall be
15 enforced in a civil action brought by the Attorney General on
16 behalf of the Department.

17 (e) A carnival, amusement enterprise, or fair owner is not
18 responsible for:

19 (1) any personal information submitted by a carnival or
20 amusement enterprise worker for criminal history records
21 check purposes; or

22 (2) any information provided by a third party for a
23 criminal history records check or a sex offender registry
24 check.

25 (f) Recordkeeping requirements. Any person, firm,
26 corporation, or other entity that owns or operates a carnival,

1 amusement enterprise, or fair subject to the provisions of this
2 Act shall make, preserve, and make available to the Department,
3 upon its request, all records that are required by this Act,
4 including but not limited to a written substance abuse policy,
5 evidence of the required criminal history records check and sex
6 offender registry check, and any other information the Director
7 may deem necessary and appropriate for enforcement of this Act.

8 (g) A carnival, amusement enterprise, or fair owner shall
9 not be liable to any employee in carrying out the requirements
10 of this Section.

11 (Source: P.A. 96-151, eff. 8-7-09; 97-1150, eff. 1-25-13.)".