

By Senator Forman

32-281F-98

1 A bill to be entitled
 2 An act relating to amusement rides; amending s.
 3 616.242, F.S.; providing safety standards for
 4 amusement rides; providing for owner
 5 responsibility; providing scope; providing
 6 definitions; requiring adoption of specified
 7 standards and rules; prohibiting the operation
 8 of amusement rides without a permit and
 9 affidavit of compliance; providing for testing
 10 of amusement rides; requiring inspections;
 11 providing fees; providing insurance
 12 requirements; providing exemptions; prescribing
 13 inspections standards for amusement rides;
 14 authorizing employees of the Department of
 15 Agriculture and Consumer Services to inspect
 16 and investigate; requiring owners to inspect
 17 amusement rides; providing for the training of
 18 employees of amusement rides; prohibiting
 19 specified bungy operations; providing fees;
 20 providing for denial, suspension, and
 21 revocation of permits and inspection
 22 certificates; providing for issuance of orders,
 23 enforcement, and penalties; amending ss.
 24 212.08, 570.46, 616.13, F.S.; conforming
 25 provisions; providing an effective date.

26
 27 Be It Enacted by the Legislature of the State of Florida:

28
 29 Section 1. Section 616.242, Florida Statutes, is
 30 amended to read:

31 (Substantial rewording of section. See

1 s. 616.242, F.S., for present text.)
2 616.242 Safety standards for amusement rides.--
3 (1) OWNER RESPONSIBILITY.--The owner of an amusement
4 ride, and each amusement ride, must meet at all times the
5 requirements of this section and any rules adopted thereunder.
6 (2) SCOPE.--This section applies to all amusement
7 rides within this state unless exempt under subsection (10).
8 (3) DEFINITIONS.--As used in this section, the term:
9 (a) "Amusement ride" means any building, structure, or
10 mechanical device or combination thereof through which a
11 patron moves, walks, or is carried or conveyed on, along,
12 around, over, or through a fixed or restricted course or
13 within a defined area for the purpose of giving its patrons
14 amusement, pleasure, thrills, or excitement.
15 (b) "Annual permit" means the United States Amusement
16 Identification Number and the numbered and dated decal issued
17 by the department, which signify that the amusement ride has
18 been permitted by the department.
19 (c) "Bungy operation" means an amusement ride which
20 utilizes as a component a bungy cord which is an elastic rope
21 made of rubber, latex, or other elastic type materials whether
22 natural or synthetic.
23 (d) "Go-kart" means an amusement ride vehicle
24 controlled or driven by patrons specifically designed for and
25 run on a fixed course.
26 (e) "Inspection certificate" means the document issued
27 by the department, which indicates that the amusement ride has
28 undergone a recurring inspection by the department as required
29 by this section.
30 (f) "Kiddie ride" means an amusement ride designed
31 primarily for use by patrons up to 12 years of age.

1 (g) "Kiddie train" means a train designed as a kiddie
2 ride which is operated on a flat surface or flat track,
3 carries no more than 14 patrons, and does not exceed a speed
4 of 3 miles per hour.

5 (h) "Major modification" means any change in either
6 the structural or operational characteristics of the amusement
7 ride which will alter its performance from that specified in
8 the manufacturer's design criteria.

9 (i) "Manager" means a person having possession,
10 custody, or managerial control of an amusement ride, whether
11 as owner, lessee, agent, operator, attendant, or otherwise.

12 (j) "Nondestructive testing" is the development and
13 application of technical methods, including, but not limited
14 to, radiographic, magnetic particle, ultrasonic, liquid
15 penetrant, electromagnetic, neutron radiographic, acoustic
16 emission, visual, and leak testing to examine materials or
17 components in ways that do not impair the future usefulness
18 and serviceability in order to detect, locate, measure, and
19 evaluate discontinuities, defects, and other imperfections; to
20 assess integrity, properties and composition; and to measure
21 geometrical characters.

22 (k) "Owner" means the person exercising ultimate
23 dominion and control over an amusement ride.

24 (l) "Patron" means any person who is in the immediate
25 vicinity of an amusement ride, getting on or off an amusement
26 ride, or using an amusement ride. The term does not include
27 employees, agents, or servants of the owner while they are
28 engaged in the duties of their employment.

29 (m) "Permanent amusement ride" means an amusement ride
30 that is not regularly relocated.

