

HB0150S02 compared with HB0150S01

~~text~~ shows text that was in HB0150S01 but was deleted in HB0150S02.

Inserted text shows text that was not in HB0150S01 but was inserted into HB0150S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Norman K. Thurston proposes the following substitute bill:

TRAMPOLINE PARK SAFETY STANDARDS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K. Thurston

Senate Sponsor: ~~text~~ Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts licensing and operational standards for trampoline parks.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the operator of a trampoline park to obtain a business license to operate the trampoline park;
- ▶ provides for a local regulating authority to suspend or revoke a trampoline park operator's business license for noncompliance;
- ▶ identifies industry standards with which a trampoline park must comply;
- ▶ describes specific notification, training, supervision, injury reporting, and emergency response standards with which a trampoline park must comply;

HB0150S02 compared with HB0150S01

- ▶ requires an annual inspection;
- ▶ requires a trampoline park operator to annually provide a local regulating authority certain certificates of compliance;
- ▶ requires a trampoline park to carry certain insurance; and
- ▶ insulates a trampoline park from liability claims due to certain inherent risks related to the use of a trampoline park.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

11-63-101, Utah Code Annotated 1953

11-63-102, Utah Code Annotated 1953

11-63-103, Utah Code Annotated 1953

11-63-201, Utah Code Annotated 1953

11-63-202, Utah Code Annotated 1953

11-63-301, Utah Code Annotated 1953

11-63-302, Utah Code Annotated 1953

11-63-303, Utah Code Annotated 1953

11-63-304, Utah Code Annotated 1953

11-63-305, Utah Code Annotated 1953

11-63-401, Utah Code Annotated 1953

11-63-402, Utah Code Annotated 1953

11-63-501, Utah Code Annotated 1953

11-63-502, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-63-101** is enacted to read:

CHAPTER 63. TRAMPOLINE PARK SAFETY

Part 1. General Provisions

HB0150S02 compared with HB0150S01

11-63-101. Title.

This chapter shall be known as "Trampoline Park Safety."

Section 2. Section **11-63-102** is enacted to read:

11-63-102. Definitions.

As used in this chapter:

(1) "Commercial trampoline" means a device that:

(a) incorporates a trampoline bed; and

(b) is used for recreational jumping, springing, bouncing, acrobatics, or gymnastics in a trampoline park.

(2) "Emergency response plan" means a written plan of action for the reasonable and appropriate contact, deployment, and coordination of services, agencies, and personnel to provide the earliest possible response to an injury or emergency.

(3) "Inherent risk" means a danger or condition that is an integral part of an activity occurring at a trampoline park ~~{, including:}~~.

~~{ (a) poor timing in relation to bouncing;~~

~~— (b) being launched in an unexpected direction;~~

~~— (c) colliding with another person in the course of an activity where both participants have an expectation of being on the same surface;~~

~~— (d) being struck by a ball or other thrown object while participating in an activity where throwing the ball or other object toward a participant is an integral part of the activity;~~

~~— (e) the effect of increased physical forces associated with the proper use of the trampoline park equipment on a pre-existing physical condition that may result in the exacerbation or aggravation of the condition; and~~

~~— (f) the failure of a participant to act within the participant's own skill set or ability.~~

‡ (4) "Inspection" means a procedure that an inspector conducts to:

(a) determine whether a trampoline park facility, including any device or material, is constructed, assembled, maintained, tested, and operated in accordance with this chapter and the manufacturer's recommendations;

(b) determine the operational safety of a trampoline park facility, including any device or material; and

(c) determine whether the trampoline park's policies and procedures comply with this

HB0150S02 compared with HB0150S01

chapter.

(5) "Inspector" means an individual who:

(a) conducts an inspection of a trampoline park to certify compliance with this chapter and industry safety standards; and

(b) (i) is certified by:

(A) an organization that develops and publishes consensus standards for a wide range of materials, products, systems, and services that are used for trampolines; or

(B) an organization that promotes trampoline park safety and adopts the standards described in Subsection (5)(b)(i)(A);

(ii) represents the insurer of the trampoline park;

(iii) represents or is certified by a department or agency, regardless of whether the agency is located within the state, that:

(A) inspects amusement and recreational facilities and equipment; and

(B) certifies and trains professional private industry inspectors through written testing and continuing education requirements; or

(iv) represents an organization that the United States Olympic Committee designates as the national governing body for gymnastics.

