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Legislative Document

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H.P. 1287

House of Representatives, January 5, 2012

An Act To Privatize the Inspection of Amusement Rides in Maine

Submitted by the Department of Public Safety pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative HASKELL of Portland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 8 MRSA c. 18** is enacted to read:

3

CHAPTER 18

4

AMUSEMENT RIDES AND SHOWS

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§481. Definitions

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As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

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1. Amusement ride. "Amusement ride" means a device or combination of devices or elements that carry, convey or direct a person over or through a fixed or restricted course or within a defined area for the primary purpose of amusement or entertainment. "Amusement ride" does not include nonmechanized playground equipment or a coin-operated ride that is manually, mechanically or electrically operated, is customarily placed in a public location and does not normally require the supervision or services of an operator.

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2. Amusement show. "Amusement show" means a fixed or traveling show, whether held indoors or outdoors, for which admission is charged and that is designed to provide amusement to members of the public, except that "amusement show" does not include a circus. "Amusement show" includes but is not limited to a carnival, thrill show, ice show and rodeo.

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3. ASTM standards. "ASTM standards" means the standards on amusement rides established by ASTM International or a successor organization and adopted by the commissioner by rule pursuant to section 485.

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4. Certified amusement ride inspector. "Certified amusement ride inspector" means an individual who holds a current amusement ride inspector certificate pursuant to section 483.

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5. Commissioner. "Commissioner" means the Commissioner of Public Safety.

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6. Operator. "Operator" means an individual having direct control of the starting, stopping or speed of an amusement ride.

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7. Owner. "Owner" means a person who owns, leases or manages the operation of an amusement ride.

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8. Rider. "Rider" means a customer of an amusement ride. "Rider" includes a customer of an amusement ride who is waiting in the vicinity to get on an amusement ride and a departing customer who is still in the vicinity of the amusement ride.

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1 **§482. Amusement rides**

2 **1. Inspection required.** An amusement ride must be inspected at least once
3 annually by a certified amusement ride inspector.

4 A. In order to be operated in this State, an amusement ride must comply with the
5 applicable ASTM standards.

6 B. An amusement ride that is not operated in the State on a year-round basis must be
7 inspected in the same calendar year in which the amusement ride is operated in the
8 State, prior to either July 1st or the first operation of the amusement ride in the State,
9 whichever is sooner.

10 C. An amusement ride that does not pass an inspection or reinspection required by
11 this section must pass a reinspection in the same calendar year before being operated
12 in the State.

13 D. If an inspection reveals that an amusement ride does not meet the applicable
14 ASTM standards, the certified amusement ride inspector shall notify the owner of all
15 defects.

16 E. An operator may not operate an amusement ride unless:

17 (1) The amusement ride passed the most recent annual inspection required by
18 this section; or

19 (2) All defects identified during the most recent annual inspection have been
20 corrected and the amusement ride passes reinspection.

21 F. Before an amusement ride may be operated, a certified amusement ride inspector
22 must affix to the ride an inspection decal, received from the Office of the State Fire
23 Marshal pursuant to subsection 4, that contains a date and certification number.

24 G. A certified amusement ride inspector shall file an affidavit of inspection with the
25 Office of the State Fire Marshal within 10 days after completion of an inspection. The
26 affidavit must contain:

27 (1) The owner's name;

28 (2) The name of the amusement ride;

29 (3) The name of the manufacturer of the amusement ride;

30 (4) The serial number of the amusement ride;

31 (5) The date of inspection; and

32 (6) The certified amusement ride inspector's name and certification number.

33 H. An amusement ride that has been modified or altered in a manner that changes its
34 dynamics or control system from that of the original manufacturer's design or
35 specification since its most recent annual inspection must be inspected by a certified
36 amusement ride inspector before it may be operated in the State.

37 I. Following a serious injury or illness involving an amusement ride, the amusement
38 ride must be inspected by a certified amusement ride inspector and approved by the
39 commissioner before it may be operated in the State. As used in this paragraph,

1 "serious injury or illness" means an injury or illness that results in death,
2 dismemberment, disfigurement, compound fracture of a body part or permanent loss
3 of the use of a body part or organ, function or system or that requires hospital
4 admission within 24 hours of the occurrence of the injury or illness involving the
5 amusement ride.

6 J. An owner or operator shall make an amusement ride available for inspection at all
7 reasonable times and places requested by a certified amusement ride inspector.

8 An inspection or reinspection required by this section must include an evaluation
9 consistent with the applicable ASTM standards.

10 The inspections required by this section are in addition to any other inspections required
11 or permitted by law.

12 **2. Insurance requirements.** An owner shall provide the certified amusement ride
13 inspector with a copy of a certificate of public liability insurance in a minimum amount
14 of \$1,000,000 at the time of inspection.

15 **3. Operator requirements.** An owner must have a documented training policy for
16 the operation of each amusement ride owned by the owner. The owner shall maintain a
17 written certification for each operator, providing documented proof that the operator has
18 received the training required by the training policy for the amusement ride.

