

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 469

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Linda M. Trujillo

AN ACT

RELATING TO AMUSEMENT RIDES AND DEVICES; REPEALING THE CARNIVAL RIDE INSURANCE ACT; ENACTING THE AMUSEMENT RIDE AND DEVICE SAFETY ACT; REQUIRING AMUSEMENT RIDE AND DEVICE CERTIFICATION WITH THE REGULATION AND LICENSING DEPARTMENT; REQUIRING PROOF OF INSURANCE; REQUIRING THIRD PARTY INSPECTIONS; PROVIDING FOR FEES; CREATING A FUND; PROVIDING ENFORCEMENT POWERS AND PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 57-25-1 NMSA 1978 (being Laws 1993, Chapter 284, Section 1) is repealed and a new Section 57-25-1 NMSA 1978 is enacted to read:

"57-25-1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Amusement Ride and Device Safety Act"."

SECTION 2. Section 57-25-2 NMSA 1978 (being Laws 1993,

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 Chapter 284, Section 2, as amended) is repealed and a new  
2 Section 57-25-2 NMSA 1978 is enacted to read:

3 "57-25-2. [NEW MATERIAL] PURPOSE.--The purpose of the  
4 Amusement Ride and Device Safety Act is to guard against  
5 personal injuries or property damage during the assembly,  
6 disassembly, use and operation of amusement rides or devices  
7 used in amusement activities and to certify that amusement  
8 rides or devices are designed, constructed, assembled,  
9 disassembled or reassembled, maintained, inspected and operated  
10 in a manner that avoids injuries or property damage."

11 SECTION 3. Section 57-25-3 NMSA 1978 (being Laws 1993,  
12 Chapter 284, Section 3, as amended) is repealed and a new  
13 Section 57-25-3 NMSA 1978 is enacted to read:

14 "57-25-3. [NEW MATERIAL] DEFINITIONS.--As used in the  
15 Amusement Ride and Device Safety Act:

16 A. "aerial adventure course" means a patron  
17 participatory facility consisting of one or more elevated  
18 walkways, platforms, zip lines, nets, ropes or other elements  
19 that require the use of fall hazard personal safety equipment;

20 B. "amusement ride or device" means:

21 (1) a mechanical component or a combination of  
22 components that carry or convey a passenger on, along, around,  
23 through or over a fixed or restricted route or course or within  
24 a defined area for the purpose of giving the passenger  
25 amusement or excitement, including aerial adventure courses,

.212897.2

1 zip lines, bungee jumping devices, activities using a belay or  
2 brake, kiddie rides, go carts, floating devices and water  
3 slides;

4 (2) a temporary or portable building,  
5 structure or part of a structure, including a rock-climbing  
6 face or wall used for the purpose of providing its users with  
7 amusement, excitement or to facilitate climbing, suspension or  
8 a similar activity, and including electrical or mechanical  
9 equipment if the equipment is an integral part of the activity;  
10 and

11 (3) a ride or device designed for one or more  
12 members of the public to use to bounce, climb, slide or  
13 interactively play upon that is made of flexible fabric or  
14 other flexible material, including trampoline facilities or a  
15 ride or device that, if inflatable, is kept inflated while in  
16 use and relies upon air pressure to maintain its inflation,  
17 including inflatable bounce houses or slides;

18 C. "approved inspector" means a third-party  
19 inspector registered with the department and qualified by  
20 training to conduct an inspection of an amusement ride or  
21 device for operation in this state;

22 D. "bungee jumping" means an activity in which an  
23 individual falls or jumps from a height above the ground, and  
24 in which, prior to the fall or jump, the individual is attached  
25 to an activity device, such as a cord, that prevents the

underscoring material = new  
~~[bracketed material] = delete~~

1 individual from hitting the ground or other solid, semisolid,  
2 liquid or elastic surface;

3 E. "certification" means the department's written  
4 approval of an application to operate an amusement ride or  
5 device within this state;

6 F. "department" means the regulation and licensing  
7 department;

8 G. "independent inspection" means a physical  
9 examination of an amusement ride or device conducted by an  
10 approved inspector to determine whether an amusement ride or  
11 device is being constructed, assembled, maintained, tested,  
12 operated or inspected in accordance with the manufacturer's  
13 standards and criteria, or the insurer's standards, whichever  
14 is more stringent, and that determines the current operational  
15 safety of the amusement ride or device;

