

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1241 Safety Standards for Amusement Rides

SPONSOR(S): Commerce Committee, Regulatory Reform & Economic Development Subcommittee, Bracy Davis and others

TIED BILLS: HB 1243 **IDEN./SIM. BILLS:** CS/SB 902

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	15 Y, 0 N, As CS	Larkin	Anstead
2) Agriculture & Natural Resources Appropriations Subcommittee	14 Y, 0 N	Byrd	Pigott
3) Commerce Committee	18 Y, 0 N, As CS	Larkin	Hamon

SUMMARY ANALYSIS

The Department of Agriculture and Consumer Services (DACS) is required to inspect all amusement rides in Florida, except those at large parks with more than 1,000 employees and inspectors on staff. All temporary amusement rides are inspected each time they are moved or set up at a new location, and permanent rides are inspected semiannually. All amusement rides are required to be permitted annually, required to undergo nondestructive testing for structural integrity, and must have an annual inspection by a professional engineer or qualified inspector. DACS can investigate accidents, impose sanctions for violations, and close and impound amusement rides that are a danger to the public.

The bill:

- Renames the act related to safety standards for amusement rides, "The Tyre Sampson Act".
- Requires permanent amusement rides operated for the first time in this state after a specified date to have a ride commissioning and certification report on file with the DACS within a specified timeframe.
- Revises nondestructive testing and affidavit requirements.
- Provides authority for DACS to inspect certain rides that are exempt from inspection, at the request of DACS.
- Revises requirements for posting signs relating to rider qualifications.
- Revises the circumstances under which the owner or manager of an amusement ride is required to report an accident and under which DACS may impound an amusement ride involved in an accident.
- Authorizes DACS to impound rides with similar operating characteristic to other rides involved in an accident investigation.
- Requires DACS to produce a written report of all accident investigations.
- Revises circumstances under which an amusement ride may be considered an immediate serious danger to the public.
- Requires that amusement ride owners record maintenance and training data at the time the maintenance or training was performed.
- Directs DACS to create rules for operator training/retraining standards

The bill will have an indeterminate negative fiscal impact on DACS.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Tyre Sampson

In March 2022, 14-year-old Tyre Sampson, who was visiting Orlando, Florida with his football team, fell to his death from an amusement ride, the 400-foot (122-meter) drop tower ride, operated by Orlando Slingshot¹. The teenager was described as great athlete, hard worker, a very good and generous person, and “a big teddy bear, a gentle giant.”²

After an investigation, outside engineers reported that sensors on the ride had been adjusted manually to double the size of the opening for restraints on two seats, resulting in the teen not being properly secured.³ The attendant who strapped Sampson into the ride was newly hired. The ride has since been shut down and the company has been fined by the DACS.

Amusement Ride Inspections

DACS is required to inspect all amusement rides in Florida, except those at large parks with more than 1,000 employees and an inspector on staff. The Bureau of Fair Rides Inspection within the department is required to inspect, investigate, and enforce the regulations related to amusement rides.⁴

Amusement rides regulated in the state of Florida fall into two major groups:

- Temporary amusement rides (those that are regularly relocated with or without assembly);
- Permanent facility amusement rides (those that are not regularly relocated and operate as a lasting part of the premises).⁵

All temporary amusement rides are inspected each time they are moved or set up at a new location, and permanent rides are inspected semiannually. All amusement rides are required to be permitted annually, are required to undergo nondestructive testing for structural integrity, and must have an annual inspection by a professional engineer or qualified inspector.⁶

DACS also inspects go-kart tracks, water-related amusement rides, and zip-line courses operating in the state.⁷

In addition, DACS investigates accidents involving amusement rides and has the authority to impose sanctions on amusement ride owners for violation of the law. DACS can close and impound amusement rides that pose an immediate serious danger to public health, safety, and welfare.⁸

Adoption of Standards

¹ Curt Anderson, *Florida Amusement Park Where Tyre Sampson Fell to His Death Fined \$250,000*, ABC Channel 7, Nov. 22, 2022, <https://www.mysuncoast.com/2022/11/22/florida-amusement-park-where-tyre-sampson-fell-his-death-fined-250000/> (last visited March 22, 2023).

