

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 inspection 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; providing for liens
24 for unpaid fees, fines, interest, and costs;
25 amending ss. 212.08, 570.46, 616.13, F.S.;
26 conforming provisions; providing an effective
27 date.

28
29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 616.242, Florida Statutes, is
2 amended to read:

3 (Substantial rewording of section. See
4 s. 616.242, F.S., for present text.)

5 616.242 Safety standards for amusement rides.--

6 (1) OWNER RESPONSIBILITY.--The owner of an amusement
7 ride, and each amusement ride, must meet at all times the
8 requirements of this section and any rules adopted thereunder.

9 (2) SCOPE.--This section applies to all amusement
10 rides within this state unless exempt under subsection (10).

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

12 (a) "Amusement ride" means any building, structure, or
13 mechanical device or combination thereof through which a
14 patron moves, walks, or is carried or conveyed on, along,
15 around, over, or through a fixed or restricted course or
16 within a defined area for the purpose of giving its patrons
17 amusement, pleasure, thrills, or excitement.

18 (b) "Annual permit" means the United States Amusement
19 Identification Number and the numbered and dated decal issued
20 by the department, which signify that the amusement ride has
21 been permitted by the department.

22 (c) "Bungy operation" means an amusement ride which
23 utilizes as a component a bungy cord which is an elastic rope
24 made of rubber, latex, or other elastic type materials whether
25 natural or synthetic.

26 (d) "Go-kart" means an amusement ride vehicle
27 controlled or driven by patrons specifically designed for and
28 run on a fixed course.

29 (e) "Inspection certificate" means the document issued
30 by the department, which indicates that the amusement ride has

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1 undergone a recurring inspection by the department as required
2 by this section.

3 (f) "Kiddie ride" means an amusement ride designed
4 primarily for use by patrons up to 12 years of age.

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

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

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

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

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

28 (l) "Patron" means any person who is in the immediate
29 vicinity of an amusement ride, getting on or off, or entering
30 or exiting an amusement ride, or using an amusement ride. The
31 term does not include employees, agents, or servants of the

1 owner while they are engaged in the duties of their
2 employment.

3 (m) "Permanent amusement ride" means an amusement ride
4 that is not regularly relocated.

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

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

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

14 (q) "Qualified inspector" means an employee or agent
15 of an insurance underwriter of an amusement ride who documents
16 to the department in a manner established by rule of the
17 department the following qualifications:

18 1. A minimum of 5 years' experience in the amusement
19 ride field, at least 2 years of which were involved in actual
20 amusement ride inspection with a manufacturer, government
21 agency, park, carnival, or insurance underwriter;

22 2. The completion of 32 hours per year of continuing
23 education at a school approved by rule of the department,
24 which includes inservice industry or manufacturer updates and
25 seminars; and

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

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

6 (s) "Temporary amusement ride" means an amusement ride
7 that is regularly relocated, with or without disassembly.

8 (t) "Water park" means a permanent facility with one
9 or more amusement rides that totally or partially immerse a
10 patron in water.

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

12 (a) The department shall adopt, by rule, standards for
13 amusement rides which are the same as or similar to the
14 following national standards:

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

17 2. National Electric Code Handbook, Article 525.

18 3. National Fire Protection Code 101 (chapters 8-4.6
19 and 9-4.6).

20 4. ASTM Standards: E543 Practice for Determining the
21 Qualification of Nondestructive Testing Agencies.

22 5. ASNT Document Recommended Practice SNT-TC-1A
23 Personnel Qualification and Certification in Nondestructive
24 Testing.

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

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1 (c) The Legislature finds that go-karts, amusement
2 rides at water parks, and bungy operations are amusement rides
3 that, because of their unique nature, pose safety risks to
4 patrons distinct from other amusement rides. Therefore, the
5 department shall adopt rules regulating their safe use and
6 operation and establish safety standards and inspection
7 requirements in addition to those required by this section or
8 other rule of the department.

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

15 (5) ANNUAL PERMIT.--

16 (a) An amusement ride may not be operated without a
17 current annual permit.

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

21 1. The legal name, address, and primary place of
22 business of the owner.

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

26 3. A valid certificate of insurance or bond for each
27 amusement ride.

28 4. An affidavit of compliance that the amusement ride
29 was inspected in person by the affiant and that the amusement
30 ride is in general conformance with the requirements of this
31 section and all applicable rules adopted by the department.

1 The affidavit must be executed by a professional engineer or a
2 qualified inspector no earlier than 60 days before the date of
3 the filing of the application with the department.

