

AN ACT

ENTITLED, An Act to provide for additional safety measures on amusement rides and to provide a penalty for failure to properly insure an amusement ride or device.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 42-10-1 be amended to read as follows:

42-10-1. An amusement ride is any mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. The term, amusement ride, does not include slides, playground equipment, coin-operated devices, or conveyances which operate directly on the ground or on the surface or pavement directly on the ground or the operation of amusement devices of a permanent nature which are not moved from one location to another more than one time per year or which are insured to operate in only one fixed location.

Section 2. That § 42-10-2 be amended to read as follows:

42-10-2. No person may own, operate, or lease an amusement ride or an amusement device of a permanent nature in this state unless the person purchases insurance in an amount not less than one million dollars per occurrence and one million dollars in the aggregate against liability for injury or death to persons arising out of the use of the amusement ride. Any owner, operator, or lessee of an amusement ride who fails to purchase liability insurance is guilty of a Class 1 misdemeanor. A certificate of insurance shall be furnished by the owner, operator, or lessee to the sponsoring persons, organization, or governing board of the local unit of government before the amusement ride or amusement device of a permanent nature is operated.

Section 3. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as follows:

No person may operate an amusement ride in the state unless the amusement ride has passed an

inspection during the prior twelve months by a certified amusement ride inspector.

Section 4. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as follows:

The owner of an amusement ride shall file an inspection affidavit attesting that the amusement ride has passed the most recent annual inspection required in section 2 of this Act with the owner, operator, or lessee to the sponsoring persons, the organization, the state, and the governing board of the local unit of government before the amusement ride is operated at each location. The inspection affidavit shall identify the amusement ride by name, manufacturer, and serial number and identify the date the inspection was performed, the inspector's name, and the inspector's certification number.

Section 5. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as follows:

No person may operate an amusement ride unless a daily inspection is performed on each day of operation and the amusement ride meets the current American Society of Testing and Material Standards on Amusement Rides and Devices, F 770-13. An owner or operator of the amusement ride, or a certified amusement ride inspector shall perform the inspection and maintain the record of the inspection for no less than three years. The owner or operator of the amusement ride shall make the record of daily inspection available on request.

Section 6. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as follows:

No person may operate an amusement ride that has been modified or altered in a manner that changes the dynamics or control system from the manufacturer's design or specification since the most recent annual inspection, unless the amusement ride passes an inspection by a certified amusement ride inspector prior to operation.

Section 7. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as

follows:

For purposes of this Act, a certified amusement ride inspector is either an employee of the insurance company that insures the amusement ride or an amusement ride inspector that carries a minimum of one hundred thousand dollars in errors and omissions insurance and is certified by the National Association of Amusement Ride Safety Officials or the Amusement Industry Manufacturers and Suppliers Trade Association.

Section 8. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as follows:

A rider on an amusement ride or an amusement device of a permanent nature is responsible for obeying all posted rules, warnings, and the oral or prerecorded instructions of the operator of the amusement ride or amusement device of a permanent nature, and all of the following:

- (1) No rider may board or dismount from an amusement ride or an amusement device of a permanent nature except at a designated area;
- (2) No rider may throw or expel any object or matter from an amusement ride or an amusement device of a permanent nature;
- (3) No rider may act in any manner contrary to posted rules, oral rules, or prerecorded oral or video rules or instructions while boarding, riding on, or dismounting from any amusement ride or an amusement device of a permanent nature;
- (4) No rider may engage in any reckless act or activity which may tend to injure the rider or others;
- (5) While using an amusement ride or an amusement device of a permanent nature that requires steering or control of the rider or a car device, each rider shall maintain reasonable control of his or her speed and course at all times. A rider may not steer the ride in such a manner as to harm another person. A rider on an amusement ride or an

amusement device of a permanent nature where the rider controls the speed or direction of the device or part of the device assumes responsibility to engage the device in a manner that does not harm the rider or others;

- (6) No rider may disconnect, disable, or attempt to disconnect or disable any safety device, seat belt, harness, or other restraining device before, during, or after movement of the ride has started except at the express instruction of the operator;
- (7) No rider may disembark or attempt to disembark from any amusement ride or amusement device of a permanent nature before, during, or after movement of a ride has started except upon the express instruction of the operator;
- (8) No rider may board or attempt to board any amusement ride or an amusement device of a permanent nature if the rider is under the influence of alcohol or any controlled substance which impacts his or her ability to safely use the ride and abide by the posted and oral instructions. The operator may prevent a rider who is apparently under the influence of drugs or alcohol from riding on an amusement ride or an amusement device of a permanent nature. An operator who prevents a rider from boarding a ride in accordance with this subdivision may not be held criminally or civilly liable if the operator has a reasonable basis for believing that the rider is under the influence of drugs or alcohol;
- (9) No rider may alter or enhance the intended speed, course, or direction of an amusement ride or an amusement device of a permanent nature by using an unauthorized device, instrument, or other method;
- (10) No rider may attempt to gain access to controls of an amusement ride or an amusement device of a permanent nature designed solely to be operated by employees of amusement rides.

If a rider violates any provision of this section, the violation may be used as evidence of contributory negligence in any civil case asserting amusement ride or operator liability.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1168

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1168
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State