

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 17, 1998 Revised: _____

Subject: Amusement Rides

| | <u>Analyst</u> | <u>Staff Director</u> | <u>Reference</u> | <u>Action</u> |
|----|-----------------|-----------------------|------------------|---------------------|
| 1. | <u>Akhavein</u> | <u>Poole</u> | <u>AG</u> | <u>Favorable/CS</u> |
| 2. | _____ | _____ | <u>CM</u> | _____ |
| 3. | _____ | _____ | <u>WM</u> | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |

I. Summary:

This bill is a reorganization and substantial revision of section 616.242, F.S., concerning public fairs and expositions. The Department of Agriculture and Consumer Services (department) administers the Amusement Device Safety Inspection Program to ensure that fair rides and other attractions are safe for public use. The bill removes obsolete and duplicative language and makes the following substantive changes:

- Strengthens safety standards for amusement rides;
- Strengthens requirements for nondestructive testing of amusement rides;
- Changes accident reporting requirements; and
- Strengthens the department’s ability to investigate accidents and to impound unsafe amusement rides.

This bill substantially amends section 616.242, Florida Statutes.

This bill amends sections 212.08, 570.46, and 616.13, Florida Statutes.

II. Present Situation:

The Amusement Device Safety Inspection Program is administered by the Department of Agriculture and Consumer Services (department). It is intended to help protect the public from personal injuries arising from unsafe amusement rides. The program was established in 1963 (Ch. 63-247, Laws of Florida), when the Legislature authorized the department to inspect “midway companies.” The department conducted limited inspections to assess these companies’ operational and electrical safety and compliance with fire prevention requirements. The 1983 Legislature expanded the department’s authority (Ch. 83-239, Laws of Florida) by giving it or its

designee the responsibility to inspect amusement devices. However, the department's activity continued to be limited, since a single position and OPS staff was all that was allocated to conduct ride inspections. The Legislature increased appropriations and staffing in 1986. In 1989, after a fatal accident at a public fair in Florida, the Legislature specified that the department was to inspect and test all devices operating in the state.

Persons who wish to operate amusement rides in Florida must obtain an annual permit from the department. To obtain a permit, the owner's rides must be assembled, disassembled, maintained, and operated in such a fashion as to prevent injuries. Managers of temporary amusement rides such as fair rides must perform daily visual safety inspections of their equipment. Also, each ride must be covered by a bond or insurance policy of at least \$1 million to cover potential accident liability. Amusement rides must be annually inspected by either a professional engineer, an insurance underwriter's representative, or a manufacturer's representative with certain training and experience qualifications. These annual inspections also must include a non-destructive test for metal fatigue.

The department verifies compliance with the above requirements by conducting its own inspections of amusement rides and by reviewing documents maintained by amusement companies. The department is required by statute to inspect each amusement ride at every temporary site and permanent facility in the state. Temporary amusement rides are inspected each time they are set up at a new location in the state, while permanent amusement rides are inspected only at their initial entry and set-up in Florida and at least annually thereafter. These inspections must be completed before the rides and attractions are opened to the public. The department presently employs 12 inspectors who travel throughout the state to examine rides at sites such as public fairs. An additional 3 inspector positions have been authorized, bringing the total to 15. During these inspections, staff examine the physical condition of the rides to determine that they are appropriately assembled, are free of structural cracks and other defects that could pose a safety hazard, are operated in accordance with the manufacturer's specifications, and meet statutory requirements. The inspectors also check to make sure that the owners have obtained the required annual inspections and insurance coverage for their rides and have conducted the required daily inspections of the rides.

Facilities located at permanent sites that employ at least 1,000 full-time employees and that maintain qualified full-time in-house safety inspectors approved by the department are exempt from state inspection. These facilities must provide an annual affidavit stating that all rides and attractions have been inspected and tested as required. As of January 1998, three permanent facilities (Disney World, Busch Gardens, and Universal Studios) met these requirements and were exempt from state inspection.

The department is authorized to levy several types of sanctions if amusement ride owners fail to comply with Program requirements. The department may issue a "stop operation" order if it determines that an amusement ride presents an immediate danger. This order prohibits the owner from operating the ride until the defect has been corrected and the department rescinds the order. The department may also revoke the operating permit or impose an administrative fine of up to

\$500 per day per violation if an amusement ride is operated without the required inspections or insurance, if an amusement ride is operated with a defect that poses a serious injury risk to passengers, or if a ride has been operated after being involved in an accident resulting in death or serious injury. The department may also impose these penalties if owners fail to correct specified violations within 30 days after receiving a written notice of noncompliance. During fiscal year 1996-97, the department issued 162 stop operation orders for violations such as failure to have required insurance, structural defects, and inoperative passenger restraint devices. The department imposed \$5,000 in administrative fines against amusement ride owners but did not revoke any operating permits during the year.

