

CHAPTER 37

(HB 38)

AN ACT relating to aerial recreational facilities and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"ACCT Standard" means the latest standards and specifications as set forth by the Association for Challenge Course Technology;*

(b) 1. *"Aerial recreational device" means a device that provides for a unit of human activity, including but not limited to devices to simulate rock climbing, beams, bridges, cable traverses, climbing walls, nets, platforms, ropes, swings, towers, zip lines, or jump systems that are installed on or in trees, poles, portable structures, buildings, or that are part of a self-supporting structure.*

2. *Unless designated by administrative regulation promulgated by the Commissioner, "aerial recreational device" does not include 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.*

3. *The Commissioner may, by administrative regulation, designate other devices that are not included in the definition of "aerial recreational device";*

(c) *"Aerial recreational facility" means a commercial or educational facility, including those offering canopy tours or zip line tours, consisting of one (1) or more aerial recreational device;*

(d) *"ASTM Standard" shall have the same meaning as in KRS 247.232;*

(e) *"Canopy tour" means a guided aerial exploration or transit of the forest canopy, most commonly by means of a series of one (1) or more aerial recreational devices; and*

(f) *"Zip line tour" means a guided aerial exploration or transit of a landscape by means of a series of zip lines and platforms.*

(2) *The department shall promulgate administrative regulations, pursuant to KRS Chapter 13A, necessary to establish requirements and standards recognized by the department for the operation and regulation of aerial recreational devices, aerial recreational facilities, canopy tours, and zip line tours in the state.*

(3) *In establishing the requirements and standards for the operation and regulation of aerial recreational facilities in the state, the department may:*

(a) *Rely on applicable ACCT, ASTM standards, or other accepted industry standards; and*

(b) *Provide for acceptance of third-party inspections and investigations of aerial recreational facilities.*

(4) *The department may assess reasonable fees for the administration of any aerial recreational facility regulatory requirements.*

(5) *The department shall promulgate administrative regulations relating to aerial recreational devices, aerial recreational facilities, canopy tours, and zip line tours that establish a comprehensive set of administrative violations, administrative sanctions, and civil penalties not to exceed ten thousand dollars (\$10,000).*

(6) (a) *All administrative fees and proceeds from civil penalties collected by the department under this section shall be deposited in the fund established in paragraph (b) of this subsection for the use of the department in enforcing the provisions of this section.*

(b) *The aerial recreational facilities administration fund is hereby created as a separate trust fund in the State Treasury. The aerial recreational facilities administration fund shall consist of amounts deposited in the fund under paragraph (a) of this subsection, as well as amounts received from appropriations and any other proceeds from gifts, grants, federal funds, or any other funds, both public and private, made available for the purposes of this section.*

ACTS OF THE GENERAL ASSEMBLY

- (c) *Notwithstanding KRS 45.229, aerial recreational facilities administration fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (d) *Any interest earnings of the aerial recreational facilities administration fund shall become a part of the aerial recreational facilities administration fund and shall not lapse.*
- (e) *Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.*

Became law without Governor's signature April 6, 2016.