

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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

6 (430 ILCS 85/2-10) (from Ch. 111 1/2, par. 4060)

7 Sec. 2-10. No amusement ride or amusement attraction shall  
8 be operated at a carnival or fair in this State without a  
9 permit having been issued by the Director to an operator of  
10 such equipment. At least 30 days prior to the first day of  
11 operation or the expiration of the permit, ~~On or before the~~  
12 ~~first of May of each year,~~ any person required to obtain a  
13 permit by this Act shall apply to the Director for a permit on  
14 a form furnished by the Director which form shall contain such  
15 information as the Director may require. The Director may waive  
16 the requirement that an application for a permit must be filed  
17 at least 30 days prior to the first day of operation or the  
18 expiration of the permit ~~on or before May 1 of each year~~ if the  
19 applicant gives satisfactory proof to the Director that he  
20 could not reasonably comply with the date requirement and if  
21 the applicant immediately applies for a permit after the need  
22 for a permit is first determined. For the purpose of  
23 determining if an amusement ride or amusement attraction is in

1 safe operating condition and will provide protection to the  
2 public using such amusement ride or amusement attraction, each  
3 amusement ride or amusement attraction shall be inspected by  
4 the Director before it is initially placed in operation in this  
5 State, and shall thereafter be inspected at least once each  
6 year.

7 If, after inspection, an amusement ride or amusement  
8 attraction is found to comply with the rules adopted under this  
9 Act, the Director shall issue a permit for the operation of the  
10 amusement ride or amusement attraction. The permit shall be  
11 issued conditioned upon the payment of the permit fee and any  
12 applicable inspection fee at the time the application for  
13 permit to operate is filed with the Department and may be  
14 suspended as provided in the Department's rules.

15 If, after inspection, additions or alterations are  
16 contemplated which change a structure, mechanism,  
17 classification or capacity, the operator shall notify the  
18 Director of his intentions in writing and provide any plans or  
19 diagrams requested by the Director.

20 Notwithstanding any other rulemaking authority that may  
21 exist, neither the Governor nor any agency or agency head under  
22 the jurisdiction of the Governor has any authority to make or  
23 promulgate rules to implement or enforce the provisions of this  
24 amendatory Act of the 95th General Assembly. If, however, the  
25 Governor believes that rules are necessary to implement or  
26 enforce the provisions of this amendatory Act of the 95th

1 General Assembly, the Governor may suggest rules to the General  
2 Assembly by filing them with the Clerk of the House and  
3 Secretary of the Senate and by requesting that the General  
4 Assembly authorize such rulemaking by law, enact those  
5 suggested rules into law, or take any other appropriate action  
6 in the General Assembly's discretion. Nothing contained in this  
7 amendatory Act of the 95th General Assembly shall be  
8 interpreted to grant rulemaking authority under any other  
9 Illinois statute where such authority is not otherwise  
10 explicitly given. For the purposes of this amendatory Act of  
11 the 95th General Assembly, "rules" is given the meaning  
12 contained in Section 1-70 of the Illinois Administrative  
13 Procedure Act, and "agency" and "agency head" are given the  
14 meanings contained in Sections 1-20 and 1-25 of the Illinois  
15 Administrative Procedure Act to the extent that such  
16 definitions apply to agencies or agency heads under the  
17 jurisdiction of the Governor.

18 (Source: P.A. 92-26, eff. 1-1-02.)

19 (430 ILCS 85/2-15) (from Ch. 111 1/2, par. 4065)

20 Sec. 2-15. Penalties.

21 (a) Criminal penalties.

22 1. Any person who operates an amusement ride or  
23 amusement attraction at a carnival or fair without having  
24 obtained a permit from the Director or who violates any  
25 order or rule issued by the Director under this Act is

1 guilty of a Class A misdemeanor. Each day shall constitute  
2 a separate and distinct offense.

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

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

14 Prior to any determination, or the imposition of any civil  
15 penalty, under this subsection (b), the Department shall notify  
16 the operator in writing of the alleged violation. The  
17 Department shall afford the operator 15 days from the date of  
18 the notice to present any written information that the operator  
19 wishes the Department to consider in connection with its  
20 determination in the matter. Upon written request of the  
21 operator, the Department shall convene an informal  
22 fact-finding conference, provided such request is received by  
23 the Department within 15 days of the date of the notice of the  
24 alleged violation. In determining the amount of a penalty, the  
25 Director may consider the appropriateness of the penalty to the  
26 person or entity charged, upon determination of the gravity of

1 the violation. Penalties may be recovered in a civil action  
2 brought by the Director of Labor in any circuit court. In this  
3 litigation, the Director of Labor shall be represented by the  
4 Attorney General.

