

Regular Session, 2014

HOUSE BILL NO. 767

BY REPRESENTATIVE POPE

AMUSEMENT PARKS: Requires owners or operators of certain water parks to provide safety information

1 AN ACT

2 To enact Part VII-A of Chapter 6 of Title 40 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 40:1485.11 through 1485.21, relative to water parks; to provide
4 for definitions; to require plans submittal; to require water quality testing; to provide
5 for limitation of liability; to provide for penalties; to authorize suit for injunction; to
6 provide rulemaking authority; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part VII-A of Chapter 6 of Title 40 of the Louisiana Revised Statutes of
9 1950, comprised of R.S. 40:1485.11 through 1485.21, is hereby enacted to read as follows:

10 PART VII-A. REGULATION OF WATER-BASED AMUSEMENT ATTRACTIONS

11 §1485.11. Short title

12 This Part shall be known and may be cited as the "Water Park Safety Law".

13 §1485.12. Definitions

14 As used in this Part, the following definitions apply unless otherwise
15 indicated:

16 (1) "Water-supported air structure" means any amusement attraction that
17 incorporates a structural system that employs a high-strength fabric or film that
18 achieves its strength, shape, and stability by pretensioning with internal air pressure
19 and is erected upon water.

1 (2) "Water park operator" means a person, or the agent of a person, who
2 owns or controls or has the duty to control the operation of a water park. "Water
3 park operator" may include an agency of the state or any of its political subdivisions.

4 (3) "Water park" means any indoor or outdoor area which is comprised of
5 one or more water-supported air structures erected on a manmade water body whose
6 source of water is a natural water body.

7 §1485.13. Construction or repair of water parks

8 A.(1) No water park subject to the provisions of this Part shall be constructed
9 until building plans and specifications for the water-supported air structures,
10 prepared or stamped by a certified architect or engineer, have been submitted to and
11 reviewed by the office of state fire marshal for compliance with the standards
12 promulgated by the office of state fire marshal pursuant to R.S. 40:1485.21.

13 (2) No water park operator shall replace, relocate, or add any additional
14 water-supported air structure located in a water park until plans and specifications,
15 prepared or stamped by a certified architect or engineer, have been submitted to and
16 reviewed by the fire marshal for compliance with the standards promulgated by the
17 office of state fire marshal pursuant to R.S. 40:1485.21.

18 B.(1) No water park subject to the provisions of this Part which will utilize
19 a water filtration system shall be constructed until building plans and specifications
20 for the water filtration system, prepared or stamped by a Louisiana licensed
21 professional engineer, have been submitted to and reviewed by the Department of
22 Health and Hospitals for compliance with the standards promulgated by the
23 department pursuant to R.S. 40:1485.21.

24 (2) No water park operator shall repair, remodel, or add to the water filtration
25 system of a water park until plans and specifications, prepared or stamped by a
26 Louisiana licensed professional engineer, have been submitted to and reviewed by
27 the Department of Health and Hospitals for compliance with the standards
28 promulgated by the department pursuant to R.S. 40:1485.21.

1 C. The plans and specifications for a water-supported air structure required
2 by this Section shall include safety features of the installation of the water-supported
3 air structure including but not limited to safety barriers around the bottom perimeter
4 of the water-supported air structure to prohibit a person from gaining access to
5 underneath the water-supported air structure.

6 §1485.14. Administration of part; personnel

7 The assistant secretary of the office of state fire marshal is authorized to
8 conduct such investigations as are reasonably necessary to assure compliance with
9 this Part, to employ such persons as the assistant secretary may deem qualified
10 consistent with applicable civil service regulations, and to incur such other expenses
11 as may be required in connection with the administration of this Part.

12 §1485.15. Notice of violation of standard

13 A. If after investigation of any water-supported air structure, the assistant
14 secretary of the office of state fire marshal determines that the water-supported air
15 structure is in violation of any standard promulgated by the office of state fire
16 marshal pursuant to R.S. 40:1485.21, and that there may be a substantial probability
17 of death or serious physical injury to the public from its continued use, a notice of
18 violation shall be given in writing to the water park where the water-supported air
19 structure is located. A copy of the notice shall be attached to the water-supported air
20 structure. After the notice of violation is issued, the use of the water-supported air
21 structure is prohibited.

22 B. The notice of violation issued by the assistant secretary of the state fire
23 marshal pursuant to this Section shall constitute a cease and desist order, the
24 violation of which shall constitute a misdemeanor offense punishable by a fine of not
25 more than one thousand dollars and imprisonment for not more than thirty days or
26 both. The notice shall not be removed until the water-supported air structure is made
27 safe for public use and the required safeguards are provided. The notice shall not be
28 removed except by the assistant secretary of the office of state fire marshal.