² CNN, *Alisha Ebrahimji, Teen who died at Florida amusement park was a football standout and a ‘gentle giant’ with a kind heart, loved ones say*, Mar. 28, 2022, <https://www.cnn.com/2022/03/28/us/tyre-sampson-icon-park-teen-death/index.html>

³ *Id.*

⁴ S. 616.242, F.S.

⁵ Florida Department of Agriculture and Consumer Services, Fair Rides Inspection, <https://fdacs.gov/Business-Services/Fairs/Fair-Rides-Inspection> (last visited March 22, 2023).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

The DACS is required to adopt by rule standards for amusement rides which are the same as or similar to the following national standards:

- American Society for Testing and Materials (ASTM) Committee F-24 Standards on Amusement Rides and Devices;
- National Electric Code Handbook, Article 525;
- National Fire Protection Code 101 (chapters 8-4.6 and 9-4.6);
- ASTM Standards: E543 Practice for Determining the Qualification of Nondestructive Testing Agencies; and
- American Society for Nondestructive Testing (ASNT) Document Recommended Practice for Nondestructive Testing Personnel Qualification and Certification (SNT-TC-1A).⁹

DACS is authorized to adopt rules necessary to effectuate 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 in this state.¹⁰

There are no mandatory national safety standards for U.S. amusement rides, but the amusement ride industry has developed safety standards through the ASTM F-24 committee. The ASTM F-24 committee is responsible for standards related to amusement rides and devices. This includes waterslides, inflatables, go-karts, zip lines and challenge courses, trampoline courts, and a growing list of commercially-operated amusement experiences.¹¹

Annual Permits

Amusement rides may not operate without an annual permit. To apply, an owner must submit to the DACS a written application on a form prescribed by department rule, and include:

- 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 for each amusement ride;
- An affidavit of compliance (AOC) that the amusement ride was inspected and in general conformance with the law and applicable rules;
- The AOC must be executed by a professional engineer or a qualified inspector no earlier than 60 days before, but not later than, the date of filing of the application with DACS;
- The owner is required to request inspection and permitting of the amusement ride within 60 days of the date of filing the application with DACS;
- DACS is required to inspect and permit the amusement ride within 60 days after the filing of the application with DACS;
- If required, an affidavit of nondestructive testing dated and executed no earlier than 60 days before, but not later than, the date of the filing of the application with DACS;
- The owner is required to request inspection and permitting of the amusement ride within 60 days of the date of filing the application with DACS;
- DACS is required to inspect and permit the amusement ride within 60 days after the filing of the application with DACS; and
- A request for inspection.¹²

Upon request, the owner must, at no cost to DACS, provide DACS with a copy of the manufacturer's current recommended operating instructions in the possession of the owner, the owner's operating fact

⁹ S. 616.242(4), F.S.

¹⁰ *Id.*

¹¹ ASTM International, *Committee F24 on Amusement Rides and Devices*, <https://www.astm.org/get-involved/technical-committees/committee-f24> (last visited March 22, 2023).

¹² S. 616.242(5), F.S.

sheet, and any written bulletins in the possession of the owner concerning the safety, operation, or maintenance of the amusement ride.¹³

An annual permit must be issued to the owner when a completed application has been received, the amusement ride has passed DACS inspection, and all applicable fees, as set by department rule,¹⁴ have been paid.¹⁵

The annual permit:

- Is valid for one year from the date of issuance;
- Is not transferable; and
- Must be displayed on the amusement ride in a place that is visible to patrons.¹⁶

Nondestructive Testing

Background

Nondestructive testing is a means by which a person can evaluate the strength and integrity of a device without altering or destroying it.¹⁷ The purpose of nondestructive testing to make sure that the device is safe. The two types of nondestructive testing are visual and nonvisual testing.