4 5. If required by subsection (6), an affidavit of
5 nondestructive testing dated and executed no earlier than 60
6 days prior to the date of the filing of the application with
7 the department.

8 6. A request for inspection.

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

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

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

21 (e) The annual permit must be displayed on the
22 amusement ride in a place visible to patrons of the amusement
23 ride.

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

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

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

29 (a) Except as provided in paragraph (d), an owner may
30 not operate an amusement ride unless the owner has at all
31 times a current affidavit of nondestructive testing from a

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

16 (b) Nondestructive testings must be performed by a
17 technician who meets the requirements of subparagraphs
18 (4)(a)4. and 5.

19 (c) An affidavit of nondestructive testing must state:

20 1. That the amusement ride was inspected in person by
21 the affiant.

22 2. That all nondestructive testing requirements are
23 current.

24 3. That the nondestructive testing was performed by a
25 qualified nondestructive testing technician.

26 4. The components of the amusement ride for which the
27 manufacturer has recommended or required nondestructive
28 testing.

29 5. The type of nondestructive testing required or
30 recommended by the manufacturer.

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1 6. The frequency of the nondestructive testing
2 required or recommended by the manufacturer.

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

5 8. The type of nondestructive testing required or
6 recommended by the affiant.

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

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

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

20 (7) DEPARTMENT INSPECTIONS.--

21 (a) In order to obtain an annual permit, an amusement
22 ride must be inspected by the department in accordance with
23 subsection (11) and receive an inspection certificate. In
24 addition, each permanent amusement ride must be inspected
25 semiannually by the department in accordance with subsection
26 (11) and receive an inspection certificate, and each temporary
27 amusement ride must be inspected by the department in
28 accordance with subsection (11), and must receive an
29 inspection certificate each time the ride is set up or moved
30 to a new location in this state unless the temporary amusement
31 ride is:

- 1 1. Used at a private event;
2 2. Used at a public event when there are no more than
3 three amusement rides at the event, and the capacity of each
4 amusement ride at the event does not exceed eight persons;
5 3. A simulator, the capacity of which does not exceed
6 16 persons; or
7 4. A kiddie train used at a public event if there are
8 no more than three amusement rides at the event.
9 (b) To obtain a department inspection for an amusement
10 ride, the owner must submit to the department on a form
11 prescribed by rule of the department a written request for
12 inspection. The owner must provide the following information
13 to the department:
14 1. The legal name, address, and primary place of
15 business of the owner.
16 2. A description, manufacturer's name, serial number,
17 model number, and the United States Amusement Identification
18 Number, if previously assigned, of the amusement ride.
19 3. For a temporary amusement ride, for each time the
20 amusement ride is set up or moved to a new location, the date
21 of first intended use at the new location and the address or a
22 description of the new location.
23 (c) For permanent amusement rides, the request for
24 inspection must be received by the department at least 15 days
25 before the owner's planned opening date or at least 15 days
26 before the expiration of the prior inspection certificate. If
27 the request for inspection is received less than 15 days
28 before the owner's planned opening date or less than 15 days
29 before the expiration of the prior inspection certificate, the
30 department may nevertheless inspect the amusement ride and
31 charge a late fee, as set by rule of the department.

1 (d) For temporary amusement rides, the request for
2 inspection must be received by the department for each time
3 the amusement ride is set up or moved to a new location at
4 least 14 days before the date of first intended use at the new
5 location. If the request for inspection is received less than
6 14 days before the date of first intended use at the new
7 location, the department may nevertheless inspect the
8 amusement ride and charge a late fee, as set by rule of the
9 department.

10 (e) Inspections will be assigned on a first-come,
11 first-served basis, and overflow requests will be scheduled on
12 the closest date to the date for which the inspection was
13 requested.

14 (f) Upon failure of an amusement ride to pass any
15 department inspection, the owner may request reinspection
16 which shall be submitted in writing to the department on a
17 form prescribed by rule of the department. The department
18 shall reinspect the amusement ride as soon as practical
19 following receipt of the written request for reinspection and
20 any applicable reinspection fees set by rule of the
21 department. Inspections will be assigned on a first-come,
22 first-served basis, and the overflow requests will be
23 scheduled on the closest date to the date for which the
24 inspection was requested.

25 (g) If the amusement ride passes inspection and the
26 owner pays the applicable fee set by rule of the department,
27 the department shall issue an inspection certificate on a form
28 prescribed by rule of the department.

29 (h) The inspection certificate must contain the date
30 of inspection, the site of the inspection, and the name of the
31 inspector.

1 (i) The inspection certificate is valid only for the
2 site stated on the inspection certificate. The inspection
3 certificate is valid for a period of not more than 6 months
4 from the date of issuance, and is not transferable.

