

SECOND REGULAR SESSION

# HOUSE BILL NO. 1403

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MOORE (Sponsor), BRUNS, WILDBERGER, PURGASON, WILSON (119), GOODMAN, RUPP, KELLY (144), HOBBS, JACKSON, WALLACE, CUNNINGHAM (86), WALSH, SCHLOTTACH, DEEKEN, PORTWOOD, THRELKELD, CUNNINGHAM (145), WOOD, NIEVES, RUESTMAN, MYERS, BOYKINS, WALTON, CROWELL, HUNTER, CORCORAN, WALKER, HENKE, KRATKY, BURNETT, DARROUGH, SALVA, QUINN, BEARDEN, STEVENSON, EMERY, JOLLY, BRINGER, MEINERS, LIESE, VOGT, HOSKINS, BLAND AND KELLY (36) (Co-sponsors).

Read 1<sup>st</sup> time February 5, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3907L.011

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### AN ACT

To repeal sections 316.203, 316.204, 316.205, 316.209, 316.210, 316.212, 316.215, 316.218, 316.224, 316.227, 316.230, and 316.233, RSMo, and to enact in lieu thereof thirteen new sections relating to special amusement buildings, 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316.204, 316.205, 316.209, 316.210, 316.212, 316.215, 2 316.218, 316.224, 316.227, 316.230, and 316.233, RSMo, are repealed and thirteen new sections 3 enacted in lieu thereof, to be known as sections 316.203, 316.204, 316.205, 316.209, 316.210, 4 316.212, 316.213, 316.215, 316.218, 316.224, 316.227, 316.230, and 316.233, to read as 5 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 or a use or membership fee is charged:**

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;**

**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.**

9           (c) Any tram, open car, or combination of open cars or wagons pulled by a tractor  
10 or other motorized device, except hayrack rides, but does not necessarily follow a fixed or  
11 restricted course;

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

13           (e) Any climbing wall over ten feet in height; or

14           (f) Any air-supported or inflatable attraction, such as a moonwalk or similar  
15 device;

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

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

18           [(3)] (4) "Director", the director of the department of public safety;

19           [(4)] (5) "Operator", a person or the agent of a person who owns or controls, or has the  
20 duty to control, the operation of an amusement [or] ride, or **Special Amusement Building**  
21 **(SAB)** or related electrical equipment;

22           [(5)] (6) "Owner", a person who owns, leases, controls or manages the operations of an  
23 amusement ride or **SAB** 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 or **SAB**;

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

37           [(9)] (10) "Serious physical injury", a patron personal injury immediately reported to the  
38 owner or operator as occurring on an amusement ride or **SAB** 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;

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 or **SAB**; [and

45 (11) "Board", the amusement ride safety board appointed as provided in sections 316.203  
46 to 316.233]

47 (12) **"Special amusement building", any temporary or permanent building or**  
48 **portion thereof that is occupied for the purpose of giving its patrons amusement, pleasure,**  
49 **thrills, or excitement and that contains a device or system that conveys patrons or provides**  
50 **a walkway along, around, or over a course in any direction so arranged that the means of**  
51 **egress path is not readily apparent due to visual or audio distractions, or is intentionally**  
52 **confounded, or is not readily available because of the nature of the attraction or mode of**  
53 **conveyance through the building or structure, including but not limited to a funhouse,**  
54 **haunted house, or glass house, except those operated by a religious organization, public,**  
55 **or private school;**

56 (13) **"Spot inspection", a cursory visual inspection made by the department or**  
57 **designee to ensure safety measures are maintained per the manufacturer's or engineer's**  
58 **specifications and applicable national standards.**

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.

316.205. 1. The amusement ride safety board shall have the following powers:

2 (1) To consult with engineering authorities and organizations who are studying and  
3 developing amusement ride **and special amusement building** safety standards;

4 (2) To adopt a code of rules and regulations governing maintenance, testing, operation,  
5 and inspection of amusement rides **or special amusement buildings**. The board shall have the  
6 power to adopt a safety code only for those types of amusement rides **and special amusement**  
7 **buildings** defined in the statutes. In promulgating the amusement ride safety code the board may  
8 consider any existing or future American Society for Testing and Materials (ASTM) safety  
9 standards affecting amusement rides as defined in sections 316.203 to 316.233, or any other  
10 nationally acceptable standard;

11 (3) To make recommendations to the state fire marshal concerning the board's findings  
12 on safety issues related to amusement rides **and special amusement buildings**.

13 2. No rule or portion of a rule promulgated pursuant to this section shall take effect  
14 unless such rule has been promulgated pursuant to chapter 536, RSMo.

316.209. The operator of an amusement ride **or special amusement building** shall  
2 immediately cease to operate any **amusement ride or special amusement building** upon which  
3 a fatality, serious physical injury or serious incident has occurred. The owner of such amusement  
4 ride **or special amusement building** shall immediately notify the office of the state fire marshal  
5 of such accident. The cessation shall remain in force until the department has performed an  
6 inspection of any such amusement ride or equipment **or special amusement building** and has  
7 determined that the ride **or special amusement building** or related equipment is safe for public  
8 use. The department shall cause such inspection to be initiated within twenty-four hours of  
9 receipt of the report of a fatality, serious physical injury or serious incident caused by the  
10 operation of an amusement ride **or special amusement building**, and shall perform the  
11 inspection in a manner that proceeds with all practicable speed and minimizes the disruption of  
12 the amusement facility at which the amusement ride **or special amusement building** is located,  
13 as well as unrelated commercial activities. Such inspection shall be performed by a qualified  
14 inspector employed by the department either directly or through contract. The cost of any such  
15 inspection shall be paid for by the owner of the amusement ride **or special amusement building**.  
16 Such inspections may be completed immediately following the reasonable determination by the  
17 qualified inspector or by the director's designee that a principal cause of the serious physical  
18 injury was the victim's failure to comply with the posted safety rules or with verbal instructions.

