

CHAPTER 116

(SB 203)

AN ACT relating to amusement rides and attractions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 247.232 is amended to read as follows:

As used in KRS 247.232 to 247.236:

(1) (a) *"Amusement ride or attraction" means:*

1. *Any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement; or*
2. *Any building or structure around, over, or through which people may walk, climb, slide, jump, or move that provides amusement, pleasure, thrills, or excitement.*

(b) *Unless designated by administrative regulation promulgated by the Commissioner, "amusement ride or attraction" does not include:*

1. *Coin-operated amusement devices;*
2. *Devices regulated by the Federal Aviation Administration, the Kentucky Transportation Cabinet, or the federal railroad commission;*
3. *Vessels under the jurisdiction of the United States Coast Guard or the Kentucky Department of Fish and Wildlife Resources;*
4. *Tractor pulls;*
5. *Auto or motorcycle events;*
6. *Horse shows, rodeos, and other animal shows;*
7. *Games and concessions; or*
8. *Nonmechanical playground equipment, such as swings, seesaws, slides less than fifteen (15) feet in height at their highest point, rider-propelled merry-go-rounds, stationary spring-mounted animal devices, and physical fitness equipment.*

The Commissioner may, by administrative regulation, designate other rides and attractions that are not included in the definition of "amusement ride or attraction"["Amusement ride" means any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" does not include coin-operated amusement devices, unless designated by administrative regulation promulgated by the Commissioner; devices regulated by the Federal Aviation Administration, the Kentucky Transportation Cabinet, or the federal railroad commission; vessels under the jurisdiction of the United States Coast Guard or the Kentucky Department of Fish and Wildlife Resources; or other devices that may be designated by administrative regulation promulgated by the Commissioner;

~~(2) "Amusement attraction" means any building or structure around, over, or through which people may walk, climb, slide, jump, or move that provides amusement, pleasure, thrills, or excitement. Unless designated by administrative regulation promulgated by the Commissioner, "amusement attraction" does not include tractor pulls; auto or motorcycle events; horse shows; rodeos and other animal shows; games and concessions; or nonmechanical playground equipment, such as swings, seesaws, rider-propelled merry-go-rounds, stationary spring-mounted animal devices, and physical fitness equipment. The Commissioner may, by administrative regulation, designate other devices that are not included in the definition of "amusement attraction";~~

~~(2){(3)}~~ "Owner" means any person *or authorized agent of the person* who owns an amusement ride or attraction, *or in the event the ride or attraction is leased, the lessee;*~~{and}~~

- (3)~~(4)~~ "Commissioner" means the Commissioner of *the* Kentucky Department of Agriculture or *the Commissioner's*~~his~~ authorized representative;
- (4) "*Operator*" means a person eighteen (18) years of age or older who has been properly trained to operate amusement rides and attractions, has knowledge of the manufacturer's recommendations for the operation of the rides and attractions, and knows the safety-based limitations of the rides and attractions;
- (5) "*Operator assistant*" means a person sixteen (16) years of age or older whose duties include but are not limited to:
- (a) *Loading and unloading riders of amusement rides and attractions;*
 - (b) *Collecting tickets;*
 - (c) *Checking seatbelts, lap bars, and other restraints; and*
 - (d) *Occupying the entrance or exit areas to prevent intrusion while the amusement ride or attraction is in operation;*

but who shall not operate an amusement ride or attraction; and

- (6) "*ASTM Standard*" means the latest standards and specifications as set forth by the American Society for Testing and Materials.

➔Section 2. KRS 247.234 is amended to read as follows:

- (1) *Every owner of an amusement ride or attraction shall be required to complete an application for a business identification number on a form provided by the department.*
- (2) No amusement ride or attraction shall be operated in this state without a *business identification number*~~permit of operation~~ issued by the Commissioner to the owner of the equipment. The *business identification number*~~permit~~ shall be kept on site and viewable upon request.
- (3)~~(2)~~
- (a) The *business identification number*~~permit of operation~~ required by this section shall be valid for a period of one (1) year and shall be issued in accordance with administrative regulations promulgated by the Commissioner;
 - (b) A *business identification number*~~permit~~ shall be issued to each owner to operate any amusement ride or attraction in this state. An inspection fee, which shall be determined by administrative regulations promulgated by the Commissioner, shall be levied for each amusement ride or attraction. The fee shall be based on the complexity of the ride or attraction and shall not be less than ten dollars (\$10) nor more than five hundred dollars (\$500). The cost of all inspections shall be paid by the owner of the amusement ride or attraction and may be prepaid, but shall be paid no later than the day of the inspection;
 - (c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue a policy in this state, in the amount of not less than five hundred thousand dollars (\$500,000) due to all bodily injuries or deaths per occurrence, or in lieu thereof, if the applicant's amusement ride or amusement attraction is one that is permanently located or erected on a site in this state, the applicant shall be required only to provide proof of financial responsibility in the sum of five hundred thousand dollars (\$500,000). Every insurance carrier of these policies shall notify the Commissioner at least thirty (30) days prior to cancellation of a policy for mobile amusement rides or attractions and at least ten (10) days prior to cancellation of a policy for permanent amusement rides or attractions. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the Commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the Commissioner at least fourteen (14) days prior to operation at that site. In cases of emergency, notice of a change in future plans may be given to the Commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky State Fair may be adjusted by the Commissioner to any amount reasonably necessary to ensure adequate coverage;
 - (d) The Commissioner shall provide for an inspection of each amusement ride or attraction before it may be operated in this state. The Commissioner shall designate persons qualified by education or experience,