The department charges a variety of regulatory fees. Fees for annual operating permits range from \$170 to \$500, based on the type of amusement ride. The department also charges an annual inspection fee that ranges from \$31 to \$62 per temporary ride each time the temporary ride is set up and inspected. Permanent rides are permitted and inspected annually and may be inspected more often but no fee can be charged for such inspection. The department may also assess a \$100 fee if a company fails to provide at least 15 days notice that a ride will be set up and need inspection, a \$300 fee if an inspector needs to revisit a site to conduct a set-up inspection because a ride was not ready for inspection at the time of the initial visit, and a \$100 fee if an inspection is canceled by a ride owner without 24-hour notice.

The Amusement Device Safety Inspection Program has not been self-supporting through fee revenues as required by law. During fiscal year 1996-97, Program expenditures were approximately \$1,119,506. Only \$317,727 (.28%) of this amount was recovered through fees, with the remaining costs paid by General Revenue or revenues from other department programs deposited into the General Inspection Trust Fund. Inspection fees were increased, by rule, in the present fiscal year. By fiscal year 1998-99, the inspection fees generated by the Program will cover 100 percent of program costs.

III. Effect of Proposed Changes:

Senate Bill 1460 substantially rewords the current text of s. 616.242, F.S., and includes new requirements relating to amusement rides.

Section 1. Amends s. 616.242, F.S., to provide safety standards for amusement rides. Provides that the owner of an amusement ride, and each amusement ride, must meet all requirements of this section and all rules. Provides that this section applies to all amusement rides within the state unless specifically exempted. Provides definitions for amusement ride; annual permit; bungy operation; go-kart; inspection certificate; kiddie ride; kiddie train; major modification; manager; nondestructive testing; owner; patron; permanent amusement ride; permanent facility; private event; professional engineer; qualified inspector; simulator; temporary amusement ride; and water park.

Adoption of Standards and Rules

Requires the department to adopt by rule standards for amusement rides which are the same or similar to specified national standards. Authorizes the department to adopt rules necessary to carry out its statutory duties in the interest of public health, safety, and welfare and to promote patron safety in the design, construction, assembly, disassembly, maintenance, and operation of amusement rides. Requires the department to adopt rules regulating the safe use and operation of go-karts, amusement rides at water parks, and bungee operations. Requires safety standards and inspection requirements to be established. Authorizes the department to adopt rules to address the circumstances that may arise following an accident or unforeseen event.

Annual Permit

Prohibits an amusement ride from being operated without a current annual permit. Requires an owner to submit a permit application that provides the following information:

- The legal name, address, and primary place of business of the owner.
- A description, manufacturer's name, serial number, model number and, if previously assigned, the United States Amusement Identification Number of the amusement ride.
- A valid certificate of insurance or bond for each amusement ride.
- An affidavit of compliance 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 rules.
- With certain exceptions, an affidavit of nondestructive testing.
- A request for inspection.
- A copy of the manufacturer's current recommended operating instructions in the possession of the owner, the owner's operating fact sheet, and any written bulletins in the possession of the owner concerning the safety, operation, or maintenance of the amusement ride.

Provides that an annual permit is valid for one year from the date of issue and is not transferable. Requires the annual permit to be displayed on the amusement ride in a place visible to patrons. Specifies that each go-kart track at the same permanent facility is considered a separate amusement ride. Specifies that amusement rides at water parks which operate from the same deck or level are considered one amusement ride.

Nondestructive Testing, Affidavit, and Exemptions

Prohibits the operation of an amusement ride unless the owner has a current affidavit of nondestructive testing from a professional engineer or qualified inspector that the amusement ride has undergone nondestructive testing for metal fatigue at least annually. Strengthens requirements for nondestructive testing. Provides exemptions. 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.

Department Inspections

Requires an amusement ride to be inspected by the department and issued an inspection certificate before an annual permit can be obtained. Requires each permanent amusement ride to be inspected semi-annually by the department and issued an inspection certificate. Requires each temporary amusement ride to be inspected by the department and issued an inspection certificate each time the ride is set up or moved to a new location unless the temporary amusement ride is:

- Used at a private event;
- Used at a public event when there are no more than three amusement rides at the event, and the capacity of each amusement ride at the event does not exceed eight persons;
- A simulator, the capacity of which does not exceed 16 persons; or
- A kiddie train used at a public event if there are no more than three amusement rides at the event.

