

SENATE No. 2174

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

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 SECTION 1. To provide for certain unanticipated obligations of the commonwealth and
2 to meet certain requirements of law for fiscal year 2014, the sum set forth in section 2 is hereby
3 appropriated from the General Fund, for the several purposes and subject to the conditions
4 specified in said section 2, subject to laws regulating the disbursement of public funds.

5 SECTION 2.

6 8315-1041 For the department of public safety, which may expend not more than
7 \$50,000 in revenues collected from fees for licenses and inspections for amusement devices and
8 fines pursuant to section 205A of chapter 140 of the General Laws; provided, that funds shall be
9 expended for the operation of the department, for training and educating state inspectors and for
10 enforcement; and provided further, that for the purpose of accommodating timing discrepancies
11 between the receipt of retained revenues and related expenditures, the department may incur
12 expenses and the comptroller may certify for payment amounts not to exceed the lower of this
13 authorization or the most recent revenue estimate as reported in the state accounting system
14\$50,000

15 SECTION 3. Chapter 140 of the General Laws is hereby amended by striking out section
16 205A, as appearing in the 2012 Official Edition, and inserting in place thereof the following
17 section:-

18 Section 205A. (a) For the purposes of this section, "amusement device" shall mean a
19 fixed or portable mechanical device including, but not limited to, a ferris wheel, carousel,
20 inclined railway or similar device, including inflatables, any amusement device as defined by the
21 American Society for Testing and Materials and a go-kart, a concession go kart or any other
22 mechanical device that is confined to 1 path of travel. The commissioner of public safety may
23 further define an amusement device operated under this section. This section shall not apply to

24 recreational tramways as defined in section 71I of chapter 143, coin-operated amusement rides or
25 devices, skill games or playground equipment.

26 (b) (1) The commissioner shall adopt rules and regulations establishing standards for
27 the design, construction, inspection and operation of amusement devices for the safety of the
28 public and criteria and procedures for the issuance, denial, renewal, suspension and revocation of
29 licenses and permits for the operation of amusement devices; provided, however, that a final
30 adjudication that there has been a violation of federal or state law or any other rule adopted by
31 the department of public safety shall be cause for the denial, suspension or revocation of any
32 license issued under this section.

33 (2) No person shall individually or through an agent operate or cause to be
34 operated an amusement device unless such person has obtained a license and permit from the
35 commissioner. The commissioner, upon receipt of proof that a person has obtained liability
36 insurance as required by this section and upon certification that an amusement device has met the
37 standards established by the commissioner, may issue a license and permit for the operation of
38 the amusement device.

39 (3) A person who possesses a certificate of competency to inspect amusement
40 devices issued under section 62 of chapter 146 and who has furnished to the commissioner proof
41 of liability insurance for an amount of at least \$1,000,000 for general liability shall provide to the
42 commissioner an inspection report and a certificate of liability for each amusement device
43 inspected.

44 (4) The fees for licenses and permits issued under this section shall be determined
45 annually by the secretary of administration and finance under section 3B of chapter 7. All
46 licenses issued pursuant to this section shall be valid throughout the commonwealth and shall
47 expire annually on a date determined by the commissioner or on the date that the insurance
48 certificate is no longer valid, whichever first occurs, unless the license is revoked for cause.

49 (c) An owner shall be required to provide proper notice as further determined by the
50 commissioner as to the location and dates that the amusement device shall be operated.

51 (d) If an injury requiring medical treatment occurs on an amusement device which is due
52 to a defect or malfunction in the amusement device, the device shall be closed immediately and,
53 within 1 hour, the owner shall notify the commissioner or the commissioner's designee in
54 writing on a form approved by the commissioner. If the amusement device constitutes a hazard
55 to life, limb or property, as determined by the commissioner or the commissioner's designee, the
56 amusement device shall be closed immediately. An amusement device closed under this section
57 shall remain closed until all necessary repairs have been completed to the satisfaction of the
58 commissioner or the commissioner's designee. All injuries occurring on an amusement device
59 that result in medical treatment shall be investigated by the department, in coordination with the
60 department of state police. In addition to penalties under subsection (h), a violation of this

61 subsection shall constitute the operation of an unsafe ride and shall be punishable by a fine of not
62 more than \$5,000 or by imprisonment in a jail or house of correction for not more than 1 year, or
63 both such fine and imprisonment. The licensee shall pay to the commissioner a fee as
64 determined under section 3B of chapter 7 for each hour or fraction of an hour spent by each
65 inspector while engaged in an investigation under this subsection.

66 (e) An amusement device shall bear identification as determined by the commissioner.

67 (f) A person authorized by this section to conduct inspections who is not employed by the
68 department shall be certified by the department. An owner of an amusement device shall
69 maintain and preserve a log of all regular maintenance schedules, service and repair reports,
70 periodic inspections performed and any accident or injury which may have occurred on an
71 amusement device and such log shall be made available to the department upon request.

72 (g) A licensee shall maintain permanent and extensive training and inspection policies
73 relative to routine and emergency procedures. Licensees at locations which have 35 or more
74 amusement devices on the premises shall employ full-time emergency medical personnel and
75 maintain ambulance services on such premises. Licensees shall have at least 1 individual on
76 staff that is certified by the commissioner as qualified to oversee the operation, maintenance and
77 inspection of amusement devices; provided, however, that no minor shall operate an amusement
78 device. The licensee shall furnish to the commissioner proof that all mechanical and large
79 inflatable amusement devices are covered by a liability insurance policy in an amount of at least
80 \$2,000,000 for combined single limit bodily injury and property damage and at least \$1,000,000
81 for small inflatable devices and which shall meet the rules and regulations as established by the
82 commissioner. No insurance policy shall expire or be cancelled unless notice of such pending
83 expiration or cancellation shall be provided by the insurance carrier to the commissioner prior to
84 such expiration or cancellation; provided, however, that upon such expiration or cancellation, the
85 amusement device shall be closed and the license and permit shall be automatically revoked until
86 the required insurance has been obtained and a new license and permit have been issued. Proof
87 of coverage shall include, but not be limited to, proof of liability insurance issued by an
88 insurance company approved to do business within the commonwealth or a surety bond in an
89 amount to be determined by the commissioner or other type of indemnity against liability
90 providing substantially equivalent coverage. Operational programs and policies relative to the
91 training, inspection, maintenance and safety of amusement devices shall be subject to review and
92 modification by the commissioner or the commissioner's designee.

93 (h) Whoever violates this section shall be punished by a fine of not more than \$5,000 or
94 by imprisonment in a jail or house of correction for not more than 1 year or both, for each such
95 violation.

96 SECTION 3. Section 60 of chapter 146 of the General Laws, as so appearing, is hereby
97 amended by striking out, in line 2, the words "or an inspector of amusement devices".

98 SECTION 4. Said section 60 of said chapter 146, as so appearing, is hereby further
99 amended by striking out, in line 5, the words "commissioner of administration" and inserting in
100 place thereof the following words:- secretary of administration and finance. The application of a
101 person desiring to act as an inspector of amusement devices shall be accompanied by a fee, the
102 amount of which shall be determined annually by the secretary.