



State of Wisconsin
2019 - 2020 LEGISLATURE

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2019 ASSEMBLY BILL 836

January 30, 2020 - Introduced by Representatives BROSTOFF, SINICKI, BOWEN, STUBBS, TUSLER and C. TAYLOR, cosponsored by Senators LARSON and BEWLEY. Referred to Committee on Regulatory Licensing Reform.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT** *to create* 101.122 and 101.19 (1g) (ar) of the statutes; **relating to:**
2 regulating trampoline parks, providing an exemption from emergency rule
3 procedures, granting rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

Subject to specified exemptions, this bill prohibits a person from operating a trampoline park without an annual license issued by the Department of Safety and Professional Services. The bill defines “trampoline park” as a place of business that, for a fee, offers the recreational use of a “trampoline court,” which is defined as an area comprising either 1) multiple commercial trampolines or 2) at least one commercial trampoline and at least one associated foam or inflatable bag pit. A “commercial trampoline” is defined as a device incorporating a flexible surface that is used for recreational jumping, springing, bouncing, acrobatics, or gymnastics.

For license issuance or renewal, the operator of a trampoline park must pay a fee specified in rules promulgated by DSPS. The operator must also submit a certificate of insurance demonstrating that the operator has liability coverage of at least \$1,000,000 in the aggregate and \$500,000 per incident to cover injuries to participants arising out of any negligence or misconduct by the operator or the trampoline park’s staff in the construction, maintenance, or operation of the trampoline park. If the required insurance ever lapses, expires, or is cancelled, the operator must notify DSPS within 24 hours. The bill requires DSPS to promulgate rules for issuing and renewing licenses. As with other licenses issued by DSPS under current law, a person is not eligible for a license under the bill if the person is liable

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for delinquent taxes, unemployment insurance contributions, or child or spousal support.

The bill creates three exemptions from the above licensing requirement. First, if a playground is an incidental amenity operated by a school, city, village, town, or county, and the operator does not primarily derive revenue from operating the playground for a fee, the bill does not apply to the playground. Second, the bill also does not apply to a nonrecreational training or rehearsal facility for gymnastics, dance, cheer, or tumbling that satisfies specified requirements. Third, the bill does not apply to an inflatable ride, an inflatable bounce house, or equipment used exclusively for exercise.

The bill imposes the following duties on an operator of a trampoline park who is not subject to one of the above exemptions. First, the bill requires an operator to comply with industry standards regarding signage, safety procedures, education of risk, equipment, facilities, staff training and supervision, participant activities, operational issues, and statistical tracking of injuries. An operator must notify DSPS within 48 hours of any change in status regarding compliance with the foregoing duties. Second, an operator must prominently display signage on the trampoline park's rules. Third, an operator must develop, implement, and follow an in-house injury reporting system and emergency response plan and retain records related to that system and plan. Fourth, an operator must make information in that system and the foregoing records available for inspection and copying to DSPS, the Department of Health Services, a local health department, or any affected party.

If an operator violates the bill by failing to comply with any of the above duties, the bill allows DSPS to suspend or revoke the operator's license, but only after DSPS gives the operator an opportunity to cure the violation at least 60 days before the suspension or revocation. However, an opportunity to cure is not required for a repeat violation. The bill requires DSPS to promulgate rules specifying the timeline and process for curing a violation. The bill also requires DSPS to annually inspect trampoline parks and provide operators with written reports documenting the inspections.

The bill also imposes responsibilities on individuals who use trampoline parks, including reading and following all posted signs and warnings, avoiding bodily contact with other trampoliners or spectators, refraining from acting in a manner that may cause injury to others, and not participating in trampolining when under the influence of drugs or alcohol. Under the bill, an individual who participates in trampolining also accepts certain dangers inherent in the activity. The bill defines those dangers to include risk of injuries that result from collisions with other trampoliners or spectators, injuries that result from falls, injuries that result from landing on the trampoline, pad, or platform, and injuries that involve objects or artificial structures properly within the intended travel of the trampoliner that are not otherwise attributable to the operator's breach of a duty under this section or under common law.

Under the bill, if a participant makes a claim against an operator for an injury resulting from an activity occurring at a trampoline park, the operator may raise compliance with the operator's responsibilities, the assumption of risks inherent to

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trampoline activities as described in the bill, or any failure by a participant to comply with the participant's responsibilities as a defense that the court or jury can consider under existing comparative negligence standards.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 101.122 of the statutes is created to read:
- 2 **101.122 Trampoline park safety. (1) DEFINITIONS.** In this section:
- 3 (a) "Commercial trampoline" means a device that incorporates a trampoline
4 bed and is used for recreational jumping, springing, bouncing, acrobatics, or
5 gymnastics in a trampoline park.
- 6 (b) "Emergency response plan" means a written plan of action for the
7 reasonable and appropriate contact, deployment, and coordination of services,
8 agencies, and personnel to provide the earliest possible response to an injury or
9 emergency.
- 10 (c) "Operator" means a person who owns, manages, or controls or who has the
11 duty to manage or control the operation of a trampoline park.
- 12 (d) "Participant" means an individual who uses a trampoline park.
- 13 (e) "Trampoline bed" means the flexible surface of a trampoline on which a user
14 jumps or bounces.
- 15 (f) "Trampoline court" means an area of a trampoline park comprising either
16 of the following:
- 17 1. Multiple commercial trampolines.
- 18 2. At least one commercial trampoline and at least one associated foam or
19 inflatable bag pit.

