

HB0154S02 compared with HB0154S01

~~text~~ shows text that was in HB0154S01 but was deleted in HB0154S02.

inserted text shows text that was not in HB0154S01 but was inserted into HB0154S02.

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Representative Val K. Potter proposes the following substitute bill:

AMUSEMENT RIDE SAFETY

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: _____

LONG TITLE

General Description:

This bill revises provisions in the Amusement Ride Safety Act.

Highlighted Provisions:

This bill:

- ▶ amends the definitions;
- ▶ amends provisions of the Utah Amusement Ride Safety Committee's rulemaking authority;
- ▶ provides clarification regarding the Utah Amusement Ride Safety Committee's membership;
- ▶ modifies provisions regarding the hiring of the committee's director;
- ▶ modifies the continuing education requirements for the renewal of a qualified safety inspector certification;

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- ▶ allows the director to deny, suspend, or revoke an owner-operator's approval to operate an amusement ride under a multi-ride permit, upon a violation involving the amusement ride; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-16-102, as enacted by Laws of Utah 2019, Chapter 244

72-16-201, as enacted by Laws of Utah 2019, Chapter 244

72-16-202, as enacted by Laws of Utah 2019, Chapter 244

72-16-203, as enacted by Laws of Utah 2019, Chapter 244

72-16-301, as enacted by Laws of Utah 2019, Chapter 244

72-16-302, as enacted by Laws of Utah 2019, Chapter 244

72-16-303, as enacted by Laws of Utah 2019, Chapter 244

72-16-304, as enacted by Laws of Utah 2019, Chapter 244

72-16-305, as enacted by Laws of Utah 2019, Chapter 244

72-16-306, as enacted by Laws of Utah 2019, Chapter 244

72-16-401, as enacted by Laws of Utah 2019, Chapter 244

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

Section 1. Section **72-16-102** is amended to read:

72-16-102. Definitions.

As used in this chapter:

(1) "Account" means the Amusement Ride Safety Restricted Account created in

Section 72-16-204.

(2) (a) "Amusement park" means a permanent indoor or outdoor facility or park where one or more amusement rides are available for use by the general public.

(b) "Amusement park" does not include a traveling show, carnival, or public

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fairground.

(3) (a) "Amusement ride" means a device or ~~[attraction]~~ combination of devices or elements that carries or conveys one or more riders along, around, or over a fixed or restricted route or course or allows the riders to steer or guide the device ~~[or attraction]~~ within an established area for the purpose of giving the riders amusement, pleasure, thrills, or excitement.

~~[(b) "Amusement ride" includes a roller coaster, whip, ferris wheel, merry-go-round, and zipline.]~~

~~[(c)]~~ (b) "Amusement ride" does not include:

(i) a coin-operated ride that:

(A) is manually, mechanically, or electrically operated;

(B) is customarily placed in a public location; and

(C) does not normally require the supervision or services of an operator;

(ii) nonmechanized playground equipment, including a swing, seesaw, stationary spring-mounted animal feature, rider-propelled merry-go-round, climber, playground slide, trampoline, or physical fitness device;

(iii) an inflatable device;

(iv) a water-based recreational attraction where complete or partial immersion is intended, including a water slide, wave pool, or water park;

(v) a challenge, exercise, or obstacle course;

(vi) a passenger ropeway as defined in Section 72-11-102;

(vii) a device or attraction that involves one or more live animals; ~~[or]~~

(viii) a tractor ride or wagon ride~~[-];~~ or

(ix) motion seats in a movie theater that do not have a manufacturer recommended restraint.

(4) "Committee" means the Utah Amusement Ride Safety Committee created in Section 72-16-201.

(5) "Director" means the director of the committee, ~~[appointed]~~ hired under Section 72-16-202.

(6) "Mobile amusement ride" means an amusement ride that is:

(a) designed or adapted to be moved from one location to another;

(b) not fixed at a single location; and

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(c) relocated at least once each calendar year.

(7) "Operator" means the individual who controls the starting, stopping, or speed of an amusement ride.