316.210. 1. A person shall not operate an amusement ride **or special amusement**  
2 **building** unless the owner:

3 (1) Has the amusement ride **or special amusement building** inspected at least once  
4 annually by a qualified inspector, whom the owner or an insurer has provided to perform such  
5 inspection, and obtains from such qualified inspector written documentation that the inspection

6 has been made and that the amusement ride **or special amusement building** meets nationally  
7 recognized inspection standards and is covered by the insurance required by subdivision (2) of  
8 this subsection;

9 (2) Has:

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

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

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

16 (3) Files with the department the inspection report and certificate of insurance verifying  
17 the policy required by this section or a photocopy of such documentation or certificate; and

18 (4) Has been issued a state operating permit by the department and affixed such permit  
19 to the designated amusement ride **or special amusement building**. Such permit fee shall not  
20 exceed actual administrative costs.

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

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

32 4. **Special amusement buildings shall comply with applicable national codes and**  
33 **standards and be subject to a fire safety inspection conducted by the department with the**  
34 **cost of such inspection established by rule, except when subject to the jurisdiction of a local**  
35 **building or fire code.**

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

316.212. Each owner or operator shall retain on the premises or with a traveling  
2 amusement ride **or special amusement building** for at least three years all maintenance,  
3 inspection and accident records for each amusement ride. The owner shall make such records  
4 for the ride **or special amusement building** under inspection for failure or malfunction available

5 to the director or the director's designee upon request.

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

5 (1) **The name of the amusement ride or special amusement building owner;**

6 (2) **The carnival, fair, or activity sponsor;**

7 (3) **The address and telephone number of the site;**

8 (4) **The dates open to the public; and**

9 (5) **The name of the contact person on site.**

2 316.215. In addition to any and all other remedies, if an owner, operator or person in  
3 charge of any amusement ride **or special amusement building** covered by sections 316.203 to  
4 316.233 continues to operate any amusement ride **or special amusement building** covered by  
5 sections 316.203 to 316.233, during the pendency of a cessation pursuant to section 316.209,  
6 then the director may petition the circuit court, in an action brought in the name of the state, for  
7 a writ of injunction to restrain the use of the alleged defective amusement ride **or special**  
8 **amusement building.**

2 316.218. 1. Any person who knowingly operates, causes to be operated or directs  
3 someone to operate an amusement ride **or special amusement building** in violation of sections  
4 316.203 to 316.233 is guilty of 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.

2 316.224. Nothing contained in sections 316.203 to 316.233 shall prevent any political  
3 subdivision of this state from licensing or regulating any amusement ride, **special amusement**  
4 **building**, electrical equipment, carnival or circus as otherwise provided by law.

2 316.227. Sections 316.203 to 316.233 shall not be construed to alter the duty of care or  
3 the liability of an owner of an amusement ride **or special amusement building** for injuries or  
4 death to any person or damage to any property arising out of an accident involving an amusement  
5 ride **or special amusement building**. Sections 316.203 to 316.233 shall not be construed to  
6 alter the duty of care of a passenger of an amusement ride **or special amusement building** or  
7 parent or guardian of such passenger for injuries or death to any person or damage to any  
8 property arising out of an accident involving an amusement ride **or special amusement**  
9 **building**. The state and its officers and employees shall not be construed to assume liability  
arising out of an accident involving an amusement ride **or special amusement building** by

10 reason of administration of sections 316.203 to 316.233.

316.230. 1. A passenger on an amusement ride **or special amusement building** shall,  
2 at a minimum:

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

6 (a) The safety rules are contrary to sections 316.203 to 316.233; or

7 (b) The oral instructions are contrary to sections 316.203 to 316.233 or the safety rules;  
8 and

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

11 (a) Interfering with safe operation of the amusement ride **or special amusement**  
12 **building**;

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

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

16 (d) Altering or enhancing the intended speed, course or direction of an amusement ride  
17 **or special amusement building**;

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

20 (f) Throwing, dropping or expelling an object from or toward an amusement ride **or**  
21 **special amusement building**;

22 (g) Getting on or off an amusement ride **or special amusement building** except at the  
23 designated time and area, if any, at the direction of the ride **or special amusement building**  
24 operator, or in an emergency; and

25 (h) Unreasonably controlling the speed or direction of such passenger or an amusement  
26 ride **or special amusement building** that requires the passenger to control or direct himself or  
27 herself or a device.

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

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

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

7 or get off safely;

8 (2) Has located, reviewed and understood any signs in the vicinity of the ride **or special**  
9 **amusement building** and has satisfied any posted height, medical or other restrictions and  
10 abided by all rules, regulations and restrictions;

11 (3) Is not under the influence of alcohol or any drug that affects his or her ability to  
12 safely use the amusement ride **or special amusement building** or obey the posted rules or oral  
13 instructions; and

14 (4) Is authorized by the amusement **or special amusement building** owner or such  
15 owner's authorized servant, agent or employee to get on the amusement ride **or special**  
16 **amusement building**.

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