

By Mr. McGlynn of Medford, petition of Michael J. McGlynn relative to the licensing and control by the Department of Public Safety of carnivals and amusement rides. Government Regulations.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-One.

AN ACT RELATIVE TO THE LICENSING AND CONTROL BY THE DEPARTMENT OF PUBLIC SAFETY OF CARNIVALS AND AMUSEMENT RIDES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by insert-
2 ing after chapter 140C the following chapter: —

3 CHAPTER 140D.

4 CARNIVAL AND AMUSEMENT RIDES

5 *Section 1.* This chapter shall be known and may be cited as the
6 Carnival-Amusement Rides Safety Act.

7 *Section 2.* As used in this chapter, except where a different
8 meaning is clearly impied by the context:

9 (a) "Carnival" or "amusement ride" means any mechanical de-
10 vice or devices which carry or convey passengers along, around, or
11 over a fixed or restricted route or course for the purpose of giving
12 its passengers amusement, pleasure, thrills or excitement; pro-
13 vided, however, that this shall not include locomotive weighing
14 more than seven tons, operating on track the length of which is
15 one-half mile or greater, the gauge of which is three feet or greater,
16 and the weight of which is at least sixty pounds per yard. Any
17 facility exempted pursuant to this subsection shall be under the
18 jurisdiction of the department of transportation for the purpose of
19 safety inspection.

20 (b) "Owner" means a person who owns, leases, controls, or
21 manages the operation of a carnival or amusement ride, including
22 the commonwealth or any of its subdivisions.

23 (c) "Ride operator" means any person or persons actually en-

24 gaged in or directly controlling the operations of a carnival or
25 amusement ride.

26 (d) "Commissioner" means the commissioner of labor and in-
27 dustry.

28 (e) "Department" means the department of labor and industry.

29 (f) "Advisory board" means the advisory board on carnival-
30 amusement ride safety.

31 *Section 3.* (a) There is hereby established within the department
32 of labor and industry an advisory board on carnival-amusement
33 ride safety to consist of 10 members, of whom one shall be a
34 representative of the carnival-amusement ride manufacturers, one
35 shall be a representative of the carnival-amusement owners, one
36 shall be an owner or operator of a registered fair, one shall be an
37 owner or operator of an amusement park or enterprise, one shall be a
38 representative of the insurance underwriters, one shall be a
39 licensed professional engineer, three shall be public members, and
40 one shall be a representative of the department of labor and
41 industry who shall be appointed by the commissioner. The nine
42 citizen members shall be appointed by the governor. The governor
43 shall designate the chairman and vice-chairman of the advisory
44 board.

45 (b) Of the eight members first to be appointed by the governor,
46 three shall be appointed for terms of two years, three for terms of
47 three years, and three for terms of four years. All appointments
48 thereafter shall be made for terms of four years. All members so
49 appointed shall serve until their respective successors are appoint-
50 ed and shall qualify, and any vacancy occurring in the appointed
51 members of the board, by expiration of term or otherwise, shall be
52 filled in the same manner as the original appointment for the
53 unexpired term and the appointee shall serve until a successor is
54 appointed and shall qualify.

55 *Section 4.* The members of the board shall serve without com-
56 pensation but shall be reimbursed for any expenses incurred in
57 attending meetings of the board and in performance of their duties
58 as members thereof.

59 *Section 5.* The advisory board is empowered to:

60 (a) Study and request information from the commissioner on
61 any aspect of the carnival-amusement ride safety program, or on
62 any matter relating to the proper conduct and improvement of said

63 program including its administrative, engineering and technical
64 aspects, and to make its findings and recommendations on the
65 aforesaid and other related matters to the commissioner;

66 (b) Study the rules and regulation promulgated by the depart-
67 ment in regard to carnival-amusement ride safety and report its
68 findings or recommendations thereon to the commissioner;

69 (c) Hold public hearings prior to the promulgation of any rules
70 and regulations, as well as on any of its other responsibilities, as
71 defined in this section and to report its findings and recommenda-
72 tions thereon to the commissioner.

73 *Section 6.* The department of labor and industry, pursuant to
74 the provisions of chapter thirty A, shall adopt and promulgate
75 rules and regulations for the safe installation, repair, maintenance,
76 use, operation and inspection of all carnival-amusement rides as
77 the department may find necessary for the protection of the general
78 public.

79 *Section 7.* Any rules and regulations adopted and promulgated
80 by the department shall be of a reasonable nature, and based upon
81 generally accepted engineering standards, formulas and practices,
82 and, insofar as is practicable and consistent with the provisions of
83 this act, shall be uniform with the rules and regulations of other
84 states.

85 *Section 8.* The department shall administer and enforce all pro-
86 visions of this act and all rules and regulations adopted and pro-
87 mulgated in accordance with section six, and shall cause the text of
88 such rules and regulations, and any changes therein, to be pub-
89 lished in pamphlet form and a copy thereof to be furnished without
90 charge to each registered owner.

91 *Section 9.* The department shall determine a schedule of inspec-
92 tion and permit fees. The department shall, from time to time,
93 make such further recommendations to the legislature as would
94 allow fee requirements to be, as nearly as practicable and within the
95 limits of reasonableness, brought into line with the costs of imple-
96 menting the provisions of this chapter.

97 *Section 10.* The department shall employ a chief inspector and
98 such additional inspectors and other employees as may be neces-
99 sary to administer and enforce this chapter.

100 *Section 11.* No carnival-amusement ride may be operated with-
101 out a permit issued by the department. Before commencing opera-

102 tions and in each calendar year thereafter, an owner shall apply for
103 a permit to the department on a form furnished by the department
104 and containing such information as the department may require.
105 All carnival-amusement rides shall be inspected before they are
106 originally put into operation for the public's use and thereafter at
107 least once every year, unless authorized to operate on a temporary
108 permit. Annual permits shall be issued for a period commencing
109 January first and expiring the following December thirty-first.
110 Carnival-amusement rides may also be required to be inspected by
111 the owner, in accordance with standards promulgated by the de-
112 partment, each time they are disassembled and reassembled.

