

MAINE STATE LEGISLATURE

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L.D. 697

Date: 5/15/15

Minority

(Filing No. H-146)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE

HOUSE OF REPRESENTATIVES

127TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 473, L.D. 697, Bill, "An Act To Restore Public Safety Programs in the Department of Public Safety and the Department of Professional and Financial Regulation"

Amend the bill by striking out the title and substituting the following:

'An Act To Restore Public Safety Programs in the Department of Public Safety'

Amend the bill by striking out everything after the title and before the summary and inserting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period to enhance public safety by restoring regulation and inspection of amusement rides, amusement shows, traveling circuses and amusement devices by the Office of the State Fire Marshal; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 8 MRSA c. 18 is enacted to read:

CHAPTER 18

AMUSEMENT RIDES AND SHOWS

§471. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

COMMITTEE AMENDMENT

- 1 **1. Amusement ride.** "Amusement ride" means a device or combination of devices
2 or elements that carry, convey or direct a person over or through a fixed or restricted
3 course or within a defined area for the primary purpose of amusement or entertainment.
4 "Amusement ride" does not include nonmechanized playground equipment or a coin-
5 operated ride that is manually, mechanically or electrically operated, is customarily
6 placed in a public location and does not normally require the supervision or services of an
7 operator.
- 8 **2. Amusement ride inspector.** "Amusement ride inspector" means an amusement
9 ride inspector employed by the Office of the State Fire Marshal.
- 10 **3. Amusement show.** "Amusement show" means a fixed or traveling show, whether
11 held indoors or outdoors, for which admission is charged and that is designed to provide
12 amusement to members of the public, except that "amusement show" does not include a
13 circus. "Amusement show" includes but is not limited to a carnival, thrill show, ice show
14 and rodeo.
- 15 **4. ASTM standards.** "ASTM standards" means standards for amusement rides
16 established by American Society for Testing and Materials International or a successor
17 organization and adopted by the commissioner by rule.
- 18 **5. Commissioner.** "Commissioner" means the Commissioner of Public Safety.
- 19 **6. Operator.** "Operator" means an individual having direct control of the starting,
20 stopping or speed of an amusement ride.
- 21 **7. Owner.** "Owner" means a person who owns or leases or manages the operation of
22 an amusement ride.
- 23 **8. Rider.** "Rider" means a customer of an amusement ride. "Rider" includes a
24 customer of an amusement ride who is waiting in the vicinity to get on the amusement
25 ride and a departing customer who is still in the vicinity of the amusement ride.
- 26 **§472. Amusement rides**
- 27 **1. Inspection required.** An amusement ride must be inspected at least once
28 annually by an amusement ride inspector.
- 29 **A.** In order to be operated in this State, an amusement ride must comply with the
30 applicable ASTM standards for that amusement ride.
- 31 **B.** An amusement ride that is not operated in the State on a year-round basis must be
32 inspected in the same calendar year in which the amusement ride is operated in the
33 State, prior to either July 1st or the first operation of the amusement ride in the State,
34 whichever is sooner.
- 35 **C.** If an inspection reveals that an amusement ride does not meet the applicable
36 ASTM standards, an amusement ride inspector shall notify the owner of all defects.
- 37 **D.** An operator may not operate an amusement ride unless the amusement ride
38 passed the most recent annual inspection required by this section.
- 39 **E.** Before an amusement ride may be operated, an amusement ride inspector must
40 affix to the amusement ride an inspection decal that contains the date the amusement
41 ride passed inspection and an identifying number of the inspection decal.

