

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 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:

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

17 2. "Department" means Department of Labor.

18 3. "Amusement Attraction" means an enclosed building or
19 structure, including electrical equipment which is an integral
20 part of the building or structure, through which people walk
21 without the aid of any moving device, that provides amusement,

1 thrills or excitement at a fair or carnival, except any such
2 enclosed building or structure which is subject to the
3 jurisdiction of a local building code.

4 4. "Amusement ride" means:

5 (a) any mechanized device or combination of devices,
6 including electrical equipment which is an integral part of
7 the device or devices, which carries passengers along,
8 around, or over a fixed or restricted course for the
9 primary purpose of giving its passengers amusement,
10 pleasure, thrills, or excitement;

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

13 (c) (blank);

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

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

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

25 5. "Carnival" means an enterprise which offers amusement or
26 entertainment to the public by means of one or more amusement

1 attractions or amusement rides.

2 6. "Fair" means an enterprise principally devoted to the
3 exhibition of products of agriculture or industry in connection
4 with which amusement rides or amusement attractions are
5 operated.

6 7. "Operator" means a person, or the agent of a person, who
7 owns or controls or has the duty to control the operation of an
8 amusement ride or an amusement attraction at a carnival or
9 fair. "Operator" includes an agency of the State or any of its
10 political subdivisions.

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

15 9. "Volunteer" means a person who operates or assists in
16 the operation of an amusement ride or amusement attraction for
17 an owner or operator without pay or lodging. An individual
18 shall not be considered a volunteer if the individual is
19 otherwise employed by the same owner or operator to perform the
20 same type of service as those for which the individual proposes
21 to volunteer.

22 10. "Inflatable attraction" means an amusement ride or
23 attraction that is made of flexible fabric, is kept inflated by
24 continuous air flow by one or more blowers, relies upon air
25 pressure to maintain their shape, and consists of an air-filled
26 structure designed for uses specified by the manufacturer, that

1 may include, but are not limited to, bouncing, climbing,
2 sliding, or other interactive playing.

3 (Source: P.A. 95-397, eff. 8-24-07; 95-687, eff. 10-23-07;
4 96-151, eff. 8-7-09.)

5 (430 ILCS 85/2-6) (from Ch. 111 1/2, par. 4056)

6 Sec. 2-6. (a) The Director, after consultation with ~~the~~
7 ~~consent~~ of the Board, shall promulgate and formulate
8 definitions, rules and regulations for the safe installation,
9 repair, maintenance, use, operation, training standards for
10 operators, and inspection of all amusement rides and amusement
11 attractions as the Director finds necessary for the protection
12 of the general public using amusement rides and amusement
13 attractions. These rules and standards shall be adopted
14 pursuant to the procedures set forth in the Illinois
15 Administrative Procedure Act. The rules shall be based upon
16 generally accepted engineering standards and shall be
17 concerned with, but not necessarily limited to, engineering
18 force stresses, safety devices, and preventive maintenance.
19 Whenever such standards are available in suitable form they may
20 be incorporated by reference. The rules shall provide for the
21 reporting of accidents and injuries incurred from the operation
22 of amusement rides or amusement attractions. In addition to the
23 permit fee herein provided, the Director may promulgate rules
24 to establish a schedule of fees for inspections.

25 (b) After consultation with the Board, the Director is

1 authorized to adopt by reference, in whole or in part, any
2 code, standard, or bulletin issued by a nationally recognized
3 organization, such as the Consumer Product Safety Commission,
4 after a finding that the adoption of the code, standard, or
5 bulletin would promote the purposes of this Act. The Director
6 is further authorized to recognize, in whole or in part, any
7 code or standard issued by an internationally recognized
8 organization upon a finding that its provisions are equivalent
9 to codes or standards adopted under this Act.

10 ~~Before adopting, modifying or amending any rule consistent~~
11 ~~with and necessary for the enforcement of this Act, the~~
12 ~~Director shall hold a public hearing on the proposed rule,~~
13 ~~modification or amendment to a rule. Any interested person may~~
14 ~~appear and be heard at the hearing, in person or by agent or~~
15 ~~counsel. The Director shall give the news media notice of each~~
16 ~~hearing at least 30 days in advance of the hearing date and~~
17 ~~shall make available a copy of the proposed rule, or~~
18 ~~modification or amendment to a rule to any person requesting~~
19 ~~same. The provisions of this Section are in addition to all~~
20 ~~other existing requirements pertaining to the promulgation of~~
21 ~~administrative rules and regulations.~~

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

23 (430 ILCS 85/2-8) (from Ch. 111 1/2, par. 4058)

24 Sec. 2-8. The Director, after consultation with ~~the consent~~
25 ~~of~~ the Board, shall determine a schedule of permit fees for

1 each amusement ride or amusement attraction.

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

3 (430 ILCS 85/2-8.1 new)

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

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

16 (b) Service of notice of a hearing shall be made by
17 personal service or certified mail to the address shown on the
18 application for permit, or to any other address on file with
19 the Department and reasonably believed to be the current
20 address of the permit holder.

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

24 (d) At the hearing, the Department shall have the burden of
25 establishing good cause for its action. Good cause exists if

1 the Department establishes that the permit holder has failed to
2 comply with the requirements of a permit under this Act and its
3 rules.