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1 (g) "Trampoline park" means a place of business that offers the recreational use
2 of a trampoline court for a fee.

3 **(2) LICENSE REQUIRED.** (a) Except as provided in sub. (3), no person may operate
4 a trampoline park without holding an annual license issued by the department.
5 Subject to ss. 440.12 and 440.13, the department shall issue or renew a license if the
6 applicant pays the fee required under s. 101.19 (1g) (ar) and submits a copy of the
7 certificate of insurance required under sub.(4).

8 (b) The department shall promulgate rules establishing requirements and
9 procedures for applying for annual licenses issued or renewed under par. (a).

10 **(3) EXEMPTIONS.** This section does not apply to any of the following:

11 (a) A playground operated by a school, city, village, town, or county if all of the
12 following are satisfied:

- 13 1. The playground is an incidental amenity.
- 14 2. The school, city, village, town, or county does not primarily derive revenue
15 from operating the playground for a fee.

16 (b) A gymnastics, dance, cheer, or tumbling facility that satisfies any of the
17 following:

- 18 1. The majority of activities at the facility are based in training or rehearsal and
19 not recreation.
- 20 2. The facility derives at least 80 percent of revenues through supervised
21 instruction or classes.
- 22 3. The student-coach or student-instructor ratio is based on age, skill level,
23 and number of students.

24 (c) Equipment used exclusively for exercise, an inflatable ride, or an inflatable
25 bounce house.

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1 **(4) INSURANCE.** An operator of a trampoline park shall do all of the following:

2 (a) Maintain insurance providing liability coverage of at least \$1,000,000 in the
3 aggregate and \$500,000 per incident to cover injuries to participants arising out of
4 any negligence or misconduct by the operator or the trampoline park's staff in the
5 construction, maintenance, or operation of the trampoline park.

6 (b) Maintain a certificate of insurance demonstrating compliance with par. (a).

7 (c) Notify the department within 24 hours of the lapse, expiration, or
8 cancellation of the insurance required under par. (a).

9 **(5) VIOLATION; LICENSE SUSPENSION OR REVOCATION.** (a) Except as provided in par.
10 (b), a violation of this section is grounds for the department to suspend or revoke a
11 license issued or renewed under sub. (2) (a).

12 (b) The department may suspend or revoke a license only if the department
13 gives the operator an opportunity to cure the violation at least 60 days before the
14 suspension or revocation, except no opportunity to cure is required for a repeat
15 violation. The department shall promulgate rules specifying the timeline and
16 process for curing a violation.

17 **(6) COMPLIANCE WITH INDUSTRY STANDARDS.** An operator of a trampoline park
18 shall do all of the following:

19 (a) Ensure that the trampoline park complies with industry standards
20 regarding all of the following:

21 1. Signage and notification for proper use of the trampoline park, safety
22 procedures, and education of risk.

23 2. Equipment and facilities, including materials, layout, condition, and
24 maintenance.

25 3. Staff training, including safety procedures and emergency response.

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1 4. Participant activities and behaviors that should be restricted.

2 5. Separation of participants within the trampoline park based on age, size, or
3 other necessary factors.

4 6. Operational issues, including maintenance, injury logs and emergency
5 response plans.

6 7. Staff supervision and monitoring of activities.

7 8. Statistical tracking of injuries in a manner that does not personally identify
8 the injured participant.

9 (b) Notify the department within 48 hours of any changes in status regarding
10 compliance required under par. (a).

11 **(7) NOTIFICATION AND EDUCATION OF RISK; SIGNS.** An operator shall prominently
12 display throughout the trampoline park contrasted safety, warning, advisory, and
13 instructional signage reflecting the trampoline park's rules.

14 **(8) EMPLOYEES AND EQUIPMENT; SUPERVISION.** (a) An operator shall ensure,
15 during all hours of operation, that at least one trampoline park employee is working
16 onsite who is certified in first aid and cardiopulmonary resuscitation and that the
17 trampoline park has an operable automated external defibrillator.

18 (b) An operator shall do all of the following:

19 1. Require that trampoline park employees monitor the trampoline court and
20 participants during all hours of operation.

