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No. 697

H.P. 473

House of Representatives, March 5, 2015

**An Act To Restore Public Safety Programs in the Department of
Public Safety and the Department of Professional and Financial
Regulation**

(EMERGENCY)

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

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

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative LAJOIE of Lewiston.
Cosponsored by Senator BURNS of Washington.

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,** this legislation needs to take effect before the expiration of the 90-day
4 period to enhance public safety by restoring regulation of boilers in schools and other
5 structures used by schools and by providing for private sector inspection of amusement
6 rides; and

7 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
8 the meaning of the Constitution of Maine and require the following legislation as
9 immediately necessary for the preservation of the public peace, health and safety; now,
10 therefore,

11 **Be it enacted by the People of the State of Maine as follows:**

12 **PART A**

13 **Sec. A-1. 32 MRSA §15102, sub-§1, ¶E,** as amended by PL 2013, c. 595, Pt. U,
14 §11, is further amended to read:

15 E. Steam heating boilers, hot water heating boilers and hot water supply boilers,
16 except boilers located in schoolhouses, constructed and installed in accordance with
17 the rules adopted by the director; or

18 **PART B**

19 **Sec. B-1. 8 MRSA c. 18** is enacted to read:

20 **CHAPTER 18**

21 **AMUSEMENT RIDES AND SHOWS**

22 **§471. Definitions**

23 As used in this chapter, unless the context otherwise indicates, the following terms
24 have the following meanings.

25 **1. Amusement ride.** "Amusement ride" means a device or combination of devices
26 or elements that carry, convey or direct a person over or through a fixed or restricted
27 course or within a defined area for the primary purpose of amusement or entertainment.
28 "Amusement ride" does not include nonmechanized playground equipment or a coin-
29 operated ride that is manually, mechanically or electrically operated, is customarily
30 placed in a public location and does not normally require the supervision or services of an
31 operator.

32 **2. Amusement show.** "Amusement show" means a fixed or traveling show, whether
33 held indoors or outdoors, for which admission is charged and that is designed to provide
34 amusement to members of the public, except that "amusement show" does not include a
35 circus. "Amusement show" includes but is not limited to a carnival, thrill show, ice show
36 and rodeo.

1 **3. ASTM standards.** "ASTM standards" means standards for amusement rides
2 established by American Society for Testing and Materials International or a successor
3 organization and adopted by the commissioner by rule.

4 **4. Certified amusement ride inspector.** "Certified amusement ride inspector"
5 means an individual who holds a valid amusement ride inspector certificate pursuant to
6 section 473.

7 **5. Commissioner.** "Commissioner" means the Commissioner of Public Safety.

8 **6. Operator.** "Operator" means an individual having direct control of the starting,
9 stopping or speed of an amusement ride.

10 **7. Owner.** "Owner" means a person who owns or leases or manages the operation of
11 an amusement ride.

12 **8. Rider.** "Rider" means a customer of an amusement ride. "Rider" includes a
13 customer of an amusement ride who is waiting in the vicinity to get on the amusement
14 ride and a departing customer who is still in the vicinity of the amusement ride.

15 **§472. Amusement rides**

16 **1. Inspection required.** An amusement ride must be inspected at least once
17 annually by a certified amusement ride inspector.

18 A. In order to be operated in this State, an amusement ride must comply with the
19 applicable ASTM standards for that amusement ride.

20 B. An amusement ride that is not operated in the State on a year-round basis must be
21 inspected in the same calendar year in which the amusement ride is operated in the
22 State, prior to either July 1st or the first operation of the amusement ride in the State,
23 whichever is sooner.

24 C. An amusement ride that does not pass an inspection or reinspection required by
25 this section must pass a reinspection in the same calendar year before being operated
26 in the State.

27 D. If an inspection reveals that an amusement ride does not meet the applicable
28 ASTM standards, a certified amusement ride inspector shall notify the owner of all
29 defects.

30 E. An operator may not operate an amusement ride unless:

31 (1) The amusement ride passed the most recent annual inspection required by
32 this section; or

33 (2) All defects identified during the most recent annual inspection have been
34 corrected and the amusement ride passes reinspection.

35 F. Before an amusement ride may be operated, a certified amusement ride inspector
36 must affix to the amusement ride an inspection decal, received from the Office of the
37 State Fire Marshal pursuant to subsection 4, that contains the date the amusement ride
38 passed inspection and a certification number.

1 G. A certified amusement ride inspector shall file an affidavit of inspection with the
2 Office of the State Fire Marshal within 10 days after completion of an inspection. The
3 affidavit must contain:

4 (1) The amusement ride owner's name;

5 (2) The name of the amusement ride;

6 (3) The name of the manufacturer of the amusement ride;

7 (4) The serial number of the amusement ride;

8 (5) The date of inspection; and

9 (6) The certified amusement ride inspector's name and certification number.