Visual testing is used to look at the device to determine whether there are any signs of corrosion, cracks, welding defects, deformation, and so forth.¹⁸

Nonvisual nondestructive testing consists of multiple kinds of methods that evaluate whether a latent defect or issue exists.¹⁹

Nondestructive Testing Affidavit

In order to operate an amusement ride the owner must at all times have a current affidavit of nondestructive testing from a professional engineer or qualified inspector. The affidavit provides that the amusement ride has undergone nondestructive testing for metal fatigue at least annually.²⁰ Nondestructive testing must be performed by a technician who meets the national standards for amusement rides provided in department rule.²¹

Nondestructive testing for metal fatigue must include visual and nonvisual testing and can be conducted more often than annually if required by any rule adopted under this section, the manufacturer of the amusement ride, or the professional engineer or qualified inspector executing the affidavit of nondestructive testing.²²

An affidavit of nondestructive testing must provide:

¹³ *Id.*

¹⁴ R. 5J-18.012, F.A.C.

¹⁵ S. 616.242(5), F.S.

¹⁶ *Id.*

¹⁷ *Nondestructive Testing Overview: A Comprehensive Guide to NDT*, Zetec, May 5, 2020, <https://www.zetec.com/resources/nondestructive-testing-overview/> (last visited March 22, 2023); see also, Siim Sild, *Non-Destructive Testing (NDT): Process, Types & Applications*, Fractory, Nov. 9, 2022, <https://fractory.com/non-destructive-testing/> (last visited March 22, 2023).

¹⁸ Siim Sild, *Non-Destructive Testing (NDT): Process, Types & Applications*, Fractory, Nov. 9, 2022, <https://fractory.com/non-destructive-testing/> (last visited March 22, 2023); see also, Thomas R. Hay, "Non-Destructive Testing (NDT) of Amusement Park Rides." TechKnowServ, Feb. 27, 2020, <https://www.techknowserv.com/post/non-destructive-testing-ndt-of-amusement-park-rides> (last visited March 22, 2023).

¹⁹ Nonvisual nondestructive test methods include ultrasonic testing, eddy-current testing, or magnetic flux leakage testing. Thomas R. Hay, *Non-Destructive Testing (NDT) of Amusement Park Rides*, TechKnowServ, Feb. 27, 2020, <https://www.techknowserv.com/post/non-destructive-testing-ndt-of-amusement-park-rides> (last visited March 22, 2023).

²⁰ S. 616.242(6), F.S.

²¹ *Id.*

²² *Id.*

- That the amusement ride was inspected in person by the affiant;
- That all nondestructive testing requirements are current;
- That the nondestructive testing was performed by a qualified nondestructive testing technician.
- The components of the amusement ride for which the manufacturer has recommended or required nondestructive testing;
- The type of nondestructive testing required or recommended by the manufacturer;
- The frequency of the nondestructive testing required or recommended by the manufacturer;
- The components of the amusement ride for which the affiant has recommended or required nondestructive testing;
- The type of nondestructive testing required or recommended by the affiant;
- The frequency of the nondestructive testing as required or recommended by the affiant; and
- That visual nondestructive testing is adequate for the amusement ride to be in general conformance with the requirements of this section, and all applicable rules, if only visual nondestructive testing is required or recommended by either the manufacturer or the affiant.²³

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;
- Non-motorized playground equipment that requires a manager; or
- Lazy-river type non-motorized floating carriers propelled by water.²⁴

Inspections

In order to obtain an annual permit, amusement rides must be inspected by DACS and receive an inspection certificate. In addition, the following requirements must be met:

- Permanent amusement rides must be inspected semiannually and receive an inspection certificate; and
- Temporary amusement rides must be inspected and receive an inspection certificate each time the ride is set up or moved to a new location in this state unless the ride is:
 - Used at a private event;
 - A simulator, the capacity of which does not exceed 16 persons; or
 - A kiddie ride used at a public event, provided that there are no more than three amusement rides at the event, none of the kiddie rides at the event exceeds a capacity of 12 persons, and the ride has an inspection certificate that was issued within the preceding 6 months.²⁵

To obtain a DACS inspection, the owner must submit a written request on a department prescribed form providing 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 the United States Amusement Identification Number, if previously assigned, of the amusement ride; and
- For a temporary amusement ride, for each time the amusement ride is set up or moved to a new location, the date of first intended use at the new location and the address or a description of the new location.²⁶

²³ *Id.*

²⁴ *Id.*

²⁵ S. 616.242(5), F.S.

²⁶ *Id.*

For permanent amusement rides, a request for inspection must be received by DACS at least 15 days before the:

- Owner's planned opening date; or
- Expiration of the prior inspection certificate.²⁷

For temporary amusement rides, the request for inspection must be received by DACS each time the amusement ride is set up or moved to a new location at least 14 days before the date of first intended use at the new location.²⁸

In both cases, if the request for inspection is received late, DACS is authorized to inspect the amusement ride and charge a late fee. In addition, if the owner fails to timely cancel a Request for Inspection, requests holiday or weekend inspections, or is required to have a replacement United States Amusement ID Program (USAID) plate issued by DACS, then the owner may be charged an appropriate fee.²⁹

Inspections are assigned on a first come, first served basis, and overflow requests will be scheduled on the closest date to the date for which the inspection was requested. Upon failure of an amusement ride to pass an inspection, the owner may request in writing a re-inspection. DACS is required to re-inspect the ride as soon as practical following receipt of the written request and applicable re-inspection fees.³⁰

Upon passage of inspection and payment of the applicable fee, DACS must issue an inspection certificate containing the following information:

- Date of inspection;
- Site of the inspection; and
- Name of the inspector.³¹

Inspection certificates are valid only for the site stated on the certificate, for a period of not more than 6 months from the date of issuance. They are not transferable and must be displayed on the amusement ride at a place readily visible to patrons.³²

Fees

DACS is required by rule to establish fees to cover the costs and expenditures associated with the fair rides inspection program, including all direct and indirect costs. If there is not sufficient general revenue appropriated by the Legislature, the industry is required to pay for the remaining cost of the program.³³

Fees must be deposited in the General Inspection Trust Fund. Any owner of an amusement ride who has not paid all the fees required under this section or who has any unpaid fine outstanding under this section, are prohibited from operating any amusement ride in this state until the fees and fines have been paid to DACS.³⁴

DACS has adopted the following fees:³⁵

Type of Fee	Permanent Ride	Temporary Ride
Annual permit fee for each kiddie amusement ride	\$300	\$150
Annual permit fee for each non-kiddie amusement ride	\$400	\$200

²⁷ *Id.*

²⁸ S. 616.242(6), F.S.

²⁹ S. 616.242(8)(d), F.S.

³⁰ S. 616.242(8)(b)-(c), F.S.

³¹ *Id.*

³² *Id.*

³³ S. 616.242(9), F.S.

³⁴ *Id.*

³⁵ R. 5J-18.012, F.A.C.

Annual permit fee for each super amusement ride	\$600	\$300
Inspection fee per go kart, in addition to the track inspection fee	\$10	\$10
Reinspection fee (return to site)	\$500	\$500
Reinspection fee (return on-site)	\$100	\$100
Fee to replace a lost U.S. Amusement Identification (USAID) plate	\$100	\$100
Fee per amusement ride for late inspection request	\$100	\$100
Fee per amusement ride for failure to cancel inspection request	\$100	\$100
Additional fee per amusement ride for inspection on weekend or state holiday	\$75	\$75
Inspection fee per harness, in addition to the ropes course/zipline permit fee	\$5	\$5

