

1 AN ACT relating to amusement rides and making an appropriation therefor.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 247.232 is amended to read as follows:

4 As used in KRS 247.232 to 247.236:

5 (1) (a) "Amusement ride or attraction" means:

- 6 1. Any mechanized device or combination of devices which carry
- 7 passengers along, around, or over a fixed or restricted course for the
- 8 purpose of giving its passengers amusement, pleasure, thrills, or
- 9 excitement; or
- 10 2. Any building or structure around, over, or through which people may
- 11 walk, climb, slide, jump, or move that provides amusement, pleasure,
- 12 thrills, or excitement.

13 (b) Unless designated by administrative regulation promulgated by the
14 ~~department~~Commissioner, "amusement ride or attraction" does not include:

- 15 1. Coin-operated amusement devices;
- 16 2. Devices regulated by the Federal Aviation Administration, the Kentucky
- 17 Transportation Cabinet, or the federal railroad commission;
- 18 3. Vessels under the jurisdiction of the United States Coast Guard or the
- 19 Kentucky Department of Fish and Wildlife Resources;
- 20 4. Tractor pulls;
- 21 5. Auto or motorcycle events;
- 22 6. Horse shows, rodeos, and other animal shows;
- 23 7. Games and concessions; or
- 24 8. Nonmechanical playground equipment, such as swings, seesaws, slides
- 25 less than fifteen (15) feet in height at their highest point, rider-propelled
- 26 merry-go-rounds, stationary spring-mounted animal devices, and
- 27 physical fitness equipment.

1 The department~~[Commissioner]~~ may, by administrative regulation, designate other
2 rides and attractions that are not included in the definition of "amusement ride or
3 attraction";

4 (2) "ASTM Standard" means the latest standards and specifications as set forth by the
5 American Society for Testing and Materials;

6 (3) "Department"~~[Commissioner]~~ means~~[the Commissioner of]~~ the Kentucky
7 Department of Agriculture~~[or the Commissioner's authorized representative]~~;

8 (4) "Operator" means a person sixteen (16) years of age or older who has been properly
9 trained to operate amusement rides and attractions, has knowledge of the
10 manufacturer's recommendations for the operation of the rides and attractions, and
11 knows the safety-based limitations of the rides and attractions; and

12 (5) "Owner" means any person or authorized agent of the person who owns an
13 amusement ride or attraction or, in the event the ride or attraction is leased, the
14 lessee.

15 ➔Section 2. KRS 247.233 is amended to read as follows:

16 (1) The owner of any amusement ride or attraction shall, within twelve (12) hours,
17 notify the department~~[Commissioner]~~ of any occurrence involving an amusement
18 ride or attraction if the occurrence results in:

19 (a) Death;

20 (b) Injury to a person, where:

21 1. The owner knows or reasonably should know that the injury was caused
22 by the amusement ride or attraction; and

23 2. The owner knows or reasonably should know that the injury required
24 medical treatment other than first aid; or

25 (c) Damage to an amusement ride or attraction that affects the future safe
26 operation of the ride or attraction. Reporting is not required in the case of
27 normal wear and tear.

- 1 (2) The department~~Commissioner~~ shall, after notification of an occurrence described
2 in subsection (1) of this section, make a complete and thorough investigation of the
3 occurrence. The report of the investigation shall be placed on file in the department
4 and shall give in detail all facts and information available. The owner may submit
5 results of investigations independent of the department's investigation for inclusion
6 in the file.
- 7 (3) No person, following an occurrence described in subsection (1) of this section,
8 shall:
- 9 (a) Operate or move the amusement ride or attraction without the approval of the
10 department~~Commissioner~~, unless necessary to prevent injury to a person; or
11 (b) Remove from the premises any damaged or undamaged part of the amusement
12 ride or attraction or attempt to repair any damaged part before the department
13 has completed its investigation. The department shall initiate its investigation
14 within twelve (12) hours of being notified.
- 15 (4) The department may:
- 16 (a) Conduct hearings;
17 (b) Administratively subpoena and examine under oath persons whose activities
18 are subject to KRS 247.232 to 247.236;
19 (c) Issue administrative subpoenas and examine the business records, books, and
20 accounts of persons whose activities are subject to KRS 247.232 to 247.236;
21 and
22 (d) Request any other information necessary to assist the department in properly
23 performing the department's duties.
- 24 (5) The department shall have control of any incident scene involving an amusement
25 ride or attraction if there has been an occurrence described in subsection (1) of this
26 section. The department shall remain in control of the scene until the department
27 completes its investigation and releases the scene. The department shall have access

1 within twelve (12) hours to all documents or records pertaining to the amusement
2 ride or attraction.