(6) "Local regulating authority" means the business licensing division of:

(a) the city, town, or metro township in which the trampoline park is located; or

(b) if the trampoline park is located in an unincorporated area, the county.

(7) "Operator" means a person who owns, manages, or controls or who has the duty to manage or control the operation of a trampoline park.

(8) "Participant" means an individual that uses trampoline park equipment.

(9) "Trampoline bed" means the flexible surface of a trampoline on which a user jumps or bounces.

(10) "Trampoline court" means an area of a trampoline park comprising:

(a) multiple commercial trampolines; or

(b) at least one commercial trampoline and at least one associated foam or inflatable bag pit.

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

HB0150S02 compared with HB0150S01

Section 3. Section **11-63-103** is enacted to read:

11-63-103. Exemptions.

This chapter does not apply to:

(1) a playground that a school or local government operates, if:

(a) the playground is an incidental amenity; and

(b) the operating entity does not primarily derive revenue from operating the playground for a fee;

(2) a gymnastics, dance, cheer, or tumbling facility where:

(a) the majority of activities are based in training or rehearsal and not recreation;

(b) the facility derives at least 80% of revenues through supervised instruction or classes; and

(c) the student-coach or student-instructor ratio is based on age, skill level, and number of students; or

(3) equipment used exclusively for exercise, an inflatable ride, or an inflatable bounce house.

Section 4. Section **11-63-201** is enacted to read:

Part 2. License Required

11-63-201. Municipal or county business license required.

To operate a trampoline park the operator of a trampoline park shall obtain and maintain, conditioned upon compliance with this chapter:

(1) if the trampoline park is located within an incorporated municipality, a municipal business license authorized under Section 10-1-203; or

(2) if located within the unincorporated area of a county, a county business license authorized under Section 17-53-216.

Section 5. Section **11-63-202** is enacted to read:

11-63-202. Violation -- License suspension or revocation.

(1) Except as provided in this section, a violation of this chapter is grounds for the local regulating authority to suspend or revoke the operator's business license.

(2) A local regulating authority may not suspend or revoke a license under Subsection (1) unless:

(a) the local regulating authority provides the operator with at least 60 days to cure the

HB0150S02 compared with HB0150S01

violation that is the grounds for the action in accordance with the policy described in Subsection (3); or

(b) regardless of the operator curing a violation as described in Subsection (2)(a), the violation repeats.

(3) A local regulating authority that licenses a trampoline park operator shall define the reasonable opportunity to cure violations described in Subsection (2)(a) by creating a generally applicable policy that identifies a standard timeline and process for curing a violation.

Section 6. Section **11-63-301** is enacted to read:

Part 3. Safety Standards

11-63-301. Compliance with industry standards.

A trampoline park operator shall:

(1) ensure that the trampoline park complies with industry standards regarding:

(~~f1~~a) signage and notification for proper use of the trampoline park, safety procedures, and education of risk;

(~~f2~~b) equipment and facilities, including materials, layout, condition, and maintenance;

(~~f3~~c) staff training, including safety procedures and emergency response;

(~~f4~~d) participant activities and behaviors that should be restricted;

(~~f5~~e) separation of participants within the trampoline park based on age, size, or other necessary factors;

(~~f6~~f) operational issues, including maintenance and injury logs and emergency response plans;

(~~f7~~g) staff supervision and monitoring of activities; and

(~~f8~~h) statistical tracking of injuries in a manner that does not personally identify the injured participant~~f.i~~; and

(2) notify the licensing staff of the local regulating authority within 48 hours of any changes in status to any requirement under this section.

Section 7. Section **11-63-302** is enacted to read:

11-63-302. Notification and education of risk -- Signs.

An operator shall prominently display throughout the trampoline park contrasted safety, warning, advisory, and instructional signage reflecting~~f~~

HB0150S02 compared with HB0150S01

~~(1) the trampoline park's rules ~~}; and~~~~

~~(2) the inherent risks of participating in trampoline park activities};.~~

Section 8. Section **11-63-303** is enacted to read:

11-63-303. Trampoline park employee training and equipment.

