

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

A Bill

ACT 631 OF 1995
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

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

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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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 driven
27 device integral to the building or mechanically driven device integral to the
28 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 a
34 defined area for the purpose of giving the passengers amusement, pleasure,
35 thrills, or excitement;

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

1 (4) Director means the Director of the Arkansas Department of Labor."
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3 SECTION 2. Arkansas Code 23-89-504 is hereby amended to read as
4 follows:

5 "23-89-504. Safety inspection and insurance required - Violations.

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

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

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

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

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

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

34 "23-89-505. Safety inspections and insurance required - Inspection
35 fees, etc.

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

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

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

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

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

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

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

1 "23-89-506. Emergency inspections.

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

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

12 "23-89-507. Inspection by insurance company - Change in coverage.

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

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

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

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

30 (e) Any insurance company or surplus lines insurer failing to comply
31 with this section shall be subject to revocation of its certificate of
32 authority or registration by the Arkansas Insurance Commissioner, or in lieu
33 of suspension or revocation, a fine assessed by the Arkansas Insurance
34 Commissioner of not more than fifty thousand dollars (\$50,000)."

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

3 "23-89-508. Rules and regulations.

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

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

10 "23-89-509. Cease and desist orders- Notice required.

11 (a) Upon issuance of cease and desist orders pursuant to § 23-89-504 or
12 507, the director shall promptly transmit his order to the Director of the
13 Arkansas State Police. Whenever possible, the director shall notify any
14 applicable fair boards or sponsoring organizations in the respective districts
15 or counties of this state where the attractions or rides are in operation or
16 are scheduled to be in operation. The director shall promptly notify these
17 parties when a cease and desist order has been rescinded upon proof of the
18 operator's compliance with the provisions of this subchapter.

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

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

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

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

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APPROVED: 3-14-95

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