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

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

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

17 (430 ILCS 85/2-12) (from Ch. 111 1/2, par. 4062)

18 Sec. 2-12. Order for cessation of operation of amusement
19 ride or attraction.

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

24 (1) has been determined after inspection to be
25 hazardous or unsafe;

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

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

6 (b) Operation of the amusement ride or amusement attraction
7 shall not resume until:

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

10 (2) the Director has issued a permit to operate such
11 equipment; or

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

16 (c) The Department shall notify the owner or operator in
17 writing of the grounds for the cessation of operation of the
18 amusement ride or attraction and of the conditions in need of
19 correction at the time the order for cessation is issued.

20 (d) The owner or operator may appeal an order of cessation
21 by filing a request for a hearing. The Department shall afford
22 the owner or operator 10 calendar days after the date of the
23 notice to request a hearing. Upon written request for hearing,
24 the Department shall schedule a formal administrative hearing
25 in compliance with Article 10 of the Administrative Procedure
26 Act and pursuant to the provisions of the Department's rules of

1 procedure in administrative hearings, except that formal
2 discovery, such as production requests, interrogatories,
3 requests to admit, and depositions will not be allowed. The
4 parties shall exchange documents and witness lists prior to
5 hearing and may request third party subpoenas to be issued.

6 (e) The final determination by the Department of Labor
7 shall be rendered within 5 working days after the conclusion of
8 the hearing.

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

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

13 (430 ILCS 85/2-14) (from Ch. 111 1/2, par. 4064)

14 Sec. 2-14. ~~No (1) Except as provided in subsection (2) of~~
15 ~~this Section no~~ person shall operate an amusement ride or
16 attraction unless there is in force: ~~(a)~~ a liability insurance
17 policy or policies in an ~~aggregate~~ amount of not less than
18 \$1,000,000 ~~\$100,000~~ for bodily injury to or death of one or
19 more persons, damage to or destruction of property of others,
20 or a combination thereof ~~person in any one accident,~~ and,
21 subject to the per occurrence limit ~~for one person,~~ in an
22 aggregate amount of not less than \$2,000,000 ~~\$1,000,000~~ for
23 bodily injury to or death of two or more persons, or damage to
24 or destruction of property of others, in any one policy period,
25 ~~accident, and in an amount of not less than \$50,000 for injury~~

1 ~~to or destruction of property of others in any one accident,~~
2 insuring the operator against liability for injury, ~~or~~ death,
3 or property damage ~~suffered by a person attending a fair or~~
4 ~~earnival; or (b) a bond in like amount, the aggregate liability~~
5 ~~of the surety of which shall not exceed the face amount~~
6 ~~thereof; or (c) a deposit with the Illinois Department of Labor~~
7 ~~of cash or other security acceptable to the Director.~~

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

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

16 (430 ILCS 85/2-15) (from Ch. 111 1/2, par. 4065)

17 Sec. 2-15. Penalties.

18 (a) Criminal penalties.

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

25 2. Any person who interferes with, impedes, or

1 obstructs in any manner the Director or any authorized
2 representative of the Department in the performance of
3 their duties under this Act is guilty of a Class A
4 misdemeanor.

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

11 Prior to any determination, or the imposition of any civil
12 penalty, under this subsection (b), the Department shall notify
13 the operator in writing of the alleged violation. The
14 Department shall afford the operator 10 calendar ~~15~~ days after
15 ~~from~~ the date of the notice to request a hearing ~~present any~~
16 ~~written information that the operator wishes the Department to~~
17 ~~consider in connection with its determination in the matter.~~
18 Upon written request of the operator, the Department shall
19 schedule a formal administrative hearing in compliance with
20 Article 10 of the Administrative Procedure Act and the
21 Department's rules of procedure in administrative hearings,
22 except that formal discovery, such as production requests,
23 interrogatories, requests to admit, and depositions shall not
24 be allowed. The parties shall exchange documents and witness
25 lists prior to hearing and may request third party subpoenas to
26 be issued. The final determination by the Department of Labor

1 shall be rendered within 5 working days after the conclusion of
2 the hearing. Final determinations made under this Section are
3 subject to the provisions of the Administrative Review Law
4 ~~convene an informal fact-finding conference, provided such~~
5 ~~request is received by the Department within 15 days of the~~
6 ~~date of the notice of the alleged violation.~~ In determining the
7 amount of a penalty, the Director may consider the
8 appropriateness of the penalty to the person or entity charged,
9 upon determination of the gravity of the violation. The
10 penalties, when finally determined, ~~Penalties~~ may be recovered
11 in a civil action brought by the Director of Labor in any
12 circuit court. In this litigation, the Director of Labor shall
13 be represented by the Attorney General.

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

15 (430 ILCS 85/2-15.2 new)

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

17 (a) The Department shall have the power to bring injunctive
18 proceedings in any court of competent jurisdiction to compel
19 compliance with any order made by the Department under this
20 Act.

21 (b) The Department shall also have the power to bring
22 temporary and immediate injunctive relief in any court of
23 competent jurisdiction when necessary for the protection of the
24 health and safety of the general public using amusement rides
25 and amusement attractions.

1 (430 ILCS 85/2-15.3 new)

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

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