Provides criteria for obtaining a department inspection for an amusement ride. Authorizes an owner to request reinspection if an amusement ride does not pass inspection. Provides that an inspection certificate will be issued if the amusement ride passes inspection and the owner pays the applicable fee. Provides criteria for the inspection certificate. Requires the inspection certificate to be displayed on the amusement ride in a readily visible location. Authorizes the department to charge a fee if the owner fails to timely cancel a Request for Inspection, requests holiday or weekend inspection, or is required to have a replacement USAID plate issued.

Fees

Requires the department to adopt rules to establish fees that cover 100 percent of all costs and expenditures associated with the Bureau of Fair Rides Inspection. Prohibits any owner who has not paid all fees or who has any unpaid fines to operate any amusement ride until the fees and fines have been paid.

Insurance Requirements

Prohibits an owner from operating an amusement ride unless insurance is in effect at all times. The insurance may be:

- An insurance policy in an amount of not less than \$1 million per occurrence, \$1 million in the aggregate, which insures the owner of the amusement ride against liability for injury to persons arising out of the use of the amusement ride; or
- A bond in a like amount; however, the aggregate liability of the surety under the bond may not exceed the face amount.

Exemptions

Provides exemptions from the provisions of the bill for specified amusement rides. Examples of these rides are:

- Permanent facilities that employ at least 1,000 full-time employees and that maintain full-time, in-house safety inspectors;
- Any playground operated by a school, local government, or business licensed under ch. 509, F.S., if the playground is an incidental amenity and the operating entity is not primarily engaged in providing amusement, pleasure, thrills, or excitement;
- Museums or other institutions principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts;
- 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;
- Skating rinks, arcades, lazer or paint ball war games, bowling alleys, miniature golf courses, mechanical bulls, trampolines, hot air or helium balloons, theaters, batting cages;
- Go-karts operated in competitive sporting events if participation is not open to the public;
- Nonmotorized playground equipment that is not required to have a manager; and
- Coin-activated amusement rides.

Inspection Standards

Provides the following inspection standards for amusement rides:

- All mechanical, structural, and electrical components that affect patron safety must be in good working order.
- All control devices, speed-limiting devices, brakes, and safety equipment designated by the manufacturer must be in good working order.
- Parts must be properly aligned, and they 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 where required for safe operation.
- Before being used by the public, an amusement ride must be placed or secured with blocking, cribbing, outriggers, guys, or other means to provide stability.
- 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.
- Machinery used in or with an amusement ride must be enclosed, barricaded, or otherwise effectively guarded against inadvertent contact.
- 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.
- 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, with no projecting studs, bolts, screws, or other projections which might cause injury.
- All amusement rides must comply with this section and all rules adopted hereunder.

Major Modification

Requires a professional engineer to certify that an amusement ride is in compliance after the ride has undergone a major modification.

Entry for Inspection or Investigation

Authorizes an employee of the department to enter unannounced, after presenting identification, to inspect amusement rides at any time and in a reasonable manner. Authorizes the department to impose fees for unannounced inspections and to recover the cost of necessary tests.

Reporting and Investigation of Accidents and Defects; Impoundments

Requires an owner or manager to report any accident for which a patron is transported to a hospital to the department by telephone or facsimile within four hours after the occurrence of the accident. A written report must be filed with the department within 24 hours after the accident. Requires any mechanical, structural, or electrical defects affecting patron safety that cause an amusement ride to be closed for more than four hours to be reported to the department by telephone or facsimile within eight hours after the closing of the ride. A written report must be filed within 24 hours after the closing. Authorizes the department to impound an amusement ride involved in an accident for which a patron is transported to a hospital or which has a mechanical, structural, or electrical defect affecting patron safety. Authorizes the impoundment of similar amusement rides. Authorizes all necessary tests to be performed. Provides that the cost of impounding the amusement ride and performing the necessary tests must be borne by the owner of the amusement ride.

Inspection by Owner or Manager

Requires an owner or manager to inspect and test amusement rides prior to opening on each day of operation and prior to any inspection by the department to ensure compliance with all requirements. Provides criteria for recording each inspection.

Training of Employees

Requires the owner or manager of any amusement ride to maintain a record of employee training for each employee authorized to operate, assemble, disassemble, transport, or conduct maintenance on an amusement ride. Requires the training record to be kept on site and made immediately available to the department upon request. Prohibits training to 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. Requires the owner or manager to certify that each employee is trained on the amusement ride for which the employee is responsible.

