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Legislative Document

No. 460

H.P. 299

House of Representatives, February 24, 2015

An Act To Restore Liability Insurance Requirements for Amusement Rides and Other Public Exhibitions

(EMERGENCY)

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative COOPER of Yarmouth. Cosponsored by Senator BREEN of Cumberland and Representatives: DION of Portland, KORNFIELD of Bangor, TIMMONS of Cumberland.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not 2 become effective until 90 days after adjournment unless enacted as emergencies; and Whereas, in 2014 the Legislature repealed a law concerning the licensing of public 3 4 exhibitions by the Commissioner of Public Safety: and 5 Whereas, since that time, there have been concerns that public safety has been put at further risk due to the repeal of that law as well as concerns about liability issues; and 6 7 **Whereas**, the season when traveling amusement shows will be in operation begins before the 90-day period expires; and 8 9 Whereas, in the judgment of the Legislature, these facts create an emergency within 10 the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, 11 12 therefore, 13 Be it enacted by the People of the State of Maine as follows: 14 Sec. 1. 8 MRSA c. 19, as repealed by PL 2013, c. 595, Pt. U, §4, is reenacted to 15 read: 16 CHAPTER 19 17 **PUBLIC EXHIBITIONS** 18 §501. License required 19 Whoever, for money or other valuable article, exhibits any images, pageantry, sleight 20 of hand tricks, puppet show, circus, traveling amusement show, feats of balancing, wire 21 dancing, personal agility, dexterity or theatrical performances, without a license therefor as provided, forfeits for every offense not less than \$10 nor more than \$100. This 22 23 prohibition does not extend to any permanently established museum. 24 §502. Fees, prosecutions; traveling shows 25 The municipal officers of towns may grant licenses for any of the exhibitions or performances described in section 501, on receiving for their town a sum that they 26 27 determine proper, 24 hours or more being allowed for the exhibitions or performance as they may determine. They shall prosecute, by complaint for the use of their town, all 28 29 violations of section 501. 30 A traveling circus, traveling amusement show or amusement device may not operate 31 or exhibit any parade, show or entertainment in this State without first paying a license 32 fee for each calendar year. Application for the license must be made to the 33 Commissioner of Public Safety and contain the name of the person or corporation using or operating the traveling circus, traveling amusement show or amusement device, and a 34 statement of proposed territory within the limits of the State, and names of the cities and 35 36 towns in which the traveling circus, traveling amusement show or amusement device is to

1	operate or exhibit. A traveling circus or traveling amusement show or amusement device
2	may not exhibit any parade, show or entertainment in this State without first furnishing
3	the Commissioner of Public Safety, in an amount to be determined by the commissioner,
4	a certificate of public liability insurance issued by an authorized insurer or approved
5	surplus lines insurer pursuant to Title 24-A or any risk retention group registered in any
6	state pursuant to 15 United States Code, Chapter 65 or through a purchasing group
7	registered in any state pursuant to 15 United States Code, Chapter 65. Upon receipt of
8	the application, accompanied by a certificate of public liability insurance and upon
9 10	payment of the required fee, a license is issued. For amusement shows, carnivals, thrill
10 11	shows, ice shows, rodeos or similar types of performances that are held indoors or outdoors the fee is \$300. For circuses that are held outdoors or under tents or similar
11	temporary cover or enclosure the fee is \$500. For circuses held indoors in an auditorium,
12	arena, civic center or similar type building the fee is \$300. For circuses produced in their
13	entirety by a nonprofit, charitable organization a license is required but no fee is charged.
15	The amusement device license fee is \$50 per amusement device. A traveling amusement
16	show, having amusement devices and having secured a traveling amusement show
17	license, must pay an additional amusement device license fee for each amusement device
18	over 5 rides. "Amusement device" means a device by which a person is carried or
19	conveyed, or is allowed to move on, around or over a fixed course within a defined area
20	intended to thrill, excite or amuse, including, but not limited to, bungee jumping and
21	water slides, regardless of whether a fee to operate is required. It does not include a
22	vehicle or device the operation of which is regulated as to safety by any other provision
23	of law, except a municipal ordinance under Title 30-A, section 3001 or any coin-operated
24	kiddie amusement device on a nonmoving base that is designed to accommodate one
25	<u>child.</u>
26	License fees must be credited to a special revenue account to defray expenses in
27	carrying out this section. Any balance of fees may not lapse but must be carried forward
28	as a continuing account to be expended for the same purposes in the following fiscal
29	years.
30	The license must be further conditioned that a traveling circus, traveling amusement
31	show or amusement device being operated in a manner that is dangerous to the safety of
32	the public be stopped until the condition is remedied. Breach of any condition in the
33	license is a cause for immediate suspension or revocation of the license, at the discretion
34	of the Commissioner of Public Safety.
35	The Commissioner of Public Safety shall make, amend or rescind, after public
36	hearing, notice of which has been duly advertised in the state paper, reasonable rules for
37	the operation of traveling circuses, traveling amusement shows or amusement devices.
38	The exhibiting of any parade, show or entertainment of any traveling circus, traveling
39	amusement show or amusement device contrary to this section is a civil violation, and the
40	person, persons, firm or corporation owning or controlling the traveling circus, traveling
41	amusement show or amusement device, or the manager or officer in charge of the
42	traveling circus, traveling amusement show or amusement device within the State, is
43	subject to a forfeiture of not more than \$1,000.

- 1 <u>The District Court and Superior Court in the counties where traveling circuses,</u> 2 <u>traveling amusement shows or amusement devices exhibit or parade have jurisdiction</u> 3 <u>over the offense.</u>
- 4 Sec. 2. 8 MRSA §701, as amended by PL 2013, c. 595, Pt. U, §6, is further 5 amended to read:

6 **§701. Jurisdiction**

All penalties provided in chapters 3, 7 and 18 to 25, except that specified in section
502, must be recovered by complaint for the use of the town where incurred.

9 Sec. 3. 22 MRSA §1607, as amended by PL 2013, c. 595, Pt. U, §8, is further 10 amended to read:

11 **§1607.** Application

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12 This chapter does not apply to fairs licensed, defined and regulated under Title 7, 13 chapter 4, or military activities. It does not apply to persons, associations, corporations, 14 trusts or partnerships licensed under Title 8, chapter chapters 11 and 19.

15 Emergency clause. In view of the emergency cited in the preamble, this
16 legislation takes effect when approved.

SUMMARY

Public Law 2013, chapter 595 repealed the law requiring a traveling circus, traveling amusement show or amusement device to apply to the Commissioner of Public Safety for a license. This bill reenacts that law, including the provision that the application contain a certificate of public liability insurance and a fee.