- 1 F. An amusement ride that has been modified or altered in a manner that changes its
- 2 dynamics or control system from that of the original manufacturer's design or
- 3 specification since its most recent annual inspection must be inspected by an
- 4 amusement ride inspector before it may be operated in the State.
- 5 G. Following a serious injury or illness involving an amusement ride, the amusement
- 6 ride must be inspected by an amusement ride inspector and approved by the
- 7 commissioner before it may be operated in the State. As used in this paragraph,
- 8 "serious injury or illness" means an injury or illness that results in death,
- 9 dismemberment, disfigurement, compound fracture of a body part or permanent loss
- 10 of the use of a body part or organ, function or system or that requires hospital
- 11 admission within 24 hours of the occurrence of the injury or illness involving the
- 12 amusement ride.
- 13 H. An owner or operator shall make an amusement ride available for inspection at all
- 14 reasonable times and places upon request of an amusement ride inspector.
- 15 **2. Insurance requirements.** An owner shall provide an amusement ride inspector
- 16 with a copy of a certificate of public liability insurance in a minimum amount of
- 17 \$1,000,000 at the time of inspection.
- 18 **3. Operator requirements.** An owner must have a documented training policy for
- 19 the operation of each amusement ride owned by the owner. The owner shall maintain a
- 20 written certification for each operator, providing documented proof that the operator has
- 21 received the training required by the training policy for the amusement ride.
- 22 **4. Recording and reporting.** An owner shall maintain a first aid incident report log
- 23 for all rider injuries or illnesses, other than minor injuries or illnesses, resulting from the
- 24 operation of an amusement ride. The report log must include the following:
- 25 A. The date the injury or illness occurred;
- 26 B. The name, address and telephone number of the rider who received first aid
- 27 service or treatment;
- 28 C. The age of the rider;
- 29 D. The manufacturer and serial number of the amusement ride involved in the injury
- 30 or illness;
- 31 E. A description of the injury or illness;
- 32 F. A description of any first aid service or treatment administered; and
- 33 G. Any other information considered pertinent by the owner.
- 34 **5. Violation.** A person who operates an amusement ride in violation of this section
- 35 commits a civil violation for which a fine of not more than \$1,000 may be assessed upon
- 36 the owner of the amusement ride.
- 37 **6. Application and inspection required.** A person may not operate an amusement
- 38 ride prior to filing an application with the Office of the State Fire Marshal and before the
- 39 amusement ride passes inspection as required in this section. An application must be
- 40 accompanied by payment of an application fee in an amount set by rule adopted by the

commissioner not to exceed \$50 per amusement ride. An application must include the following:

- A. The name of the person or corporation operating the amusement ride;
- B. A statement of proposed territory within the limits of the State, including the names of the cities and towns, in which the amusement ride is to operate; and
- C. A certificate of public liability insurance from an insurer approved by the commissioner in accordance with subsection 2.

§473. Amusement ride inspection fee

The amusement ride inspection fee is \$75 per inspector per hour with a minimum charge of \$75.

§474. Amusement shows

1. License required. A person may not operate an amusement show without first obtaining a license from the commissioner. A license application must include the following:

- A. The name of the person or corporation operating the amusement show;
- B. A statement of proposed territory within the limits of the State, including the names of the cities and towns, in which the amusement show is to operate; and
- C. A certificate of public liability insurance from an insurer approved by the commissioner in an amount established by the commissioner by rule.

2. License fee. The license fee to operate an amusement show is \$300 annually.

3. Violation. A person who operates an amusement show in violation of this section commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

§475. Traveling circus and amusement devices

1. License required. A traveling circus may not operate or exhibit any parade, show or entertainment in this State without first obtaining a license from the commissioner for each calendar year. An amusement device may not be operated in this State without first obtaining a license from the commissioner. A license application must include the following:

- A. The name of the person or corporation using or operating the traveling circus or amusement device;
- B. A statement of proposed territory within the limits of the State, including the names of the cities and towns, in which the traveling circus or amusement device is to exhibit or operate; and
- C. A certificate of public liability insurance from an insurer approved by the commissioner in an amount to be determined by the commissioner by rule.

Upon receipt of the application, accompanied by a certificate of public liability insurance and, for a traveling circus required to pay a license fee under subsection 2, payment of the required fee, the commissioner shall issue a license.