In order to obtain a permit to operate an amusement ride in Florida, the ride owner must obtain injury liability insurance in the following amounts:

- One million dollars minimum per occurrence; and
- One million dollars in the aggregate.³⁶

The policies must be procured from an insurer that is:

- Licensed to transact business in this state; or
- Approved as a surplus lines insurer.³⁷

The insurance requirements do not apply to a governmental entity that is covered by the provisions of s. 768.28(16), F.S., which authorizes the state and its agencies and subdivisions to:

- Be self-insured;
- Enter into risk management programs;
- Purchase liability insurance for whatever coverage they may choose; or
- Have any combination thereof.³⁸

Exemptions

The regulations³⁹ related to amusement rides do not apply to the following:

- 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 chapter 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, laser or paint ball war games, bowling alleys, miniature golf courses, mechanical bulls, inflatable rides, trampolines, ball crawls, exercise equipment, jet skis, paddle boats, airboats, helicopters, airplanes, parasails, hot air or helium balloons whether tethered or untethered, theatres, batting cages, stationary spring-mounted fixtures, rider-propelled merry-go-rounds, games, side shows, live animal rides, or live animal shows;
- Go-karts operated in competitive sporting events if participation is not open to the public;
- Non-motorized playground equipment that is not required to have a manager;

³⁶ S. 616.242(10), F.S.

³⁷ *Id.*

³⁸ *Id.*

³⁹ S. 616.242, F.S. does not apply to these exemptions.

- Coin-actuated amusement rides designed to be operated by depositing coins, tokens, credit cards, debit cards, bills, or other cash money and which are not required to have a manager, and which have a capacity of six persons or less;
- Motorsports facilities described in s. 549.09(1)(a), F.S., when such facilities are operating cars, trucks, or motorcycles only;
- Battery-powered cars or other vehicles that are designed to be operated by children seven years of age or under and that cannot exceed a speed of four miles per hour;
- Mechanically driven vehicles that pull train cars, carts, wagons, or other similar vehicles, that are not confined to a metal track or confined to an area but are steered by an operator and do not exceed a speed of 4 miles per hour;
- Water-related amusement rides operated by a business licensed under chapter 509, F.S., if the water-related amusement ride is an incidental amenity and the operating business is not primarily engaged in providing amusement, pleasure, thrills, or excitement and does not offer day rates;
- Amusement rides at a private, membership-only facility if the amusement ride is an incidental amenity and the facility is not open to the general public; is not primarily engaged in providing amusement, pleasure, thrills, or excitement; and does not offer day rates; and
- Nonprofit permanent facilities registered under ch. 496, F.S., which are not open to the general public.⁴⁰

DACS is authorized to establish by rule exemptions from the regulations on amusement rides for “non-motorized or human-powered amusement rides or coin-actuated amusement rides.”⁴¹

Inspection Standards

Amusement rides are required to adhere to the following inspection standards:

- 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 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 so as to be stable under all operating conditions.
- 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.
- Signs that advise or warn patrons of age restrictions, size restrictions, health restrictions, weight limitations, or any other special consideration or use restrictions required or recommended for the amusement ride by the manufacturer must be prominently displayed at the patron entrance of each amusement ride.
- All amusement rides must comply with the section of law governing amusement rides and related rules.⁴²

⁴⁰ S. 616.242(11), F.S.

⁴¹ *Id.*

⁴² S. 616.242(12), F.S.

Major Modifications

After an amusement ride has undergone a major modification, and prior to the time it is placed in operation, a Florida Licensed professional engineer must certify that the amusement ride is in compliance with the entire section of law governing amusement ride safety, and all related rules.⁴³

Entry for Inspections

Authorized DACS employees may enter unannounced and inspect amusement rides at any time in a reasonable manner and DACS is authorized to impose fees for unannounced inspections and recover the cost of related tests.⁴⁴ DACS employees are authorized to:

- Question any owner or manager;
- Inspect, investigate, photograph, and sample all pertinent places, areas, and devices; and
- Conduct all appropriate tests including nondestructive testing.⁴⁵

Reporting and Investigating Accidents and Defects

Accidents that the owner or manager have knowledge or, through the exercise of reasonable diligence should have knowledge, and for which a patron is transported to a hospital as defined in ch. 395, F.S., must be reported by the owner or manager to DACS. Such reporting must be conducted by telephone within four hours after the accident and followed up with a written report to DACS within 24 hours after the accident.

