

CHAPTER 2023-50

Committee Substitute for Committee Substitute for Senate Bill No. 902

An act relating to safety standards for amusement rides; providing a short title; amending s. 616.242, F.S.; defining and redefining terms; requiring permanent amusement rides operated for the first time in this state after a specified date to have a ride commissioning and certification report on file with the Department of Agriculture and Consumer Services within a specified timeframe; revising the application requirements for permanent and temporary amusement ride permits; exempting from permit requirements temporary amusement rides that meet certain conditions; revising the annual nondestructive testing requirements for amusement rides; requiring nonvisual nondestructive testing to be used in certain circumstances; revising the affidavit requirements for nondestructive testing; requiring the department to remove an amusement ride from service and take appropriate administrative actions under certain circumstances; removing an exemption for temporary amusement ride inspections; authorizing the department to conduct certain inspections upon request; revising amusement ride inspection standards; revising the reasons for which the department is authorized to enter and inspect amusement rides; requiring the department to prepare a written report of each investigation it conducts; revising the circumstances under which the owner or manager of an amusement ride is required to report an accident and under which the department may impound an amusement ride involved in an accident; requiring daily owner or manager amusement ride inspections to be recorded at the time of inspection; requiring the department to establish by rule minimum amusement ride training and retraining standards; revising training requirements; revising circumstances under which an amusement ride may be considered an immediate serious danger to the public; providing an effective date.

WHEREAS, on March 24, 2022, Tyre Sampson, a 14-year-old boy visiting this state from Missouri, fell to his death from the Eagle Drop Tower in Orlando, and

WHEREAS, after the accident, Department of Agriculture and Consumer Services inspectors performed multiple onsite inspections of the tower and its components and contracted with a third party to conduct a failure analysis assessment of the tower, and

WHEREAS, the investigators concluded that changes made to the ride by the ride operators after initial installation contributed to Tyre Sampson's death, and

WHEREAS, the proposed changes made by this act are necessary to address the safety problems discovered during the department's investigation, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the “Tyre Sampson Act.”

Section 2. Present paragraphs (r) through (u) of subsection (3) of section 616.242, Florida Statutes, are redesignated as paragraphs (s) through (v), respectively, a new paragraph (r) is added to that subsection and paragraph (g) is added to subsection (6) of that section, and paragraph (h) of subsection (3), paragraph (b) of subsection (5), paragraphs (b) and (f) of subsection (6), subsection (7), paragraph (a) of subsection (8), paragraph (b) of subsection (11), subsections (12) and (14), paragraphs (a) and (c) of subsection (15), and subsections (16), (17), and (19) of that section are amended, to read:

616.242 Safety standards for amusement rides.—

(3) DEFINITIONS.—As used in this section, the term:

(h) “Major modification” means any change in the structural characteristics, ~~or operational characteristics, or safety systems~~ of an amusement ride which will alter its performance or settings from ~~those~~ that specified in the manufacturer’s design criteria or operator’s manual.

(r) “Ride commissioning and certification report” means a commissioning and certification report by the ride manufacturer which certifies that the ride has been designed and manufactured in conformance with the manufacturer’s design criteria, standards referenced in this section, and rules adopted by the department.

(5) PERMANENT AMUSEMENT RIDE ANNUAL PERMIT.—

(b) To apply for an annual permit, an owner or manager must submit to the department a written application on a form prescribed by department rule, which must include all of the following:

1. The legal name, address, e-mail address, and primary place of business of the owner or manager, ~~as applicable~~.

2. A description, manufacturer’s name, serial number, model number, and, if previously assigned, the United States Amusement Identification Number of the amusement ride.

3. A valid certificate of insurance for each amusement ride.

4. ~~If required under subsection (7),~~ An annual affidavit of compliance and nondestructive testing certifying that the amusement ride was inspected in person by the affiant and that the amusement ride is in ~~general~~ conformance with the requirements of this section and all applicable department rules. The affidavit must have been executed by a professional engineer or a qualified inspector within the last calendar year.

5. ~~The owner or manager shall, At no cost to the department, provide the department~~ an electronic copy of the manufacturer’s current recommended operating instructions, the owner’s operating fact sheet, and any written bulletins concerning the safety, operation, or maintenance of the amusement ride.

6. Beginning July 1, 2023, a ride commissioning and certification report for each permanent amusement ride operated for the first time in this state after July 1, 2023.

(6) TEMPORARY AMUSEMENT RIDE PERMIT.—

(b) To apply for a permit, an owner or manager must submit to the department a written application on a form prescribed by department rule. The written application, which must include all of the following:

1. The legal name, address, e-mail address, and primary place of business of the owner or manager, ~~as applicable.~~

2. A description, manufacturer’s name, serial number, model number, and, if previously assigned, the United States Amusement Identification Number of the amusement ride.

