



Rep. Kevin Joyce

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LRB095 15419 RLC 49775 a

1 AMENDMENT TO HOUSE BILL 5319

2 AMENDMENT NO. _____. Amend House Bill 5319, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (430 ILCS 85/2-10) (from Ch. 111 1/2, par. 4060)

8 Sec. 2-10. No amusement ride or amusement attraction shall
9 be operated at a carnival or fair in this State without a
10 permit having been issued by the Director to an operator of
11 such equipment. At least 30 days prior to the first day of
12 operation or the expiration of the permit, ~~On or before the~~
13 first of May of each year, any person required to obtain a
14 permit by this Act shall apply to the Director for a permit on
15 a form furnished by the Director which form shall contain such
16 information as the Director may require. The Director may waive

1 the requirement that an application for a permit must be filed
2 at least 30 days prior to the first day of operation or the
3 expiration of the permit ~~on or before May 1 of each year~~ if the
4 applicant gives satisfactory proof to the Director that he
5 could not reasonably comply with the date requirement and if
6 the applicant immediately applies for a permit after the need
7 for a permit is first determined. For the purpose of
8 determining if an amusement ride or amusement attraction is in
9 safe operating condition and will provide protection to the
10 public using such amusement ride or amusement attraction, each
11 amusement ride or amusement attraction shall be inspected by
12 the Director before it is initially placed in operation in this
13 State, and shall thereafter be inspected at least once each
14 year.

15 If, after inspection, an amusement ride or amusement
16 attraction is found to comply with the rules adopted under this
17 Act, the Director shall issue a permit for the operation of the
18 amusement ride or amusement attraction. The permit shall be
19 issued conditioned upon the payment of the permit fee and any
20 applicable inspection fee at the time the application for
21 permit to operate is filed with the Department and may be
22 suspended as provided in the Department's rules.

23 If, after inspection, additions or alterations are
24 contemplated which change a structure, mechanism,
25 classification or capacity, the operator shall notify the
26 Director of his intentions in writing and provide any plans or

1 diagrams requested by the Director.

2 Notwithstanding any other rulemaking authority that may
3 exist, neither the Governor nor any agency or agency head under
4 the jurisdiction of the Governor has any authority to make or
5 promulgate rules to implement or enforce the provisions of this
6 amendatory Act of the 95th General Assembly. If, however, the
7 Governor believes that rules are necessary to implement or
8 enforce the provisions of this amendatory Act of the 95th
9 General Assembly, the Governor may suggest rules to the General
10 Assembly by filing them with the Clerk of the House and
11 Secretary of the Senate and by requesting that the General
12 Assembly authorize such rulemaking by law, enact those
13 suggested rules into law, or take any other appropriate action
14 in the General Assembly's discretion. Nothing contained in this
15 amendatory Act of the 95th General Assembly shall be
16 interpreted to grant rulemaking authority under any other
17 Illinois statute where such authority is not otherwise
18 explicitly given. For the purposes of this amendatory Act of
19 the 95th General Assembly, "rules" is given the meaning
20 contained in Section 1-70 of the Illinois Administrative
21 Procedure Act, and "agency" and "agency head" are given the
22 meanings contained in Sections 1-20 and 1-25 of the Illinois
23 Administrative Procedure Act to the extent that such
24 definitions apply to agencies or agency heads under the
25 jurisdiction of the Governor.

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

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

2 Sec. 2-15. Penalties.

3 (a) Criminal penalties.

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

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

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

21 Prior to any determination, or the imposition of any civil
22 penalty, under this subsection (b), the Department shall notify
23 the operator in writing of the alleged violation. The
24 Department shall afford the operator 15 days from the date of
25 the notice to present any written information that the operator

1 wishes the Department to consider in connection with its
2 determination in the matter. Upon written request of the
3 operator, the Department shall convene an informal
4 fact-finding conference, provided such request is received by
5 the Department within 15 days of the date of the notice of the
6 alleged violation. In determining the amount of a penalty, the
7 Director may consider the appropriateness of the penalty to the
8 person or entity charged, upon determination of the gravity of
9 the violation. Penalties may be recovered in a civil action
10 brought by the Director of Labor in any circuit court. In this
11 litigation, the Director of Labor shall be represented by the
12 Attorney General.