(8) "Owner-operator" means the person who has control over and responsibility for the maintenance, setup, and operation of an amusement ride.

(9) "Permanent amusement ride" means an amusement ride that is not a mobile amusement ride.

(10) "Qualified safety inspector" means an individual who holds a valid qualified safety inspector certification.

(11) "Qualified safety inspector certification" means a certification issued by the director under Section 72-16-303.

(12) "Reportable serious injury" means an injury to a rider that:

(a) occurs when there is a failure or malfunction of an amusement ride; and

(b) results in death, dismemberment, permanent disfigurement, permanent loss of the use of a body organ, member, function, or system, or a compound fracture.

(13) "Safety inspection certification" means a written document that:

(a) is signed by a qualified safety inspector certifying that:

(i) the qualified safety inspector performed an in-person inspection of an amusement ride to check compliance with the safety standards described in Section 72-16-304 and established by rule; and

(ii) at the time the qualified safety inspector performed the in-person inspection, the amusement ride:

(A) was set up [~~in the state~~] for use by the general public; and

(B) satisfied the safety standards described in Section 72-16-304 and established by rule; and

(b) includes the date on which the qualified safety inspector performed the in-person inspection.

(14) "Serious injury" means an injury to a rider that:

(a) occurs when there is a failure or malfunction of an amusement ride; and

(b) requires immediate admission to a hospital and overnight hospitalization and observation by a licensed physician.

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Section 2. Section 72-16-201 is amended to read:

72-16-201. Creation of Utah Amusement Ride Safety Committee.

- (1) There is created within the department the Utah Amusement Ride Safety Committee.
- (2) The committee is comprised of the following members:
 - (a) six members as follows, appointed by the governor:
 - (i) one member who represents fairs in the state that employ 25 or more employees;
 - (ii) one member who represents mobile ride operators;
 - (iii) one member who represents permanent ride operators;
 - (iv) one member who represents large amusement parks in the state;
 - (v) one member who represents the public at large; and
 - (vi) one member who represents a nationally recognized amusement ride safety or regulatory organization; and
 - (b) one [~~ex-officio~~] nonvoting member appointed by the executive director.
- (3) (a) Except as provided in Subsection (3)(b), the governor shall appoint each member described in Subsection (2)(a) to a four-year term.
 - (b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of the committee members appointed under Subsection (2)(a) are staggered so that approximately half of the committee is appointed every two years.
- (4) In making an appointment under Subsection (2)(a), the governor shall request and consider recommendations from:
 - (a) the membership of the interest from which the appointment is to be made; and
 - (b) the department.
- (5) When a vacancy occurs in the membership of the committee, the governor shall appoint a replacement for the remainder of the unexpired term.
- (6) A member of the committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

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(7) The department shall supply the committee with office space, equipment, and staff the executive director finds appropriate.

(8) (a) The committee shall select a chair annually from the committee members.

(b) Four voting members constitute a quorum for conducting committee business.

(c) A majority vote of a quorum present at a meeting constitutes an action of the committee.

(9) The committee shall meet at least quarterly and at the call of the chair or of a majority of the members.

Section 3. Section **72-16-202** is amended to read:

72-16-202. Hiring of director.

(1) (a) The [~~committee~~] executive director, subject to approval by the [~~executive director~~] committee, shall [~~appoint~~] hire a director.

(b) The executive director may remove the director at the executive director's will.

(2) The director shall:

(a) be experienced in administration and possess additional qualifications as determined by the committee and the executive director; and

(b) receive compensation in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

Section 4. Section **72-16-203** is amended to read:

72-16-203. Rulemaking.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter the committee may make rules:

(a) establishing:

(i) the form of an application and a renewal application for:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(ii) the procedure to apply for and renew:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

