

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Bookout

A Bill

SENATE BILL 553

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 23, CHAPTER 89, SUBCHAPTER 5 OF THE
9 ARKANSAS CODE TO TRANSFER DUTIES RELATING TO AMUSEMENT
10 RIDES AND AMUSEMENT ATTRACTIONS FROM THE ARKANSAS
11 INSURANCE DEPARTMENT TO THE ARKANSAS DEPARTMENT OF LABOR;
12 TO REMOVE PERMITTING REQUIREMENTS AND STRENGTHEN
13 PENALTIES; AND FOR OTHER PURPOSES."

Subtitle

16 "AN ACT TO AMEND TITLE 23, CHAPTER 89,
17 SUBCHAPTER 5 OF THE ARKANSAS CODE."

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21 SECTION 1. Arkansas Code 23-89-502 is hereby amended to read as
22 follows:

23 "23-89-502. Definitions.

24 As used in this subchapter, unless the context otherwise requires:

25 (1) Amusement attraction means any building or structure around,
26 over, and through which persons may be moved by vehicle or mechanically
27 driven device integral to the building or mechanically driven device integral
28 to the building or structure, which provides amusement, pleasure, thrills, or
29 excitement, but this term does not include theaters, museums, or enterprises
30 principally devoted to the exhibition of products of agriculture, industry,
31 education, science, religion, or the arts;

32 (2) Amusement ride means any mechanical device which carries or
33 conveys passengers along, around, and over a fixed route or course or within
34 a defined area for the purpose of giving the passengers amusement, pleasure,
35 thrills, or excitement;

1 (3) Department means the Arkansas Department of Labor;

2 (4) Director means the Director of the Arkansas Department of
3 Labor."

4

5 SECTION 2. Arkansas Code 23-89-504 is hereby amended to read as
6 follows:

7 "23-89-504. Safety inspection and insurance required - Violations.

8 (a) It is unlawful for any person or entity to operate an amusement
9 attraction or amusement ride unless the person or entity maintains liability
10 insurance in the minimum amount required by this subchapter at all times
11 during the operation of the amusement attraction or ride in the state and
12 unless the person has a current safety inspection report made at the time of
13 set up of the attraction or ride, but before use by the public.

14 (b) The director may conduct examinations and investigations into the
15 affairs of any person or entity subject to the provisions of this subchapter.

16 (c) If the director finds that an operator or owner has failed to
17 comply with the provisions of this subchapter, he may order the operator or
18 owner to immediately cease operating the amusement attraction or ride, or may
19 impose upon the operator or owner an administrative penalty of not more than
20 ten thousand dollars (\$10,000).

21 (d) If the director finds that an operator or owner failed to comply
22 with the provisions of this subchapter, he shall so inform the prosecuting
23 attorney in whose district any purported violation may have occurred. Upon
24 conviction, the operator or owner shall be guilty of a Class A misdemeanor.
25 Upon conviction of a willful or knowing violation, the operator or owner
26 shall be guilty of a Class D felony. Each day of violation shall constitute
27 a separate offense.

28 (e) The director and his deputies, assistants, examiners, and
29 employees and the Director of the Arkansas State Police and his deputies,
30 officers, assistants, and employees and any public law enforcement officer
31 shall not be liable for any damages occurring as a result of the
32 implementation of this subchapter."

33

34 SECTION 3. Arkansas Code 23-89-505 is hereby amended to read as
35 follows:

1 "23-89-505. Safety inspections and insurance required - Inspection
2 fees, etc.

3 (a) Any person or entity desiring to operate any amusement attraction
4 or amusement ride in this state, other than those specifically exempted in
5 this subchapter, shall as a condition thereof obtain a safety inspection
6 report issued by the owner or operator's liability insurer or the Arkansas
7 Department of Labor.

8 (b)(1) Each person or entity desiring to operate any amusement
9 attraction or amusement ride in this state, other than those specifically
10 exempted in this subchapter, shall be covered by a policy of insurance issued
11 by an insurance company authorized to do business in Arkansas or by a surplus
12 lines insurer approved in Arkansas and insuring the owner or operator against
13 liability for personal injury or property damage arising out of the use or
14 operation of the amusement attraction or ride, in the minimum amount of one
15 million dollars (\$1,000,000) for each incident or occurrence.

