

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1403

92ND GENERAL ASSEMBLY

Reported from the Committee on Commerce and the Environment, May 10, 2004, with recommendation that the Senate Committee Substitute do pass.

3907S.06C

TERRY L. SPIELER, Secretary.

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 nine new sections relating to amusement rides, with penalty provisions for certain sections, and an effective date.

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2 701.377, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known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

2 316.203. As used in sections 316.203 to 316.233, the following terms mean:

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

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

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

11 (c) Any tram, open car, or combination of open cars or wagons pulled
12 by a tractor or other motorized device, except hayrack rides, those used
13 solely for transporting patrons to and from parking areas, or those used for
14 guided or educational tours, but does not necessarily follow a fixed or
15 restricted course;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 **(d) Any bungee cord attraction or similar elastic device;**
17 **(e) Any climbing wall over ten feet in height except for not-for-profit**
18 **entities that follow the YMCA Services Corporation's Climbing Walls Safety**
19 **Guidelines or the Boy Scouts of America Guidelines;**
20 **(2) "Board", the amusement ride safety board established in section**
21 **316.204;**
22 **(3) "Department", the department of public safety;**
23 **[(3)] (4) "Director", the director of the department of public safety;**
24 **[(4)] (5) "Operator", a person or the agent of a person who owns or controls, or**
25 **has the duty to control, the operation of an amusement [or] ride or related electrical**
26 **equipment;**
27 **[(5)] (6) "Owner", a person who owns, leases, controls or manages the operations**
28 **of an amusement ride and may include the state or any political subdivision of the state;**
29 **[(6)] (7) "Qualified inspector", any person who is:**
30 **(a) Found by the director to possess the requisite training and experience in**
31 **respect of amusement rides to perform competently the inspections required by sections**
32 **316.203 to 316.233; or**
33 **(b) Certified by the National Association of Amusement Ride Safety Officials**
34 **(NAARSO) to have and maintain at least a level one certification; or**
35 **(c) Is a member of the Amusement Industry Manufacturing and Suppliers (AIMS)**
36 **and meets such qualifications as are established by the board;**
37 **[(7)] (8) "Related electrical equipment", any electrical apparatus or wiring used**
38 **in connection with amusement rides;**
39 **[(8)] (9) "Safety rules", the rules and regulations governing rider conduct on an**
40 **amusement ride, provided such rules and regulations are prominently displayed at or**
41 **near the entrance to, or loading platform for, the amusement ride;**
42 **[(9)] (10) "Serious physical injury", a patron personal injury immediately**
43 **reported to the owner or operator as occurring on an amusement ride and which results**
44 **in death, dismemberment, significant disfigurement or other significant injury that**
45 **requires immediate in-patient admission and twenty-four-hour hospitalization under the**
46 **care of a licensed physician for other than medical observation; and**
47 **[(10)] (11) "Serious incident", any single incident where three or more persons**
48 **are immediately transported to a licensed off-site medical care facility for treatment of**
49 **an injury as a result of being on or the operation of the amusement ride; and**
50 **(11) "Board", the amusement ride safety board appointed as provided in sections**
51 **316.203 to 316.233].**

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

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

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

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

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

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

8 (2) Has:

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

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
14 exceed 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
17 verifying the policy required by this section or a photocopy of such documentation or
18 certificate; and

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

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

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

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

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

- 5 (1) **The name of the amusement ride 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.**

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

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

8 **a misdemeanor punishable 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
3 to 316.233 and oral instructions for an amusement ride issued by the amusement owner
4 or such 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
7 rules; and

8 (2) Refrain from acting in any manner that may cause or contribute to injuring
9 such 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
13 of the operator;

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

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

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

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

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

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

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

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

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

10 (3) Is not under the influence of alcohol or any drug that affects his or her ability

11 to safely use the amusement ride or obey the posted rules or oral instructions; and
12 (4) Is authorized by the amusement owner or such owner's authorized servant,
13 agent or employee to get on the amusement ride.

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

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

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

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