Any mechanical, structural, or electrical defects affecting patron safety for which an amusement ride is closed to patron use for more than four hours must be reported by the owner or manager to DACS by telephone or facsimile within eight hours after the closing of the ride. A written report of the closing must be filed by the owner or manager with DACS within 24 hours after the ride closes.

Impounding Amusement Rides

DACS is authorized to impound amusement rides that have:

- Been involved in an accident for which a patron is transported to a hospital as defined in ch. 395, F.S.;
- A mechanical, structural, or electrical defect affecting patron safety.

In cases of impoundment, DACS is authorized to impound any other amusement ride of a similar make and model and perform all necessary tests to determine the cause of the accident, defect, or safety of the ride and any other ride of a similar make and model. The ride owners are responsible for the cost of impoundment and relating testing.⁴⁶

Owner/Manager Inspections

Prior to opening each day of operation, and before any inspection by DACS, the owner or manager of an amusement ride is required to inspect and test the ride to ensure compliance with all requirements of the law governing amusement rides. Each inspection must be recorded on a form prescribed by department rule and signed by the person who conducted the inspection.⁴⁷

In lieu of using the department form, an owner or manager may request approval of an alternative form, which must include at least the information required on the department form. Inspection records of the last 14 daily inspections must be:

- Kept on site by the owner or manager; and

⁴³ S. 616.242(13), F.S.

⁴⁴ *Id.*

⁴⁵ S. 616.242(14), F.S.

⁴⁶ S. 616.242(15), F.S.

⁴⁷ S. 616.242(16), F.S.

- Made immediately available to DACS upon request.⁴⁸

Employee Training

Owners or managers of amusement rides are required to:

- Maintain a record of employee training for each employee who is authorized to operate, assemble, disassemble, transport, or conduct maintenance on an amusement ride; and
- Certify that each employee is trained on the amusement ride for which the employee is responsible.⁴⁹

The training record must be kept on site by the owner or manager and made immediately available to DACS upon request. In lieu of using the department form, the owner or manager may request approval of an alternative form.⁵⁰

Training is prohibited 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.⁵¹

Enforcement and Penalties

DACS has the authority to deny, suspend for up to one year, or revoke any permit or inspection certificate. In addition, DACS may impose an administrative fine pursuant to s. 570.971, F.S., not to exceed \$10,000 per violation, for each day the violation exists, against the owner of the amusement ride if DACS finds that an amusement ride has operated or is operating:

- With a mechanical, structural, or electrical defect that affects patron safety, of which the owner or manager has knowledge, or, through the exercise of reasonable diligence, should have knowledge;
- In a manner or circumstance that presents a risk of serious injury to patrons;
- At a speed in excess of its maximum safe operating speed;
- In violation of department rules or state law; or
- In violation of an order of DACS or any court.
- A manager in the course of his or her duties is under the influence of drugs or alcohol.⁵²

DACS is required, in its order suspending a permit or inspection certificate, to specify the period during which the suspension is effective, which may not exceed one year. The permit or inspection certificate must remain suspended during the period, subject to any rescission or modification of the order by the department or modification or reversal by the court, prior to expiration of the suspension period.⁵³

The owner of an amusement ride whose permit or inspection certificate has been revoked by DACS may not apply for another permit or inspection certificate for the amusement ride within 2 years after the date of the revocation. If judicial review is sought and a stay of the 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.⁵⁴