113 *Section 12.* If, after inspection, a carnival-amusement ride is
114 found to comply with the rules and regulations of the department,
115 the department shall authorize the ride for use by the public.

116 *Section 13.* Before a new carnival-amusement ride is erected, or
117 whenever any additions or alterations are made which change the
118 structure, mechanism, classification or capacity of any carnival-
119 amusement ride or the physical spacing between rides, the owner
120 shall file with the department a notice of his intentions and any
121 plans or diagrams requested by the department. Such plans and
122 specifications for new carnival-amusement rides, or for additions
123 or alterations thereon, shall be reviewed and approved by an
124 engineer retained or employed by the department and licensed in
125 the commonwealth as a professional engineer. Upon approval of
126 the plans and specifications the department shall authorize the
127 ride or device for use by the public.

128 *Section 14.* The department may order, in writing a temporary
129 cessation of operation of a carnival-amusement ride if it has been
130 determined after inspection, in accordance with standards promul-
131 gated by the department, to be hazardous or unsafe. Operation
132 shall not resume until such conditions are corrected to the satisfac-
133 tion of the department.

134 *Section 15.* This chapter shall not be construed as to prevent the
135 use of any existng carnival-amusement ride found to be in a safe
136 condition and in conformance with the rules and regulations of the
137 department.

138 *Section 16.* The owner shall retain at all times up-to-date main-
139 tenance and inspection records for each carnival-amusement ride
140 in accordance with such rules and regulations as the department

141 may prescribe. Among other things, such records shall contain
142 information of the date and nature of all inspections, whether by a
143 departmental inspector or a person in the employment of the
144 owner, as well as of any violations and the types of actions taken to
145 rectify the violations. All breakdowns or repairs of any major
146 mechanical part shall be duly noted. The department may also
147 require, by rules and regulations, a full safety inspection of any ride
148 whose operation results in any injury or death before operation of
149 said ride can be resumed.

150 *Section 17.* The department shall require the immediate reporting,
151 on a form to be provided by the department, of any accidents
152 and resulting injuries or fatalities incurred during the operation of
153 any carnival-amusement ride and may provide for the cessation of
154 operation of any ride whose breakdown or malfunction directly
155 causes serious injury to a rider, subject to rules and regulations
156 promulgated by the department.

157 *Section 18.* If there are practical difficulties or unnecessary
158 hardships for an owner to comply with any rules and regulations
159 adopted pursuant to this chapter, or if an owner is aggrieved by any
160 order issued thereto, the department may modify the application of
161 such rules, regulations or order in the spirit of the provisions of this
162 act with regard to public safety. Any owner may, within 10 days
163 after the promulgations of such rules or regulations or the services
164 of such order, apply to the department for modification of said
165 rules, regulations or order. The request shall be in writing and shall
166 state the grounds for applying for such modification. It shall be the
167 duty of the department to provided such hearing at the earliest
168 convenient opportunity, at which time the owner shall have the
169 right to be heard personally or by counsel, to cross-examine wit-
170 nesses appearing against him and to produce evidence in his own
171 behalf. After such hearing the department shall report in writing its
172 findings and recommendations, which shall include a description
173 of the conditions under which the modifications, if any, are permit-
174 ted. Such hearing and decision shall conform to the applicable
175 provisions of chapter thirty A and a record of all authorized
176 modifications shall be kept by the department and open to the
177 public.

178 *Section 19.* The department shall adopt and promulgate rules
179 and regulations on safe operating procedures which, inter alia,

180 shall include the requirement that a ride operator be at least sixteen
181 years of age, that he operate no more than one ride at any given
182 time, and that he be in attendance at all times that said ride is in
183 operation.

184 *Section 20.* No persons shall operate a carnival-amusement ride
185 unless at the time there is in existence (a) a policy of insurance in an
186 amount of not less than one hundred thousand dollars insuring the
187 owner or operator against liability for injury suffered by persons
188 riding the carnival-amusement ride, or (b) a bond in a like amount;
189 provided, however, that the aggregate liability of the surety under
190 such bond shall not exceed the face amount thereof, or (c) cash or
191 other security acceptable to the board. The policy shall be procured
192 from one or more insurers acceptable to the commissioner of
193 insurance.

194 *Section 21.* This chapter shall not apply to any single-passenger
195 coin-operated ride, manually, mechanically or electrically operat-
196 ed, which customarily is placed, singly or in groups, in a public
197 location and which does not normally require the supervision or
198 services of an operator.

199 *Section 22.* Nothing contained in this chapter shall prevent mu-
200 nicipalities from enacting requirements more restrictive than those
201 provided for by, or adopted pursuant to the provisions of this
202 chapter. Any municipality desiring to impose more restrictive
203 requirements shall make a written application for exemption from
204 any state standards adopted hereunder to the department which
205 shall act upon said application in accordance with the procedures
206 set forth in section eighteen.

207 *Section 23.* The department shall have the power to bring in-
208 junctive proceedings in any court of competent jurisdiction to
209 compel compliance with any lawful order made by the department
210 pursuant to the provisions of this chapter.

211 *Section 24.* Any person who interferes in any manner with the
212 implementation of or otherwise fails to comply with the provisions
213 of this chapter, shall be liable to a fine of not more than five
214 hundred dollars to be adjudged, collected and enforced, in suit filed
215 by the department.

1 SECTION 2. Section two hundred and five A of chapter one
2 hundred and forty of the General Laws is hereby repealed.