16 (2) The director is authorized to inspect each person or entity
17 to insure compliance with this subchapter. Any person or entity intending to
18 operate an amusement attraction or ride in this state, shall notify the
19 director of such intent and shall notify the director of the location, dates
20 and times of intended operation. Such notice must be made to the director
21 four (4) days prior to intended operation, excluding Saturdays, Sundays, or
22 any legal holidays.

23 (c) Any person or entity failing to comply with 23-89-505(b)(2) shall
24 be subject to an administrative penalty issued by the director of no more
25 than five thousand dollars (\$5,000) in addition to other penalties, both
26 administrative and criminal, contained in this subchapter.

27 (d) The fee for the inspections required by 23-89-505(a) and performed
28 by the Arkansas Department of Labor shall be one hundred dollars (\$100) and
29 shall be deposited into the Arkansas Department of Labor Fund Account.

30 (e) The operator shall promptly file a copy of any safety inspection
31 reports and proof of insurance with each fair board, sponsoring organization,
32 lessor, landowner, or other person responsible for an amusement attraction or
33 ride being offered for use by the public for each location in this state
34 where each attraction or ride is in operation or is scheduled to be in
35 operation."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SECTION 4. Arkansas Code 23-89-506 is hereby amended to read as follows:

"23-89-506. Emergency inspections.

The director is authorized to make an inspection on an emergency basis when notification pursuant to this subchapter is made less than four (4) days, excluding Saturdays, Sundays, and legal holidays, prior to the date of the operation of the facility, if he determines that the owner or operator could not have reasonably known of the proposed operation prior to the four-day period, and that the owner or operator meets all other requirements for operation in this state."

SECTION 5. Arkansas Code 23-89-507 is hereby amended to read as follows:

"23-89-507. Inspection by insurance company - Change in coverage.

(a) Each insurance company insuring an operator of an amusement attraction or ride as required in this subchapter shall inspect the amusement attraction or rides of the insured for safety at least once each four (4) months . The operator shall maintain a copy of such report at the site of operation of the attraction or ride, together with proof of insurance coverage.

(b) If any insurer insuring an operator shall cancel the coverage of the operator, the insurer shall notify the director of the cancellation at least ten (10) days before the cancellation is effective.

(c) The insurer shall immediately notify the director if the cancellation notice is rescinded or coverage is reinstated.

(d) If the insurer finds any amusement attraction or ride to be unsafe or cancels the insurance coverage and so notifies the director, then the director shall immediately issue a cease and desist order preventing any operation until written documentation is provided to the director that the amusement attraction or ride has been made safe or insurance coverage has been obtained.

(e) Any insurance company or surplus lines insurer failing to comply with this section shall be subject to revocation of its certificate of authority or registration by the Arkansas Insurance Commissioner, or in lieu

1 of suspension or revocation, a fine assessed by the Arkansas Insurance
2 Commissioner of not more than fifty thousand dollars (\$50,000)."

3

4 SECTION 6. Arkansas Code 23-89-508 is hereby amended to read as
5 follows:

6 "23-89-508. Rules and regulations.

7 The director is authorized to adopt appropriate rules and regulations
8 to carry out the intent and purposes of this subchapter and to assure its
9 efficient and effective enforcement."

10

11 SECTION 7. Arkansas Code 23-89-509 is hereby amended to read as
12 follows:

13 "23-89-509. Cease and desist orders- Notice required.

14 (a) Upon issuance of cease and desist orders pursuant to § 23-89-504
15 or 507, the director shall promptly transmit his order to the Director of the
16 Arkansas State Police. Whenever possible, the director shall notify any
17 applicable fair boards or sponsoring organizations in the respective
18 districts or counties of this state where the attractions or rides are in
19 operation or are scheduled to be in operation. The director shall promptly
20 notify these parties when a cease and desist order has been rescinded upon
21 proof of the operator's compliance with the provisions of this subchapter.

22 (b) Upon receipt of the director's order to cease and desist
23 operations pursuant to subsection (a) of this section, the Arkansas State
24 Police shall promptly serve the order on the operator and order the operator
25 immediately to cease operation of all applicable amusement attractions or
26 rides in operation or scheduled to be in operation in those districts or
27 counties until the cease and desist order has been rescinded."

28

29 SECTION 8. All provisions of this act of a general and permanent
30 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
31 Code Revision Commission shall incorporate the same in the Code.

32

33 SECTION 9. If any provision of this act or the application thereof to
34 any person or circumstance is held invalid, such invalidity shall not affect
35 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this
2 act are declared to be severable.

3

4 SECTION 10. All laws and parts of laws in conflict with this act are
5 hereby repealed.

6