3. A valid certificate of insurance for each amusement ride.

4. ~~If required under subsection (7),~~ An affidavit of compliance and nondestructive testing certifying that the amusement ride was inspected in person by the affiant and that the amusement ride is in ~~general~~ conformance with the requirements of this section and all applicable department rules. The affidavit must be executed by a professional engineer or a qualified inspector.

5. ~~The owner or manager shall, At no cost to the department, provide the department~~ an electronic copy of the manufacturer’s current recommended operating instructions, the operating fact sheet, and any written bulletins concerning the safety, operation, or maintenance of the amusement ride.

(f) A temporary amusement ride is exempt from the required permit if it is:

1. Used at a private event and was issued a permit within the preceding 6 months; or

2. A kiddie ride used at a public event, provided that not more than three amusement rides are at the event, the kiddie rides at the event do not exceed a capacity of 12 persons, and the kiddie ride passed a department inspection and was issued a permit within the preceding 6 months. Unless the capacity of the ride has been determined and specified by the manufacturer, the department shall determine the capacity of the kiddie ride by rule. An owner or a manager of a kiddie ride operating under this exemption is responsible

for ensuring that not more than three amusement rides are operated at the event.

(g) The permit must be displayed in an accessible location on the amusement ride.

(7) NONDESTRUCTIVE TESTING; ANNUAL AFFIDAVIT; EXEMPTIONS.—

(a) ~~Except as provided in paragraph (d),~~ An owner or manager may not operate an amusement ride unless the owner or manager at all times has a current affidavit of nondestructive testing from a professional engineer or qualified inspector that the amusement ride has undergone nondestructive testing to verify the integrity of all components ~~for metal fatigue~~ at least annually. The nondestructive testing ~~for metal fatigue~~ must be conducted more often than annually if required by any rule adopted under this section, by the manufacturer of the amusement ride, or by the professional engineer or qualified inspector executing the affidavit of nondestructive testing. The nondestructive testing ~~for metal fatigue~~ must consist at least of visual nondestructive testing, as well as nonvisual nondestructive testing ~~for metal fatigue~~, which must be conducted on the components of the amusement ride as required by any rule adopted under this section, by the manufacturer of the amusement ride, or by the professional engineer or qualified inspector executing the affidavit of nondestructive testing.

(b) Nonvisual nondestructive testing must be used to verify the integrity of components that, due to their design, location, installation, or a combination thereof, cannot be adequately evaluated by other means.

(c) Nondestructive testing ~~testings~~ must be performed by a technician who meets the requirements prescribed by department rule.

(d)(e) An affidavit of nondestructive testing, on a form prescribed by department rule, must state, at a minimum, all of the following:

1. That the amusement ride was inspected in person by the affiant.
2. That all of the manufacturer's nondestructive testing requirements and recommendations are current.
3. That the nondestructive testing was performed by a qualified nondestructive testing technician.
4. The components of the amusement ride for which the manufacturer has recommended or required nondestructive testing.
5. The type of nondestructive testing required or recommended by the manufacturer.
6. The frequency of the nondestructive testing required or recommended by the manufacturer.

7. The components of the amusement ride for which the affiant, in addition to the manufacturer's requirements and recommendations, has recommended or required nondestructive testing.

8. The type of nondestructive testing required or recommended by the affiant in addition to the manufacturer's requirements and recommendations. If the affiant does not require or recommend additional nondestructive testing, the affiant must affirm that the manufacturer's requirements are sufficient for the safe operation of the amusement ride.

9. The frequency of the nondestructive testing as required or recommended by the affiant.

10. That visual nondestructive testing is adequate for the amusement ride to be in ~~general~~ conformance with the requirements of this section and all applicable rules, ~~only~~ if only visual nondestructive testing is required or recommended by the manufacturer or the affiant.

11. That the amusement ride is in conformance with the requirements of this section and all applicable department rules.

12. Whether the amusement ride has undergone a major modification and, if so, the name of the manager, owner, or operator who authorized the modification and the date the modification took place.

13. That the amusement ride and its components are in conformance with all applicable service life requirements specified by the manufacturer.

~~(e)(d)~~ Nonvisual nondestructive testing is not required for fun houses, houses of mirrors, haunted houses, mazes, wave pools, wave-making devices, kiddie pools, slides that are fully supported by an earthen mound, nonmotorized playground equipment that requires a manager, or lazy-river-type nonmotorized floating carriers propelled by water.

