WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1999

ENROLLED
Committee Substitute For
SENATE BILL NO. 1604

(By Senators Trousdale, Mr. President, and Sprouse,
By Request of The Executive)

PASSED March 9, 1999
In Effect July 4, 1999
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 166

(SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
BY REQUEST OF THE EXECUTIVE, original sponsors)

[Passed March 9, 1999; to take effect July 1, 1999.]

AN ACT to amend and reenact sections two, three, four, five, six, seven, eight, nine, eleven, twelve and fourteen, article ten, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to amusement rides and amusement attractions safety; inspection thereof; defining terms; providing for inspections and fees; waiver of inspection fees for nonprofit business; authorizing the division of labor to charge additional costs for additional inspections and inspections required as a result of violations of permitting requirements; creating a special revenue account; requiring moneys in special revenue account to be appropriated by the Legislature; authorizing the use of fees collected to be used for enforcement of the
article; requiring a permit before operation of an amusement
ride or amusement attraction; making technical corrections;
and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, six, seven, eight, nine,
eleven, twelve and fourteen, article ten, chapter twenty-one of
the code of West Virginia, one thousand nine hundred thirty-one,
as amended, be amended and reenacted, all to read as follows:

ARTICLE 10. AMUSEMENT RIDES AND AMUSEMENT ATTRACTIONS
SAFETY ACT.

§21-10-2. Definitions.

As used in this article:

(a) "Amusement ride" means a mechanical device which
carries or conveys passengers along, around or over a fixed
or restricted route or course for the purpose of giving its
passengers amusement, pleasure, thrills or excitement.
The term includes carnival rides and fair rides of a tempo-
rary or portable nature which are assembled and reassem-
bled or rides which are relocated from place to place.
"Amusement ride" may not be construed to mean any
mechanical device which is coin operated and does not
include the operation of a ski lift, the operation of
tramways at state parks, the operation of vehicles of
husbandry incidental to any agricultural operations or the
operation of amusement devices of a permanent nature
which are subject to building regulations issued by cities
or counties and existing applicable safety orders;

(b) "Amusement attraction" means any building or
structure around, over or through which people may move
or walk without the aid of any moving device integral to
the building or structure that provides amusement,
pleasure, thrills or excitement, including those of a
temporary or portable nature which are assembled and
reassembled or which are relocated from place to place.
The term does not include any enterprise principally
devoted to the exhibition of products of agriculture,
industry, education, science, religion or the arts and shall
not be construed to include any concession stand or booth for the selling of food or drink or souvenirs;

c) “Mobile amusement ride or mobile amusement attraction” means an amusement ride or amusement attraction which is erected in a single physical location for a period of less than twelve consecutive months;

d) “Stationary amusement ride or stationary amusement attraction” means an amusement ride or amusement attraction which is erected in a single physical location for a period of more than twelve consecutive months.

§21-10-3. Rules.

The division of labor shall propose legislative rules for promulgation for the safe installation, repair, maintenance, use, operation and inspection of all amusement rides and amusement attractions as the division finds necessary for the protection of the general public using amusement rides and amusement attractions. The rules shall be in addition to the existing applicable safety orders and shall be concerned with engineering force stresses, safety devices and preventative maintenance. All such rules shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code.

§21-10-4. Inspection and permit fees.

(a) The division shall charge inspection and permit fees. The annual permit fee is twenty-five dollars for each ride or attraction. The annual inspection fee is one hundred dollars for each ride or attraction. The annual inspection fee is due at the time of application for the annual permit. The division shall waive the inspection fee for any ride or attraction whose owner provides proof of nonprofit business status.

(b) The division may charge additional inspection fees equal to the annual inspection fee for additional inspections required as the result of the condemnation of a device for safety standards violations and for inspections required as a result of accidents involving serious or fatal injury. If any owner or operator requires an inspection as the result of a violation of the permitting requirements of
section six of this article, the division shall charge the 
owner or operator seventy-five dollars per hour in addition 
to the established inspection fee, including travel time.

(c) All fees received shall be deposited in a special 
revenue account in the state treasury known as the 
"Amusement Rides and Amusement Attractions Safety 
Fund." The division may use moneys from the fund for the 
purpose of enforcement of the provisions of this article. 
Expenditures are not authorized from collections, but are 
to be made only in accordance with appropriation by the 
Legislature and in accordance with the provisions of 
article three, chapter twelve of this code and upon fulfill-
ment of the provisions of article two, chapter five-a of this 
code.

