WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2002

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4278

(By Delegates Fletcher, Anderson, Webster, Hrutkay, Amores and Michael)

Passed February 27, 2002

In Effect Ninety Days from Passage
AN ACT to amend and reenact sections two, fourteen and fifteen, article ten, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto four new sections, designated sections twelve-a, sixteen, seventeen and eighteen, all relating to amusement ride safety; defining terms; providing a criminal penalty for any person who operates or assembles an amusement ride while intoxicated; requiring notice of conviction be forwarded to commissioner of labor; allowing suspension and revocation of permits; establishing minimum age for amusement ride operators; providing civil penalties; and requiring deposit of civil penalties in special revenue account.

Be it enacted by the Legislature of West Virginia:
That sections two, fourteen and fifteen, article ten, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto four new sections, designated sections twelve-a, sixteen, seventeen and eighteen, 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 temporary or portable nature which are assembled and reassembled 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) “Intoxicated” means influenced or affected by the ingestion of alcohol, a controlled substance, any intoxicant or any combination of alcohol, controlled substances and intoxicants.

(d) “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;

(e) “Operator” means the person having direct control of the starting, stopping and speed of an amusement ride or attraction.

(f) “Owner” means any person, corporation, partnership, or association who owns an amusement ride or attraction or, in the event that the amusement ride or attraction is leased, the lessee.

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

§21-10-12a. Minimum age for operating amusement ride.

No individual under the age of eighteen may be the operator of an amusement ride or attraction.


Any operator or owner who knowingly permits the operation of an amusement ride or amusement attraction in violation of the provisions of sections six, seven, eight, nine, eleven,
twelve or twelve-a 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, confined in the county or regional jail not more than twelve months, or both. Each day that a violation continues shall be considered a separate violation.

§21-10-15. Operating or assembling an amusement ride while intoxicated; criminal penalty.

(a) A person may not operate or assemble an amusement ride or attraction while intoxicated.

(b) A person who violates subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one thousand dollars and not more than two thousand five hundred dollars, or confined in the county or regional jail for not less than thirty days and not more than one year, or both.

(c) The clerk of the magistrate court or circuit court in which a person is convicted of a violation of this section shall notify the commissioner within ten days of the conviction.

§21-10-16. Revocation and suspension of permits.

The commissioner may revoke or temporarily suspend the permit to operate issued pursuant to the provisions of section seven of this article to an owner or employee or contractor of an owner is convicted of, or enters a guilty plea or a plea of nolo contendere to, a violation of subsection (a), section fifteen of this article.

§21-10-17. Civil penalties for violations.

(a) If an individual is convicted of, or enters a guilty plea or a plea of nolo contendere to, a violation of subsection (a),
section fifteen of this article, and the individual was not the
owner of the ride being operated or assembled, the commis-
sioner may impose a civil penalty not to exceed five thousand
dollars on the owner of the ride being operated or assembled.

(b) All civil penalties collected by the commissioner shall
be deposited into the amusement rides and amusement attrac-
tions safety fund created in section four of this article.


Nothing in this article shall be construed to be in conflict
with or to in any way limit the authority of the state fire marshal
under the provisions of article three, chapter twenty-nine of this
code pertaining to fire prevention and control.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within □ approved this the □th day of □□□□□□□□, 2002.