(8) DEPARTMENT INSPECTIONS.—

(a) In order to obtain an annual or a temporary amusement ride permit, an amusement ride must be inspected by the department.

1. ~~A temporary amusement ride is exempt from the required inspection if it is:~~

~~a. Used at a private event;~~

~~b. A simulator, the capacity of which does not exceed 16 persons; or~~

~~c. A kiddie ride used at a public event, provided that not more than three amusement rides are at the event, the kiddie rides at the event do not exceed a capacity of 12 persons, and the kiddie ride passed a department inspection and was issued a permit within the preceding 6 months. The capacity of a kiddie ride shall be determined by department rule, unless the capacity of~~

~~the ride has been determined and specified by the manufacturer. Any owner or manager of a kiddie ride operating under this exemption is responsible for ensuring that not more than three amusement rides are operated at the event.~~

2. The department shall inspect permanent amusement rides 6 months after the issuance of the annual permit. The required inspection may be waived for a permanent amusement ride if it was inspected and certified by an accredited trade organization as defined by department rule.

(11) EXEMPTIONS.—

(b) All of the following are exempt from subsections (5), (6), (8), and (9), but may be inspected by the department upon request following a complaint or pursuant to an accident that is required to be reported under subsection (15), and such exemption may be removed if the exempted amusement ride is found to have been operating in a manner or circumstance that presents a risk or resulted in a serious injury to patrons:

1. Museums or other institutions principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

2. Conventions or trade shows for the sale or exhibit of amusement rides if there are a minimum of 15 amusement rides on display or exhibition and if any operation of such amusement rides is limited to the registered attendees of the convention or trade show.

3. Nonmotorized playground equipment that is not required to have a manager.

4. Coin-actuated amusement rides designed to be operated by depositing coins, tokens, credit cards, debit cards, bills, or other cash money and which are not required to have a manager, and which have a capacity of six persons or less.

5. Facilities described in s. 549.09(1)(a) when such facilities are operating cars, trucks, or motorcycles only.

6. Battery-powered cars or other vehicles that are designed to be operated by children 7 years of age or under and that cannot exceed a speed of 4 miles per hour.

7. Mechanically driven vehicles that pull train cars, carts, wagons, or other similar vehicles, that are not confined to a metal track or confined to an area but are steered by an operator and do not exceed a speed of 4 miles per hour.

8. A water-related amusement ride operated by a business licensed under chapter 509 if the water-related amusement ride is an incidental amenity and the operating business is not primarily engaged in providing amusement, pleasure, thrills, or excitement and does not offer day rates.

9. An amusement ride at a private, membership-only facility if the amusement ride is an incidental amenity and the facility is not open to the general public; is not primarily engaged in providing amusement, pleasure, thrills, or excitement; and does not offer day rates.

10. A nonprofit permanent facility registered under chapter 496 which is not open to the general public.

(12) INSPECTION STANDARDS.—An amusement ride must conform to all of the following standards:

(a) All mechanical, structural, and electrical components that affect patron safety must be in good working order.

(b) All control devices, speed-limiting devices, brakes, and safety equipment must be in good working order.

(c) Parts must be properly aligned and may not be bent, distorted, cut, or otherwise injured to force a fit. Parts requiring lubrication must be lubricated in the course of assembly. Fastening and locking devices must be installed when required for safe operation.

(d) Upon request, the owner or manager of an amusement ride must demonstrate patron-loading procedures and must provide the proper positioning and measurements related to patron safety restraint systems, as established by the manufacturer of the amusement ride or by a professional engineer or qualified inspector.

(e) An amusement ride must be placed or secured with blocking, cribbing, outriggers, guys, or other means so as to be stable under all operating conditions.

(f)(e) Areas in which patrons may be endangered by the operation of an amusement ride must be fenced, barricaded, or otherwise effectively guarded against inadvertent contact.

(g)(f) Machinery used in or with an amusement ride must be enclosed, barricaded, or otherwise effectively guarded against inadvertent contact.

(h)(g) An amusement ride powered so as to be capable of exceeding its maximum safe operating speed must be provided with a maximum-speed-limiting device.

(i)(h) The interior and exterior parts of all patron-carrying amusement rides with which a patron may come in contact must be smooth and rounded and free from sharp, rough, or splintered edges and corners, and from projecting studs, bolts, and screws or other projections that might cause injury.

(j)(i) Signs that advise or warn patrons of age restrictions, size restrictions, health restrictions, weight limitations, or any other special

consideration or use restrictions, or lack thereof, required ~~or recommended~~ for the amusement ride by the manufacturer must be prominently displayed at the patron entrance of each amusement ride. If the amusement ride manual does not include rider restrictions related to age, size, health, or weight, the department may require the owner or manager to provide documentation from the amusement ride manufacturer, a licensed professional engineer, or a qualified inspector confirming that no such restrictions exist.