3 (6) (a) The department shall promulgate administrative regulations relating to
4 amusement rides and attractions that establish:

5 1. A comprehensive set of administrative violations and civil penalties not
6 to exceed ten thousand dollars (\$10,000); and

7 2. The procedure for the suspension or revocation of any business
8 identification number, license, or other certificate issued by the
9 department.

10 (b) No owner of an amusement ride or attraction shall remove the amusement ride
11 or attraction from the state before paying all civil penalties imposed under this
12 subsection.

13 ➔Section 3. KRS 247.234 is amended to read as follows:

14 (1) Every owner of an amusement ride or attraction business shall register the business
15 with~~[be required to complete an application for a business identification number on~~
16 ~~a form provided by]~~ the department annually.

17 (2) The business registration required by subsection (1) of this section shall be valid
18 until December 31 of the calendar year in which the registration is filed and shall
19 be issued in accordance with administrative regulations promulgated by the
20 department upon payment of a registration fee, which shall be determined by
21 administrative regulations promulgated by the department.

22 (3) No amusement ride or attraction shall be operated in this state without a
23 permit~~[business identification number]~~ issued by the department~~[Commissioner]~~ to
24 the owner of the amusement ride or attraction~~[equipment]~~. The permit~~[business~~
25 ~~identification number]~~ shall be kept on site during the operation of the amusement
26 ride or attraction and viewable upon request.

27 ~~[(3)]~~(a) ~~[The business identification number required by this section shall be valid for~~

1 a period of one (1) year and shall be issued in accordance with administrative
2 regulations promulgated by the Commissioner.

3 (b) ~~—~~ A permit ~~[business identification number]~~ shall be issued to each owner to
4 operate the permitted ~~[any]~~ amusement ride or attraction in this state. A
5 permit ~~[An inspection]~~ fee, which shall be determined by administrative
6 regulations promulgated by the department ~~[Commissioner]~~, shall be levied
7 for each amusement ride or attraction permit issued. ~~[The fee shall be based~~
8 ~~on the complexity of the ride or attraction and shall not be less than ten dollars~~
9 ~~(\$10) nor more than five hundred dollars (\$500). The cost of all inspections~~
10 ~~shall be paid by the owner of the amusement ride or attraction and may be~~
11 ~~prepaid, but shall be paid no later than the day of the inspection.]~~

12 (b) ~~(c)~~ The registrant ~~[applicant]~~ shall furnish proof of liability insurance in
13 effect on the operation of each amusement ride or attraction providing
14 coverage, with an insurer authorized to issue a policy in this state, in the
15 amount of not less than one million dollars (\$1,000,000) ~~[five hundred~~
16 ~~thousand dollars (\$500,000)]~~ due to all bodily injuries or deaths per
17 occurrence, or in lieu thereof, if the applicant's amusement ride or amusement
18 attraction is one that is permanently located or erected on a site in this state,
19 the applicant shall be required only to provide proof of financial responsibility
20 in the sum of one million dollars (\$1,000,000) ~~[five hundred thousand dollars~~
21 ~~(\$500,000)]~~. Every insurance carrier of these policies shall notify the
22 department ~~[Commissioner]~~ at least thirty (30) days prior to cancellation of a
23 policy for mobile amusement rides or attractions and at least ten (10) days
24 prior to cancellation of a policy for permanent amusement rides or attractions.

25 (c) ~~(d)~~ In addition to proof of adequate insurance coverage, the applicant shall
26 furnish any other information the department ~~[Commissioner]~~ may require,
27 including but not limited to 2 ~~1~~:

1 ~~1.~~ written notice of each intended operating site to be received by the
 2 department~~Commissioner~~ at least fourteen (14) days prior to operation at
 3 that site. In cases of emergency, notice of a change in future plans may be
 4 given to the department~~Commissioner~~ by telephone.~~Insurance~~
 5 requirements for amusement rides and attractions operated at the Kentucky
 6 State Fair may be adjusted by the Commissioner to any amount reasonably
 7 necessary to ensure adequate coverage; and

8 ~~2.~~ A written list of prior violations of KRS 247.232 to 247.236 that resulted in
 9 civil penalties assessed against the applicant, any employee of the applicant,
 10 or any officer or manager if the applicant is a partnership or corporation.]

11 ~~(d)~~~~(e)~~ The department~~Commissioner~~ shall require~~provide for~~ an inspection
 12 of each amusement ride or attraction before it may be operated in this state.
 13 The department~~Commissioner~~ shall designate persons qualified by
 14 education or experience, who are capable of determining amusement safety in
 15 accordance with administrative regulations promulgated in accordance with
 16 KRS 247.232 to 247.236, as amusement safety inspectors.

17 ~~(e)~~~~(f)~~ A Kentucky permit~~inspection~~ seal shall be affixed to every individual
 18 amusement ride or attraction, or other location as determined by the
 19 department~~Commissioner~~, before it may be operated in this state.