who are capable of determining amusement safety in accordance with administrative regulations promulgated in accordance with KRS 247.232 to 247.236, as amusement safety inspectors; and

- (e) A Kentucky inspection seal shall be affixed to every individual amusement ride or attraction, or other location as determined by the Commissioner, before it may be operated in this state.
- (4)(3) (a) In addition to a mandatory initial inspection, required in subsection (3)(2)(d) of this section, the Commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found. In regard to situations in which safety violations are found, the Commissioner may charge an inspection fee not to exceed five hundred dollars (\$500) for any future inspection necessary. The corrections of these safety violations shall comply with accepted standards of safety, and shall be accomplished prior to operating the equipment in this state;
- (b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present. Only an amusement safety inspector employed by the department may remove the public notice;
- (c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his *business identification number* ~~(permit of operation)~~ revoked and may be subject to further penalties provided in *Section 4 of this Act* ~~(KRS 247.990 and this section)~~. In addition, the county attorney of each county and the Commissioner of Agriculture or *the Commissioner's* ~~his~~ agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236; and
- (d) Revenue generated by this section *and Section 4 of this Act* shall be used for the implementation and administration of KRS 247.232 to 247.236; the balance, if any, shall not lapse but shall be carried forward to the next fiscal year.
- (5) (a) *An owner of an amusement ride or attraction shall:*
1. *Conduct a pre-opening inspection and test of the ride or attraction prior to admitting the public each day the ride or attraction is intended to be used; and*
 2. *Maintain for at least the previous twelve (12) months a signed record of the required pre-opening inspections and tests and any other pertinent information as required by the Commissioner.*
- (b) *The Commissioner may revoke the business identification number of any owner who fails to conduct the required pre-opening inspections and tests or to maintain the required reports.*
- ➔Section 3. KRS 247.236 is amended to read as follows:
- (1) Amusement rides and attractions shall not be operated at unsafe speeds or loaded beyond a safe capacity in accordance with the factory specifications or, in the absence of factory specifications, in accordance with *administrative* regulations *promulgated* ~~(prescribed)~~ by the Commissioner.
 - (2) Amusement rides and attractions shall not be operated during periods of high wind, lightning, or heavy rain.
 - (3) Perimeter safety barriers such as a fence or other suitable structure shall be constructed around any amusement ride or attraction that is potentially hazardous to bystanders, in accordance with *administrative* regulations promulgated by the Commissioner.
 - (4) *Amusement rides and attractions shall not be operated if the owner or operator knows or should know that the operation will expose the public to an unsafe condition which is likely to result in personal injury or property damage.*
 - (5) (a) *No person under the age of eighteen (18) shall operate an amusement ride or attraction or operate more than one (1) ride or attraction at a time. Except as provided by paragraph (c) of this subsection, an operator shall be in attendance at all times while a ride or attraction is in operation.*

- (b) *No person shall operate an amusement ride or attraction or knowingly permit an operator to operate an amusement ride or attraction while under the influence of alcohol or any other impairing substance.*
- (c) *The Commissioner may, by administrative regulation, designate certain amusement rides or attractions where the presence of an operator is not required.*
- (6) *The owner, operator, or operator assistant may deny any person entrance to an amusement ride or attraction if the owner, operator, or operator assistant has reason to believe the entry may jeopardize the safety of the person desiring entry, other riders, or any other person.*

➔SECTION 4. A NEW SECTION OF KRS 247.232 TO 247.236 IS CREATED TO READ AS FOLLOWS:

- (1) *The owner of any amusement ride or attraction shall, within twelve (12) hours, notify the Commissioner of any occurrence involving an amusement ride or attraction if the occurrence results in:*
 - (a) *Death;*
 - (b) *Injury requiring medical treatment other than first aid; or*
 - (c) *Damage to an amusement ride or attraction that affects the future safe operation of the ride or attraction. Reporting is not required in the case of normal wear and tear.*
- (2) *The Commissioner shall, after notification of an occurrence described in subsection (1) of this section, make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the department and shall give in detail all facts and information available. The owner may submit results of investigations independent of the department's investigation for inclusion in the file.*
- (3) *No person, following an occurrence described in subsection (1) of this section, shall:*
 - (a) *Operate or move the amusement ride or attraction without the approval of the Commissioner, unless necessary to prevent injury to a person; or*
 - (b) *Remove from the premises any damaged or undamaged part of the amusement ride or attraction or attempt to repair any damaged part before the department has completed its investigation. The department shall initiate its investigation within twelve (12) hours of being notified.*
- (4) *The department may:*
 - (a) *Conduct hearings;*
 - (b) *Administratively subpoena and examine under oath persons whose activities are subject to KRS 247.232 to 247.236;*
 - (c) *Issue administrative subpoenas and examine the business records, books, and accounts of persons whose activities are subject to KRS 247.232 to 247.236; and*
 - (d) *Request any other information necessary to assist the department in properly performing the department's duties.*
- (5) *The department shall have control of any incident scene involving an amusement ride or attraction if there has been an occurrence described in subsection (1) of this section. The department shall remain in control of the scene until the department completes its investigation and releases the scene. The department shall have access within twelve (12) hours to all documents or records pertaining to the amusement ride or attraction.*
- (6) (a) *The department shall promulgate administrative regulations relating to amusement rides and attractions that establish:*
 - 1. *A comprehensive set of administrative violations and civil penalties not to exceed ten thousand dollars (\$10,000); and*
 - 2. *The procedure for the suspension or revocation of any business identification number, license, or other certificate issued by the department.*
- (b) *No owner of an amusement ride or attraction shall remove the amusement ride or attraction from the state before paying all civil penalties imposed under this subsection.*

➔SECTION 5. A NEW SECTION OF KRS 247.232 TO 247.236 IS CREATED TO READ AS FOLLOWS:

- (1) *All amusement rides and attractions shall be operated and maintained according to the most stringent specifications and recommendations of:*
 - (a) *The manufacturer's specifications and recommendations;*
 - (b) *The most recent National Electrical Code and National Fire Protection Association codes and standards; or*
 - (c) *Any other applicable state or federal laws.*
- (2) *The department shall promulgate administrative regulations relating to the use of replacement parts for amusement rides and attractions.*
- (3) *Amusement ride and attraction owners shall provide the department with the most recent manuals, service bulletins, or service and inspection records upon request by a department inspector. If any of these items are not immediately available to an inspector, the inspector may issue a stop operation order or postpone the application process until the materials are made available. Any department inspector may issue a stop operation order if the inspector finds that the provisions of the manuals or service bulletins are not being followed.*
- (4) *The department may promulgate administrative regulations relating to amusement rides and attractions in accordance with the latest ASTM standards.*

➔Section 6. KRS 247.990 is amended to read as follows:

- (1) Any person who violates subsection (3) of KRS 247.270 or who diverts the funds or profits of a farm bureau to any purpose except the purposes of the farm bureau shall be guilty of theft and be punished as provided by law.
- (2) Any officer who makes a certificate required by subsection (2) of KRS 247.270 or by KRS 247.300, knowing it to be false or incorrect in any particular, shall be fined not more than one hundred dollars (\$100).
- ~~{(3) Any owner of an amusement ride or attraction who violates any provision of KRS 247.234 or 247.236 or any administrative regulation promulgated in accordance with KRS 247.234 or 247.236, and the violation is specifically determined not to be of a serious nature, is subject to a civil fine not to exceed one thousand dollars (\$1,000) for each offense.~~
 - ~~(a) Any owner of an amusement ride or attraction who knowingly operates an amusement ride or attraction without a permit of operation as required by KRS 247.234, shall be fined not more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than ninety (90) days, or both.~~
 - ~~(b) Any person who knowingly makes any false statement, representation, or certification in an application for a permit as required by KRS 247.234, shall be fined not more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than ninety (90) days, or both.~~
 - ~~(c) Any owner of an amusement ride or attraction who knowingly violates any provision of KRS 247.234 or 247.236 or any administrative regulation promulgated in accordance with KRS 247.234 or 247.236, and the violation is determined to be the cause of a serious injury or death, shall be fined not more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than one (1) year, or both.~~

Signed by Governor April 14, 2008.