16 H. "information plate" means a manufacturer-issued  
17 plate permanently affixed to an amusement ride or device in a  
18 visible location that is designed to remain legible for the  
19 expected life of the amusement ride or device;

20 I. "inspection report" means a form approved by the  
21 department that is completed by an approved inspector and  
22 submitted to the department for each amusement ride or device  
23 inspection conducted by the approved inspector;

24 J. "operator" or "owner" means an individual or a  
25 person, or the individual's or person's agent, that owns or

.212897.2

underscored material = new  
[bracketed material] = delete

1 controls, or has the duty to control, the operation of an  
2 amusement ride or device, whether or not a fee is paid for such  
3 use, but does not include the passenger or patron using an  
4 amusement ride or device;

5 K. "operator inspection" means a physical  
6 inspection of an amusement ride or device conducted by the  
7 amusement ride or device owner or operator in accordance with  
8 the manufacturer's standards;

9 L. "person" means an individual, firm, partnership,  
10 corporation, company, association or other business entity; and

11 M. "superintendent" means the superintendent of  
12 regulation and licensing."

13 SECTION 4. Section 57-25-4 NMSA 1978 (being Laws 1993,  
14 Chapter 284, Section 4) is repealed and a new Section 57-25-4  
15 NMSA 1978 is enacted to read:

16 "57-25-4. [NEW MATERIAL] CERTIFICATION REQUIRED--  
17 EXEMPTIONS.--

18 A. A person shall not operate an amusement ride or  
19 device that is subject to the provisions of the Amusement Ride  
20 and Device Safety Act without first obtaining certification  
21 from the department of each amusement ride or device as  
22 required pursuant to the Amusement Ride and Device Safety Act.

23 B. The provisions of the Amusement Ride and Device  
24 Safety Act shall not apply to:

25 (1) stationary coin-operated mechanical horse

.212897.2

underscored material = new  
[bracketed material] = delete

1 and mechanical rocket rides and other similar coin-activated or  
2 self-operated devices;

3 (2) non-mechanized playground equipment,  
4 including swings, seesaws, stationary spring mounted animal  
5 features, rider propelled merry-go-rounds, climbers, slides,  
6 swinging gates and physical fitness devices;

7 (3) live animal rides or live animal shows;

8 (4) climbing walls used for sport and fitness  
9 training located in educational facilities, gymnasiums, sport  
10 and public entity recreational facilities, or other facilities  
11 devoted to sport and recreational activities, training and  
12 instruction;

13 (5) skating rides, arcades, laser paintball  
14 games, bowling alleys, miniature golf courses, ball crawls,  
15 exercise equipment, jet skis, paddle boats, air boats, hot air  
16 balloons, whether tethered or untethered, batting cages, games  
17 and side shows; or

18 (6) an amusement ride or device operated at a  
19 private residence that is not open to the general public and  
20 not subject to a separate admission charge."

21 SECTION 5. Section 57-25-5 NMSA 1978 (being Laws 1993,  
22 Chapter 284, Section 5) is repealed and a new Section 57-25-5  
23 NMSA 1978 is enacted to read:

24 "57-25-5. [NEW MATERIAL] ADMINISTRATION OF ACT.--

25 A. The department shall enforce and administer the

.212897.2

underscored material = new  
[bracketed material] = delete

1 provisions of the Amusement Ride and Device Safety Act.

2 B. The department shall adopt rules to carry out  
3 the provisions of the Amusement Ride and Device Safety Act."

4 SECTION 6. Section 57-25-6 NMSA 1978 (being Laws 1993,  
5 Chapter 284, Section 6) is repealed and a new Section 57-25-6  
6 NMSA 1978 is enacted to read:

7 "57-25-6. [NEW MATERIAL] RIDE OR DEVICE CERTIFICATION  
8 REQUIREMENTS.--Prior to operating or leasing for use an  
9 amusement ride or device, an owner or operator shall obtain  
10 certification from the department for each amusement ride or  
11 device. The owner or operator shall provide to the department:

12 A. proof of liability insurance procured from an  
13 insurer licensed to transact business in this state for each  
14 amusement ride or device in an amount not less than one million  
15 dollars (\$1,000,000) per occurrence and three million dollars  
16 (\$3,000,000) in the annual aggregate against liability for  
17 injury to persons or damage to property arising out of the  
18 operation of the amusement ride or device;

19 B. a certificate of insurance:

20 (1) stating that the insurance required  
21 pursuant to this section is in effect;

22 (2) naming the department as the certificate  
23 holder; and

24 (3) listing, by year, make, model and serial  
25 number, each amusement ride or device insured by the insurance

.212897.2

underscoring material = new  
~~[bracketed material] = delete~~

1 policy required pursuant to this section; provided that, in the  
2 event of an addition or deletion of an amusement ride or device  
3 during the term of the policy, the change shall be shown on a  
4 change endorsement, a copy of which shall be submitted to the  
5 department;

6 C. a notice of cancellation not later than ten days  
7 prior to the effective date of the cancellation if an insurance  
8 policy required pursuant to this section is cancelled by either  
9 the insured owner or operator or the insurance provider; and

10 D. an inspection report obtained by an approved  
11 inspector for each amusement ride or device indicating:

12 (1) that the inspection was conducted in  
13 accordance with the current American society for testing  
14 materials international standards and with the national  
15 electrical code article 525 standards most recently adopted in  
16 this state;

17 (2) that the amusement ride or device was  
18 inspected within the twelve-month period prior to operation in  
19 this state;

20 (3) that the amusement ride or device was  
21 inspected each time the amusement ride or device was moved or  
22 reassembled; and

23 (4) whether any deficiencies noted by an  
24 inspector have been corrected."

25 SECTION 7. A new Section 57-25-7 NMSA 1978 is enacted to

.212897.2



underscored material = new  
[bracketed material] = delete

1 read:

2 "57-25-7. [NEW MATERIAL] TERM OF CERTIFICATION--  
3 RENEWALS.--

4 A. A certification issued pursuant to Section  
5 57-25-6 NMSA 1978 shall be valid for one year from the date of  
6 issuance.

7 B. A certification pursuant to Section 57-25-6 NMSA  
8 1978 that is not renewed on or before the expiration date shall  
9 expire. The owner or operator shall not operate the amusement  
10 ride or device within this state until the certification is  
11 renewed.

12 C. An owner or operator that operates an amusement  
13 ride or device without a valid certification is subject to the  
14 penalties provided in the Amusement Ride and Device Safety Act.

15 D. The department shall adopt and promulgate rules  
16 for renewal of an expired certification, including a late fee  
17 not to exceed twenty-five dollars (\$25.00) for each amusement  
18 ride or device whose certification has expired."

19 SECTION 8. A new Section 57-25-8 NMSA 1978 is enacted to  
20 read:

21 "57-25-8. [NEW MATERIAL] ADDITIONAL INSPECTION REQUIRED  
22 BY OWNER OR OPERATOR.--The owner or operator of an amusement  
23 ride or device shall inspect the amusement ride or device each  
24 day that the amusement ride or device will be in operation  
25 before a member of the public is permitted access to the

.212897.2

underscoring material = new  
~~[bracketed material] = delete~~

1 amusement ride or device. The owner or operator shall maintain  
2 a current log of the inspections and make the log available to  
3 the department or state or local law enforcement agencies  
4 during operating hours. The department may require reasonable  
5 supplemental inspections in addition to any required  
6 inspections to ensure the continued safety of an amusement ride  
7 or device, and may require that owner or operator have an  
8 inspector present at all times while amusement rides or devices  
9 are operating."