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1 (n) "Permanent facility" means a location or place
2 from which amusement rides are not regularly relocated and at
3 which such rides operate as a lasting part of the premises.

4 (o) "Private event" means an event that is not open to
5 the general public and where no admission is charged.

6 (p) "Professional engineer" means a person who holds a
7 valid license as a professional engineer issued by the
8 Department of Business and Professional Regulation or by an
9 equivalent licensing body in another state.

10 (q) "Qualified inspector" means an employee or agent
11 of an insurance underwriter of an amusement ride who documents
12 to the department in a manner established by rule of the
13 department the following qualifications:

14 1. A minimum of 5 years experience in the amusement
15 ride field, at least 2 years of which were involved in actual
16 amusement ride inspection with a manufacturer, government
17 agency, park, carnival, or insurance underwriter;

18 2. The completion of 32 hours per year of continuing
19 education at a school approved by rule of the department,
20 which includes inservice industry or manufacturer updates and
21 seminars; and

22 3. At least 80 hours of formal education during the
23 past 5 years from a school approved by rule of the department
24 for amusement ride safety. Nondestructive-testing training, as
25 determined by rule of the department, may be substituted for
26 up to one-half of the 80 hours of education.

27 (r) "Simulator" means any amusement ride that is a
28 self-contained unit requiring little or no assembly and that
29 uses a motion picture simulation, along with a mechanical
30 movement, to simulate activities that provide amusement or
31 excitement for the patron.

1 (s) "Sponsor of event" means the agency, organization,
2 or entity that hosts and promotes the event.

3 (t) "Temporary amusement ride" means an amusement ride
4 that is regularly relocated, with or without disassembly.

5 (u) "Water park" means a permanent facility with one
6 or more amusement rides that totally or partially immerse a
7 patron in water.

8 (4) ADOPTION OF STANDARDS; RULES.--

9 (a) The department shall adopt by rule standards for
10 amusement rides which are the same as or similar to the
11 following national standards:

12 1. American Society for Testing and Materials
13 Committee F-24 Standards on Amusement Rides and Devices.

14 2. National Electric Code Handbook, Article 525.

15 3. National Fire Protection Code 101 (chapters 8-4.6
16 and 9-4.6).

17 4. ASTM Standards: E543 Practice for Determining the
18 Qualification of Nondestructive Testing Agencies.

19 5. ASNT Document Recommended Practice SNT-TC-1A
20 Personnel Qualification and Certification in Nondestructive
21 Testing.

22 (b) The department may adopt rules necessary to
23 effectuate the statutory duties of the department in the
24 interest of public health, safety, and welfare and to promote
25 patron safety in the design, construction, assembly,
26 disassembly, maintenance, and operation of amusement rides in
27 this state.

28 (c) The Legislature finds that go-karts, amusement
29 rides at water parks, and bungy operations are amusement rides
30 that, because of their unique nature, pose safety risks to
31 patrons distinct from other amusement rides. Therefore, the

1 department shall adopt rules regulating their safe use and
2 operation and establish safety standards and inspection
3 requirements in addition to those required by this section or
4 other rule of the department.

5 (d) The Legislature finds that, as a result of
6 accidents or other unforeseen events, circumstances may arise
7 requiring additional safety standards for the protection of
8 patrons of amusement rides, and therefore the department may
9 adopt rules to address the circumstances that may arise
10 following an accident or unforeseen event.

11 (5) ANNUAL PERMIT.--

12 (a) An amusement ride may not be operated without a
13 current annual permit.

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

17 1. The legal name, address, and primary place of
18 business of the owner.

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

22 3. A valid certificate of insurance or bond for each
23 amusement ride.

24 4. An affidavit of compliance that the amusement ride
25 was inspected in person by the affiant and that the amusement
26 ride complies with the requirements of this section and all
27 applicable rules adopted by the department. The affidavit must
28 be executed by a professional engineer or a qualified
29 inspector no earlier than 30 days before the date of the
30 filing of the application with the department.

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1 5. If required by subsection (6), an affidavit of
2 nondestructive testing dated and executed no earlier than 30
3 days prior to the date of the filing of the application with
4 the department.

5 6. A request for inspection.

6 7. A copy of the manufacturer's current recommended
7 operating instructions in the possession of the owner, the
8 owner's operating fact sheet, and any written bulletins in the
9 possession of the owner concerning the safety, operation, or
10 maintenance of the amusement ride.

