

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1403

92ND GENERAL ASSEMBLY

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Reported from the Committee on Crime Prevention and Public Safety, April 7, 2004, with recommendation that the House Committee Substitute for House Bill No. 1403 Do Pass.

Taken up for Perfection April 14, 2004. House Committee Substitute for House Bill No. 1403 ordered Perfected and printed, as amended.

STEPHEN S. DAVIS, Chief Clerk

3907L.04P

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## AN ACT

To repeal sections 316.203, 316.204, 316.210, 316.218, 316.230, 316.233, and 701.377, RSMo, and to enact in lieu thereof ten new sections relating to amusement rides, with penalty provisions for certain sections and an effective date.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 316.203, 316.204, 316.210, 316.218, 316.230, 316.233, and  
2 701.377, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as  
3 sections 316.203, 316.204, 316.210, 316.213, 316.218, 316.230, 316.233, 316.238, 319.520, and  
4 701.377, to read as follows:

316.203. As used in sections 316.203 to 316.233, the following terms mean:

2 (1) "Amusement ride", **any of the following, which is primarily for the purpose of**  
3 **giving its patrons amusement, pleasure, thrills, or excitement, and which is open to the**  
4 **general public excluding skill teaching, exercise, and team building:**

5 (a) Any mechanical device that carries or conveys passengers along, around or over a  
6 fixed or restricted route or course or within a defined area [for the purpose of giving its  
7 passengers amusement, pleasure or excitement];

8 (b) **Any dry slide over twenty feet in height excluding water slides;**

9 (c) **Any tram, open car, or combination of open cars or wagons pulled by a tractor**

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

10 or other motorized device, except hayrack rides, those used solely for transporting patrons  
11 to and from parking areas, or those used for guided or educational tours, but does not  
12 necessarily follow a fixed or restricted course;

13 (d) Any bungee cord attraction or similar elastic device;

14 (e) Any climbing wall over ten feet in height except for not-for-profit entities that  
15 follow the YMCA Services Corporation's Climbing Walls Safety Guidelines or the Boy  
16 Scouts of America Guidelines;

17 (2) "Board", the amusement ride safety board established in section 316.204;

18 (3) "Department", the department of public safety;

19 [(3)] (4) "Director", the director of the department of public safety;

20 [(4)] (5) "Operator", a person or the agent of a person who owns or controls, or has the  
21 duty to control, the operation of an amusement [or] ride or related electrical equipment;

22 [(5)] (6) "Owner", a person who owns, leases, controls or manages the operations of an  
23 amusement ride and may include the state or any political subdivision of the state;

24 [(6)] (7) "Qualified inspector", any person who is:

25 (a) Found by the director to possess the requisite training and experience in respect of  
26 amusement rides to perform competently the inspections required by sections 316.203 to  
27 316.233; or

28 (b) Certified by the National Association of Amusement Ride Safety Officials  
29 (NAARSO) to have and maintain at least a level one certification; or

30 (c) Is a member of the Amusement Industry Manufacturing and Suppliers (AIMS) and  
31 meets such qualifications as are established by the board;

32 [(7)] (8) "Related electrical equipment", any electrical apparatus or wiring used in  
33 connection with amusement rides;

34 [(8)] (9) "Safety rules", the rules and regulations governing rider conduct on an  
35 amusement ride, provided such rules and regulations are prominently displayed at or near the  
36 entrance to, or loading platform for, the amusement ride;

37 [(9)] (10) "Serious physical injury", a patron personal injury immediately reported to the  
38 owner or operator as occurring on an amusement ride and which results in death,  
39 dismemberment, significant disfigurement or other significant injury that requires immediate  
40 in-patient admission and twenty-four-hour hospitalization under the care of a licensed physician  
41 for other than medical observation; **and**

42 [(10)] (11) "Serious incident", any single incident where three or more persons are  
43 immediately transported to a licensed off-site medical care facility for treatment of an injury as  
44 a result of being on or the operation of the amusement ride[]; and

45 (11) "Board", the amusement ride safety board appointed as provided in sections 316.203

46 to 316.233].

316.204. 1. There is hereby established an "Amusement Ride Safety Board" to be  
2 composed of nine members, one of whom shall be the state fire marshal or the marshal's  
3 designee. The remaining eight members of the board shall be appointed by the governor with  
4 the advice and consent of the senate. Each member appointed by the governor shall be appointed  
5 for a staggered term of five years or until [his or her] a successor is appointed. The governor  
6 shall fill any vacancy on the board for the remainder of the unexpired term with a representative  
7 of the same interest as that of the member whose term is vacant. No more than four members  
8 of the board, who are not employees of state or local government, shall be members of the same  
9 political party.

