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**OFFICE WEST VIRGINIA
SECRETARY OF STATE**

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

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E N R O L L E D

H. B. 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.

1 As used in this article:

2 (a) "Amusement ride" means a mechanical device which
3 carries or conveys passengers along, around or over a fixed or
4 restricted route or course for the purpose of giving its passen-
5 gers amusement, pleasure, thrills or excitement. The term
6 includes carnival rides and fair rides of a temporary or portable
7 nature which are assembled and reassembled or rides which are
8 relocated from place to place. "Amusement ride" may not be
9 construed to mean any mechanical device which is coin
10 operated and does not include the operation of a ski lift, the
11 operation of tramways at state parks, the operation of vehicles
12 of husbandry incidental to any agricultural operations or the
13 operation of amusement devices of a permanent nature which
14 are subject to building regulations issued by cities or counties
15 and existing applicable safety orders;

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

27 (c) "Kiddie ride" means an amusement ride or amusement
28 attraction that is expressly designed for or offered to: (1)
29 Children age twelve or less; (2) persons who are forty-two

30 inches in height or less; or (3) persons who are ninety pounds
31 in weight or less.

32 (d) "Intoxicated" means influenced or affected by the
33 ingestion of alcohol, a controlled substance, any intoxicant or
34 any combination of alcohol, controlled substances and intoxi-
35 cants.

36 (e) "Mobile amusement ride or mobile amusement attrac-
37 tion" means an amusement ride or amusement attraction which
38 is erected in a single physical location for a period of less than
39 twelve consecutive months;

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

42 (g) "Owner" means any person, corporation, partnership, or
43 association who owns an amusement ride or attraction or, in the
44 event that the amusement ride or attraction is leased, the lessee.

45 (h) "Stationary amusement ride or stationary amusement
46 attraction" means an amusement ride or amusement attraction
47 that is erected in a single physical location for a period of more
48 than twelve consecutive months.

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

1 No individual under the age of sixteen may be the operator
2 of a kiddie ride or if under the age of eighteen be an operator of
3 any other amusement ride or attraction: *Provided*, That the
4 individual is not otherwise prohibited from being an operator
5 pursuant to other state or federal law.

§21-10-14. Criminal penalty for violation.

1 Any operator or owner who knowingly permits the opera-
2 tion of an amusement ride or amusement attraction in violation

3 of the provisions of sections six, seven, eight, nine, eleven,
4 twelve or twelve-a of this article is guilty of a misdemeanor
5 and, upon conviction thereof, shall be fined not less than two
6 hundred fifty dollars nor more than one thousand dollars,
7 confined in the county or regional jail not more than twelve
8 months, or both fined and confined. Each day that a violation
9 continues shall be considered a separate violation.

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

1 (a) If an individual is convicted of, or enters a guilty plea or
2 a plea of nolo contendere to, a violation of subsection (a),
3 section fifteen of this article, and the individual was not the
4 owner of the ride being operated or assembled, the commis-
5 sioner may impose a civil penalty not to exceed five thousand
6 dollars on the owner of the ride being operated or assembled:
7 *Provided*, That the owner knew or should have known that the
8 individual was acting in violation of subsection (a), section
9 fifteen of this article.

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

§21-10-19. Patron responsibility.

1 The owner or operator of an amusement ride or attraction
2 may refuse any member of the public admission to a ride if his
3 or her bearing or conduct could endanger himself or herself or
4 others. These reasons include, but are not limited to: (1)
5 Intoxication; (2) refusal to obey posted rules; (3) unacceptable
6 or unsafe behavior as determined by the operator or the ride;
7 and (4) violation of any age, height or weight restrictions as
8 posted.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carrey Anuz
Chairman Senate Committee

Greg Butcher
Chairman House Committee

Originating in the House.

In effect ninety days from passage

Darrell E. Ebel
Clerk of the Senate

Buzzy M. Boy
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

Arthur E. Bross
Speaker of the House of Delegates

The within is approved this the 27th
day of March, 2003.

Bob Wise
Governor

PRESENTED TO THE
GOVERNOR

Date 3/29/03

Time 9:45 am