

SENATE No. 1318

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to amusement devices.

PETITION OF:

NAME:

James E. Timilty

DISTRICT/ADDRESS:

Bristol and Norfolk

SENATE No. 1318

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 1318) of James E. Timilty for legislation relative to amusement devices. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1184 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to amusement devices.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 140 of the General Laws as so appearing in the 2012 Official Edition is hereby
2 amended by striking out section 205A and inserting in place thereof the following section:-

3 Section 205A. Operation of Amusement Devices

4 a) Amusement Device Defined:

5 "Amusement Device" shall mean a fixed or portable mechanical device similar to, but not
6 limited to ferris wheels, carousels, inclined railways or similar devices including inflatable, as
7 well as amusement devices as defined by the American Society for Testing and Materials
8 (ASTM). Go karts, concession go kart and other mechanical devices that are confined to one
9 path of travel shall be considered an amusement device per path of travel for purposes of this
10 section. This section shall not apply to recreational tramways as defined by section 71I of

11 chapter 143, coin operated amusement rides or devices, skill games or playground equipment.;
12 provided however that the commissioner of public safety, hereinafter called the commissioner,
13 shall have the discretion to further define an amusement device operated under this section.

14 (b) License; Insurance Requirement; fees:

15 (1) For the purposes of this section the commissioner shall adopt rules and regulations
16 establishing standards for the design, construction, inspection and operation of amusement
17 devices for the safety of the public and criteria and procedures for the issuance, denial, renewal,
18 suspension and revocation of a license and permit for the operation of amusement devices;
19 provided, however, that a final adjudication that there has been a violation of federal law, state
20 law or any other rule adopted by the department, shall be cause for the denial, suspension or
21 revocation of any license issued under this section. The operation of amusement devices in
22 violation of the regulations or without a valid license and permit shall be considered a punishable
23 violation for the purposes of this section.

24 (2) No person shall individually or through an agent operate or cause to be operated an
25 amusement device unless such person has obtained a license and permit from the commissioner.

26 (3) The commissioner, upon receipt of proof that a person has obtained liability insurance
27 as required by this section and upon certification that an amusement device has met the standards
28 established by the commissioner, may issue a license and permit for the operation of the
29 amusement devices.

30 (4) A person who possesses a Massachusetts certificate of competency to inspect
31 amusement devices, issued under section 62 of chapter 146, and who has furnished to the

32 commissioner proof of liability insurance for an amount of at least \$1,000,000 for general
33 liability, shall provide to the commissioner an inspection report and a certificate of liability.

34 (5) The fee for a license under this section shall be determined annually by said
35 commissioner of administration and finance under section 3B of chapter 7 for the filing thereof.
36 All licenses issued pursuant to this section shall expire annually on a date determined by the
37 Commissioner or on the date that the insurance certificate is no longer valid, which ever occurs
38 sooner, unless revoked for cause, and shall be valid throughout the commonwealth.

39 (c) Itinerary:

40 An owner shall be required to provide proper notice as further determined by the
41 commissioner as to the location and dates that the amusement device will be operated in the
42 Commonwealth.

43 (d) Injury:

44 If an injury requiring medical treatment has occurred on such an amusement device,
45 reasonably due to a defect or malfunction in the amusement device, or if the amusement device
46 constitutes a hazard to life, limb, or property, as determined by the commissioner or his designee,
47 the amusement device shall be closed immediately and, within 1 hour, the owner shall notify the
48 commissioner or his designee in writing upon a form approved by the commissioner. The
49 amusement device shall remain closed until all necessary repairs have been completed to the
50 satisfaction of the commissioner or his designee. All such injuries shall be investigated by the
51 Department of Public Safety in coordination with the Massachusetts State Police. Failure to
52 follow this provision shall constitute the operation of an unsafe ride and shall be punishable by a
53 fine not to exceed \$5,000.00 or by imprisonment for not more than one year, or both. The

54 licensee shall pay to the commissioner a fee as determined under section 3B of chapter 7 for each
55 hour or fraction thereof spent by each inspector while engaged in an investigation.

56 (e) Identification of Amusement Device:

57 All amusement devices shall bear identification as determined by the commissioner.

58 (f) Inspection:

59 All persons authorized by this section to conduct inspections and not employed by the
60 Department of Public Safety, shall be certified by the Department of Public Safety. An owner of
61 an amusement device shall maintain and preserve a log of all regular maintenance schedules,
62 service and repair reports, periodic inspections performed and any accident or injury which may
63 have occurred on an amusement device which shall be made available upon request to the
64 Department of Public Safety.

65 (g) Owner Responsibilities:

66 (1) Owners shall maintain permanent and extensive training and inspection policies
67 relative to routine and emergency procedures. All locations which have 35 or more amusement
68 devices on the premises shall employ full-time emergency medical personnel and maintain
69 ambulance serves within the park. All owners shall have at least 1 individual on staff that is
70 certified by the commissioner as qualified to oversee the operation, maintenance and inspection
71 of amusement devices provided however that no minor shall operate an amusement device. The
72 owner shall furnish to the commissioner proof that all mechanical and large inflatable
73 amusement devices are covered for an amount of at least \$2,000,000 for combined single limit
74 bodily injury and property damage and at least \$1,000,000 for small inflatable devices and which

75 meet the rules and regulations as established by the commissioner. If the insurance contract
76 expires or is cancelled, notice shall be furnished by the insurance carrier to the commissioner
77 prior to the termination and the amusement device shall be closed until insurance is obtained and
78 a new license issued. Operational programs and policies relative to the training, inspection,
79 maintenance and safety of amusement devices shall be subject to review and modification by the
80 commissioner or his designee. Proof of coverage shall include, but not be limited to, proof of
81 liability insurance issued by an insurance company approved to do business within the
82 commonwealth, or a bond security or other type of indemnity against liability providing
83 substantially equivalent coverage.

84 (h) Penalty for Violation:

85 Whoever violates this section shall, for each such violation, be punished by a fine of not
86 more than \$5,000 or by imprisonment for not more than 1 year or both.

87 (i) Retained Revenue account; Fees; Fines

88 The Department of Public Safety may collect and expend an amount not to exceed
89 \$50,000 for the purpose of enforcement, training, and education of state inspectors; provided,
90 that the department may charge fees for licensing, investigation, training, and overtime for
91 inspections at the owner's request, and collect fines for violations of this section; and further
92 provided that for the purposes of accommodating discrepancies between the receipt of retained
93 revenues and related expenditures, the department may incur expense and the comptroller may
94 certify for payment amounts not to exceed the lower of this authorization or the most recent
95 revenue estimate as reported in the state accounting system.

96 SECTION 2. Section 60 of chapter 146 of the General Laws, as appearing in the 2012
97 Official Edition, is hereby amended by striking out, after the word "boilers" in line 2, the words
98 "or an inspector of amusement devices."

99 SECTION 3. Section 60 of chapter 146 of the General Laws, as so appearing, is hereby
100 amended by inserting after the word "administration," in line 5, the following sentence:-The
101 application of a person desiring to act as an inspector of amusement devices shall be
102 accompanied by a fee, the amount of which shall be determined annually by the commissioner of
103 administration.