5 (j) The inspection certificate must be displayed on
6 the amusement ride at a place readily visible to patrons of
7 the amusement ride.

8 (k) If the owner fails to timely cancel a request for
9 inspection, requests holiday or weekend inspections, or is
10 required to have a replacement USAID plate issued by the
11 department, the owner may be charged an appropriate fee to be
12 set by rule of the department.

13 (8) FEES.--

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

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

25 (9) INSURANCE REQUIREMENTS.--

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

29 1. An insurance policy in an amount of not less than
30 \$1 million per occurrence, \$1 million in the aggregate, which
31 insures the owner of the amusement ride against liability for

1 injury to persons arising out of the use of the amusement
2 ride; or

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

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

9 (10) EXEMPTIONS.--

10 (a) This section does not apply to:

11 1. Permanent facilities that employ at least 1,000
12 full-time employees and that maintain full-time, in-house
13 safety inspectors. However, such permanent facilities must
14 file with the department by March 1 of each year a written
15 report, on a form prescribed by rule of the department, of any
16 mechanical, structural, or electrical defects affecting patron
17 safety for which an amusement ride was closed for patron use
18 for a period of time in excess of 4 hours which occurred
19 during the previous calendar year, and any accident, of which
20 the owner or manager had knowledge, or through the exercise of
21 reasonable diligence should have had knowledge, in which a
22 patron was transported to a hospital, as defined in chapter
23 395, which occurred during the previous calendar year.

24 2. Any playground operated by a school, local
25 government, or business licensed under chapter 509, if the
26 playground is an incidental amenity and the operating entity
27 is not primarily engaged in providing amusement, pleasure,
28 thrills, or excitement.

29 3. Museums or other institutions principally devoted
30 to the exhibition of products of agriculture, industry,
31 education, science, religion, or the arts.

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

6 5. Skating rinks, arcades, laser or paint ball war
7 games, bowling alleys, miniature golf courses, mechanical
8 bulls, inflatable rides, trampolines, ball crawls, exercise
9 equipment, jet skis, paddle boats, air boats, helicopters,
10 airplanes, parasails, hot air or helium balloons whether
11 tethered or untethered, theatres, batting cages, stationary
12 spring-mounted fixtures, rider-propelled merry-go-rounds,
13 games, side shows, live animal rides, or live animal shows.

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

16 7. Nonmotorized playground equipment that is not
17 required to have a manager.

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

23 9. Facilities described in s. 549.09(1)(a).

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

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

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

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

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

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

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

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

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

25 (h) The interior and exterior parts of all
26 patron-carrying amusement rides with which a patron may come
27 in contact must be smooth and rounded and free from sharp,
28 rough, or splintered edges and corners, with no projecting
29 studs, bolts, screws, or other projections which might cause
30 injury.

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1 (i) All amusement rides must comply with this section
2 and the rules adopted hereunder.

3 (12) MAJOR MODIFICATION.--After an amusement ride has
4 undergone a major modification, and prior to the time it is
5 placed in operation, a professional engineer licensed by the
6 state in which the certification is performed must certify
7 that the amusement ride is in compliance with this section and
8 all rules adopted pursuant thereto.

9 (13) ENTRY FOR INSPECTION OR INVESTIGATION.--Upon
10 presentation of identification, an authorized employee of the
11 department may enter unannounced and inspect amusement rides
12 at any time and in a reasonable manner and has the right to
13 question any owner or manager; to inspect, investigate,
14 photograph, and sample all pertinent places, areas, and
15 devices; and to conduct or have conducted all appropriate
16 tests including nondestructive testing.

17 (14) REPORTING AND INVESTIGATION OF ACCIDENTS AND
18 DEFECTS; IMPOUNDMENTS.--

19 (a) Any accident of which the owner or manager has
20 knowledge or, through the exercise of reasonable diligence,
21 should have knowledge, and for which a patron is transported
22 to a hospital, as defined in chapter 395, must be reported by
23 the owner or manager to the department by telephone or
24 facsimile within 4 hours after the occurrence of the accident.
25 A written report of the accident, on a form prescribed by rule
26 of the department, must be filed by the owner or manager with
27 the department within 24 hours after the accident.

28 (b) Any mechanical, structural, or electrical defects
29 affecting patron safety for which an amusement ride is closed
30 to patron use for more than 4 hours must be reported by the
31 owner or manager to the department by telephone or facsimile

1 within 8 hours after the closing of the ride. A written report
2 of the closing of the ride, on a form prescribed by rule of
3 the department, must be filed by the owner or manager with the
4 department within 24 hours after the closing of the amusement
5 ride.