10 2. Three members of the board shall represent the interests of small amusement ride  
11 businesses that operate in this state. Three members of the board shall represent the interests of  
12 the fixed amusement ride parks. One member of the board shall be a resident of this state. One  
13 member of the board shall be a mechanical engineer knowledgeable of amusement rides.

14 3. The state fire marshal shall call the first meeting of the board within sixty days after  
15 all members have been appointed and qualified. The members from among their membership  
16 shall elect a chairperson. After the initial meeting the members shall meet at the call of the  
17 chairperson, but shall meet at least three times per year. Five members of the board shall  
18 constitute a quorum.

19 4. The members of the board shall receive no compensation for their services, and shall  
20 be reimbursed for their actual and necessary expenses incurred in the performance of their  
21 official duties.

316.210. 1. A person shall not operate an amusement ride unless the owner:

2 (1) Has the amusement ride inspected at least once annually by a qualified inspector,  
3 whom the owner or an insurer has provided to perform such inspection, and obtains from such  
4 qualified inspector written documentation that the inspection has been made and that the  
5 amusement ride meets nationally recognized inspection standards and is covered by the insurance  
6 required by subdivision (2) of this subsection;

7 (2) Has:

8 (a) An insurance policy currently in force written by an insurance company authorized  
9 to do business in this state in an amount of not less than one million dollars per occurrence; **or**

10 (b) A bond in the same amount as such person's policy from paragraph (a) of this  
11 subdivision, provided that the aggregate liability of the surety under such bond shall not exceed  
12 the face amount of the bond; or

13 (c) Cash or other surety acceptable to the department;

14 (3) Files with the department the inspection report and certificate of insurance verifying

15 the policy required by this section or a photocopy of such documentation or certificate; and

16 (4) Has been issued a state operating permit by the department and affixed such permit  
17 to the designated amusement ride. Such permit fee shall not exceed actual administrative costs.

18 2. The inspection required pursuant to subdivision (1) of subsection 1 of this section  
19 shall be conducted at a minimum to meet the manufacturer's or engineer's [recommendations]  
20 **specifications and to follow the applicable national standards.**

21 3. **The department or designee may conduct a spot inspection of any amusement**  
22 **ride without notice at any time while such amusement ride is operating or will be operating**  
23 **in this state. The department may order temporary suspension of an operating permit if**  
24 **it has been determined after a spot inspection to be hazardous or unsafe. Operation of**  
25 **such amusement ride shall not resume until the hazardous or unsafe condition has been**  
26 **corrected and subjected to reinspection by the department for an inspection fee established**  
27 **by rule.**

28 4. All fees collected pursuant to this section shall be deposited to the credit of the  
29 [general revenue] **elevator safety fund created pursuant to section 701.377, RSMo.**

**316.213. The owner or operator of portable amusement rides shall file an itinerary**  
2 **with the department on a department form no less than fifteen days before the operation**  
3 **of an amusement ride for use by the public. The itinerary shall include the following:**

- 4 (1) **The name of the amusement ride owner;**  
5 (2) **The carnival, fair, or activity sponsor;**  
6 (3) **The address and telephone number of the site;**  
7 (4) **The dates open to the public; and**  
8 (5) **The name of the contact person on site.**

316.218. 1. Any person who knowingly operates, causes to be operated or directs  
2 someone to operate an amusement ride in violation of sections 316.203 to 316.233 is guilty of  
3 a class A misdemeanor.

4 2. **Any person who knowingly makes a false statement, representation, or**  
5 **certification in an application, record, report, or other document filed or required to be**  
6 **maintained under section 316.200 to 316.237 shall be guilty of a misdemeanor punishable**  
7 **under section 575.060, RSMo.**

316.230. 1. A passenger on an amusement ride shall, at a minimum:

2 (1) Obey the reasonable safety rules posted in accordance with sections 316.203 to  
3 316.233 and oral instructions for an amusement ride issued by the amusement owner or such  
4 owner's employee or agent, unless:

- 5 (a) The safety rules are contrary to sections 316.203 to 316.233; or  
6 (b) The oral instructions are contrary to sections 316.203 to 316.233 or the safety rules;