1 §1484.16. Judicial review

2 Judicial review of any action of the assistant secretary of the office of state
3 fire marshal or the secretary of the Department of Health and Hospitals may be
4 sought in accordance with the provisions of the Administrative Procedure Act.

5 §1485.17. Water quality; reporting

6 Each water park operating in this state shall conduct a water quality test and
7 submit a full, accurate, and complete copy of the results to the Department of Health
8 and Hospitals not less than once per month during the period the water park is open
9 to the public.

10 §1485.18. Reporting user injury

11 A. Any person who is injured as a result of using a water-supported air
12 structure shall report the injury in writing to the water park operator before leaving
13 the premises. The written report of injury shall include all of the following:

14 (1) The name, address, and phone number of the injured person.

15 (2) A full description of the incident, the injuries claimed, any treatment
16 received, and the location, date, and time of the injury.

17 (3) The cause of the injury, if known.

18 (4) The names, addresses, and phone numbers of any witnesses to the
19 incident.

20 B. If the injured person is unable to file a report because of the severity of
21 the injuries, a report shall be filed as soon as reasonably possible.

22 C. The water park operator shall submit a copy of the report to the office of
23 state fire marshal no later than seven days after receiving the report of injury.

24 §1485.19. Violations and penalties; injunctive relief

25 A. In addition to the penalties contained in R.S. 40:1485.15(B), the assistant
26 secretary of the office of state fire marshal or secretary of the Department of Health
27 and Hospitals may assess a civil penalty of not more than five hundred dollars for
28 each violation of the provisions of this Part or of the rules and regulations adopted

1 by the office of state fire marshal or Department of Health and Hospitals. Each day
2 on which a violation occurs shall be considered a separate offense.

3 B. Penalties may be assessed only by a ruling of the assistant secretary of the
4 office of state fire marshal or the secretary of the Department of Health and
5 Hospitals based on an adjudicatory hearing held in accordance with the provisions
6 of the Administrative Procedure Act.

7 C. The assistant secretary of the office of state fire marshal or secretary of
8 the Department of Health and Hospitals may institute civil proceedings seeking
9 injunctive relief to restrain and prevent the violation of the provisions of this Part,
10 or of the rules and regulations adopted by the office of state fire marshal or the
11 Department of Health and Hospitals pursuant to R.S. 40:1485.21, in the district court
12 for the parish in which the violation occurred.

13 D. In addition to the foregoing provisions, the office of state fire marshal or
14 the Department of Health and Hospitals may assess those civil penalties attributable
15 to the water park operator to the owner or lessee of the site on which the water park
16 is located if the owner or lessee of the site failed to reasonably determine that the
17 water park operator is properly in compliance with the requirements of this Part.

18 §1485.20. Limitation of liability

19 Neither the office of state fire marshal nor the Department of Health and
20 Hospitals shall be liable for any personal injury, wrongful death, property damage,
21 or other loss related to any acts, errors, or omissions by the architect or engineer who
22 prepared or stamped the plans submitted to the office of state fire marshal or the
23 Department of Health and Hospitals pursuant to R.S. 40:1485.13 or in the
24 construction of any water-supported air structure or water park in accordance with
25 plans submitted to the office of fire marshal or the Department of Health and
26 Hospitals pursuant to R.S. 40:1485.13.

27 §1485.21. Rules and regulations

28 A. The assistant secretary of the office of state fire marshal shall
29 promulgate, in accordance with the Administrative Procedure Act, any rules and

1 regulations necessary for the administration of this Part. The rules promulgated by
 2 the fire marshal shall contain, at a minimum, the standards used in the review and
 3 approval of plans submitted pursuant to R.S. 40:1485.12.

4 B. The Department of Health and Hospitals shall promulgate, in accordance
 5 with the Administrative Procedure Act, any rules and regulations necessary for the
 6 administration of this Part. The rules promulgated by the department shall contain,
 7 at a minimum, the standards, policies, and procedures to be used for the testing of
 8 water quality and submission of the results to the department pursuant to R.S.
 9 40:1485.17.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Pope

HB No. 767

Abstract: Requires owners or operators of water parks with air-supported structures to provide safety information.

Proposed law may be cited as the "Water Park Safety Law".

Proposed law defines "water-supported air structure" as any amusement attraction that incorporates a structural system that employs a high-strength fabric or film that achieves its strength, shape, and stability by pretensioning with internal air pressure and is erected upon water.

