

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 2-2, 2-10, 2-15, 2-16, 2-19, and
6 2-20 and by adding Section 2-21 as follows:

7 (430 ILCS 85/2-2) (from Ch. 111 1/2, par. 4052)

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

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

12 2. "Department" means Department of Labor.

13 3. "Amusement Attraction" means an enclosed building or
14 structure, including electrical equipment which is an integral
15 part of the building or structure, through which people walk
16 without the aid of any moving device, that provides amusement,
17 thrills or excitement at a fair or carnival, except any such
18 enclosed building or structure which is subject to the
19 jurisdiction of a local building code.

20 4. "Amusement ride" means:

21 (a) any mechanized device or combination of devices,
22 including electrical equipment which is an integral part of
23 the device or devices, which carries passengers along,

1 around, or over a fixed or restricted course for the
2 primary purpose of giving its passengers amusement,
3 pleasure, thrills, or excitement;

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

6 (c) (blank);

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

9 (e) any tram, open car, or combination of open cars or
10 wagons pulled by a tractor or other motorized device which
11 is not licensed by the Secretary of State, which may, but
12 does not necessarily follow a fixed or restricted course,
13 and is used primarily for the purpose of giving its
14 passengers amusement, pleasure, thrills or excitement, and
15 for which an individual fee is charged or a donation
16 accepted with the exception of hayrack rides; or

17 (f) any bungee cord or similar elastic device.

18 5. "Carnival" means an enterprise which offers amusement or
19 entertainment to the public by means of one or more amusement
20 attractions or amusement rides.

21 6. "Fair" means an enterprise principally devoted to the
22 exhibition of products of agriculture or industry in connection
23 with which amusement rides or amusement attractions are
24 operated.

25 7. "Operator" means a person, or the agent of a person, who
26 owns or controls or has the duty to control the operation of an

1 amusement ride or an amusement attraction at a carnival or
2 fair. "Operator" includes an agency of the State or any of its
3 political subdivisions.

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

8 9. "Volunteer" means a person who operates or assists in
9 the operation of an amusement ride or amusement attraction for
10 an owner or operator without pay or lodging. An individual
11 shall not be considered a volunteer if the individual is
12 otherwise employed by the same owner or operator to perform the
13 same type of service as those for which the individual proposes
14 to volunteer.

15 (Source: P.A. 94-801, eff. 5-25-06; 95-397, eff. 8-24-07;
16 95-687, eff. 10-23-07.)

17 (430 ILCS 85/2-10) (from Ch. 111 1/2, par. 4060)

18 Sec. 2-10. No amusement ride or amusement attraction shall
19 be operated at a carnival or fair in this State without a
20 permit having been issued by the Director to an operator of
21 such equipment. At least 30 days prior to the first day of
22 operation or the expiration of the permit, ~~On or before the~~
23 ~~first of May of each year,~~ any person required to obtain a
24 permit by this Act shall apply to the Director for a permit on
25 a form furnished by the Director which form shall contain such

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

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

24 If, after inspection, additions or alterations are
25 contemplated which change a structure, mechanism,
26 classification or capacity, the operator shall notify the

1 Director of his intentions in writing and provide any plans or
2 diagrams requested by the Director.

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

4 (430 ILCS 85/2-15) (from Ch. 111 1/2, par. 4065)

5 Sec. 2-15. Penalties.

6 (a) Criminal penalties.

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

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

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

24 Prior to any determination, or the imposition of any civil
25 penalty, under this subsection (b), the Department shall notify

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

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

17 (430 ILCS 85/2-16) (from Ch. 111 1/2, par. 4066)

18 Sec. 2-16. Exemptions. The following amusement rides or
19 amusement attractions are exempt from the provisions of this
20 Act:

21 Any amusement ride or amusement attraction which is owned
22 or operated by a non-profit religious, educational or
23 charitable institution or association if such amusement ride or
24 amusement attraction is located within a building subject to
25 inspection by the state fire marshal or by any political

1 subdivisions of the State under its building, fire, electrical,
2 and related public safety ordinances, and the amusement ride or
3 amusement attraction itself is subject to inspection by a
4 political subdivision of the State in accordance with Section
5 2-17.

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

7 (430 ILCS 85/2-19) (from Ch. 111 1/2, par. 4069)

8 Sec. 2-19. The owner or operator of an amusement ride or
9 amusement attraction may remove from or deny entry to a person
10 to an amusement ride or amusement attraction if, in the owner's
11 or operator's opinion, the entry or conduct may jeopardize the
12 safety of such person or the safety of any other person.
13 Nothing in this Section will permit an owner or operator to
14 deny an inspector access to an amusement ride or amusement
15 attraction when such inspector is acting within the scope of
16 his duties under this Act.

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

18 (430 ILCS 85/2-20)

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

20 (a) Beginning on January 1, 2008, no person, firm,
21 corporation, or other entity that owns or operates a carnival
22 or fair shall employ a carnival worker who (i) has been
23 convicted of any offense set forth in Article 11 of the
24 Criminal Code of 1961, (ii) is a registered sex offender, as

1 defined in the Sex Offender Registration Act, or (iii) has ever
2 been convicted of any offense set forth in Article 9 of the
3 Criminal Code of 1961.

4 (b) A person, firm, corporation, or other entity that owns
5 or operates a carnival or fair must conduct a criminal history
6 records check and perform a check of the National Sex Offender
7 Public Registry for carnival workers at the time they are
8 hired, and annually thereafter except if they are in the
9 continued employ of the entity consistent with the Illinois
10 Uniform Conviction Information Act and perform a check of the
11 Sex Offender Registry.

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

19 ~~In the case of carnival workers who are hired on a~~
20 ~~temporary basis to work at a specific event, the carnival or~~
21 ~~fair owner may work with local enforcement agencies in order~~
22 ~~expedite the criminal history records check required under this~~
23 ~~subsection (b).~~

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

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

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

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

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

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

22 (f) Recordkeeping requirements. Any person, firm,
23 corporation, or other entity that owns or operates a carnival
24 or fair subject to the provisions of this Act shall make,
25 preserve, and make available to the Department, upon its
26 request, all records that are required by this Act, including

1 but not limited to a written substance abuse policy, evidence
2 of the required criminal history records check and sex offender
3 registry check, and any other information the Director may deem
4 necessary and appropriate for enforcement of this Act.

5 (g) A carnival or fair owner shall not be liable to any
6 employee in carrying out the requirements of this Section.

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

8 (430 ILCS 85/2-21 new)

9 Sec. 2-21. Volunteers. Criminal background checks of
10 volunteers, who manage, physically operate, or assist in the
11 operation of an amusement ride or amusement attraction when it
12 is open to the public, shall be left to the discretion of local
13 law enforcement which has jurisdictional authority in the
14 community in which the event is being held. Volunteers shall be
15 required to comply with any training and age requirements as
16 prescribed by rule.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.