11 (c) An annual permit must be issued by the department
12 to the owner of an amusement ride when a completed application
13 has been received, the amusement ride has passed the
14 department's inspection, and all applicable fees, as set by
15 rule of the department, have been paid.

16 (d) The annual permit is valid for 1 year from the
17 date of issue and is not transferable.

18 (e) The annual permit must be displayed on the
19 amusement ride in a place visible to patrons of the amusement
20 ride.

21 (f) Each go-kart track at the same permanent facility
22 is considered a separate amusement ride.

23 (g) Amusement rides at water parks which operate from
24 the same deck or level are considered one amusement ride.

25 (6) NONDESTRUCTIVE TESTING; AFFIDAVIT; EXEMPTIONS.--

26 (a) Except as provided in paragraph (d), an owner may
27 not operate an amusement ride unless the owner has at all
28 times a current affidavit of nondestructive testing from a
29 professional engineer or qualified inspector that the
30 amusement ride has undergone nondestructive testing for metal
31 fatigue at least annually. The nondestructive testing for

1 metal fatigue must be conducted more often than annually, if
2 required by any rule adopted under this section, by the
3 manufacturer of the amusement ride or by the professional
4 engineer or qualified inspector executing the affidavit of
5 nondestructive testing. The nondestructive testing for metal
6 fatigue must consist at least of visual nondestructive
7 testing; in addition, nonvisual nondestructive testing for
8 metal fatigue must be conducted on the components of the
9 amusement ride as required by any rule adopted under this
10 section, by the manufacturer of the amusement ride, or by the
11 professional engineer or qualified inspector executing the
12 affidavit of nondestructive testing.

13 (b) Nondestructive testings must be performed by a
14 technician who meets the requirements of subparagraphs
15 (4)(a)4. and 5.

16 (c) An affidavit of nondestructive testing must state:
17 1. That the amusement ride was inspected in person by
18 the affiant.

19 2. That all nondestructive testing requirements are
20 current.

21 3. That the nondestructive testing was performed by a
22 qualified nondestructive testing technician.

23 4. The components of the amusement ride for which the
24 manufacturer has recommended or required nondestructive
25 testing.

26 5. The type of nondestructive testing required or
27 recommended by the manufacturer.

28 6. The frequency of the nondestructive testing
29 required or recommended by the manufacturer.

30 7. The components of the amusement ride for which the
31 affiant has recommended or required nondestructive testing.

1 8. The type of nondestructive testing required or
2 recommended by the affiant.

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

5 10. An opinion that visual nondestructive testing is
6 sufficient for patron safety if only visual nondestructive
7 testing is required or recommended by either the manufacturer
8 or the affiant.

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

15 (7) DEPARTMENT INSPECTIONS.--

16 (a) In order to obtain an annual permit, an amusement
17 ride must be inspected by the department in accordance with
18 subsection (11) and receive an inspection certificate. In
19 addition, each permanent amusement ride must be inspected
20 semi-annually by the department in accordance with subsection
21 (11) and receive an inspection certificate, and each temporary
22 amusement ride must be inspected by the department in
23 accordance with subsection (11), and must receive an
24 inspection certificate each time the ride is set up or moved
25 to a new location in this state unless the temporary amusement
26 ride is:

27 1. Used at a private event;

28 2. Used at a public event when there are no more than
29 three amusement rides at the event, and the capacity of each
30 amusement ride at the event does not exceed eight persons;

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1 3. A simulator, the capacity of which does not exceed
2 16 persons; or

3 4. A kiddie train used at a public event if there are
4 no more than three amusement rides at the event.

5 (b) To obtain a department inspection for an amusement
6 ride, the owner must submit to the department on a form
7 prescribed by rule of the department a written Request for
8 Inspection. The owner must provide the following information
9 to the department:

10 1. The legal name, address, and primary place of
11 business of the owner.

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

15 3. For a temporary amusement ride, for each time the
16 amusement ride is set up or moved to a new location, the date
17 of first intended use at the new location and the address or a
18 description of the new location.

19 (c) For permanent amusement rides the request for
20 inspection must be received by the department at least 15 days
21 before the owner's planned opening date or at least 15 days
22 before the expiration of the prior inspection certificate. If
23 the request for inspection is received less than 15 days
24 before the owner's planned opening date or less than 15 days
25 before the expiration of the prior inspection certificate, the
26 department may nevertheless inspect the amusement ride and
27 charge a late fee, as set by rule of the department.