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- (iii) standards for a daily inspection under Section 72-16-302;
- (iv) the form of a report of a reportable serious injury to the director;
- (v) the procedure for reporting a reportable serious injury to the director;
- (vi) the procedure to suspend and revoke:
 - (A) a qualified safety inspector certification;
 - (B) an annual amusement ride permit; and
 - (C) a multi-ride annual amusement ride permit;
- (vii) a retention schedule that applies to each qualified safety inspector for records related to a qualified safety inspector's duties under this chapter; ~~[and]~~
- (viii) a retention schedule that applies to each owner-operator for records related to an owner-operator's duties under this chapter;
- (ix) fees;
- (x) minimum insurance requirements for certified inspectors; and
- (xi) fines or administrative penalties for lack of compliance with this chapter.
- (b) regarding the experience required to obtain a qualified safety inspector certification under Subsection 72-16-303(3)(a); and
 - (c) adopting nationally recognized:
 - (i) amusement ride inspection standards; and
 - (ii) qualified safety inspector qualification standards.
- (2) Notwithstanding Subsection 63G-3-301(13), the committee shall initiate rulemaking proceedings, as defined in Section 63G-3-301, to make rules under this section no later than December 1, 2020.

Section 5. Section **72-16-301** is amended to read:

72-16-301. Requirements for amusement ride operation.

- (1) Beginning on April 1, ~~[2021]~~ 2022, a person may not operate an amusement ride in the state that is open to the public, unless the person obtains:
 - (a) an annual amusement ride permit for the amusement ride in accordance with this section; or
 - (b) a multi-ride annual amusement ride permit that includes the amusement ride, in accordance with this section.
- (2) To obtain or renew an annual amusement ride permit for a mobile amusement ride,

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the owner-operator shall submit an application to the director that contains the following and is in a form prescribed by the director:

- (a) the owner-operator's name and address;
- (b) a description of the mobile amusement ride, including the manufacturer's name, the serial number, and the model number;
- (c) each known location in the state where the owner-operator intends to operate the mobile amusement ride during the 12-month period for which the annual amusement ride permit is valid, updated in accordance with Subsection (5);
- (d) for each location identified under Subsection (2)(c), the name and contact information of the fair, show, landlord, or property owner;
- (e) the date on which the owner-operator intends to set up the mobile amusement ride at each location identified under Subsection (2)(c);
- (f) the dates on which the owner-operator intends to operate the mobile amusement ride for use by the general public at each location identified under Subsection (2)(c);
- (g) proof of compliance with the insurance requirement described in Section 72-16-305;
- (h) a safety inspection certification dated no more than 30 days before the day on which the owner-operator submits the application; and
- (i) a fee established by the committee in accordance with Section 63J-1-504.

(3) To obtain or renew an annual amusement ride permit for a permanent amusement ride, the owner-operator shall submit an application to the director that contains the following information and is in a form prescribed by the director:

- (a) the owner-operator's name and address;
- (b) a description of the permanent amusement ride, including the manufacturer's name, the serial number, and the model number;
- (c) the location in the state where the owner-operator will operate the permanent amusement ride;
- (d) the first date on which the owner-operator intends to operate the permanent amusement ride for use by the general public;
- (e) proof of compliance with the insurance requirement described in Section 72-16-305;

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(f) a safety inspection certification dated no more than 30 days before the day on which the owner-operator submits the application; and

(g) a fee established by the committee in accordance with Section 63J-1-504.

(4) To obtain or renew a multi-ride annual amusement ride permit for all amusement rides located at an amusement park that employs more than 1,000 individuals in a calendar year, the amusement park shall submit an application to the director that contains the following information and is in a form prescribed by the director:

(a) the amusement park's name and address;

(b) a list of each amusement ride located at the amusement park, including a description of each amusement ride;

(c) the first date on which the amusement park will operate each amusement ride identified in Subsection (4)(b);

(d) proof of compliance with the insurance requirement described in Section 72-16-305;

(e) a safety inspection certification for each amusement ride identified in Subsection (4)(b) that is dated no more than 30 days before the day on which the amusement park submits the application; and

(f) a fee for each amusement ride identified under Subsection (4)(b) established by the committee in accordance with Section 63J-1-504.