10 SECTION 9. A new Section 57-25-9 NMSA 1978 is enacted to  
11 read:

12 "57-25-9. ~~[NEW MATERIAL]~~ INFORMATION PLATE REQUIRED--  
13 CERTIFICATION STICKER REQUIRED.--For each amusement ride or  
14 device subject to the provisions of the Amusement Ride and  
15 Device Safety Act, an owner or operator shall ensure that the  
16 amusement ride or device:

17 A. has permanently affixed to its surface the  
18 correct manufacturer's information plate. The plate shall  
19 include:

20 (1) the serial number issued by the  
21 manufacturer as an identifying number or code;

22 (2) the amusement ride or device name and the  
23 manufacturer's name and address, including city, state and  
24 country;

25 (3) the model number, identifying number or

.212897.2

underscoring material = new  
~~[bracketed material] = delete~~

1 code assigned to each manufactured amusement ride or device;

2 (4) the month and year of manufacture;

3 (5) the recommended operating speeds for the  
4 amusement ride or device, including maximum and minimum  
5 revolutions per minute, feet per second or miles per hour, as  
6 applicable;

7 (6) the direction of travel if the proper  
8 direction of travel is essential to the operation of the  
9 amusement ride or device, including a reference point for this  
10 designation;

11 (7) the maximum individual passenger weight  
12 capacity by passenger position and the maximum total weight  
13 capacity for all passengers; and

14 (8) the passenger capacity by maximum number  
15 of adult or child passengers per passenger position and per  
16 amusement ride or device; and

17 B. has affixed visibly to its surface a valid  
18 department-issued certification sticker. The certification  
19 sticker shall include all information required by rule, but at  
20 a minimum shall include the name of the owner or operator, the  
21 amusement ride or device serial number, the date of the most  
22 recent inspection and the name of the approved inspector that  
23 conducted the inspection."

24 SECTION 10. A new Section 57-25-10 NMSA 1978 is enacted  
25 to read:

.212897.2

underscored material = new  
[bracketed material] = delete

1 "57-25-10. [NEW MATERIAL] INITIAL AND RENEWAL  
2 CERTIFICATION FEES.--An owner or operator of an amusement ride  
3 or device subject to the provisions of the Amusement Ride and  
4 Device Safety Act shall pay to the department a non-refundable  
5 initial certification and renewal fee not to exceed one hundred  
6 dollars (\$100) per amusement ride or device."

7 SECTION 11. A new Section 57-25-11 NMSA 1978 is enacted  
8 to read:

9 "57-25-11. [NEW MATERIAL] APPROVED INSPECTORS--  
10 REGISTRATION--QUALIFICATIONS--REGISTRATION FEE.--The department  
11 shall issue an approved inspector registration to any person  
12 who submits a completed application accompanied by a  
13 registration fee not to exceed fifty dollars (\$50.00), a  
14 current United States passport or state-issued driver's license  
15 or identification card and satisfactory evidence that the  
16 applicant holds:

- 17 A. a level I, II or III certification from the  
18 national association of amusement ride safety officials;  
19 B. a level II or III certification from the  
20 amusement industry manufacturers and suppliers international;  
21 C. a qualified inspector certification from the  
22 association for challenge course technology; or  
23 D. a general qualified inspector status or other  
24 similar qualification from a nationally recognized organization  
25 approved by the department to conduct inspections of amusement

.212897.2

underscoring material = new  
[bracketed material] = delete

1 rides or devices in accordance with industry standards and the  
2 manufacturer's recommendations and criteria."

3 SECTION 12. A new Section 57-25-12 NMSA 1978 is enacted  
4 to read:

5 "57-25-12. [NEW MATERIAL] FUND CREATED.--The "amusement  
6 ride and device safety fund" is created in the state treasury.  
7 The fund shall consist of all fees and penalties received by  
8 the department pursuant to the Amusement Ride and Device Safety  
9 Act. Money in the fund is appropriated to the department for  
10 the purpose of carrying out the provisions of the Amusement  
11 Ride and Device Safety Act. Money in the fund shall not revert  
12 to any other fund at the end of a fiscal year. Money in the  
13 fund shall be disbursed on warrants signed by the secretary of  
14 finance and administration pursuant to vouchers signed by the  
15 superintendent or the superintendent's authorized  
16 representative."

17 SECTION 13. A new Section 57-25-13 NMSA 1978 is enacted  
18 to read:

19 "57-25-13. [NEW MATERIAL] ENFORCEMENT POWERS--WARNING--  
20 IMMEDIATE TEMPORARY CESSATION OF OPERATION ORDERS.--

21 A. The department may issue a written warning to an  
22 owner or operator if:

23 (1) the department has reasonable cause to  
24 believe that the owner or operator is operating or leasing an  
25 amusement ride or device in this state without first obtaining

.212897.2

underscoring material = new  
~~[bracketed material] = delete~~

1 certification from the department; or

2 (2) the owner or operator, if certified, has  
3 violated a certification requirement not posing an imminent  
4 threat of injury to persons or damage to property.

