

LEGISLATIVE BILL 226

Approved by the Governor May 29, 1987

Introduced by Wesely, 26

AN ACT relating to amusement rides; to adopt the Nebraska Amusement Ride Act.
Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Nebraska Amusement Ride Act.

Sec. 2. As used in the Nebraska Amusement Ride Act, unless the context otherwise requires:

(1) Amusement ride shall mean any mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, or excitement, but such term shall not include (a) any single-passenger coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator or (b) nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, and physical fitness devices;

(2) Commissioner shall mean the Commissioner of Labor or his or her designee;

(3) Operator shall mean a person actually engaged in or directly controlling the operations of an amusement ride;

(4) Owner shall mean a person who owns, leases, controls, or manages the operations of an amusement ride and may include the state or any political subdivision of the state; and

(5) Qualified inspector shall mean any person who is (a) found by the commissioner to possess the requisite training and experience to perform competently the inspections required by the Nebraska Amusement Ride Act and (b) certified by the commissioner to perform inspections of amusement rides.

Sec. 3. The commissioner shall adopt and promulgate rules and regulations (1) for the safe installation, repair, maintenance, use, operation, and inspection of amusement rides as the commissioner may find necessary for the protection of the general public

and (2) necessary to carry out the provisions of the Nebraska Amusement Ride Act. Such rules and regulations shall be of a reasonable nature, based upon generally accepted engineering standards, formulas, and practices, and, insofar as practicable and consistent with the Nebraska Amusement Ride Act, uniform with rules and regulations of other states. Whenever such standards are available in suitable form they may be incorporated by reference by the commissioner. The commissioner shall administer and enforce the Nebraska Amusement Ride Act and all rules and regulations adopted and promulgated pursuant to such act. The commissioner shall coordinate all regulatory and investigative activities with the appropriate state agencies.

Sec. 4. Except for purposes of testing and inspection, no amusement ride shall be operated without a valid permit for the operation issued by the commissioner to the owner of such amusement ride. The owner of an amusement ride shall apply for a permit under section 5 of this act to the commissioner on an application furnished by the commissioner and shall include such information as the commissioner may require. Every amusement ride shall be inspected before it is originally put into operation for public use and at least once every year after such ride is put into operation for public use.

Sec. 5. (1) The commissioner shall issue a permit to operate an amusement ride to the owner of such amusement ride upon presentation by the owner of (a) an application for a permit, (b) a certificate of inspection by a qualified inspector, (c) proof of liability insurance as required in section 6 of this act, and (d) the permit fee. Such permit shall be valid for a period of twelve months from the date of inspection by a qualified inspector.

(2) The commissioner may waive the requirement of subdivision (1)(b) of this section if the owner of the amusement ride gives satisfactory proof to the commissioner that such amusement ride has passed an inspection conducted or required by a federal agency, any other state, or a governmental subdivision of this or of any other state which has standards for the inspection of such an amusement ride at least as stringent as those adopted and promulgated pursuant to the Nebraska Amusement Ride Act.

Sec. 6. No amusement ride shall be operated unless at the time of operation the owner has an insurance policy in effect written by an insurance company authorized to do business in this state insuring

the owner and operator against liability for injury to persons arising out of the operation of such amusement ride. Such insurance policy shall be in an amount not less than the minimum amount per occurrence as established by the commissioner. Such minimum amount shall be established with due regard to the protection of the general public and the availability of insurance coverage, but such minimum amount shall not be greater than one million dollars per occurrence.

Sec. 7. The commissioner may inspect any amusement ride without notice at any time while such amusement ride is operating in this state. The commissioner may temporarily suspend a permit to operate an amusement ride if it has been determined after inspection to be hazardous or unsafe. An amusement ride shall not be operated while the permit for its operation is suspended. Operation of such an amusement ride shall not resume until the hazardous or unsafe condition is corrected to the satisfaction of the commissioner.

Sec. 8. The owner of an amusement ride shall send a copy of any accident report required by his or her insurer to the commissioner. The commissioner may provide for the suspension of the permit of operation for any amusement ride the breakdown or malfunction of which directly caused serious injury or death of any person. The commissioner may also require an inspection of any amusement ride, whose operation has resulted in any serious injury or death, before operation of such amusement ride may be resumed.

Sec. 9. The commissioner shall establish by rules and regulations a schedule of permit fees not to exceed fifty dollars for each amusement ride. Such permit fees shall be established with due regard for the costs of administering the Nebraska Amusement Ride Act.

Sec. 10. There is hereby created the Nebraska Amusement Ride Fund. All permit fees collected pursuant to the Nebraska Amusement Ride Act shall be placed by the State Treasurer in the fund and shall be used for the sole purpose of administering the provisions of the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 11. The commissioner may certify such qualified inspectors as may be necessary to carry out the Nebraska Amusement Ride Act.

Sec. 12. The commissioner may establish by rules and regulations a schedule of reasonable inspections fees for each amusement ride. The cost of obtaining the certificate of inspection from a qualified

inspector shall be borne by the owner of the amusement ride.

Sec. 13. Each owner shall retain at all times up-to-date maintenance and inspection records for each amusement ride as prescribed by the commissioner. The owner shall make such records available to the commissioner on request.

Sec. 14. The commissioner may require the owner of an amusement ride to provide the commissioner with a tentative schedule of events at which the amusement ride will be operated within this state. The commissioner shall establish timetables and procedures for providing and updating such schedules.

Sec. 15. No person shall operate an amusement ride unless he or she is at least sixteen years of age. An operator shall be in attendance at all times that an amusement ride is in operation.

Sec. 16. Any person who knowingly operates or causes to be operated an amusement ride in violation of the Nebraska Amusement Ride Act shall be guilty of a Class II misdemeanor. Each day a violation continues shall constitute a separate offense.

Sec. 17. The Attorney General, acting on behalf of the commissioner, or the county attorney in a county in which an amusement ride is located or operated may apply to the district court, pursuant to the rules of civil procedure, for an order enjoining operation of any amusement ride operated in violation of the Nebraska Amusement Ride Act.

Sec. 18. The Nebraska Amusement Ride Act shall not be construed to alter the duty of care or the liability of an owner of an amusement ride for injuries or death of any person or damage to any property arising out of an accident involving an amusement ride. The state and its officers and employees shall not be construed to assume liability arising out of an accident involving an amusement ride by reason of administration of the Nebraska Amusement Ride Act.

Sec. 19. The governing board of any city, county, or village may establish and enforce safety standards for amusement rides in addition to, but not in conflict with, the standards established by the commissioner pursuant to the Nebraska Amusement Ride Act.

Sec. 20. No amusement ride shall be operated in violation of the Nebraska Amusement Ride Act after December 31, 1987.