28 (d) For temporary amusement rides, the request for
29 inspection must be received by the department for each time
30 the amusement ride is set up or moved to a new location at
31 least 15 days before the date of first intended use at the new

1 location. If the request for inspection is received less than
2 15 days before the date of first intended use at the new
3 location, the department may nevertheless inspect the
4 amusement ride and charge a late fee, as set by rule of the
5 department.

6 (e) The timely request for an inspection does not
7 guarantee an inspection by the department on the date
8 requested.

9 (f) Upon failure of an amusement ride to pass any
10 department inspection, the owner may request reinspection
11 which shall be submitted in writing to the department on a
12 form prescribed by rule of the department. The department
13 shall reinspect the amusement ride as soon as practical
14 following receipt of the written request for reinspection and
15 any applicable reinspection fees set by rule of the
16 department. However, the request for reinspection does not
17 guarantee a reinspection by the department on the date
18 requested.

19 (g) If the amusement ride passes inspection and the
20 owner pays the applicable fee set by rule of the department,
21 the department shall issue an inspection certificate, on a
22 form prescribed by rule of the department.

23 (h) The inspection certificate must contain the date
24 of inspection, the site of the inspection, and the name of the
25 inspector.

26 (i) The inspection certificate is valid only for the
27 site stated on the inspection certificate. The inspection
28 certificate is valid for a period of not more than 6 months
29 from the date of issuance, and is not transferable.
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1 (j) The inspection certificate must be displayed on
2 the amusement ride at a place readily visible to patrons of
3 the amusement ride.

4 (k) If the owner fails to timely cancel a Request for
5 Inspection, requests holiday or weekend inspections, or is
6 required to have a replacement USAID plate issued by the
7 department, the owner may be charged an appropriate fee to be
8 set by rule of the department.

9 (8) FEES.--

10 (a) The department shall by rule establish fees to
11 cover 100 percent of all costs and expenditures associated
12 with the Bureau of Fair Rides Inspection, including all direct
13 costs, all indirect costs, and all division, data center and
14 administrative overhead. The fees must be deposited in the
15 General Inspection Trust Fund.

16 (b) Any owner of an amusement ride who has not paid
17 all the fees required under this section or who has any unpaid
18 fine outstanding under this section may not operate any
19 amusement ride in this state until the fees and fines have
20 been paid to the department.

21 (9) INSURANCE REQUIREMENTS.--

22 (a) An owner may not operate an amusement ride unless
23 the owner has in effect at all times of operation insurance
24 meeting the following requirements:

25 1. An insurance policy in an amount of not less than
26 \$1 million per occurrence, \$1 million in the aggregate, which
27 insures the owner of the amusement ride against liability for
28 injury to persons arising out of the use of the amusement
29 ride; or

1 2. A bond in a like amount; however, the aggregate
2 liability of the surety under the bond may not exceed the face
3 amount thereof.

4 (b) The policy or bond must be procured from an
5 insurer or surety that is licensed to transact business in
6 this state or that is approved as a surplus lines insurer.

7 (10) EXEMPTIONS.--

8 (a) This section does not apply to:

9 1. Permanent facilities that employ at least 1,000
10 full-time employees and that maintain full-time, in-house
11 safety inspectors.

12 2. Any playground operated by a school, local
13 government, or business licensed under chapter 509, if the
14 playground is an incidental amenity and the operating entity
15 is not primarily engaged in providing amusement, pleasure,
16 thrills, or excitement.

17 3. Museums or other institutions principally devoted
18 to the exhibition of products of agriculture, industry,
19 education, science, religion, or the arts.

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

25 5. Skating rinks, arcades, lazer or paint ball war
26 games, bowling alleys, miniature golf courses, mechanical
27 bulls, inflatable rides, trampolines, ball crawls, exercise
28 equipment, jet skis, paddle boats, air boats, helicopters,
29 airplanes, parasails, hot air or helium balloons whether
30 tethered or untethered, theatres, batting cages, stationary

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1 spring-mounted fixtures, rider-propelled merry-go-rounds,
2 games, side shows, live animal rides, or live animal shows.

3 6. Go-karts operated in competitive sporting events if
4 participation is not open to the public.

5 7. Nonmotorized playground equipment that is not
6 required to have a manager.

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

12 (b) The department may, by rule, establish exemptions
13 from this section for nonmotorized or human-powered amusement
14 rides or coin-actuated amusement rides.