During the period of suspension or revocation, the owner may not engage in or attempt to engage in any operation of the amusement ride for which a permit or inspection certificate is required.⁵⁵

⁴⁸ *Id.*

⁴⁹ S. 616.242(17), F.S.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² S. 616.242(21), F.S.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

When a DACS -imposed suspension period has expired, the owner may reapply for a new permit or inspection certificate by submitting a complete application to DACS.⁵⁶

In addition, and notwithstanding the existence of any adequate remedy at law, DACS is authorized to bring an action to enjoin the violation of any provision, or rules adopted, under this section, in the circuit court of the county in which the violation occurs or is about to occur. Upon competent and substantial evidence presented by DACS, the court is required to immediately issue the temporary or permanent injunction sought by DACS without bond.⁵⁷

In addition to the penalties, DACS is authorized to issue a letter of warning to the owner of the ride specifying the violation and requiring immediate corrective action.⁵⁸

Any person who knowingly violates any of the provisions of the regulations governing amusement rides commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.⁵⁹

Consumer Product Safety Commission

The Consumer Product Safety Commission (Commission) is charged with protecting the public from unreasonable risks of injury or death associated with the use of the thousands of types of consumer products under the Commission's jurisdiction. The Consumer Product Safety Act (Act)⁶⁰ authorizes the Commission to investigate serious accidents involving portable carnival rides, inflatables, and go-karts. Amusement rides operated at permanent parks ("permanently fixed to a site") are exempt from compliance with the Act.⁶¹

Ride manufacturers or owner/operators are required to notify the Commission if they obtain information which reasonably supports the conclusion that a portable amusement ride, inflatable device, go-kart or other non-exempt amusement device:

- Fails to comply with a consumer product safety standard or banning regulation established by the omission or a voluntary consumer product safety standard upon which the Commission has relied under section 9 of the Act;⁶²
- Contains a defect which could create a substantial product hazard described in section 15(a)(2) of the Act;⁶³ or
- Creates an unreasonable risk of serious injury or death.⁶⁴

The Commission does not provide for an inspection program.

Other States

According to a consumer safety organization, Safeparks.org, the research of amusement ride laws in 50 states found the following:⁶⁵

Degree of Oversight	Number of States
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⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ 15 U.S.C. ch. 47 § 2051 et seq.

⁶¹ "Consumer Product Safety Commission." *RidesDatabase*, <https://ridesdatabase.org/regulations/united-states/> (last visited March 23, 2023); see also, 15 U.S.C.A. § 2065 (2008).

⁶² See, 15 U.S.C. § 2058 (2008).

⁶³ See, 15 U.S.C. § 2064.

⁶⁴ 15 U.S.C. § 2064(b)(4).

⁶⁵ Safeparks, *U.S. Federal and State Amusement Ride Regulation*, <https://ridesdatabase.org/safeparks/u-s-regulatory-agencies/> (last visited March 22, 2023)

Comprehensive Government Oversight	20 States (Including Florida)
Partial Government Oversight	12 States
Private Sector Oversight	9 States
No State Agency with Jurisdiction	8 States
Electrical Inspections Only	1 State

Effect of Bill

The bill, titled the Tyre Sampson Act, amends ch. 616, F.S. relating to the regulation of amusement rides. The bill amends the definition of “major modification” and provides a definition for “ride commissioning and certification report.”

The bill provides new requirements for permanent and temporary amusement rides and requires, for each permanent or temporary amusement rides operated, for the first time after July 1, 2023, to have a ride commissioning and certification report on file with DACS before the ride’s first inspection and a permit is issued.

The bill provides exemptions for temporary amusement rides from required permit to include previously permitted rides at private events and kiddie rides at public events not to exceed three amusement rides. The bill permits DACS to inspect certain rides that are exempt from inspection **upon request**.

