

## **127th MAINE LEGISLATURE**

## FIRST REGULAR SESSION-2015

**Legislative Document** 

No. 1057

H.P. 726

House of Representatives, March 24, 2015

An Act To Increase the Safety of Amusement Rides

(EMERGENCY)

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative NUTTING of Oakland. Cosponsored by Senator KATZ of Kennebec and Representatives: HILLIARD of Belgrade, LAJOIE of Lewiston, THERIAULT of China, TIMMONS of Cumberland, WARREN of Hallowell.

- 1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not 2 become effective until 90 days after adjournment unless enacted as emergencies; and
- 3 **Whereas,** amusement rides must be regularly inspected to ensure the safety of the 4 public; and
- 5 **Whereas,** the authority of the Department of Public Safety, Office of the State Fire 6 Marshal to ensure the public safety and fulfill its responsibility to inspect amusement 7 rides was repealed pursuant to Public Law 2013, chapter 595, Part U, section 4; and
- 8 Whereas, immediately reinstating the State Fire Marshal's authority to inspect 9 amusement rides will ensure that inspections will proceed as soon as possible and before 10 the fair season begins; and
- 11 **Whereas,** in the judgment of the Legislature, these facts create an emergency within 12 the meaning of the Constitution of Maine and require the following legislation as 13 immediately necessary for the preservation of the public peace, health and safety; now, 14 therefore,
- 15 Be it enacted by the People of the State of Maine as follows:
- 16 Sec. 1. 8 MRSA c. 18 is enacted to read:
  - CHAPTER 18
- 18 PUBLIC EXHIBITIONS, TRAVELING SHOWS AND AMUSEMENTS
- 19 **§481. Definitions**

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- 20 <u>As used in this chapter, unless the context otherwise indicates, the following terms</u> 21 <u>have the following meanings.</u>
- 22 1. Amusement device. "Amusement device" means a device or combination of devices or elements that carry, convey or direct a person over or through a fixed or 23 24 restricted course or within a defined area for the primary purpose of amusement or entertainment, including but not limited to bungee jumping, water slides and havrides. 25 "Amusement device" does not include nonmechanized playground equipment or a coin-26 27 operated ride that is manually, mechanically or electrically operated, is customarily placed in a public location and does not normally require the supervision or services of an 28 29 operator.
- 30 2. Amusement show. "Amusement show" includes, but is not limited to, carnivals,
  31 thrill shows, ice shows, rodeos and circuses.
- 32 §482. Exhibitions, performances requiring license from municipality
- **1. Requirement.** A person must obtain a license in accordance with subsection 2 if
  that person, for money or other consideration, exhibits:
- 35 <u>A. Images;</u>

1	B. Pageantry;
2	C. Sleight of hand tricks;
3	D. A puppet show;
4	E. A circus;
5	F. A traveling amusement show;
6	G. A feat of balancing, wire dancing, personal agility or dexterity; or
7	H. A theatrical performance.
8 9	An exhibition or performance that takes place at a museum is not subject to the requirements of this section.
10 11	<b>2.</b> License. A municipality may grant a license for an exhibition or performance required pursuant to subsection 1.
12 13	<b>3.</b> Fine. A person who violates subsection 1 commits a civil violation for which a fine of not less than \$10 nor more than \$100 may be adjudged.
14	§483. Amusements requiring license from the State
15 16 17 18	<b>1.</b> License required. A traveling circus, traveling amusement show or amusement device may not operate or exhibit any parade, show or entertainment in this State without first obtaining a license from the Commissioner of Public Safety. A license application must include:
19 20	A. The name of the person or corporation using or operating the traveling circus, traveling amusement show or amusement device;
21 22 23	B. A statement of the proposed territory within the limits of the State and the names of the cities and towns in which the traveling circus, traveling amusement show or amusement device will operate or exhibit; and
24 25 26 27 28	C. A certificate of public liability insurance issued by an authorized insurer or approved surplus lines insurer pursuant to Title 24-A or any risk retention group registered in any state pursuant to 15 United States Code, Chapter 65 or through a purchasing group registered in any state pursuant to 15 United States Code, Chapter 65.
29 30 31 32 33 34	2. Safety; inspection. A license under this section is issued on the condition that if the traveling circus, traveling amusement show or amusement device is operated in a manner that is dangerous to the safety of the public, the Commissioner of Public Safety shall suspend the license until the danger is remedied. Breach of any condition in the license is a cause for immediate suspension or revocation of the license by the Commissioner of Public Safety.
35	<b>3.</b> Fee. The fee for a license issued pursuant to this section is as follows.
36 37	A. For carnivals, thrill shows, ice shows, rodeos or similar types of performances that are held indoors or outdoors and have amusement devices, the fee is \$50.

- 1 <u>B. For carnivals, thrill shows, ice shows, rodeos or similar types of performances</u> 2 that are held indoors or outdoors and do not have amusement devices, the fee is \$300.
- 3 <u>C. For circuses that are held outdoors or under tents or similar temporary cover or enclosure, the fee is \$500.</u>
- 5 D. For circuses held indoors in an auditorium, arena, civic center or similar type of 6 building, the fee is \$300.
- 7 E. For circuses produced in their entirety by a nonprofit, charitable organization a
  8 license is required but no fee is charged.

9 License fees must be credited to a special revenue account to defray expenses in carrying
 10 out this section. A balance of fees may not lapse but must be carried forward as a
 11 continuing account to be expended for the same purpose in subsequent fiscal years.

4. Amusement device license fee. The amusement device inspection fee is \$50 per
 amusement device, except that a traveling amusement show must pay an additional
 amusement device license fee for each amusement device in excess of 5 amusement
 devices.

16 5. Violation. A person who operates a traveling circus, traveling amusement show
 17 or amusement device in violation of this section commits a civil violation for which a fine
 18 of not more than \$1,000 may be assessed upon the owner of the traveling circus, traveling
 19 amusement show or amusement device.

## 20 <u>§484. Rulemaking</u>

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 The Commissioner of Public Safety shall adopt rules to implement this chapter.
 Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

24 **Emergency clause.** In view of the emergency cited in the preamble, this 25 legislation takes effect when approved.

## SUMMARY

Public Law 2013, chapter 595, Part U, section 4 repealed the Maine Revised Statutes, Title 8, chapter 19, which governed the licensing of exhibitions, performances and amusement shows, including the authority of the Department of Public Safety, Office of the State Fire Marshal to inspect amusement shows and amusement devices. This bill restores the repealed language and specifies that a hayride is included within the definition of an "amusement device" over which the Department of Public Safety, Office of the State Fire Marshal has licensing and inspection authority.