Prohibitions Related to Bungy Operations

Prohibits the following bungy operations:

- A bungy operation conducted with balloons, blimps, helicopters, or other aircraft;
- Sand bagging;
- Tandem or multiple bungy jumping; and
- Bungy jumping from any bridge, overpass, or any other structure not specifically designed as an amusement ride.

Immediate Final Orders

Prohibits an amusement ride that is considered a serious danger, that has been issued an immediate final order, from being operated for patron use until it has passed a subsequent inspection or at the direction of the department. Provides that an amusement ride of a similar make and model 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.

Enforcement and Penalties

Authorizes the department to deny, suspend for a period not to exceed one year, or revoke any permit or inspection certificate. Authorizes the department to impose an administrative fine of up to \$5,000 per violation, per day, against the owner of an amusement ride if it finds that the ride has operated or is operating in specified unsafe conditions. Requires the department to specify the period during which a suspension is effective in its order suspending a permit or inspection certificate. Specifies that the suspension period may not exceed one year.

Prohibits the owner of an amusement ride that has had its permit or inspection certificate revoked to apply for another permit or inspection certificate within two years after the date of such revocation. If judicial review is sought and a stay of revocation is obtained, the owner may not apply for another permit or inspection certificate within 2 years after the final order of the court sustaining the revocation. Prohibits the department to grant a new permit or inspection certificate if it finds that the circumstances for which the permit or inspection certificate was revoked still exist or are likely to recur.

Prohibits an owner to operate an amusement ride during the period of suspension or revocation of a permit or inspection certificate. Allows an owner to reapply for a new permit or inspection certificate when a suspension period has expired. Authorizes the department to bring an action to enjoin the violation of any provision of this section, or rules adopted under this section, in the circuit court of the county in which the violation occurs or is about to occur. Requires the court to immediately issue the temporary or permanent injunction upon competent and substantial evidence presented by the department of the violation or threatened violation. Requires the injunction to be issued without bond.

Authorizes the department to issue a letter of warning to the owner of an amusement ride specifying the violation and directing the owner to immediately correct the violation. Provides penalties for persons who knowingly violate any provision of this section.

Section 2. Amends s. 212.08, F.S., to change the term “amusement devices and amusement attractions” to “amusement rides.”

Section 3. Amends s. 570.46, F.S., to delete obsolete language and to change the term “amusement device” to “amusement rides.”

Section 4. Amends s. 616.13, F.S., to change the term “amusement devises and amusement attractions” to “amusement rides.”

Section 5. Provides that this act shall take effect October 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Amusement ride owners will experience higher inspection costs. Currently, the inspection program requires one annual inspection of permanent parks, but conducts two inspections a year to better ensure patron safety. The bill would allow the department to collect an inspection fee for the second inspection and to also charge an inspection fee to conduct random inspections. Inspection fees per amusement ride will be \$45 per kiddie ride and \$90 per adult ride.

Patron safety will be increased because the inspections will identify problems and concerns with individual rides which can be resolved before an accident occurs.

C. Government Sector Impact:

The bill increases permanent amusement ride inspections to twice yearly. Based on the number of inspections conducted in fiscal year 1996-97 on permanent amusement rides, and an estimate of the number of random inspections which will be conducted per year, an increase in inspection revenue of \$42,750 per annum is estimated. The number of

inspections for permanent amusement rides and the number of random inspections is expected to remain unchanged for the next three fiscal years.

RECURRING REVENUES:

General Inspection Trust Fund

| | | |
|-----|---|-----------------|
| 120 | Permanent Park Kiddie Rides @ \$45 each | 5,400 |
| 355 | Permanent Park Adult Rides @ \$90 each | 31,950 |
| 20 | Random Kiddie Rides @ \$45 each | 900 |
| 50 | Random Adult Rides @ \$90 each | 4,500 |
| | TOTAL REVENUE | \$42,750 |

NON-OPERATING COSTS:

General Inspection Trust Fund

| | | |
|--|--------------------------------|----------------|
| | General Revenue Service Charge | 3,121 |
| | TOTAL COSTS | \$3,121 |

To date, the Amusement Device Safety Inspection Program has not been self-supporting through fee revenues as required by law. The department must inspect permanent rides annually but it revisits sites a second time to ensure increased public safety. It cannot currently charge for the second inspection. During fiscal year 1996-97, Program expenditures were approximately \$1,119,506. Only \$317,727 (.28%) of this amount was recovered through fees, with the remaining costs paid by General Revenue or revenues from other department programs deposited into the General Inspection Trust Fund. The increased revenues shown above show that by fiscal year 1998-99, the inspection fees generated by the Program will more fully provide for program costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