15 (11) INSPECTION STANDARDS.--An amusement ride must
16 conform to and must be inspected by the department in
17 accordance with the following standards:

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

21 (b) All control devices, speed-limiting devices,
22 brakes, and safety equipment designated by the manufacturer
23 must be in good working order.

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

29 (d) Before being used by the public, an amusement ride
30 must be placed or secured with blocking, cribbing, outriggers,
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1 guys, or other means so as to be stable under all operating
2 conditions.

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

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

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

12 (h) The interior and exterior parts of all
13 patron-carrying amusement rides with which a patron may come
14 in contact must be smooth and rounded and free from sharp,
15 rough, or splintered edges and corners, with no projecting
16 studs, bolts, screws, or other projections which might cause
17 injury.

18 (i) All parts of amusement rides used by patrons must
19 be maintained in a sanitary condition.

20 (j) All amusement rides must comply with this section
21 and the rules adopted hereunder.

22 (12) MAJOR MODIFICATION.--After an amusement ride has
23 undergone a major modification, and prior to the time it is
24 placed in operation, a professional engineer licensed by the
25 state in which the certification is performed must certify
26 that the amusement ride is in compliance with this section and
27 all rules adopted pursuant thereto.

28 (13) ENTRY FOR INSPECTION OR INVESTIGATION.--Upon
29 presentation of identification, an authorized employee of the
30 department may enter unannounced and inspect amusement rides
31 at any time and in a reasonable manner and has the right to

1 question any owner or manager; to inspect, investigate,
2 photograph, and sample all pertinent places, areas, and
3 devices; and to conduct or have conducted all appropriate
4 tests including nondestructive testing. The department may
5 impose fees for unannounced inspections and recover the cost
6 of tests authorized by this subsection.

7 (14) REPORTING AND INVESTIGATION OF ACCIDENTS AND
8 DEFECTS; IMPOUNDMENTS.--

9 (a) Any accident of which the owner or manager has
10 knowledge or, through the exercise of reasonable diligence
11 should have knowledge, and for which a patron is transported
12 to a hospital, as defined in chapter 395, must be reported by
13 the owner or manager to the department by telephone or
14 facsimile within 4 hours after the occurrence of the accident.
15 A written report of the accident, on a form prescribed by rule
16 of the department, must be filed by the owner or manager with
17 the department within 24 hours after the accident.

18 (b) Any mechanical, structural, or electrical defects
19 affecting patron safety for which an amusement ride is closed
20 to patron use for more than 4 hours must be reported by the
21 owner or manager to the department by telephone or facsimile
22 within 8 hours after the closing of the ride. A written report
23 of the closing of the ride, on a form prescribed by rule of
24 the department, must be filed by the owner or manager with the
25 department within 24 hours after the closing of the amusement
26 ride.

27 (c) The department may impound an amusement ride
28 involved in an accident for which a patron is transported to a
29 hospital as defined in chapter 395 or which has a mechanical,
30 structural, or electrical defect affecting patron safety, and
31 may impound any other amusement ride of a similar make and

1 model, and may perform all necessary tests to determine the
2 cause of the accident or the mechanical, structural, or
3 electrical defect, or to determine the safety of the amusement
4 ride and any other amusement ride of a similar make and model.
5 The cost of impounding the amusement ride and performing the
6 necessary tests must be borne by the owner of the amusement
7 ride.

8 (15) INSPECTION BY OWNER OR MANAGER.--Prior to opening
9 on each day of operation and prior to any inspection by the
10 department, the owner or manager of an amusement ride must
11 inspect and test the amusement ride to ensure compliance with
12 all requirements of this section. Each inspection must be
13 recorded on a form prescribed by rule of the department and
14 signed by the person who conducted the inspection. Inspection
15 records of the last 14 daily inspections must be kept on site
16 by the owner or manager and made immediately available to the
17 department upon request.

18 (16) TRAINING OF EMPLOYEES.--The owner or manager of
19 any amusement ride shall maintain a record of employee
20 training for each employee authorized to operate, assemble,
21 disassemble, transport, or conduct maintenance on an amusement
22 ride, on a form prescribed by rule of the department. The
23 training record must be kept on site by the owner or manager
24 and made immediately available to the department upon request.
25 Training may not be conducted when an amusement ride is open
26 to the public unless the training is conducted under the
27 supervision of an employee who is trained in the operation of
28 that ride. The owner or manager shall certify that each
29 employee is trained, as required by this section and any rules
30 adopted thereunder, on the amusement ride for which the
31 employee is responsible.