The bill requires that in order for an amusement ride to operate, an amusement ride must have undergone nondestructive testing at least annually to verify the integrity of all components that are recommended or specified by the manufacturer. The bill requires that when specified by the manufacturer nonvisual nondestructive testing to be used when it cannot be adequately evaluated by other means and the type of nondestructive testing or recommended by affiant to include the manufacturer’s requirements and recommendations. If there are no additional nondestructive testing it is required to be affirmed that the manufacturer’s requirements are sufficient for safe operation.

The bill creates new reporting requirements for an affidavit of nondestructive testing. The affidavit of nondestructive testing must include the following statements:

- The ride is in conformance with the requirements of statute and applicable department rules;
- Whether the amusement ride went under a major modification, the name of the person who authorized modification and the date modification took place; and
- The amusement ride and its components are in conformance with the service life, if the manufacturer has provided a service life for such ride and its components.

The bill permits DACS to immediately remove amusement ride from service if unsafe conditions are found.

The bill requires that the proper positioning, measurements, and demonstration of proper patron loading procedures related to patron safety restraint systems of an amusement ride must be provided to the department upon request if provided by the manufacturer.

The bill permits DACS to prepare a written report of each investigation it conducts. The bill also changes the accident reporting requirements for owners and managers following an accident and changes the parameters in which DACS is permitted to impound an amusement ride involved in an accident. DACS must establish by rule minimum training and retraining standards and the frequency of employee training for all amusement rides. The bill also creates the requirement that the owner or manager of an amusement ride shall immediately document all training following each training session.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Names the title of the Act.

Section 2: Amends s. 616.242 relating to certification reports, permit applications, temporary ride exemptions, nondestructive testing, inspections and reports; reporting for accidents involving medical treatment; impoundment of ride, DACS rules, and employee training.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has a negative fiscal impact due to a number of regulatory changes and requirements for amusement rides to operate in the State of Florida. DACS estimates it will require 18 additional full-time equivalent positions, \$1,409,949 in recurring funds and \$791,204 in nonrecurring funds to implement the bill.⁶⁶ The House proposed General Appropriations Act (GAA) provides four (4) full-time equivalent positions, \$320,176 in recurring funds and \$185,064 in nonrecurring funds for this regulatory program. Additional resources will be addressed in the Fiscal Year 2023-2024 GAA.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Additional costs may be incurred by new ride operators to produce a ride commissioning report. This cost could vary greatly depending on the complexity of the ride. Also, the additional nondestructive testing requirements may result in increased costs associated with the inspection by a professional engineer executing the affidavit.⁶⁷

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties and municipalities have

⁶⁶ Department of Agriculture and Consumer Services, Agency Analysis of 2023 House Bill CS 1241, p. 3 (April 6, 2023).

⁶⁷ *Id.*

to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties and municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill instructs DACS to create rules for operator training/retraining standards.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 29, 2023, the Regulatory Reform & Economic Development Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Removes and modifies provisions to lessen the fiscal impact on DACS.
- Removes duplicative provisions.

On April 24, 2023, the Commerce Committee adopted two amendments and reported the bill favorably as a committee substitute. The committee substitute:

- Clarifies that an affidavit of nondestructive testing for an amusement ride must show that the ride has undergone nondestructive testing to verify the integrity of all components that are *recommended or specified by the manufacturer*.
- Provides that *when specified by the manufacturer*, nonvisual nondestructive testing must be used to verify the integrity of the ride's components that cannot be adequately evaluated by other means.
- Clarifies that the affidavit of nondestructive testing must state whether an amusement ride and its components are in conformance with the service life *if the service life provided by the manufacturer*.
- Clarifies that the proper positioning, measurements, and demonstration of proper patron loading procedures related to patron safety restraint systems must be provided to the department upon request *if provided by the manufacturer*.
- Removes a bill provision that requires an owner or manager to take certain steps if an amusement ride manufacturer did not provide rider restrictions for the safe operation of the ride.

This analysis is drafted to the committee substitute as passed by the Commerce Committee.