(k)(j) All amusement rides presented for inspection as ready for operation or in operation must comply with this section and department rule.

(l)(k) A sign containing the toll-free number of the department and informing patrons that they may contact the department with complaints or concerns regarding the safe operation of amusement rides must be posted in a manner conspicuous to the public at each entrance of an a temporary amusement ride facility. The department shall prescribe by rule specifications for such signs.

(14) ENTRY FOR INSPECTION OR INVESTIGATION.—

(a) Upon presentation of identification, an authorized employee of the department may enter unannounced and inspect amusement rides at any time and in a reasonable manner and has the right to question any owner, operator, or manager; to inspect, investigate, photograph, and sample all pertinent places, areas, and devices and review required documentation; and to conduct or have conducted all appropriate tests, including non-destructive testing. The department may impose fees for unannounced inspections and recover the cost of tests authorized by this subsection.

(b) The department shall prepare a written report of each investigation it conducts.

(15) REPORTING AND INVESTIGATION OF ACCIDENTS AND DEFECTS; IMPOUNDMENTS.—

(a) Any accident of which the owner or manager has knowledge or, through the exercise of reasonable diligence should have knowledge, and for which a patron seeks treatment at is transported to a hospital or an urgent care center, as those terms are defined in chapter 395, must be reported by the owner or manager to the department by telephone within 4 hours after the occurrence of the accident or after notification by the patron and must be followed up by a written report to the department within 24 hours after the occurrence of the accident or after notification by the patron.

(c) The department may impound an amusement ride involved in an accident for which a patron seeks treatment at is transported to a hospital or an urgent care center as those terms are defined in chapter 395 or which has a mechanical, structural, or electrical defect affecting patron safety; may impound any other amusement ride of a similar make and model or with

similar operating characteristics; and may perform all necessary tests to determine the cause of the accident or the mechanical, structural, or electrical defect or to determine the safety of the amusement ride and any other amusement ride of a similar make and model or with similar operating characteristics. The cost of impounding the amusement ride and performing the necessary tests must be borne by the owner of the amusement ride.

(16) INSPECTION BY OWNER OR MANAGER.—Before opening on each day of operation and before any inspection by the department, the owner or manager of an amusement ride must inspect and test each amusement ride to ensure compliance with this section. Each inspection must be recorded at the time of inspection on a form prescribed by department rule and signed by the person who conducted the inspection. In lieu of the form prescribed by department rule, the owner or manager may request approval of an alternative form that includes, at a minimum, the information required on the form prescribed by department rule. Inspection records of the last 14 daily inspections must be kept on site by the owner or manager and made immediately available to the department upon request.

(17) TRAINING OF EMPLOYEES.—

(a) The department shall establish by rule minimum training and retraining standards and the frequency of employee training for all amusement rides.

(b) The owner or manager of an amusement ride shall maintain a record of employee training for each employee authorized to operate, assemble, disassemble, transport, or conduct maintenance on an amusement ride on a form prescribed by department rule. In lieu of the form prescribed by department rule, the owner or manager may request approval of an alternative form that includes, at a minimum, the information required on the form prescribed by department rule. The training record must be kept on site by the owner or manager and made immediately available to the department upon request. Training may not be conducted when an amusement ride is open to the public unless the training is conducted under the supervision of an employee who is trained in the operation of that ride. The owner or manager shall immediately document all training following each training session and certify that each employee is trained, as required by this section and any rules adopted thereunder, on the amusement ride for which the employee is responsible.

(19) IMMEDIATE FINAL ORDERS.—

(a) An amusement ride that fails to meet the requirements of this section or pass the inspections required by this section; that is involved in an accident for which a patron seeks treatment at is transported to a hospital or an urgent care center as those terms are defined in chapter 395; or that has a mechanical, structural, or electrical defect that affects patron safety may be considered an immediate serious danger to the public health, safety, and welfare and, upon issuance of an immediate final order prohibiting patron

use of the ride, may not be operated for patron use until it has passed a subsequent inspection by or at the direction of the department.

(b) An amusement ride of a similar make and model or with similar operating characteristics to an amusement ride described in paragraph (a) may be considered an immediate serious danger to the public health, safety, and welfare and, upon issuance of an immediate final order prohibiting patron use of the ride, may not be operated for patron use until it has passed a subsequent inspection by or at the direction of the department.

Section 3. This act shall take effect July 1, 2023.

Approved by the Governor May 11, 2023.

Filed in Office Secretary of State May 11, 2023.