(5) (a) In accordance with committee rule, an owner-operator of a mobile amusement ride shall update the information described in Subsection (2)(c) if the owner-operator learns of a new location where the owner-operator intends to operate the mobile amusement ride during the 12-month period for which the annual amusement ride permit is valid.

(b) An owner-operator may not operate a mobile amusement ride that is open to the public at a location in the state, unless the owner-operator includes the location:

(i) in the owner-operator's application or renewal for an annual amusement ride permit for the mobile amusement ride in accordance with Subsection (2)(c); or

(ii) in an update described in Subsection (5)(a) that the owner-operator submits to the director at least 30 days before the day on which the owner-operator sets up the mobile amusement ride at the location.

(6) The director shall issue:

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(a) an annual amusement ride permit for each amusement ride for which the owner-operator submits a complete application or renewal application that satisfies the requirements of this chapter and any applicable rules and fees; and

(b) a multi-ride annual amusement ride permit to each amusement park that employs more than 1,000 individuals in a calendar year and submits a complete application or renewal application that satisfies the requirements of this chapter and any applicable rules and fees.

(7) An annual amusement ride permit or a multi-ride annual amusement ride permit expires one year after the day on which the director issues the annual amusement ride permit or the multi-ride annual amusement ride permit.

(8) An owner-operator or amusement park shall maintain a copy of a current annual amusement ride permit or multi-ride annual amusement ride permit and upon request, reasonable notice, and payment of reasonable copying expense, if applicable:

(a) make the copy available for examination; or

(b) provide a copy of the annual amusement ride permit or multi-ride annual amusement ride permit.

Section 6. Section **72-16-302** is amended to read:

72-16-302. Daily inspection required.

(1) (a) Each day an owner-operator operates an amusement ride for use by the general public, the owner-operator or the owner-operator's designee shall inspect and operate the amusement ride in accordance with this section and rules established under this chapter.

(b) The owner-operator or the owner-operator's designee shall complete the inspection and operation described in Subsection (1)(a):

(i) before the owner-operator begins operation for use by the general public; and

(ii) in accordance with rule made under this chapter.

(2) The owner-operator shall:

(a) make a record of each daily inspection that is signed by the individual who performed the inspection; and

(b) maintain each record described in Subsection (2)(a) for at least [~~90 days~~] one year after the day on which the inspection is performed.

Section 7. Section **72-16-303** is amended to read:

72-16-303. Certification of inspectors.

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(1) To become a qualified safety inspector, an individual shall obtain and maintain a qualified safety inspector certification from the director in accordance with this section.

(2) To obtain a qualified safety inspector certification from the director, an individual shall submit an application described in Subsection (3) and a fee established by the committee in accordance with Section 63J-1-504.

(3) An application for a qualified safety inspector certification shall be in a form prescribed by the director and include information that demonstrates the applicant:

(a) (i) (A) is a professional engineer, licensed in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or an engineer with a comparable license from another state as determined by the committee; and

(B) has at least three years of experience in the amusement ride industry, at least two of which include actual inspection of amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer;

(ii) (A) has at least three years of experience inspecting amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer; and

(B) is certified by a nationally recognized organization in the amusement ride safety industry approved by the committee; or

(iii) (A) has at least three years of experience inspecting amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer; and

(B) is employed by an amusement park that employs more than 1,000 individuals in a calendar year;

(b) (i) has liability insurance for [errors or omissions] bodily injury and property damage in compliance with rules made by the committee; or

(ii) is an employee or authorized agent of an insurance company; and

(c) is a member of and actively participates in an entity that develops standards applicable to the operation of amusement rides.

(4) To obtain a renewal of a qualified safety inspector certification, a qualified safety inspector shall submit to the director a fee established by the committee in accordance with Section 63J-1-504 and a renewal application that demonstrates that the qualified safety inspector:

(a) satisfies the requirements described in Subsection (3); and

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(b) during the previous [~~12-month~~] two-year period, completed at least [~~six~~] 12 hours of continuing education instruction provided by:

- (i) a nationally recognized amusement industry organization;
- (ii) a nationally recognized organization in a relevant technical field;
- (iii) an owner-operator, through an owner-operator-run safety program approved by the committee; or

(iv) an amusement park that employs more than 1,000 individuals in a calendar year.