1 (17) PROHIBITIONS RELATED TO BUNGY OPERATIONS.--The
2 following bungee operations are prohibited:

3 (a) A bungee operation conducted with balloons, blimps,
4 helicopters, or other aircraft.

5 (b) Sand bagging, which is the practice of holding
6 onto any object, including another person, while bungee
7 jumping, for the purpose of exerting more force on the bungee
8 cord to stretch it further, and then releasing the object
9 during the jump causing the jumper to rebound with more force
10 than could be created by the jumper's weight alone.

11 (c) Tandem or multiple bungee jumping.

12 (d) Bungee jumping from any bridge, overpass, or any
13 other structure not specifically designed as an amusement
14 ride.

15 (18) IMMEDIATE FINAL ORDERS.--

16 (a) An amusement ride that fails to meet the
17 requirements of this section or pass the inspections required
18 by this section, or an amusement ride that is involved in an
19 accident for which a patron is transported to a hospital as
20 defined in chapter 395, or an amusement ride that has a
21 mechanical, structural, or electrical defect that affects
22 patron safety may be considered an immediate serious danger to
23 public health, safety, and welfare and, upon issuance of an
24 immediate final order prohibiting patron use of the ride, may
25 not be operated for patron use until it has passed a
26 subsequent inspection by or at the direction of the
27 department.

28 (b) An amusement ride of a similar make and model to
29 an amusement ride described in paragraph (a) may be considered
30 an immediate serious danger to the public health, safety, and
31 welfare and, upon issuance of an immediate final order

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

4 (19) ENFORCEMENT AND PENALTIES.--

5 (a) The department may deny, suspend for a period not
6 to exceed 1 year, or revoke any permit or inspection
7 certificate. In addition to denial, suspension, or revocation,
8 the department may impose an administrative fine of up to
9 \$5000 per violation, per day, against the owner of the
10 amusement ride if it finds that:

11 1. An amusement ride has operated or is operating:

12 a. With a mechanical, structural, or electrical defect
13 that affects patron safety, of which the owner or manager has
14 knowledge, or, through the exercise of reasonable diligence,
15 should have knowledge;

16 b. In a manner or circumstance that presents a risk of
17 serious injury to patrons;

18 c. At a speed in excess of its maximum safe operating
19 speed;

20 d. With patrons whose faculties are impaired due to
21 drugs or alcohol;

22 e. In violation of this section or any rule adopted
23 under this section; or

24 f. In violation of any order of the department or
25 order of any court.

26 2. Any owner or manager in the course of his or her
27 duties is under the influence of drugs or alcohol.

28 (b) The department shall, in its order suspending a
29 permit or inspection certificate, specify the period during
30 which the suspension is effective; but such period may not
31 exceed 1 year. The permit or inspection certificate shall

1 remain suspended during the period so specified, subject,
2 however, to any rescission or modification of the order by the
3 department, or modification or reversal thereof by the court,
4 prior to expiration of the suspension period. A permit or
5 inspection certificate that has been suspended may not be
6 reinstated except upon request for reinstatement; and the
7 department may not grant a reinstatement if it finds that the
8 circumstances for which the permit or inspection certificate
9 was suspended still exist or are likely to recur.

10 (c) The owner of an amusement ride, if the permit or
11 inspection certificate for the amusement ride has been revoked
12 by the department, may not apply for another permit or
13 inspection certificate for the amusement ride within 2 years
14 after the effective date of such revocation or, if judicial
15 review of such revocation is sought, within 2 years after the
16 date of final court order or decree affirming the revocation.
17 The department may not, however, grant a new permit or
18 inspection certificate if it finds that the circumstances for
19 which the permit or inspection certificate was revoked still
20 exist or are likely to recur.

21 (d) If a permit or inspection certificate for the same
22 amusement ride has been revoked at two separate times, the
23 department may not thereafter grant or issue any permit or
24 inspection certificate for that amusement ride.

25 (e) During the period of suspension or revocation of a
26 permit or inspection certificate, the owner may not engage in
27 or attempt to engage in any operation of the amusement ride
28 for which a permit or inspection certificate is required under
29 this section.

30 (f) When a suspension period imposed by the department
31 has expired, an owner whose annual permit or inspection

1 certificate has expired may reapply for a new permit or
2 inspection certificate by submitting a complete application to
3 the department.