5 (c) Notwithstanding any other rulemaking authority that  
6 may exist, neither the Governor nor any agency or agency head  
7 under the jurisdiction of the Governor has any authority to  
8 make or promulgate rules to implement or enforce the provisions  
9 of this amendatory Act of the 95th General Assembly. If,  
10 however, the Governor believes that rules are necessary to  
11 implement or enforce the provisions of this amendatory Act of  
12 the 95th General Assembly, the Governor may suggest rules to  
13 the General Assembly by filing them with the Clerk of the House  
14 and Secretary of the Senate and by requesting that the General  
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21 explicitly given. For the purposes of this amendatory Act of  
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23 contained in Section 1-70 of the Illinois Administrative  
24 Procedure Act, and "agency" and "agency head" are given the  
25 meanings contained in Sections 1-20 and 1-25 of the Illinois  
26 Administrative Procedure Act to the extent that such

1 definitions apply to agencies or agency heads under the  
2 jurisdiction of the Governor.

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

4 (430 ILCS 85/2-20)

5 Sec. 2-20. Employment of carnival workers.

6 (a) Beginning on January 1, 2008, no person, firm,  
7 corporation, or other entity that owns or operates a carnival  
8 or fair shall employ a carnival worker who (i) has been  
9 convicted of any offense set forth in Article 11 of the  
10 Criminal Code of 1961, (ii) is a registered sex offender, as  
11 defined in the Sex Offender Registration Act, or (iii) has ever  
12 been convicted of any offense set forth in Article 9 of the  
13 Criminal Code of 1961.

14 (b) A person, firm, corporation, or other entity that owns  
15 or operates a carnival or fair must conduct a criminal history  
16 records check and perform a check of the Illinois Sex Offender  
17 Registry for carnival workers at the time they are hired, and  
18 annually thereafter ~~consistent with the Illinois Uniform~~  
19 ~~Conviction Information Act and perform a check of the Sex~~  
20 ~~Offender Registry.~~

21 Effective November 1, 2008, the check of the sex offender  
22 registry shall be performed through the National Sex Offender  
23 Public Registry.

24 The criminal history records check performed under this  
25 subsection (b) shall be performed by the Illinois State Police,

1 another State or federal law enforcement agency, or a business  
2 belonging to the National Association of Professional  
3 Background Check Screeners.

4 Carnival workers who are foreign nationals and have been  
5 granted visas by the United States Citizenship and Immigration  
6 Services in conjunction with the United States Department of  
7 Labor's H-2B or J-1 programs and are lawfully admitted into the  
8 United States shall be exempt from the background check  
9 requirement imposed under this subsection. ~~In the case of~~  
10 ~~carnival workers who are hired on a temporary basis to work at~~  
11 ~~a specific event, the carnival or fair owner may work with~~  
12 ~~local enforcement agencies in order expedite the criminal~~  
13 ~~history records check required under this subsection (b).~~

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

17 (c) Any person, firm, corporation, or other entity that  
18 owns or operates a carnival or fair must have a substance abuse  
19 policy in place for its workers, which shall include random  
20 drug testing of carnival workers.

21 (d) Any person, firm, corporation, or other entity that  
22 owns or operates a carnival or fair that violates the  
23 provisions of subsection (a) of this Section or fails to  
24 conduct a criminal history records check or a sex offender  
25 registry check for carnival workers in its employ, as required  
26 by subsection (b) of this Section, shall be assessed a civil

1 penalty in an amount not to exceed \$1,000 for a first offense,  
2 not to exceed \$5,000 for a second offense, and not to exceed  
3 \$15,000 for a third or subsequent offense. The collection of  
4 these penalties shall be enforced in a civil action brought by  
5 the Attorney General on behalf of the Department.

6 (e) A carnival or fair owner is not responsible for:

7 (1) any personal information submitted by a carnival  
8 worker for criminal history records check purposes; or

9 (2) any information provided by a third party for a  
10 criminal history records check or a sex offender registry  
11 check.

12 (f) Recordkeeping requirements. Any person, firm,  
13 corporation, or other entity that owns or operates a carnival  
14 or fair subject to the provisions of this Act shall make,  
15 preserve, and make available to the Department, upon its  
16 request, all records that are required by this Act, including  
17 but not limited to a written substance abuse policy, evidence  
18 of the required criminal history records check and Sex Offender  
19 Registry check, and any other information the Director may deem  
20 necessary and appropriate for enforcement of this Act.

21 (g) Notwithstanding any other rulemaking authority that  
22 may exist, neither the Governor nor any agency or agency head  
23 under the jurisdiction of the Governor has any authority to  
24 make or promulgate rules to implement or enforce the provisions  
25 of this amendatory Act of the 95th General Assembly. If,  
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14 Procedure Act, and "agency" and "agency head" are given the  
15 meanings contained in Sections 1-20 and 1-25 of the Illinois  
16 Administrative Procedure Act to the extent that such  
17 definitions apply to agencies or agency heads under the  
18 jurisdiction of the Governor.

19 (h) A carnival or fair owner shall not be liable to any  
20 employee in carrying out the requirements of this Section.

21 (Source: P.A. 95-397, eff. 8-24-07; 95-687, eff. 10-23-07.)

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