

CHAPTER 80**(HB 273)**

AN ACT relating to amusement rides and making an appropriation therefor.

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 *department*~~[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 *department*~~[Commissioner]~~ may, by administrative regulation, designate other rides and attractions that are not included in the definition of "amusement ride or attraction";

- (2) "ASTM Standard" means the latest standards and specifications as set forth by the American Society for Testing and Materials;
- (3) "*Department*~~[Commissioner]~~" means~~[the Commissioner of]~~ the Kentucky Department of Agriculture~~[or the Commissioner's authorized representative]~~;
- (4) "Operator" means a person sixteen (16) 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; and
- (5) "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.

➔Section 2. KRS 247.233 is amended to read as follows:

- (1) The owner of any amusement ride or attraction shall, within twelve (12) hours, notify the *department*~~[Commissioner]~~ of any occurrence involving an amusement ride or attraction if the occurrence results in:
- (a) Death;
 - (b) Injury to a person, where:

1. The owner knows or reasonably should know that the injury was caused by the amusement ride or attraction; and
 2. The owner knows or reasonably should know that the injury required 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 ~~department~~~~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 ~~department~~~~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 3. KRS 247.234 is amended to read as follows:
- (1) Every owner of an amusement ride or attraction *business* shall **register the business with**~~be required to complete an application for a business identification number on a form provided by~~ the department **annually**.
 - (2) ***The business registration required by subsection (1) of this section shall be valid until December 31 of the calendar year in which the registration is filed and shall be issued upon payment of a registration fee, in accordance with administrative regulations promulgated by the department.***
 - (3) (a) No amusement ride or attraction shall be operated in this state without a **permit**~~business identification number~~ issued by the ~~department~~~~Commissioner~~ to the owner of the **amusement ride or attraction**~~equipment~~. The **permit**~~business identification number~~ shall be kept on site **during the operation of the amusement ride or attraction** and viewable upon request.

- ~~[(3) (a) The business identification number 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 *permit*~~[business identification number]~~ shall be issued to each owner to operate *the permitted*~~[any]~~ amusement ride or attraction in this state. A *permit*~~[An inspection]~~ fee, which shall be determined by administrative regulations promulgated by the *department*~~[Commissioner]~~, shall be levied for each amusement ride or attraction *permit issued*~~]. 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 *registrant*~~[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 *one million dollars (\$1,000,000)*~~[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 *one million dollars (\$1,000,000)*~~[five hundred thousand dollars (\$500,000)]~~. Every insurance carrier of these policies shall notify the *department*~~[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.
- (d) In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the *department*~~[Commissioner]~~ may require, including but not limited to:
1. ~~]~~ written notice of each intended operating site to be received by the *department*~~[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 *department*~~[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; and~~
 2. ~~A written list of prior violations of KRS 247.232 to 247.236 that resulted in civil penalties assessed against the applicant, any employee of the applicant, or any officer or manager if the applicant is a partnership or corporation.]~~
- (e) The *department*~~[Commissioner]~~ shall *require*~~[provide for]~~ an inspection of each amusement ride or attraction before it may be operated in this state. *Inspections performed by department employees shall be subject to a fee based on the complexity of the amusement ride or attraction and shall not be less than ten dollars (\$10) or more than five hundred dollars (\$500). The cost of all inspections performed by department employees 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.* The *department*~~[Commissioner]~~ shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with administrative regulations promulgated *under*~~[in accordance with]~~ KRS 247.232 to 247.236, as amusement safety inspectors. *Any person who is not an employee of the department and who is designated as an amusement safety inspector shall register with the department and pay an annual registration fee, which shall be determined by administrative regulations promulgated by the department.*
- (f) A Kentucky *permit*~~[inspection]~~ seal shall be affixed to every individual amusement ride or attraction, or other location as determined by the *department*~~[Commissioner]~~, before it may be operated in this state.
- (4) (a) In addition to *the*~~[a mandatory initial]~~ inspection~~],~~ required in subsection (3)~~(e)~~~~(d)~~ of this section, the *department*~~[Commissioner]~~ may inspect amusement rides and attractions without notice at any time while operating in this state. There *shall not*~~[will]~~ be *any*~~[no]~~ charge for additional inspections in which safety violations are not found. In regard to situations in which safety violations are found, the *department*~~[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 *or her* business **registration suspended and the amusement ride or attraction permit**~~{identification number}~~ revoked, and may be subject to further penalties provided in KRS 247.233. In addition, the county attorney of each county and the **department**~~{Commissioner of Agriculture or the Commissioner's 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.
- (d) Revenue generated by this section and KRS 247.233 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 **department**~~{Commissioner}~~.
- (b) The **department**~~{Commissioner}~~ may revoke the **registration**~~{business identification number}~~ of any owner who fails to conduct the required pre-opening inspections and tests or to maintain the required reports.
- (6) All unpaid civil penalties assessed upon a person for violations of KRS 247.232 to 247.236 shall remain in effect and shall permanently remain on record with the department regardless of whether the person:
 - (a) Operates amusement rides or attractions under his or her name, another name, an assumed name, or as a sole proprietorship;
 - (b) Is employed by another person operating amusement rides individually, as a sole proprietorship, or as part of a partnership or corporation; or
 - (c) Operates amusement rides or attractions as a member of a partnership or corporation.

➔Section 4. 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 by the **department**~~{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 **department**~~{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 sixteen (16) 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 **department**~~{Commissioner}~~ may, by administrative regulation, designate certain amusement rides or attractions where the presence of an operator is not required.

- (6) The owner or operator may deny any person entrance to an amusement ride or attraction if the owner or operator has reason to believe the entry may jeopardize the safety of the person desiring entry, other riders, or any other person.

Signed by Governor April 1, 2022.