20 (4) (a) In addition to the~~a mandatory initial~~ inspection~~,~~ required in subsection
 21 (3)(d) of this section, the department~~Commissioner~~ may inspect amusement
 22 rides and attractions without notice at any time while operating in this state.
 23 There will be no charge for additional inspections in which safety violations
 24 are not found. In regard to situations in which safety violations are found, the
 25 department~~Commissioner~~ may charge an inspection fee not to exceed five
 26 hundred dollars (\$500) for any future inspection necessary. The corrections of
 27 these safety violations shall comply with accepted standards of safety, and

1 shall be accomplished prior to operating the equipment in this state.

2 (b) In regard to situations in which safety violations are found that cannot be
3 corrected immediately, the amusement ride or attraction shall cease to operate
4 in this state by order of the amusement safety inspector. In addition, the
5 amusement safety inspector shall conspicuously post a public notice on or
6 near the amusement ride or attraction. The notice shall adequately inform the
7 public of the safety violation present~~[- Only an amusement safety inspector~~
8 ~~employed by the department may remove the public notice].~~

9 (c) Any owner who continues to operate an amusement ride or attraction after an
10 order to cease operation has been issued shall have his business **registration**
11 **suspended, the amusement ride or attraction permit**~~[identification number]~~
12 ~~revoked,~~ and may be subject to further penalties provided in KRS 247.233. In
13 addition, the county attorney of each county and the
14 **department**~~[Commissioner of Agriculture or the Commissioner's agents]~~ are
15 hereby authorized to seek an injunction against the owner or operator of any
16 amusement ride or attraction being operated in violation of KRS 247.232 to
17 247.236.

18 (d) Revenue generated by this section and KRS 247.233 shall be used for the
19 implementation and administration of KRS 247.232 to 247.236; the balance,
20 if any, shall not lapse but shall be carried forward to the next fiscal year.

21 (5) (a) An owner of an amusement ride or attraction shall:

- 22 1. Conduct a pre-opening inspection and test of the ride or attraction prior
23 to admitting the public each day the ride or attraction is intended to be
24 used; and
- 25 2. Maintain for at least the previous twelve (12) months a signed record of
26 the required pre-opening inspections and tests and any other pertinent
27 information as required by the **department**~~[Commissioner]~~.

- 1 (b) The department~~{Commissioner}~~ may revoke the registration~~{business~~
2 ~~identification number}~~ of any owner who fails to conduct the required pre-
3 opening inspections and tests or to maintain the required reports.
- 4 (6) All unpaid civil penalties assessed upon a person for violations of KRS 247.232 to
5 247.236 shall remain in effect and shall permanently remain on record with the
6 department regardless of whether the person:
- 7 (a) Operates amusement rides or attractions under his or her name, another name,
8 an assumed name, or as a sole proprietorship;
- 9 (b) Is employed by another person operating amusement rides individually, as a
10 sole proprietorship, or as part of a partnership or corporation; or
- 11 (c) Operates amusement rides or attractions as a member of a partnership or
12 corporation.
- 13 ➔Section 4. KRS 247.236 is amended to read as follows:
- 14 (1) Amusement rides and attractions shall not be operated at unsafe speeds or loaded
15 beyond a safe capacity in accordance with the factory specifications or, in the
16 absence of factory specifications, in accordance with administrative regulations
17 promulgated by the department~~{Commissioner}~~.
- 18 (2) Amusement rides and attractions shall not be operated during periods of high wind,
19 lightning, or heavy rain.
- 20 (3) Perimeter safety barriers such as a fence or other suitable structure shall be
21 constructed around any amusement ride or attraction that is potentially hazardous to
22 bystanders, in accordance with administrative regulations promulgated by the
23 department~~{Commissioner}~~.
- 24 (4) Amusement rides and attractions shall not be operated if the owner or operator
25 knows or should know that the operation will expose the public to an unsafe
26 condition which is likely to result in personal injury or property damage.
- 27 (5) (a) No person under the age of sixteen (16) shall operate an amusement ride or

1 attraction or operate more than one (1) ride or attraction at a time. Except as
2 provided by paragraph (c) of this subsection, an operator shall be in
3 attendance at all times while a ride or attraction is in operation.

4 (b) No person shall operate an amusement ride or attraction or knowingly permit
5 an operator to operate an amusement ride or attraction while under the
6 influence of alcohol or any other impairing substance.

7 (c) The department~~Commissioner~~ may, by administrative regulation, designate
8 certain amusement rides or attractions where the presence of an operator is not
9 required.

10 (6) The owner or operator may deny any person entrance to an amusement ride or
11 attraction if the owner or operator has reason to believe the entry may jeopardize the
12 safety of the person desiring entry, other riders, or any other person.