An operator shall ensure that, during all hours of operation:

(1) at least one trampoline park employee is working onsite who is certified in first aid and CPR; and

(2) the trampoline park has an operable automated external defibrillator.

Section 9. Section **11-63-304** is enacted to read:

11-63-304. Trampoline court supervision.

An operator shall:

(1) require that trampoline park employees monitor the trampoline court and participants during all hours of operation; and

(2) ensure that the number of trampoline park employees described in Subsection (1) is adequate to view each area of the trampoline court.

Section 10. Section **11-63-305** is enacted to read:

11-63-305. Reporting of injuries -- Emergency response plan.

(1) An operator shall develop, implement, and follow an in-house injury reporting system and emergency response plan for injuries.

(2) The operator shall retain any records related to the injury reporting system and emergency response plan described in Subsection (1).

(3) The operator shall make available to the Department of Health or the local health department, upon request:

(a) the information contained in the injury reporting system described in Subsection (1); and

(b) the records described in Subsection (2).

Section 11. Section **11-63-401** is enacted to read:

Part 4. Compliance

11-63-401. Annual certification to local regulating authority.

(1) A trampoline park operator shall provide the certifications described in Subsection (2):

HB0150S02 compared with HB0150S01

(a) at the time a trampoline park operator applies to a local regulating authority to renew a business license to operate a trampoline park; and

(b) if the term of the license described in Subsection (1)(a) exceeds one year, at least once per calendar year.

(2) In accordance with Subsection (1), a trampoline park operator shall certify compliance with this chapter by submitting to the local regulating authority:

(a) an inspection certificate described in Subsection 11-63-402(3); and

(b) the certification of insurance described in Subsection 11-63-501(2).

Section 12. Section **11-63-402** is enacted to read:

11-63-402. Inspection.

A trampoline park operator shall:

(1) ensure that an inspector conducts an inspection of the facilities and records of the trampoline park at least once per calendar year to certify compliance with:

(a) industry safety standards, including each category of standards described in Section 11-63-301; and

(b) this chapter, including safety standards described in Sections 11-63-302, 11-63-303, 11-63-304, and 11-63-305;

(2) during the inspection described in Subsection (1), provide the inspector with:

(a) proof that the trampoline court is maintained in good repair;

(b) an emergency response plan; and

(c) maintenance, inspection, staff member training, and injury logs; and

(3) obtain from the inspector a written report documenting the inspection and a certificate certifying that:

(a) the trampoline park has successfully passed the inspection described in this section; and

(b) the trampoline park is in full compliance with this chapter.

Section 13. Section **11-63-501** is enacted to read:

Part 5. Liability

11-63-501. Insurance.

A trampoline park operator shall:

(1) ~~carry insurance, either through purchasing insurance or through the trampoline~~

HB0150S02 compared with HB0150S01

park insuring itself, that is:

~~— (a) appropriate for the type of activities;~~ maintain insurance providing 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 trampoline park ~~{offers;~~

~~— (b) consistent with industry standards or otherwise typical in the industry; and~~

~~— (c) provides reasonable protection for an individual who is injured due to the negligence}~~ operator or staff in the construction, maintenance, or operation of the trampoline park ~~{and not an inherent risk};~~

(2) ~~{obtain or prepare a certificate that demonstrates to the satisfaction of the local regulating authority that the trampoline park carries the insurance described in Subsection (1)}~~ maintain a certificate of insurance demonstrating compliance with this section; and

(3) notify the licensing staff of the local regulating authority within 24 hours of the lapse, expiration, or cancellation of the insurance described in Subsection (1).

Section 14. Section **11-63-502** is enacted to read:

11-63-502. ~~{ Bar against claims}~~ Claims for inherent risks.

Notwithstanding anything in this chapter to the contrary, if a participant ~~{may not make}~~ makes a claim against ~~{or recover from}~~ an operator for an injury resulting from an inherent risk ~~{if};~~

(1) the operator ~~{was in}~~ may raise as a defense the operator's compliance with Sections 11-63-301, 11-63-302, 11-63-303, 11-63-304, and 11-63-305; and

(2) the factfinder shall consider, in accordance with Section 78B-5-818, the operator's compliance described in Subsection (1).