5 B. A written warning shall contain a maximum time  
6 within which the owner or operator must obtain certification  
7 from the department or submit proof that the violation of a  
8 certification requirement has been corrected.

9 C. It is a violation of the Amusement Ride and  
10 Device Safety Act and the department shall issue a written  
11 order for the immediate, temporary cessation of operation of an  
12 amusement ride or device if the department determines that:

13 (1) the owner or operator does not hold a  
14 current policy of insurance;

15 (2) the owner or operator has not maintained  
16 inspections or obtained the proper certification of an  
17 amusement ride or device;

18 (3) an amusement ride or device is hazardous  
19 or unsafe or for any good cause within the meaning and purpose  
20 of the Amusement Ride and Device Safety Act, including failure  
21 to install or operate the amusement ride or device in  
22 compliance with the law or failure to comply with the minimum  
23 safety standards approved by the American society for testing  
24 materials international standards or the national electrical  
25 code; or

.212897.2

underscoring material = new  
~~[bracketed material]~~ = delete

1 (4) the owner or operator has failed to submit  
2 proof that a violation has been corrected within the time  
3 allowed pursuant to a written warning issued pursuant to  
4 Subsection B of this section.

5 D. An owner or operator shall not resume operation  
6 of an amusement ride or device that is subject to an immediate  
7 cessation order until the department issues a finding that the  
8 condition causing the violation has been corrected."

9 SECTION 14. A new Section 57-25-14 NMSA 1978 is enacted  
10 to read:

11 "57-25-14. [NEW MATERIAL] APPROVED INSPECTOR DISCIPLINE--  
12 REGISTRATION--NOTICE--HEARING PROCESS.--An individual denied an  
13 approved inspector registration or an individual whose approved  
14 inspector registration is suspended or revoked is entitled to  
15 notice and an opportunity for a hearing in accordance with the  
16 provisions of the Uniform Licensing Act."

17 SECTION 15. A new Section 57-25-15 NMSA 1978 is enacted  
18 to read:

19 "57-25-15. [NEW MATERIAL] CIVIL ENFORCEMENT--INJUNCTION--  
20 PENALTIES.--

21 A. The department may apply for an injunction in  
22 any court of competent jurisdiction to enjoin any person from  
23 continuing to operate an amusement ride or device in violation  
24 of Subsection C of Section 57-25-13 NMSA 1978. The attorney  
25 general or the district attorney in the district in which the

.212897.2

underscoring material = new  
~~[bracketed material]~~ = delete

1 violation occurred shall represent the department.

2 B. Upon application to a court of competent  
3 jurisdiction for the proper determination and enforcement of  
4 any provision of the Amusement Ride and Device Safety Act,  
5 including actions for injunctions and mandamus, the court may  
6 issue an order to restrain a person temporarily from engaging  
7 in the prohibited activity, including an order not to move an  
8 amusement ride or device. The court shall hear the matter and,  
9 upon a preponderance of the evidence that the person is not in  
10 compliance with the provisions of the Amusement Ride and Device  
11 Safety Act, the court shall enjoin the person from engaging in  
12 the prohibited activity.

13 C. The local law enforcement agency shall have the  
14 authority to enforce the provisions of the Amusement Ride and  
15 Device Safety Act. An owner or operator who does not maintain  
16 the required liability insurance on an amusement ride or  
17 device, operates an amusement ride or device or authorizes the  
18 operation of an amusement ride or device that does not have  
19 insurance, does not annually have the amusement ride or device  
20 inspected or has not obtained the proper certification from the  
21 department as set forth in the Amusement Ride and Device Safety  
22 Act is guilty of a misdemeanor, and upon conviction, the court  
23 shall impose a fine of up to one thousand dollars (\$1,000) per  
24 amusement ride or device for each day the ride or device was  
25 operated in violation of this subsection."

.212897.2