21 2. Ensure that the number of trampoline park employees is adequate to view
22 each area of the trampoline court.

23 **(9) REPORTING OF INJURIES; EMERGENCY RESPONSE PLAN.** (a) An operator shall
24 develop, implement, and follow an in-house injury reporting system and emergency

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1 response plan for injuries and shall retain any records related to the injury reporting
2 system and emergency response plan.

3 (b) An operator shall make available for inspection and copying the information
4 contained in the injury reporting system required under par. (a) and the records
5 specified in par. (a) upon request by the department, the department of health
6 services, a local health department, or any affected party.

7 **(10) RESPONSIBILITIES OF PARTICIPANTS.** While in a trampoline court, a person
8 trampolining shall do all of the following:

9 (a) Maintain reasonable control of his or her speed and course at all times.

10 (b) Read and follow all posted signs and warnings.

11 (c) Avoid bodily contact with other trampoliners or spectators.

12 (d) Not run on trampolines, over pads, or on platforms.

13 (e) Refrain from acting in a manner that may cause injury to others.

14 (f) Not participate in trampolining when under the influence of drugs or
15 alcohol.

16 (g) Properly use all trampoline court safety equipment provided.

17 (h) Not participate in trampolining if the person has a preexisting medical
18 condition, a bone condition, a circulatory condition, a heart or lung condition, a back
19 or neck condition, high blood pressure, or a history of spine, musculoskeletal, or head
20 injury, if he or she has had recent surgery, or if she may be pregnant.

21 (i) Remove inappropriate attire, including hard, sharp, or dangerous objects,
22 such as buckles, pens, purses, or badges.

23 (j) Conform with or meet height, weight, or age restrictions imposed by the
24 operator to use or participate in the trampoline court activity.

25 (k) Avoid crowding or overloading individual sections of the trampoline court.

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1 (l) Use the trampoline court within the person's own limitations, training, and
2 acquired skills.

3 (m) Avoid landing on the head or neck.

4 **(11) APPRECIATION OF RISK.** An individual who participates in trampolining
5 accepts the dangers inherent in that activity insofar as the dangers are obvious and
6 necessary. Those dangers include risk of injuries that result from collisions with
7 other trampoliners or spectators, injuries that result from falls, injuries that result
8 from landing on the trampoline, pad, or platform, and injuries that involve objects
9 or artificial structures properly within the intended travel of the trampoliner that
10 are not otherwise attributable to the operator's breach of a duty under this section
11 or under common law.

12 **(12) INSPECTION.** (a) The department shall annually inspect each trampoline
13 park to determine compliance with this section and the operational safety of the
14 trampoline park and any device or material used in the trampoline park. The
15 inspection shall also determine whether the trampoline park's devices and materials
16 are constructed, assembled, maintained, tested, and operated in accordance with the
17 manufacturer's recommendations.

18 (b) During an inspection, the operator shall provide the department with all
19 of the following:

- 20 1. Proof that the trampoline court is maintained in good repair.
- 21 2. A copy of the trampoline park's emergency response plan.
- 22 3. Maintenance, inspection, staff member training, and injury logs.

23 (c) After an inspection, the department shall provide to the operator a written
24 report documenting the inspection and summarizing the status of the operator's
25 compliance with this section.

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1 **(13) CLAIMS.** Notwithstanding any provision in this section to the contrary, if
2 a participant makes a claim against an operator for an injury resulting from an
3 activity occurring at a trampoline park, all of the following apply:

4 (a) The operator may raise as a defense the operator's compliance with subs.
5 (6), (7), (8), and (9).

6 (b) The operator may raise as a defense the appreciation of risk from inherent
7 dangers as described under sub. (11) or a participant's failure to comply with any
8 responsibilities described in sub. (10).

9 (c) The court or jury shall consider, in accordance with the comparative
10 negligence provisions in s. 895.045, any defense raised by the operator under par. (a)
11 or (b).

12 **SECTION 2.** 101.19 (1g) (ar) of the statutes is created to read:

13 101.19 **(1g)** (ar) Issuing and renewing licenses and making inspections for
14 trampoline parks under s. 101.122.

15 **SECTION 3. Nonstatutory provisions.**

16 (1) Using the procedure under s. 227.24, the department of safety and
17 professional services may promulgate the rules required under ss. 101.19 (1g) (ar)
18 and 101.122 (2) (b) and (5) (b) as emergency rules. Notwithstanding s. 227.24 (1) (a)
19 and (3), the department is not required to provide evidence that promulgating a rule
20 under this subsection as an emergency rule is necessary for the preservation of the
21 public peace, health, safety, or welfare and is not required to provide a finding of
22 emergency for a rule promulgated under this subsection.

23 **SECTION 4. Initial applicability.**

24 (1) The treatment of s. 101.122 (11) first applies to claims arising on the
25 effective date of this subsection.

