

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

481V0016

HOUSE COMMERCE AND ENERGY ENGROSSED NO. **HB 1168** - 02/07/2014

Introduced by: Representative Hickey and Senator Novstrup (Al)

1 FOR AN ACT ENTITLED, An Act to provide for additional safety measures on amusement
2 rides and to provide a penalty for failure to properly insure an amusement ride or device.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 42-10-1 be amended to read as follows:

5 42-10-1. An amusement ride is any mechanical device which carries or conveys passengers
6 along, around, or over a fixed or restricted route or course for the purpose of giving its
7 passengers amusement, pleasure, thrills, or excitement. The term "amusement ride," does not
8 include slides, playground equipment, coin-operated devices, or conveyances which operate
9 directly on the ground or on the surface or pavement directly on the ground or the operation of
10 amusement devices of a permanent nature which are not moved from one location to another
11 more than one time per year or which are insured to operate in only one fixed location.

12 Section 2. That § 42-10-2 be amended to read as follows:

13 42-10-2. No person may own, operate, or lease an amusement ride or an amusement device
14 of a permanent nature in this state unless the person purchases insurance in an amount not less
15 than one million dollars per occurrence and one million dollars in the aggregate against liability



1 for injury or death to persons arising out of the use of the amusement ride. Any owner, operator,
2 or lessee of an amusement ride who fails to purchase liability insurance is guilty of a Class 1
3 misdemeanor. A certificate of insurance shall be furnished by the owner, operator, or lessee to
4 the sponsoring persons, organization, or governing board of the local unit of government before
5 the amusement ride or amusement device of a permanent nature is operated.

6 Section 3. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 No person may operate an amusement ride in the state unless the amusement ride has passed
9 an inspection during the prior twelve months by a certified amusement ride inspector.

10 Section 4. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The owner of an amusement ride shall file an inspection affidavit attesting that the
13 amusement ride has passed the most recent annual inspection required in section 2 of this Act
14 with the owner, operator, or lessee to the sponsoring persons, the organization, the state, and the
15 governing board of the local unit of government before the amusement ride is operated at each
16 location. The inspection affidavit shall identify the amusement ride by name, manufacturer, and
17 serial number and identify the date the inspection was performed, the inspector's name, and the
18 inspector's certification number.

19 Section 5. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 No person may operate an amusement ride unless a daily inspection is performed on each
22 day of operation and the amusement ride meets the current American Society of Testing and
23 Material Standards on Amusement Rides and Devices, F 770-13. An owner or operator of the
24 amusement ride, or a certified amusement ride inspector shall perform the inspection and

1 maintain the record of the inspection for no less than three years. The owner or operator of the
2 amusement ride shall make the record of daily inspection available on request.

3 Section 6. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 No person may operate an amusement ride that has been modified or altered in a manner that
6 changes the dynamics or control system from the manufacturer's design or specification since
7 the most recent annual inspection, unless the amusement ride passes an inspection by a certified
8 amusement ride inspector prior to operation.

9 Section 7. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 For purposes of this Act, a certified amusement ride inspector is either an employee of the
12 insurance company that insures the amusement ride or an amusement ride inspector that carries
13 a minimum of one hundred thousand dollars in errors and omissions insurance and is certified
14 by the National Association of Amusement Ride Safety Officials or the Amusement Industry
15 Manufacturers and Suppliers Trade Association.

16 Section 8. That chapter 42-10 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 A rider on an amusement ride or an amusement device of a permanent nature is responsible
19 for obeying all posted rules, warnings, and the oral or prerecorded instructions of the operator
20 of the amusement ride or amusement device of a permanent nature, and all of the following:

- 21 (1) No rider may board or dismount from an amusement ride or an amusement device
22 of a permanent nature except at a designated area;
- 23 (2) No rider may throw or expel any object or matter from an amusement ride or an
24 amusement device of a permanent nature;

- 1 (3) No rider may act in any manner contrary to posted rules, oral rules, or prerecorded
2 oral or video rules or instructions while boarding, riding on, or dismounting from any
3 amusement ride or an amusement device of a permanent nature;
- 4 (4) No rider may engage in any reckless act or activity which may tend to injure the rider
5 or others;
- 6 (5) While using an amusement ride or an amusement device of a permanent nature that
7 requires steering or control of the rider or a car device, each rider shall maintain
8 reasonable control of his or her speed and course at all times. A rider may not steer
9 the ride in such a manner as to harm another person. A rider on an amusement ride
10 or an amusement device of a permanent nature where the rider controls the speed or
11 direction of the device or part of the device assumes responsibility to engage the
12 device in a manner that does not harm the rider or others;
- 13 (6) No rider may disconnect, disable, or attempt to disconnect or disable any safety
14 device, seat belt, harness, or other restraining device before, during, or after
15 movement of the ride has started except at the express instruction of the operator;
- 16 (7) No rider may disembark or attempt to disembark from any amusement ride or
17 amusement device of a permanent nature before, during, or after movement of a ride
18 has started except upon the express instruction of the operator;
- 19 (8) No rider may board or attempt to board any amusement ride or an amusement device
20 of a permanent nature if the rider is under the influence of alcohol or any controlled
21 substance which impacts his or her ability to safely use the ride and abide by the
22 posted and oral instructions. The operator may prevent a rider who is apparently
23 under the influence of drugs or alcohol from riding on an amusement ride or an
24 amusement device of a permanent nature. An operator who prevents a rider from

1 boarding a ride in accordance with this subdivision may not be held criminally or
2 civilly liable if the operator has a reasonable basis for believing that the rider is under
3 the influence of drugs or alcohol;

4 (9) No rider may alter or enhance the intended speed, course, or direction of an
5 amusement ride or an amusement device of a permanent nature by using an
6 unauthorized device, instrument, or other method;

7 (10) No rider may attempt to gain access to controls of an amusement ride or an
8 amusement device of a permanent nature designed solely to be operated by
9 employees of amusement rides.

10 If a rider violates any provision of this section, the violation may be used as evidence of
11 contributory negligence in any civil case asserting amusement ride or operator liability.