6 (c) The department may impound an amusement ride
7 involved in an accident for which a patron is transported to a
8 hospital, as defined in chapter 395, or which has a
9 mechanical, structural, or electrical defect affecting patron
10 safety, and may impound any other amusement ride of a similar
11 make and model, and may perform all necessary tests to
12 determine the cause of the accident or the mechanical,
13 structural, or electrical defect, or to determine the safety
14 of the amusement ride and any other amusement ride of a
15 similar make and model. The cost of impounding the amusement
16 ride and performing the necessary tests must be borne by the
17 owner of the amusement ride.

18 (15) INSPECTION BY OWNER OR MANAGER.--Prior to opening
19 on each day of operation and prior to any inspection by the
20 department, the owner or manager of an amusement ride must
21 inspect and test the amusement ride to ensure compliance with
22 all requirements of this section. Each inspection must be
23 recorded on a form prescribed by rule of the department and
24 signed by the person who conducted the inspection. Inspection
25 records of the last 14 daily inspections must be kept on site
26 by the owner or manager and made immediately available to the
27 department upon request.

28 (16) TRAINING OF EMPLOYEES.--The owner or manager of
29 any amusement ride shall maintain a record of employee
30 training for each employee authorized to operate, assemble,
31 disassemble, transport, or conduct maintenance on an amusement

1 ride, on a form prescribed by rule of the department. The
2 training record must be kept on site by the owner or manager
3 and made immediately available to the department upon request.
4 Training may not be conducted when an amusement ride is open
5 to the public unless the training is conducted under the
6 supervision of an employee who is trained in the operation of
7 that ride. The owner or manager shall certify that each
8 employee is trained, as required by this section and any rules
9 adopted thereunder, on the amusement ride for which the
10 employee is responsible.

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

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

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

21 (c) Tandem or multiple bungee jumping.

22 (d) Bungee jumping from any bridge, overpass, or any
23 other structure not specifically designed as an amusement
24 ride.

25 (18) IMMEDIATE FINAL ORDERS.--

26 (a) An amusement ride that fails to meet the
27 requirements of this section or pass the inspections required
28 by this section, or an amusement ride that is involved in an
29 accident for which a patron is transported to a hospital as
30 defined in chapter 395, or an amusement ride that has a
31 mechanical, structural, or electrical defect that affects

1 patron safety may be considered an immediate serious danger to
2 public health, safety, and welfare and, upon issuance of an
3 immediate final order prohibiting patron use of the ride, may
4 not be operated for patron use until it has passed a
5 subsequent inspection by or at the direction of the
6 department.

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

14 (19) ENFORCEMENT AND PENALTIES.--

15 (a) The department may deny, suspend for a period not
16 to exceed 1 year, or revoke any permit or inspection
17 certificate. In addition to denial, suspension, or revocation,
18 the department may impose an administrative fine of up to
19 \$2,500 per violation, per day, against the owner of the
20 amusement ride if it finds that:

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

22 a. With a mechanical, structural, or electrical defect
23 that affects patron safety, of which the owner or manager has
24 knowledge, or, through the exercise of reasonable diligence,
25 should have knowledge;

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

28 c. At a speed in excess of its maximum safe operating
29 speed;

30 d. In violation of this section or any rule adopted
31 under this section; or

1 e. In violation of any order of the department or
2 order of any court.

3 2. Any manager in the course of his or her duties is
4 under the influence of drugs or alcohol.

5 (b) The department shall, in its order suspending a
6 permit or inspection certificate, specify the period during
7 which the suspension is effective; but such period may not
8 exceed 1 year. The permit or inspection certificate shall
9 remain suspended during the period so specified, subject,
10 however, to any rescission or modification of the order by the
11 department, or modification or reversal thereof by the court,
12 prior to expiration of the suspension period.

13 (c) The owner of an amusement ride, if the permit or
14 inspection certificate for the amusement ride has been revoked
15 by the department, may not apply for another permit or
16 inspection certificate for the amusement ride within 2 years
17 after the date of such revocation. If judicial review is
18 sought and a stay of the revocation is obtained, the owner may
19 not apply for another permit or inspection certificate within
20 2 years after the final order of the court sustaining the
21 revocation.

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

27 (e) When a suspension period imposed by the department
28 has expired, an owner whose annual permit or inspection
29 certificate has expired may reapply for a new permit or
30 inspection certificate by submitting a complete application to
31 the department.