13 (c) Notwithstanding any other rulemaking authority that
14 may exist, neither the Governor nor any agency or agency head
15 under the jurisdiction of the Governor has any authority to
16 make or promulgate rules to implement or enforce the provisions
17 of this amendatory Act of the 95th General Assembly. If,
18 however, the Governor believes that rules are necessary to
19 implement or enforce the provisions of this amendatory Act of
20 the 95th General Assembly, the Governor may suggest rules to
21 the General Assembly by filing them with the Clerk of the House
22 and Secretary of the Senate and by requesting that the General
23 Assembly authorize such rulemaking by law, enact those
24 suggested rules into law, or take any other appropriate action
25 in the General Assembly's discretion. Nothing contained in this
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1 interpreted to grant rulemaking authority under any other
2 Illinois statute where such authority is not otherwise
3 explicitly given. For the purposes of this amendatory Act of
4 the 95th General Assembly, "rules" is given the meaning
5 contained in Section 1-70 of the Illinois Administrative
6 Procedure Act, and "agency" and "agency head" are given the
7 meanings contained in Sections 1-20 and 1-25 of the Illinois
8 Administrative Procedure Act to the extent that such
9 definitions apply to agencies or agency heads under the
10 jurisdiction of the Governor.

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

12 (430 ILCS 85/2-20)

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

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

22 (b) A person, firm, corporation, or other entity that owns
23 or operates a carnival or fair must conduct a criminal history
24 records check and perform a check of the Illinois Sex Offender
25 Registry for carnival workers at the time they are hired, and

1 ~~annually thereafter consistent with the Illinois Uniform~~
2 ~~Conviction Information Act and perform a check of the Sex~~
3 ~~Offender Registry.~~

4 Effective November 1, 2008, the check of the sex offender
5 registry shall be performed through the National Sex Offender
6 Public Registry.

7 The criminal history records check performed under this
8 subsection (b) shall be performed by the Illinois State Police,
9 another State or federal law enforcement agency, or a business
10 belonging to the National Association of Professional
11 Background Check Screeners.

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

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

25 (c) Any person, firm, corporation, or other entity that
26 owns or operates a carnival or fair must have a substance abuse

1 policy in place for its workers, which shall include random
2 drug testing of carnival workers.

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

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

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

17 (2) any information provided by a third party for a
18 criminal history records check or a sex offender registry
19 check.

20 (f) Recordkeeping requirements. Any person, firm,
21 corporation, or other entity that owns or operates a carnival
22 or fair subject to the provisions of this Act shall make,
23 preserve, and make available to the Department, upon its
24 request, all records that are required by this Act, including
25 but not limited to a written substance abuse policy, evidence
26 of the required criminal history records check and Sex Offender

1 Registry check, and any other information the Director may deem
2 necessary and appropriate for enforcement of this Act.

3 (g) Notwithstanding any other rulemaking authority that
4 may exist, neither the Governor nor any agency or agency head
5 under the jurisdiction of the Governor has any authority to
6 make or promulgate rules to implement or enforce the provisions
7 of this amendatory Act of the 95th General Assembly. If,
8 however, the Governor believes that rules are necessary to
9 implement or enforce the provisions of this amendatory Act of
10 the 95th General Assembly, the Governor may suggest rules to
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18 Illinois statute where such authority is not otherwise
19 explicitly given. For the purposes of this amendatory Act of
20 the 95th General Assembly, "rules" is given the meaning
21 contained in Section 1-70 of the Illinois Administrative
22 Procedure Act, and "agency" and "agency head" are given the
23 meanings contained in Sections 1-20 and 1-25 of the Illinois
24 Administrative Procedure Act to the extent that such
25 definitions apply to agencies or agency heads under the
26 jurisdiction of the Governor.

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

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

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".