(d) No inspection fee may be charged public agencies.

(e) The division shall issue, and the owner, operator or 
both of the amusement rides and amusement attractions 
shall visibly display to the public, inspection stickers 
denoting and signifying that the inspection and permit fee 
authorized by this section has been paid.

§21-10-5. Inspectors.

The division may hire or contract with inspectors to 
inspect amusement rides and amusement attractions.

§21-10-6. Permits; application; annual inspection.

No operator or owner may knowingly permit the opera-
tion of an amusement ride or amusement attraction 
without a permit issued by the division. Each year and at 
least fifteen days before the first time the amusement ride 
or amusement attraction is made available in this state for 
public use, an operator or owner shall apply for a permit 
to the division on a form furnished by the division and 
containing any information the division may require. The 
division shall, upon application and within ten days of the 
first time the ride or attraction is made available in this 
state for public use, inspect all amusement rides and 
amusement attractions. The division shall inspect all 
stationary rides and attractions at least once every year. 
The division may inspect all mobile amusement rides and
amusement attractions each time they are disassembled and reassembled for use in this state. The division may conduct inspections at any reasonable time without prior notice.

§21-10-7. Issuance of permit; certificate of inspection; availability to public.

If, after inspection, an amusement ride or amusement attraction is found to comply with the rules of the division, the division shall issue a permit to operate. The permit shall be in the form of a certificate of inspection and shall be kept in the records of any operator or owner for a three-year period and shall be readily accessible to the public for inspection at any reasonable time at the carnival, fair or event where the amusement ride or attraction is located. A copy of the certificate, showing the last date of inspection, shall be affixed to the amusement ride or amusement attraction upon issuance.

§21-10-8. Notice of intention to erect new ride or attraction or add to or alter existing ride or attraction.

Before a new amusement ride or amusement attraction is erected, or whenever any additions or alterations are made which change the structure, mechanism, classification or capacity of any amusement ride or amusement attraction, the operator shall file with the division a notice of his or her intention and any plans or diagrams requested by the division for purposes of determining the applicability of section six of this article.

§21-10-9. Notice of serious physical injury or fatality; investigations; records available to public.

An owner or operator of an amusement ride or amusement attraction shall notify the division not later than twenty-four hours after any fatality or accident occurring as a result of the operation of the amusement ride or amusement attraction that results in a serious physical injury to any person requiring medical treatment or results in a loss of consciousness to any person. The notice may be oral or written. The division shall investigate each fatality or accident and any safety-related complaint involving an
amusement ride or amusement attraction in this state about which the division receives notice. Every owner or operator of an amusement ride or amusement attraction shall keep a record of each accident or fatality and the record shall be kept with the certificate of inspection required by this article and shall be readily accessible to the public for inspection at any reasonable time at the carnival, fair or event where the amusement ride or amusement attraction is located.

§21-10-11. Temporary cessation of operation of ride or attraction determined to be unsafe.

The division may order, in writing, a temporary cessation of operation of an amusement ride or amusement attraction if it has been determined after inspection to be hazardous or unsafe. Operation of the amusement ride or amusement attraction shall not resume until the conditions are corrected to the satisfaction of the division.

§21-10-12. Insurance; bond.

No person may operate an amusement ride or amusement attraction unless at the time there is in existence: (a) A policy of insurance approved by the division and obtained from an insurer authorized to do business in this state in an amount of not less than three hundred thousand dollars per person and one million dollars in the aggregate for each amusement ride or attraction location insuring the owner or operator against liability for injury suffered by persons riding the amusement ride or by persons in, on, under or near the amusement attraction; or (b) a bond in a like amount, as approved by the division: Provided, that the aggregate liability of the surety under any bond shall not exceed the face amount of the bond; or (c) cash or other security acceptable to the division. Satisfactory evidence of the insurance, bond or other security shall accompany the permit application.


Any operator or owner who knowingly permits the operation of an amusement ride or amusement attraction in violation of the provisions of this article is guilty of a
misdemeanor and, upon conviction thereof, shall be fined not less than two hundred fifty dollars nor more than one thousand dollars, imprisoned in the county jail not more than twelve months, or both fined and imprisoned. Each day that a violation continues shall be considered a separate violation.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.

In effect July 1, 1999.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 30th Day of March, 1999.

Governor