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

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

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

21 (20) LIENS.--

22 (a)1. All fees, fines, interest, and costs levied or
23 assessed by the department against the owner of an amusement
24 ride or rides and not paid by the owner shall constitute and
25 operate as a lien in favor of the department. The lien shall
26 arise as of the time the fees, fines, interest, and costs
27 become due and payable and shall cover all real and personal
28 property owned by the owner from the date the lien arises
29 until paid. The lien shall secure all unpaid fees, fines,
30 interest, and costs which are due and which may accrue
31 subsequent to the recording of the claim of lien and prior to

1 the entry of a final judgment of foreclosure. The lien may be
2 recorded in the public records of any county where the owner
3 owns real or personal property and shall state the name of the
4 owner and the amount due.

5 2. The department may enforce the lien upon real
6 property in the manner in which a mortgage of real property is
7 foreclosed. The lien may also be enforced against personal
8 property in the manner provided for the enforcement of other
9 liens on personal property in this state. Enforcement of a
10 lien for fees, fines, interests, and costs shall not operate
11 as a waiver of any other remedies available to the department,
12 including an action to recover a money judgment for the unpaid
13 fees, fines, interest, and costs, or enforcement of the lien
14 provided in paragraph (b).

15 (b)1. In addition to the lien provided in subparagraph
16 (a)1., the department shall have a special lien on all
17 amusement rides owned by the owner. Notwithstanding any
18 provisions under chapter 697 to the contrary, any special lien
19 on amusement rides for fees, fines, interest, and costs, shall
20 have equal dignity and the same priority as liens for taxes in
21 favor of the state as described in s. 197.122. The special
22 lien shall arise as of the time the fees, fines, interest, and
23 costs become due and payable and shall cover all amusement
24 rides owned by the owner from the date the lien arises until
25 paid. The lien shall secure all unpaid fees, fines, interest,
26 and costs which are due and which may accrue prior to the
27 enforcement of the lien.

28 2. The department may provide notice of a claim of
29 lien to potential buyers by tagging all amusement rides owned
30 by the owner as being subject to a lien or by mailing a copy
31 of a claim of the lien. The claim of lien shall state the

1 name of the owner, the date or dates of the unpaid fees,
2 finer, interest, and costs, and the amount that is due.

3 3. The special lien on all amusement rides owned by
4 the owner may be enforced in the manner provided for the
5 enforcement of other liens on personal property in this state.
6 The lien shall also extend to the proceeds of a sale of any
7 amusement ride owned by the owner to a buyer. If a buyer has
8 not received written notice of the lien and the amusement
9 rides are not tagged, then such buyer takes free of the lien.
10 A buyer of amusement rides other than a person buying the
11 amusement ride or rides from the owner takes free of the lien
12 created by this paragraph. Nothing in this paragraph shall be
13 construed to operate as a waiver of other remedies available
14 to the department for unpaid fees, fines, interest, or costs,
15 including an action to recover a money judgment for the unpaid
16 fees, fines, interest, or costs, or enforcement of the lien
17 provided in subparagraph (a)2.

18 Section 2. Paragraph (jj) of subsection (7) of section
19 212.08, Florida Statutes, is amended to read:

20 212.08 Sales, rental, use, consumption, distribution,
21 and storage tax; specified exemptions.--The sale at retail,
22 the rental, the use, the consumption, the distribution, and
23 the storage to be used or consumed in this state of the
24 following are hereby specifically exempt from the tax imposed
25 by this chapter.

26 (7) MISCELLANEOUS EXEMPTIONS.--

27 (jj) Fair associations.--Also exempt from the tax
28 imposed by this chapter is the sale, use, lease, rental, or
29 grant of a license to use, made directly to or by a fair
30 association, of real or tangible personal property; any charge
31 made by a fair association, or its agents, for parking,

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

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

27 570.46 Division of Standards; powers and duties.--The
 28 duties of the Division of Standards include, but are not
 29 limited to:

30 (4) Administering the provisions of chapter 616
 31 relating to amusement rides ~~device inspections, inspection~~

1 ~~fees, and safety requirements at public fairs and expositions,~~
2 ~~carnivals, festivals, celebrations, bazaars, permanent~~
3 ~~facilities, and parking lot still dates.~~

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

6 616.13 Licenses upon shows within 5 miles of
7 fair.--Every person engaged in the business of providing
8 temporary amusement rides ~~devices and amusement attractions~~
9 within 5 miles of and within 30 days before or during any
10 public fair or exposition being operated by a fair
11 association, when not operating in connection with that fair
12 or exposition, shall pay a license tax of \$1,000 per day.

13 Section 5. This act shall take effect October 1 of the
14 year in which enacted.

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