WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003

ENROLLED

House Bill No. 3203
(By Delegates Hrutkay, Mahan, Smirl, Morgan, Caputo, Calvert and Brown)

Passed March 8, 2003
In Effect Ninety Days from Passage
AN ACT to amend and reenact sections two, twelve-a, fourteen and seventeen, 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 a new section, designated section nineteen, all relating to amusement ride safety; defining terms; allowing certain children to operate kiddie rides; limiting civil penalties; allowing owners and operators to refuse admission to certain patrons; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections two, twelve-a, fourteen and seventeen, 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 a new section, designated section nineteen, 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) “Kiddie ride” means an amusement ride or amusement attraction that is expressly designed for or offered to: (1) Children age twelve or less; (2) persons who are forty-two
inches in height or less; or (3) persons who are ninety pounds in weight or less.

(d) "Intoxicated" means influenced or affected by the ingestion of alcohol, a controlled substance, any intoxicant or any combination of alcohol, controlled substances and intoxicants.

(e) "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;

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

(g) "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.

(h) "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 sixteen may be the operator of a kiddie ride or if under the age of eighteen be an operator of any other amusement ride or attraction: Provided, That the individual is not otherwise prohibited from being an operator pursuant to other state or federal law.


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 fined and confined. Each day that a violation continues shall be considered a separate violation.

§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 commissioner may impose a civil penalty not to exceed five thousand dollars on the owner of the ride being operated or assembled: Provided, That the owner knew or should have known that the individual was acting in violation of subsection (a), section fifteen of this article.

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


The owner or operator of an amusement ride or attraction may refuse any member of the public admission to a ride if his or her bearing or conduct could endanger himself or herself or others. These reasons include, but are not limited to: (1) Intoxication; (2) refusal to obey posted rules; (3) unacceptable or unsafe behavior as determined by the operator or the ride; and (4) violation of any age, height or weight restrictions as posted.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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\text{Chairman Senate Committee}
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\text{Chairman House Committee}
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Originating in the House.

In effect ninety days from passage

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\text{Clerk of the Senate}
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\text{Clerk of the House of Delegates}
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\text{President of the Senate}
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\text{Speaker of the House of Delegates}
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The within is approved this the 27th day of March, 2003.

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\text{Governor}
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PRESENTED TO THE
GOVERNOR

Date 3/29/03
Time 9:45 am