

SENATE No. 01245

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to amusement devices.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

James E. Timilty

Bristol and Norfolk

Carolyn C. Dykema

8th Middlesex

SENATE No. 01245

By Mr. Timilty, petition (accompanied by bill, Senate, No. 1245) of Dykema and Timilty for legislation relative to amusement devices [Joint Committee on Public Safety and Homeland Security].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to amusement devices.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 140 of the General Laws is hereby amended by striking out
2 section 205A, as appearing in the 2006 Official Edition, and inserting in place thereof the
3 following section:-

4 Section 205A. Operation of Amusement Devices

5 (a) Amusement Device Defined

6 “Amusement Device” shall mean a fixed or portable mechanical device similar to,
7 but not limited to ferris wheels, carousels, inclined railways or similar devices including
8 inflatable, as well as amusement devices as defined by the American Society for Testing and
9 Materials (ASTM). Go karts, concession go kart and other mechanical devices that are confined
10 to one path of travel shall be considered an amusement device per path of travel for purposes of
11 this section. This section shall not apply to recreational tramways as defined by section 71I of

12 chapter 143, coin operated amusement rides or devices, skill games or playground equipment;
13 provided however that the commissioner of public safety, hereinafter called the commissioner,
14 shall have the discretion to further define an amusement device operated under this section.

15 (b) License; Insurance Requirement; fees

16 (1) For the purposes of this section, the commissioner shall adopt rules and
17 regulations establishing standards for the design, construction, inspection and operation of
18 amusement devices for the safety of the public and criteria and procedures for the issuance,
19 denial, renewal, suspension and revocation of a license and permit for the operation of
20 amusement devices; provided, however, that a final adjudication that there has been a violation
21 of federal law, state law or any other rule adopted by the department, shall be cause for the
22 denial, suspension or revocation of any license issued under this section. The operation of
23 amusement devices in violation of the regulations or without a valid license and permit shall be
24 considered a punishable violation for the purposes of this section.

25 (2) No person shall individually or through an agent operate or cause to be
26 operated an amusement device unless such person has obtained a license and permit from the
27 commissioner.

28 (3) The commissioner, upon receipt of proof that a person has obtained liability
29 insurance as required by this section and upon certification that an amusement device has met the
30 standards established by the commissioner, may issue a license and permit for the operation of
31 the amusement devices.

32 (4) A person who possesses a Massachusetts certificate of competency to inspect
33 amusement devices, issued under section 62 of chapter 146, and who has furnished to the

34 commissioner proof of liability insurance for an amount of at least \$1,000,000 for general
35 liability, shall provide to the commissioner an inspection report and a certificate of liability.

36 (5) The fee for a license under this section shall be determined annually by said
37 commissioner of administration and finance under section 3B of chapter 7 for the filing thereof.
38 All licenses issued pursuant to this section shall expire annually on a date determined by the
39 commissioner or on the date that the insurance certificate is no longer valid, which ever occurs
40 sooner, unless revoked for cause, and shall be valid throughout the commonwealth.

41 (c) Itinerary

42 An owner shall be required to provide proper notice as further determined by the
43 commissioner as to the location and dates that the amusement device will be operated in the
44 commonwealth.

45 (d) Injury

46 If an injury requiring medical treatment has occurred on such an amusement device,
47 reasonably due to a defect or malfunction in the amusement device, or if the amusement device
48 constitutes a hazard to life, limb, or property, as determined by the commissioner or his designee,
49 the amusement device shall be closed immediately and, within 1 hour, the owner shall notify the
50 commissioner or his designee in writing upon a form approved by the commissioner. The
51 amusement device shall remain closed until all necessary repairs have been completed to the
52 satisfaction of the commissioner or his designee. All such injuries shall be investigated by the
53 department of public safety in coordination with the Massachusetts state police. Failure to
54 follow this provision shall constitute the operation of an unsafe ride and shall be punishable by a
55 fine not to exceed \$5,000.00 or by imprisonment for not more than one year, or both. The

56 licensee shall pay to the commissioner a fee as determined under section 3B of chapter 7 for each
57 hour or fraction thereof spent by each inspector while engaged in an investigation.

58 (e) Identification of Amusement Device

59 All amusement devices shall bear identification as determined by the commissioner.

60 (f) Inspection

61 All persons authorized by this section to conduct inspections and not employed by
62 the department of public safety, shall be certified by the department of public safety. An owner
63 of an amusement device shall maintain and preserve a log of all regular maintenance schedules,
64 service and repair reports, periodic inspections performed and any accident or injury which may
65 have occurred on an amusement device which shall be made available upon request to the
66 department of public safety.

67 (g) Owner Responsibilities

68 (1) Owners shall maintain permanent and extensive training and inspection
69 policies relative to routine and emergency procedures. All locations which have 35 or more
70 amusement devices on the premises shall employ full-time emergency medical personnel and
71 maintain ambulance services within the park. All owners shall have at least 1 individual on staff
72 that is certified by the commissioner as qualified to oversee the operation, maintenance and
73 inspection of amusement devices provided however that no minor shall operate an amusement
74 device. The owner shall furnish to the commissioner proof that all mechanical and large
75 inflatable amusement devices are covered for an amount of at least \$2,000,000 for combined
76 single limit bodily injury and property damage and at least \$1,000,000 for small inflatable

77 devices and which meet the rules and regulations as established by the commissioner. If the
78 insurance contract expires or is cancelled, notice shall be furnished by the insurance carrier to the
79 commissioner prior to the termination and the amusement device shall be closed until insurance
80 is obtained and a new license issued. Operational programs and policies relative to the training,
81 inspection, maintenance and safety of amusement devices shall be subject to review and
82 modification by the commissioner or his designee. Proof of coverage shall include, but not be
83 limited to, proof of liability insurance issued by an insurance company approved to do business
84 within the commonwealth, or a bond security or other type of indemnity against liability
85 providing substantially equivalent coverage.

86 (h) Penalty for Violation

87 Whoever violates this section shall, for each such violation, be punished by a fine of
88 not more than \$5,000 or by imprisonment for not more than 1 year, or both.

89 (i) Retained Revenue account; Fees; Fines

90 The department of public safety may collect and expend an amount not to exceed
91 \$50,0000 for the purpose of enforcement, training, and education of state inspectors; provided,
92 that the department may charge fees for licensing, investigation, training, and overtime for
93 inspections at the owner's request, and collect fines for violations of this section; and further
94 provided that for the purposes of accommodating discrepancies between the receipt of retained
95 revenues and related expenditures, the department may incur expense and the comptroller may
96 certify for payment amounts not to exceed the lower of this authorization or the most recent
97 revenue estimate as reported in the state accounting system.

98 SECTION 2. Section 60 of chapter 146 of the General Laws, as so appearing, is
99 hereby amended by striking out, in line 2, the words "or an inspector of amusement devices".

100 SECTION 3. section 60 is hereby further amended by inserting after the word
101 "administration", in line 5, the following sentence:- The application of a person desiring to act as
102 an inspector of amusement devices shall be accompanied by a fee, the amount of which shall be
103 determined annually by the commissioner of administration.