7 and

8 (2) Refrain from acting in any manner that may cause or contribute to injuring such  
9 passenger or others, including:

10 (a) Interfering with safe operation of the amusement ride;

11 (b) Not engaging any safety devices that are provided;

12 (c) Disconnecting or disabling a safety device except at the express instruction of the  
13 operator;

14 (d) Altering or enhancing the intended speed, course or direction of an amusement ride;

15 (e) Extending arms and legs beyond the carrier or seating area except at the express  
16 direction of the ride **or attraction** operator;

17 (f) Throwing, dropping or expelling an object from or toward an amusement ride;

18 (g) Getting on or off an amusement ride except at the designated time and area, if any,  
19 at the direction of the ride operator, or in an emergency; and

20 (h) Unreasonably controlling the speed or direction of such passenger or an amusement  
21 ride that requires the passenger to control or direct himself or herself or a device.

22 2. Any person who violates the provisions of this section shall be guilty of a class A  
23 misdemeanor.

316.233. An amusement ride passenger shall not get on, **enter**, or attempt to get on an  
2 amusement ride unless the passenger reasonably determines that, at a minimum, he or she:

3 (1) Has sufficient knowledge to use, get on, **enter**, or get off the amusement ride safely  
4 without instruction or has requested and received before getting on the ride sufficient information  
5 to get on, use, **enter**, or get off safely;

6 (2) Has located, reviewed and understood any signs in the vicinity of the ride and has  
7 satisfied any posted height, medical or other restrictions and abided by all rules, regulations and  
8 restrictions;

9 (3) Is not under the influence of alcohol or any drug that affects his or her ability to  
10 safely use the amusement ride or obey the posted rules or oral instructions; and

11 (4) Is authorized by the amusement owner or such owner's authorized servant, agent or  
12 employee to get on the amusement ride.

**316.238. All rock climbing walls over ten feet tall operated in this state, except as  
2 provided in paragraph (d) and (e) of subdivision (1) of section 316.203, shall be subject to  
3 the same rules and regulations as amusement rides pursuant to sections 316.200 to 316.238.**

**319.520. 1. For purposes of this section, the following terms mean:**

2 (1) **“Disaster or emergency”, includes, but is not limited to, fires, floods or flash  
3 floods, tornados, winter storms, earthquakes, explosions, or loss of utility services;**

4 (2) **“Emergency management plan”, a coordinated process for responding to an**

5 **emergency, providing for life safety, property protection, notification and warning,**  
6 **evacuation routes and exits, and similar considerations;**

7 **(3) "Amusement park", any privately owned commercial operation offering**  
8 **amusement rides for fee located in a fixed location with annual gross sales in excess of three**  
9 **million dollars.**

10 **2. Any amusement park located in this state shall develop an emergency**  
11 **management plan to provide a process for responding to a disaster or emergency. The plan**  
12 **shall be submitted to the office of the state fire marshal within six months after the effective**  
13 **date of this section and shall be posted in a conspicuous location at the amusement park.**

701.377. As otherwise provided by sections 701.350 to 701.380, the **elevator safety**  
2 board shall set fees for inspection, permits, licenses, certificates, and plan review required by the  
3 provisions of sections 701.350 to 701.380. Fees shall be determined by the **elevator safety**  
4 board to provide sufficient funds for the operation of the board, except that no fee for the  
5 certificate shall exceed twenty-five dollars. The **elevator safety** board may alter the fee schedule  
6 once each year. Any funds collected pursuant to sections 701.350 to 701.380 **and sections**  
7 **316.200 to 316.237, RSMo,** shall be deposited in the "Elevator Safety Fund" which is hereby  
8 created. Moneys shall be appropriated from the fund for the expense **and functions** of the  
9 [board] **elevator safety and amusement ride safety boards.** Any unexpended funds in the  
10 elevator safety fund at the close of the biennium shall revert to the general revenue as required  
11 by section 33.080, RSMo. A municipality or other political subdivision enforcing the provisions  
12 of sections 701.350 to 701.380 under the provisions of subsection 2 of section 701.365 and  
13 which performs the plan review, permitting, inspections, and certifications as required, the fee  
14 for that inspection shall be paid directly to the municipality or political subdivision and shall not  
15 be preempted by sections 701.350 to 701.380, except that any fee established by the **elevator**  
16 **safety** board for the issuance of appropriate state certificates shall be paid to the **elevator safety**  
17 board.

Section B. Section A of this act shall become effective January 1, 2005.