

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

562J0646

## HOUSE BILL NO. 1288

Introduced by: Representative Novstrup and Senator Duxbury

1 FOR AN ACT ENTITLED, An Act to provide certain safety measures and requirements for  
2 entertainment facilities.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Entertainment facility," any fair, amusement park, water park, or family  
6 entertainment center;

7 (2) "Family entertainment center," facility consisting of two or more of the following  
8 elements: go-karts, miniature golf, batting cages, bumper boats, a climbing wall, or  
9 an arcade;

10 (3) "Owner," any person who owns, leases, controls, manages, or contracts for the  
11 operation of an entertainment facility, including the state or any of its subdivisions;

12 (4) "Parent," any parent, custodian, or guardian responsible for the control, safety,  
13 training, or education of a minor, disabled, or incompetent person;

14 (5) "Ride," any mechanical device or devices exceeding fifteen feet in height which carry  
15 or convey passengers along, around, or over a fixed or restricted route or course for  
16 the purpose of giving its passengers amusement, pleasure, thrills, or excitement; and



1 any passenger or gravity propelled ride when located in an entertainment facility.  
2 However, the term does not include locomotives weighing more than seven tons,  
3 operating on a track the length of which is one-half mile or greater, the gauge of  
4 which is three feet or greater, and the weight of which is a least sixty pounds per  
5 yard;

6 (6) "Sign," any symbol or language reasonably calculated to communicate information  
7 to persons or their parents, including placards, pre-recorded messages, live public  
8 addresses, stickers, pictures, pictograms, guidebooks, brochures, video, verbal  
9 information, and visual signals.

10 Section 2. Any person, or the person's parent on a person's behalf, shall report in writing to  
11 the owner any injury sustained at an entertainment facility before leaving the owner's premises.

12 The report shall include the following information:

- 13 (1) The name, address, and phone number of the injured person;
- 14 (2) A full description of the incident, the injuries claimed, any treatment received, and  
15 the location, date, and time of the injury;
- 16 (3) The cause of the injury, if known; and
- 17 (4) The names, addresses, and phone numbers of any witnesses to the incident.

18 If the person, or the person's parent on a person's behalf, is unable to file a report because  
19 of the severity of the injuries or because of circumstances beyond the person's control, the  
20 person or the person's parent shall file the report as soon as reasonably possible.

21 The failure of any person, or the person's parent on a person's behalf, to report any injury  
22 under this section has no effect on the person's right to commence a civil action.

23 Section 3. Any person at an entertainment facility shall obey the posted rules, warnings, and  
24 oral instructions for any ride issued by the owner and refrain from acting in any manner that may

1 cause or contribute to injuring the person or others, including:

- 2 (1) Exceeding the limits of the person's ability;
- 3 (2) Interfering with safe operation of any ride;
- 4 (3) Failing to engage any safety devices that are provided;
- 5 (4) Disconnecting or disabling a safety device except at the express instruction of the  
6 owner's agent or employee;
- 7 (5) Altering or enhancing the intended speed, course, or direction of any ride;
- 8 (6) Using the controls of any ride designed solely to be operated by the owner's agent or  
9 employee;
- 10 (7) Extending arms and legs beyond the carrier or seating area except at the express  
11 direction of the owner's agent or employee;
- 12 (8) Throwing, dropping, or expelling an object from or toward any ride except as  
13 permitted by the owner's agent or employee;
- 14 (9) Getting on or off any ride except at the designated time and area, if any, at the  
15 direction of the owner's agent or employee, or in an emergency;
- 16 (10) Failing to reasonably control the speed or direction of the person or any ride that  
17 requires the person to control or direct himself or herself or a ride; and
- 18 (11) Overloading any ride beyond its designed capacity.

19 A violation of this section is a petty offense.

20 Section 4. Any person who is under the influence of alcohol or any drug that affects the  
21 person's ability to safely use any ride or obey the posted rules, warnings, or oral instructions is  
22 guilty of a petty offense. Any person who is under the influence of alcohol or any drug such that  
23 it affects another person's ability to safely use any ride is guilty of a petty offense.

24 Section 5. The owner shall display a sign that states that "State law requires you to obey all

1 safety warnings and directions and behave in a manner that will not cause or contribute to  
2 injuring yourself or others. All injuries must be reported before leaving." The owner shall  
3 display the required sign at any station for reporting an injury or any first aid station. In addition,  
4 the owner shall display the required sign at such locations as will reasonably alert the public and  
5 give notice to the rules and warnings.