- 1 **2. License fees.** The following license fees apply.
- 2 A. For traveling circuses that are held outdoors or under tents or similar temporary
- 3 cover or enclosure, the fee is \$500.
- 4 B. For traveling circuses held indoors in an auditorium, arena, civic center or similar
- 5 type building, the fee is \$300.
- 6 For traveling circuses produced in their entirety by a nonprofit charitable organization, a
- 7 license is required but no fee is charged.
- 8 **3. Inspection fee.** An amusement device may be inspected as determined necessary
- 9 to protect the public safety by the commissioner. The amusement device inspection fee is
- 10 \$75 per inspector per hour with a minimum charge of \$75.
- 11 **4. Amusement device defined.** For purposes of this section, "amusement device"
- 12 means a device by which a person is carried or conveyed or is allowed to move on,
- 13 around or over a fixed course within a defined area intended to thrill, excite or amuse,
- 14 including, but not limited to, bungee jumping and water slides, regardless of whether a
- 15 fee to use the device is charged. "Amusement device" does not include an amusement
- 16 ride, vehicle or device the operation of which is regulated as to safety by any other
- 17 provision of law, except a municipal ordinance under Title 30-A, section 3001, or any
- 18 coin-operated amusement device on a nonmoving base that is designed to accommodate
- 19 one child.
- 20 **§476. Rulemaking**
- 21 The commissioner shall adopt rules to implement this chapter. Rules adopted
- 22 pursuant to this section are routine technical rules pursuant to Title 5, chapter 375,
- 23 subchapter 2-A.
- 24 **Sec. 2. 8 MRSA §658,** as amended by PL 2013, c. 595, Pt. U, §5, is further
- 25 amended to read:
- 26 **§658. Unincorporated places**
- 27 County commissioners within their counties and counties within their limits shall
- 28 respectively exercise over unincorporated places all the powers of municipal officers and
- 29 towns under chapters ~~3, 7 and 18~~ 20 to 25.
- 30 **Sec. 3. 8 MRSA §701,** as amended by PL 2013, c. 595, Pt. U, §6, is further
- 31 amended to read:
- 32 **§701. Jurisdiction**
- 33 All penalties provided in chapters 3, 7 and ~~18~~ 20 to 25 must be recovered by
- 34 complaint for the use of the town where incurred.
- 35 **Sec. 4. 22 MRSA §1607,** as amended by PL 2013, c. 595, Pt. U, §8, is further
- 36 amended to read:

§1607. Application

This chapter does not apply to fairs licensed, defined and regulated under Title 7, chapter 4, or military activities. It does not apply to persons, associations, corporations, trusts or partnerships licensed under Title 8, ~~chapter~~ chapters 11 and 18.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

SUMMARY

This amendment is the minority report of the committee. The amendment deletes from the bill the provision related to inspection of steam boilers in schoolhouses. The amendment deletes from the bill reference to private certified inspectors for amusement rides and inserts inspectors employed by the Office of the State Fire Marshal. The amendment deletes from the bill the provisions on inspection decals that related to inspection by private sector inspectors and inserts provisions related to inspection by inspectors who are employed by the Office of the State Fire Marshal. The amendment specifies the application process for amusement rides and sets the fee at a level not to exceed \$50 per ride as established by the Commissioner of Public Safety by rule. The amendment specifies that the insurer that issues the liability insurance policy for operators of amusement rides, amusement shows and traveling circuses and amusement devices must be approved by the Commissioner of Public Safety. The amendment specifies the information required for an application for amusement rides and amusement shows.

FISCAL NOTE REQUIRED

(See attached)

**127th MAINE LEGISLATURE****LD 697****LR 526(03)****An Act To Restore Public Safety Programs in the Department of Public Safety and the Department of Professional and Financial Regulation****Fiscal Note for Bill as Amended by Committee Amendment****Committee: Criminal Justice and Public Safety****Fiscal Note Required: Yes***B(H-146)*

Fiscal Note

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
Revenue				
Other Special Revenue Funds	\$83,925	\$83,925	\$83,925	\$83,925

Fiscal Detail and Notes

The bill establishes amusement ride inspection requirements with a fee of \$75 per hour. It also establishes a permit application process with a \$50 fee. Other Special Revenue Funds revenue within the Department of Public Safety will increase by \$83,925 beginning in fiscal year 2015-16 from these fees based upon 775 hours to inspect rides and 516 permits.