

GENERAL GOVERNMENT
Department of Agriculture
Office of the Consumer and Environmental Protection
(Amendment)

302 KAR 16:111. Violations, civil penalties, revocations, and suspensions of permits for amusement rides or attractions.

RELATES TO: KRS 247.233

STATUTORY AUTHORITY: KRS 247.233

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.233 requires the department to promulgate administrative regulations establishing a comprehensive list of violations and civil penalties not to exceed \$10,000 and the procedure for suspension and revocation of a permit. This administrative regulation establishes requirements for violations, civil penalties, revocations, and suspensions of permits for amusement rides or attractions.

Section 1.

(1) The following violations of KRS 247.232 through 247.236 and 302 KAR Chapter 16 shall result in the assessment of civil penalty of not less than \$1,000 and not more than \$10,000:

- (a) Operating without a current permit;
- (b) Operating without current insurance in the required coverage amount;
- (c) Operating a ride or attraction while it is under a stop operation order;
- (d) Operating a ride or attraction while the operator is not present;
- (e) Using blocking in foot switch breaker;
- (f) Using improper material for electrical fuse;
- (g) Moving equipment after a reportable incident or tampering with evidence;
- (h) Operating a ride or attraction at an unsafe distance too close to high voltage;
- (i) Positioning a ride or attraction underneath utility lines;
- (j) Operating a ride or attraction while the operator is impaired;
- (k) Grounding the generator incorrectly;
- (l) Failing to maintain the ride or attraction in good mechanical condition;
- (m) Failing to repair ride or attraction according to manufacturer specifications or recommendations;
- (n) Failing to properly shield power units; and
- (o) Failing to use appropriate replacement parts.

(2) The following violations of KRS 247.232 through 247.236 and 302 KAR Chapter 16 shall result in the assessment of a civil penalty of not less than \$100 and not more than \$5,000:

- (a) Failing to follow manufacturer safety guidelines and manufacturer specifications;
- (b) Failing to notify the department of an incident requiring a report within twelve (12) hours;
- (c) Failing to submit a required incident report;
- (d) Admitting an intoxicated patron on an amusement ride or attraction;
- (e) Admitting a patron with inappropriate footwear; and
- (f) Failing to completely fill out incident report form.

(3) The following violations of KRS 247.232 through 247.236 and 302 KAR Chapter 16 shall be result in the assessment of a civil penalty of not less than \$100 and not more than \$1,000:

- (a) Failing to have operational manuals on site;
- (b) Failing to have maintenance manuals on site;
- (c) Failing to have maintenance records on site;

- (d) Fueling ride or attraction in an undesignated area;
 - (e) Exceeding manufacturer's speed of ride or attraction;
 - (f) Failing to properly secure the ride or attraction;
 - (g) Failing to have electrical disconnect within six (6) feet of operator;
 - (h) Operating a ride or attraction by an operator under sixteen (16) years of age;
 - (i) Failing to use correct START/STOP switch;
 - (j) Operating the ride or attraction in inclement weather;
 - (k) Failing to comply with proper operating procedures noted during inspection;
 - (l) Failing to properly anchor inflatable device;
 - (m) Failing to perform or document pre-operation inspections;
 - (n) Operating without an itinerary; and
 - (o) Operating without the required number of operators as required by manufacturer.
- (4) The following acts shall be violations of KRS 247.232 through 247.236 and 302 KAR Chapter 16. Violators of these requirements shall be assessed a civil penalty of not less than \$100 and not more than \$500:
- (a) Failing to have Ground Fault Circuit Interrupter (GFCI) protection if required;
 - (b) Failing to properly place fencing barrier;
 - (c) Failing to have fire extinguishers in correct locations;
 - (d) Failing to have first aid kit on location; and
 - (e) Failing to have inspection sticker in appropriate location.
- (5) Failure to have required ride or attraction signage or use of incorrect signage shall be a violation of KRS 247.232 through 247.236 and 302 KAR Chapter 16. Violators of these requirements shall be assessed a civil penalty of not less than \$100 and not more than \$200.

Section 2.

- (1) Persons who commit the same violation within thirty (30) days of being cited for the first violation shall be assessed up to double the civil penalty assessed in Section 1 of this administrative regulation, not to exceed \$10,000.
- (2) Persons who commit a third same violation within sixty (60) days of being cited for the first violation shall be assessed up to triple the civil penalty assessed in Section 1 of this administrative regulation, not to exceed \$10,000.
- (3) This section shall not prohibit the commissioner from suspending or revoking a license, permit, registration, or certification at any time pursuant to KRS 247.233.

Section 3. Permit Suspension or Revocation.

- (1) The business owner shall have ten (10) days upon the receipt of the notification of a proposed suspension, revocation, or modification of a permit to request a hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.
- (2) If a hearing is not requested, the department may suspend, revoke, or modify the permit once the ten (10) day hearing request filing period has passed.
- (3)
 - (a) The department may suspend a permit and may place stop operation orders on all rides or attractions belonging to the owner for a period of time that shall not exceed seven (7) days, pending inquiry.
 - (b) After opportunity for a hearing, the department may deny, suspend, revoke, or modify the provision of any permit issued under KRS 247.234 if the department finds that the owner or his employee has committed any of the following acts, each of which is declared to be a violation of KRS 247.232 through 247.236:
 - 1. Making a false or fraudulent statement to inspectors;
 - 2. Knowingly violating any provision of KRS 247.232 through 247.236 or 302 KAR Chapter 16; or
 - 3. Failing to pay an administrative penalty or fee assessed by this chapter.

(4) Any owner whose permit is revoked under the provisions of this section shall not be eligible to apply for a new permit until the time has elapsed from the date of the order revoking the permit as established by the department, not to exceed two (2) years, or if an appeal is taken from the order or revocation, not to exceed two (2) years from the date of the order or final judgment sustaining the revocation.

(35 Ky.R. 2180; 2429; eff. 6-5-2009; Crt eff. 1-24-2019; 45 Ky.R. 3510; 46 Ky.R. 432; eff. 8-22-2019; 50 Ky.R. 156; eff. 10-19-2023.)

RYAN QUARLES, Commissioner of Agriculture

APPROVED BY AGENCY: June 14, 2023

FILED WITH LRC: June 14, 2023 at 3:55 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 22, 2023 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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