

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 3/4/87

HOUSE BILL 1698

By: Representative S. Miller AS ENGROSSED 3/12/87 AS ENGROSSED 3/16/87

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT 837 OF 1983 [ARK. STATS. 66-5901 - 66-5908], THE AMUSEMENT RIDE AND AMUSEMENT ATTRACTION SAFETY INSURANCE ACT; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 3 of Act 837 of 1983, the same being Arkansas Statutes 66-5903, is hereby amended to read as follows:

"Section 3. (a) Any person or entity desiring to operate any amusement attraction or amusement ride in this State, other than those specifically exempted herein, shall as a condition thereof make application for and obtain an amusement attraction permit as provided for herein at least three (3) days, excluding Saturdays, Sundays, and legal holidays, prior to the date on which the applicant proposes to begin operating any such amusement attraction or ride.

(b) Each application for an amusement attraction permit shall be filed with the Arkansas Insurance Department on forms prescribed by the Insurance Commissioner and shall include such information as the Insurance Commissioner may reasonably require. Each such application shall be accompanied by proof that the applicant is covered by a policy of insurance issued by an insurance company authorized to do business in Arkansas or by a surplus lines insurer approved in Arkansas and insuring the applicant against liability for personal injury or property damage arising out of the use or operation of the amusement attraction or ride, in the minimum amount of One Million Dollars (\$1,000,000) for each incident or occurrence. Further, each such application shall be accompanied by the most recent safety inspection report or loss control report issued by the applicant's liability insurer. If no inspection was conducted prior to issuance of the above required coverage, the application shall be accompanied by a certificate so stating, executed by a person authorized to

act for the insurer.

(c) The annual fee for each permit shall be One Hundred Dollars (\$100.00) per calendar year or part thereof and the fee shall accompany the application. Each such permit issued shall expire annually on March 1.

(d) The operator shall promptly file a copy of the amusement attraction permit as required in subsection (a) of this Section with each fair board, sponsoring organization, lessor, landowner or other person responsible for an amusement attraction or ride being offered for use by the public, for each location in this State where each such attraction or ride is in operation or is scheduled to be in operation."

SECTION 2. Section 4 of Act 837 of 1983, the same being Arkansas Statutes 66-5904, is hereby amended to read as follows:

"Section 4. (1) Each insurance company insuring an operator of an amusement attraction or ride as required herein shall inspect the amusement attraction and/or rides of the insured for safety at least once each four (4) months and shall transmit a copy of the report of such inspection to the Arkansas Insurance Commissioner within ten (10) days after the completion of each inspection. If any insurer insuring an operator licensed hereunder shall cancel the coverage of such operator, the insurer shall notify the Commissioner of such cancellation at least ten (10) days before such cancellation is effective. The insurer shall immediately notify the Commissioner if the cancellation notice is rescinded and/or coverage is reinstated. If the insurer finds any amusement attraction or ride to be unsafe or cancels the insurance coverage and so notifies the Commissioner, the Commissioner shall immediately issue an order cancelling or suspending the permit of the operator until written documentation is provided to the Commissioner that the amusement attraction or ride has been made safe and/or insurance coverage has been obtained.

(2) Upon cancellation or suspension of an operator's permit pursuant to subsection (1) of this Section, the Commissioner shall promptly transmit his order to the Director of the Arkansas State Police, and whenever possible notify any applicable fair boards or sponsoring organizations, in the respective districts or counties of this State where such attractions or rides are in operation or are scheduled to be in operation. The Commissioner shall promptly notify these parties when such operator's permit has been reinstated

or reissued upon the operator's compliance with subsection (1) of this Section.

(3) Upon receipt of the Commissioner's order of cancellation or suspension of such operator's permit pursuant to subsection (2) above, the Arkansas State Police shall promptly serve the order on the operator and order the operator immediately to cease operation of all applicable amusement attractions or rides in operation or scheduled to be in operation in such districts or counties until reinstatement or reissuance of such operator's permit."

SECTION 3. Section 6 of Act 837 of 1983, the same being Arkansas Statutes 66-5906, is hereby amended to read as follows:

"Section 6. The Insurance Commissioner is authorized to issue an amusement attraction permit on an emergency basis when application therefor is made less than three (3) days (excluding Saturdays, Sundays, and legal holidays) prior to the date of the operation of the facility, if he determines that the applicant could not have reasonably known of such proposed operation prior to the three (3) day period, or for other reasonable cause, and that the applicant meets all other requirements for obtaining a permit."

SECTION 4. Section 8 of Act 837 of 1983, the same being Arkansas Statutes 66-5908, is hereby amended to read as follows:

"Section 8. (a) It is unlawful for any person or entity to operate an amusement attraction or amusement ride unless such person or entity has first obtained a permit as provided for herein and unless such person or entity maintains liability insurance in the minimum amount required herein at all times during the operation of such amusement attraction or ride in this State.

(b) The Commissioner may conduct examinations and investigations into the affairs of any person or entity subject to the provisions of this Act.

(c) If the Commissioner finds that an operator or permittee has failed to comply with the provisions of this Act, he may suspend or revoke or refuse to issue or continue any permit issued under this Act, and/or may impose upon the operator or permittee an administrative penalty of not more than one thousand dollars (\$1,000.00).

(d) If the Commissioner finds that an operator or permittee failed to comply with the provisions of this Act, Act 837 of 1983, as amended, he shall so inform the prosecuting attorney in whose district any such purported viola-

tion may have occurred, and, upon conviction, such operator or permittee shall be guilty of a class A misdemeanor, and each day of such violation shall constitute a separate offense.

(e) The Insurance Commissioner, his deputies, assistants, examiners and employees, and the Director of the Arkansas State Police and his deputies, officers, assistants and employees shall not be liable for any damages occurring as a result of the implementation of this Act."

SECTION 5. All laws and parts of laws in conflict with this Act are hereby amended.

/s/ Sturgis Miller