(5) The director shall issue a qualified safety inspector certification to each individual who submits an application or a renewal application that is in a form prescribed by the director and complies with the requirements of this section and any applicable rules and fees.

(6) A qualified safety inspector certification expires two years after the day on which the director issues the qualified inspector certification.

(7) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the director may deny, suspend, or revoke a qualified safety inspector certification if an individual fails to satisfy a requirement of this chapter or any applicable rule.

(8) A qualified safety inspector who is employed by the owner-operator of an amusement ride may complete an inspection of the amusement ride.

Section 8. Section **72-16-304** is amended to read:

72-16-304. Safety standards.

(1) Subject to Subsections (2) and (3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee shall make rules adopting the relevant safety standards developed by the ASTM International Committee F24.

(2) The committee may modify or update the safety standards described in Subsection (1), consistent with nationally recognized amusement ride standards.

(3) The committee may [~~upon application,~~] amend or exempt a safety standard adopted under this section based upon unique circumstances, if appropriate to ensure public safety.

Section 9. Section **72-16-305** is amended to read:

72-16-305. Insurance required.

(1) An owner-operator of an amusement ride shall carry liability insurance coverage in at least the following amounts:

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- (a) \$1,000,000 for bodily injury per occurrence;
- (b) \$250,000 for property damage per occurrence; and
- (c) \$3,000,000 [~~per occurrence combined single limit~~] annual aggregate limit.

(2) An owner-operator of an amusement ride located in an amusement park that employs more than 1,000 individuals in a calendar year shall carry liability insurance coverage in at least the following amounts:

- (a) \$5,000,000 for bodily injury per occurrence;
- (b) \$1,000,000 for property damage per occurrence; and
- (c) \$10,000,000 [~~per occurrence combined single limit~~] annual aggregate limit.

Section 10. Section **72-16-306** is amended to read:

72-16-306. Reporting and shutdown for certain injuries.

(1) (a) An owner-operator shall report each known reportable serious injury to the director within eight hours after the owner-operator learns of the reportable serious injury.

(b) An owner-operator shall include the following information in a report described in Subsection (1)(a):

- (i) the owner-operator's name and contract information;
- (ii) the location of the amusement ride at the time the reportable serious injury occurred;
- (iii) a description of:
 - (A) the amusement ride; and
 - (B) the nature of the reportable serious injury; and
- (iv) any other information required by rule made under this chapter.

(2) (a) In addition to the requirement described in Subsection (1), an owner-operator of a mobile amusement ride shall report each known reportable serious injury and serious injury to the fair, show, landlord, or owner of the property upon which the mobile amusement ride was located at the time the reportable serious injury or serious injury occurred.

(b) After a reportable serious injury, the owner-operator may not operate the mobile amusement ride until the owner-operator receives written authorization from [~~:(i) the fair, show, landlord, or owner of the property upon which the amusement ride was located at the time the serious injury occurred; or~~(ii)] the director or the director's designee as required by rule made in accordance with this chapter.

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(3) For purposes of Title 63G, Chapter 2, Government Records Access and Management Act, a report to the director described in this section and any record related to the report is a protected record as defined in Section 63G-2-103, except the ride description, the owner-operator, the location of the amusement ride at the time the reportable serious injury occurred, and the general nature of the reportable serious injury.

Section 11. Section **72-16-401** is amended to read:

72-16-401. Penalty for violation.

(1) If an owner-operator or operator violates a provision of this chapter with respect to an amusement ride, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the director may:

(a) deny, suspend, or revoke, in whole or in part, the owner-operator's annual amusement ride permit or multi-ride permit for the amusement ride[-]; or

(b) impose fines or administrative penalties in accordance with rules made by the committee.

(2) Upon a violation of a provision of this chapter, the director may file an action in district court to enjoin the operation of an amusement ride.