Proposed law defines "water park operator" as a person, or the agent of a person, who owns or controls or has the duty to control the operation of a water park. "Water park operator" may include an agency of the state or any of its political subdivisions.

Proposed law defines "water park" as any indoor or outdoor area which is comprised of one or more water-supported air structures erected on a manmade water body whose source of water is a natural water body.

Proposed law prohibits a water park from being constructed until building plans and specifications for the water-supported air structures, prepared or stamped by a certified architect or engineer, have been submitted to and reviewed by the office of state fire marshal (OSFM) for compliance with the standards promulgated by OSFM.

Proposed law prohibits a water park operator from replacing, relocating, or adding any additional water-supported air structure located in a water park until plans and specifications, prepared or stamped by a certified architect or engineer, have been submitted to and reviewed by the OSFM for compliance with the standards promulgated by the OSFM.

Proposed law prohibits a water park which will utilize a water filtration system from being constructed until building plans and specifications for the water filtration system, prepared or stamped by a La. licensed professional engineer, have been submitted to and reviewed by

the Dept. of Health and Hospitals (DHH) for compliance with the standards promulgated by DHH.

Proposed law prohibits a water park operator from repairing, remodeling, or adding to the water filtration system of a water park until plans and specifications, prepared or stamped by a La. licensed professional engineer, have been submitted to and reviewed by DHH for compliance with the standards promulgated by DHH.

Proposed law requires the plans and specifications for a water-supported air structure include safety features of the installation of the water-supported air structure including but not limited to safety barriers around the bottom perimeter of the water-supported air structure to prohibit a person from gaining access to underneath the water-supported air structure.

Proposed law authorizes the OSFM to conduct such investigations as are reasonably necessary to assure compliance with proposed law, to employ such persons as the OSFM may deem qualified consistent with applicable civil service regulations, and to incur such other expenses as may be required in connection with the administration of proposed law.

Proposed law authorizes the OSFM, if after investigation of any water-supported air structure, it is determined that the water-supported air structure is in violation of any standard promulgated by the OSFM, and that there may be a substantial probability of death or serious physical injury to the public from its continued use, to issue a written notice of violation to the water park where the water-supported air structure is located. Proposed law requires a copy of the notice be attached to the water-supported air structure and prohibits the use of the water-supported air structure.

Proposed law provides that a notice of violation issued by the OSFM constitutes a cease and desist order, the violation of which shall constitute a misdemeanor offense punishable by a fine of not more than \$1000 and imprisonment for not more than 30 days or both.

Proposed law requires each water park operating in this state to conduct a water quality test and submit a full, accurate, and complete copy of the results to DHH not less than once per month during the period the water park is open to the public.

Proposed law requires any person who is injured as a result of using a water-supported air structure to report the injury in writing to the water park operator before leaving the premises. The written report of injury shall include all of the following:

- (1) The name, address, and phone number of the injured person.
- (2) A full description of the incident, the injuries claimed, any treatment received, and the location, date, and time of the injury.
- (3) The cause of the injury, if known.
- (4) The names, addresses, and phone numbers of any witnesses to the incident.

Proposed law requires the water park operator to submit a copy of the report to the OSFM no later than 7 days after receiving the report of injury.

Proposed law authorizes OSFM and DHH to assess a civil penalty of not more than \$500 for each violation of proposed law or of the rules and regulations adopted by the OSFM or DHH. Each day on which a violation occurs shall be considered a separate offense. Proposed law further authorizes OSFM or DHH to seek injunctive relief to restrain and prevent the violations.

Proposed law authorizes the OSFM and DHH to assess those civil penalties attributable to the water park operator to the owner or lessee of the site on which the water park is located

if the owner or lessee of the site failed to reasonably determine that the water park operator is properly in compliance with proposed law.

Proposed law provides that neither the OSFM or DHH shall be liable for any personal injury, wrongful death, property damage, or other loss related to any acts, errors, or omissions by the architect or engineer who prepared or stamped the plans submitted to the OSFM or DHH or in the construction of any water-supported air structure or water park in accordance with plans submitted to the OSFM or DHH.

Proposed law requires the OSFM to promulgate any rules and regulations necessary for the administration of proposed law, including, at a minimum, the standards used in the review and approval of plans submitted to the OSFM.

Proposed law requires DHH to promulgate any rules and regulations necessary for the administration of proposed law, including, at a minimum, the standards, policies, and procedures to be used for the testing of water quality and submission of the results to DHH.

(Adds R.S. 40:1485.11-1485.21)