4 (g) In addition to the remedies provided in this
5 section, and notwithstanding the existence of any adequate
6 remedy at law, the department may bring an action to enjoin
7 the violation of any provision of this section, or rules
8 adopted under this section, in the circuit court of the county
9 in which the violation occurs or is about to occur. Upon
10 demonstration by the department to the court of the violation
11 or threatened violation, the court must immediately issue the
12 temporary or permanent injunction sought by the department.
13 The injunction must be issued without bond.

14 (h) In addition to the penalties authorized to be
15 imposed for any violation of this section or any rule adopted
16 under this section, the department may issue a letter of
17 warning to the owner of the amusement ride specifying the
18 violation and directing the owner to immediately correct the
19 violation.

20 (i) Any person who knowingly violates any provision of
21 this section commits a misdemeanor of the second degree,
22 punishable as provided in s. 775.082 or s. 775.083.

23 Section 2. Paragraph (jj) of subsection (7) of section
24 212.08, Florida Statutes, is amended to read:

25 212.08 Sales, rental, use, consumption, distribution,
26 and storage tax; specified exemptions.--The sale at retail,
27 the rental, the use, the consumption, the distribution, and
28 the storage to be used or consumed in this state of the
29 following are hereby specifically exempt from the tax imposed
30 by this chapter.

31 (7) MISCELLANEOUS EXEMPTIONS.--

1 (jj) Fair associations.--Also exempt from the tax
2 imposed by this chapter is the sale, use, lease, rental, or
3 grant of a license to use, made directly to or by a fair
4 association, of real or tangible personal property; any charge
5 made by a fair association, or its agents, for parking,
6 admissions, or for temporary parking of vehicles used for
7 sleeping quarters; rentals, subleases, and sublicenses of real
8 or tangible personal property between the owner of the central
9 amusement attraction and any owner of an amusement ride
10 ~~devices and amusement attractions~~, as those terms are used in
11 ss. 616.15(1)(b) and 616.242(3)(a) ~~and (i)~~, for the furnishing
12 of amusement rides ~~devices and amusement attractions~~ at a
13 public fair or exposition; and other transactions of a fair
14 association which are incurred directly by the fair
15 association in the financing, construction, and operation of a
16 fair, exposition, or other event or facility that is
17 authorized by s. 616.08. As used in this paragraph, the terms
18 "fair association" and "public fair or exposition" have the
19 same meaning as those terms are defined in s. 616.001. This
20 exemption does not apply to the sale of tangible personal
21 property made by a fair association through an agent or
22 independent contractor; sales of admissions and tangible
23 personal property by a concessionaire, vendor, exhibitor, or
24 licensee; or rentals and subleases of tangible personal
25 property or real property between the owner of the central
26 amusement attraction and a concessionaire, vendor, exhibitor,
27 or licensee, except for the furnishing of amusement rides
28 ~~devices or amusement attractions~~, which transactions are
29 exempt.

30 Section 3. Subsection (4) of section 570.46, Florida
31 Statutes, is amended to read:

1 570.46 Division of Standards; powers and duties.--The
2 duties of the Division of Standards include, but are not
3 limited to:

4 (4) Administering the provisions of chapter 616
5 relating to amusement rides ~~device inspections, inspection~~
6 ~~fees, and safety requirements at public fairs and expositions,~~
7 ~~carnivals, festivals, celebrations, bazaars, permanent~~
8 ~~facilities, and parking lot still dates.~~

9 Section 4. Section 616.13, Florida Statutes, is
10 amended to read:

11 616.13 Licenses upon shows within 5 miles of
12 fair.--Every person engaged in the business of providing
13 temporary amusement rides ~~devices and amusement attractions~~
14 within 5 miles of and within 30 days before or during any
15 public fair or exposition being operated by a fair
16 association, when not operating in connection with that fair
17 or exposition, shall pay a license tax of \$1,000 per day.

18 Section 5. This act shall take effect October 1, 1998.

19
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21 SENATE SUMMARY

22 Substantially revises s. 616.242, F.S., which prescribes
23 safety standards for amusement rides and enforcement and
24 inspection by the Department of Agriculture and Consumer
25 Services. Provides for denial, suspension, and revocation
26 of permits and inspection certificates. Provides for
27 imposition of penalties, inspections, and investigations.
28 Authorizes the department to adopt standards and rules
29 and to prescribe fees. (See bill for details.)
30
31