19 **4. Inspection decals.** Inspection decals must be furnished to certified amusement
20 ride inspectors by the Office of the State Fire Marshal.

21 A. Inspection decals remain the property of the Office of the State Fire Marshal.

22 B. The commissioner shall establish by rule the fee for an inspection decal.

23 C. A certified amusement ride inspector must stock a sufficient number of inspection
24 decals to meet all demands.

25 D. Within 20 working days of the end of a calendar year or upon the revocation of a
26 certified amusement ride inspector's certification, the certified amusement ride
27 inspector shall return unused inspection decals to the Office of the State Fire Marshal,
28 who shall issue a refund in the amount of the fee paid under paragraph B or exchange
29 the unused decals for inspection decals valid for the next calendar year.

30 **5. Recording and reporting.** An owner shall maintain a first aid incident report log
31 for all rider injuries or illnesses, other than minor injuries or illnesses, resulting from the
32 operation of an amusement ride. The report log must include the following:

33 A. The date the injury or illness occurred;

34 B. The name, address and telephone number of the rider who received first aid
35 service or treatment;

36 C. The age of the rider;

37 D. The manufacturer and serial number of the amusement ride involved in the injury
38 or illness;

39 E. A description of the injury or illness;

1 F. A description of any first aid service or treatment administered; and

2 G. Any other information considered pertinent by the owner.

3 **6. Violation.** A person who operates an amusement ride in violation of this section
4 commits a civil violation for which a fine of not more than \$1,000 may be assessed upon
5 the owner of the amusement ride.

6 **§483. Certification of amusement ride inspectors**

7 **1. Requirements.** To receive an amusement ride inspector certificate from the
8 commissioner, an applicant must:

9 A. Hold one or more of the following current certifications:

10 (1) An intermediate or advanced certification as an amusement ride and device
11 inspector issued by a national association of amusement ride safety officials; or

12 (2) An intermediate or advanced certification as an amusement ride and device
13 inspector issued by a national organization of manufacturers and suppliers for the
14 amusement ride industry; and

15 B. Be at least 21 years of age.

16 **2. Application.** In order to become a certified amusement ride inspector, an
17 applicant must submit a completed application form to the Office of the State Fire
18 Marshal, on a form provided by that office, along with:

19 A. Documented proof of any certification required under subsection 1, paragraph A;
20 and

21 B. An application fee established by the commissioner by rule.

22 **3. Violation.** An individual commits a Class E crime if that individual knowingly:

23 A. Provides false information in applying for an amusement ride inspector
24 certificate; or

25 B. Affixes an inspection decal to an amusement ride that has not passed an
26 inspection or reinspection in accordance with section 482, subsection 1.

27 **§484. Amusement shows**

28 **1. License required.** A person may not operate an amusement show without first
29 obtaining a license from the commissioner. A license application must include the
30 following:

31 A. A certificate of public liability insurance in an amount established by the
32 commissioner by rule; and

33 B. An application to operate that is approved by the Office of the State Fire Marshal.

34 **2. License fee.** The license fee for an amusement show is \$300 annually.

1 **3. Violation.** A person who operates an amusement show in violation of this chapter
2 commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

3 **§485. Rulemaking**

4 The commissioner shall adopt rules to implement this chapter. Rules adopted
5 pursuant to this section are routine technical rules pursuant to Title 5, chapter 375,
6 subchapter 2-A.

7 **Sec. 2. 8 MRSA c. 19,** as amended, is repealed.

8 **Sec. 3. 8 MRSA §658,** as amended PL 1979, c. 127, §48, is further amended to
9 read:

10 **§658. Unincorporated places**

11 County commissioners within their counties and counties within their limits shall
12 respectively exercise over unincorporated places all the powers of municipal officers and
13 towns under chapters 1, 3, 7 ~~and~~ 17 ~~and~~ 20 to 25.

14 **Sec. 4. 8 MRSA §701,** as amended by PL 1979, c. 127, §49, is further amended to
15 read:

16 **§701. Jurisdiction**

17 All penalties provided in chapters 1, 3, 7 ~~and~~ 17 ~~and~~ 20 to 25, ~~except that specified in~~
18 ~~section 502, shall~~ must be recovered by complaint for the use of the town where incurred.

19 **Sec. 5. 22 MRSA §1607,** as amended by PL 2005, c. 563, §15, is further amended
20 to read:

21 **§1607. Application**

22 This chapter does not apply to fairs licensed, defined and regulated under Title 7,
23 chapter 4, or military activities. It does not apply to persons, associations, corporations,
24 trusts or partnerships licensed under Title 8, chapters 11 and ~~49~~ 18.

25 **SUMMARY**

26 The purpose of this bill is to reduce operational costs incurred by the Department of
27 Public Safety, Office of the State Fire Marshal by allowing qualified private sector
28 organizations or individuals to inspect amusement rides to ensure they are safe for the
29 public. Under this bill, the Office of the State Fire Marshal has oversight over the
30 certification of qualified amusement ride inspectors. The bill also repeals laws governing
31 licensure of circuses in the Maine Revised Statutes, Title 8 in an effort to eliminate
32 confusion.