10 H. An amusement ride that has been modified or altered in a manner that changes its
11 dynamics or control system from that of the original manufacturer's design or
12 specification since its most recent annual inspection must be inspected by a certified
13 amusement ride inspector before it may be operated in the State.

14 I. Following a serious injury or illness involving an amusement ride, the amusement
15 ride must be inspected by a certified amusement ride inspector and approved by the
16 commissioner before it may be operated in the State. As used in this paragraph,
17 "serious injury or illness" means an injury or illness that results in death,
18 dismemberment, disfigurement, compound fracture of a body part or permanent loss
19 of the use of a body part or organ, function or system or that requires hospital
20 admission within 24 hours of the occurrence of the injury or illness involving the
21 amusement ride.

22 J. An owner or operator shall make an amusement ride available for inspection at all
23 reasonable times and places upon request of a certified amusement ride inspector.

24 **2. Insurance requirements.** An owner shall provide a certified amusement ride
25 inspector with a copy of a certificate of public liability insurance in a minimum amount
26 of \$1,000,000 at the time of inspection.

27 **3. Operator requirements.** An owner must have a documented training policy for
28 the operation of each amusement ride owned by the owner. The owner shall maintain a
29 written certification for each operator, providing documented proof that the operator has
30 received the training required by the training policy for the amusement ride.

31 **4. Inspection decals.** The Office of the State Fire Marshal shall furnish inspection
32 decals to certified amusement ride inspectors.

33 A. Inspection decals remain the property of the Office of the State Fire Marshal.

34 B. The commissioner shall establish by rule the fee for an inspection decal.

35 C. A certified amusement ride inspector shall stock a sufficient number of inspection
36 decals to meet demands.

37 D. Within 20 working days of the end of a calendar year or upon the revocation of a
38 certified amusement ride inspector's certification, the certified amusement ride
39 inspector shall return unused inspection decals to the Office of the State Fire Marshal.

1 which shall issue a refund of any fees paid under paragraph B or, if applicable,
2 exchange the unused inspection decals for inspection decals valid for the next
3 calendar year.

4 **5. Recording and reporting.** An owner shall maintain a first aid incident report log
5 for all rider injuries or illnesses, other than minor injuries or illnesses, resulting from the
6 operation of an amusement ride. The report log must include the following:

7 A. The date the injury or illness occurred;

8 B. The name, address and telephone number of the rider who received first aid
9 service or treatment;

10 C. The age of the rider;

11 D. The manufacturer and serial number of the amusement ride involved in the injury
12 or illness;

13 E. A description of the injury or illness;

14 F. A description of any first aid service or treatment administered; and

15 G. Any other information considered pertinent by the owner.

16 **6. Violation.** A person who operates an amusement ride in violation of this section
17 commits a civil violation for which a fine of not more than \$1,000 may be assessed upon
18 the owner of the amusement ride.

19 **§473. Amusement ride inspectors; certification; penalties**

20 **1. Requirements.** To receive an amusement ride inspector certificate from the
21 commissioner, an applicant must:

22 A. Hold one or more of the following valid certifications:

23 (1) An intermediate or advanced certification as an amusement ride inspector
24 issued by a national association of amusement ride safety officials; or

25 (2) An intermediate or advanced certification as an amusement ride inspector
26 issued by a national organization of manufacturers and suppliers for the
27 amusement ride industry; and

28 B. Be 21 years of age or older.

29 **2. Application.** In order to become a certified amusement ride inspector, an
30 applicant must submit a completed application form to the Office of the State Fire
31 Marshal, on a form provided by that office, along with:

32 A. Documented proof of certification required under subsection 1, paragraph A; and

33 B. An application fee established by the commissioner by rule.

34 **3. Violation.** An individual commits a Class E crime if that individual knowingly:

35 A. Provides false information in applying for an amusement ride inspector
36 certificate; or

1 B. Affixes an inspection decal to an amusement ride that has not passed an
2 inspection or reinspection in accordance with section 472, subsection 1.

3 **§474. Amusement ride inspection fee**

4 The amusement ride inspection fee is \$75 per instructor per hour with a minimum
5 charge of \$75.

6 **§475. Amusement shows**

7 **1. License required.** A person may not operate an amusement show without first
8 obtaining a license from the commissioner. A license application must include the
9 following:

10 A. A certificate of public liability insurance in an amount established by the
11 commissioner by rule; and

12 B. An application to operate approved by the Office of the State Fire Marshal.

13 **2. License fee.** The license fee to operate an amusement show is \$300 annually.

14 **3. Violation.** A person who operates an amusement show in violation of this chapter
15 commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

16 **§476. Traveling circus and amusement devices**

17 **1. License required.** A traveling circus may not operate or exhibit any parade, show
18 or entertainment in this State without first obtaining a license from the commissioner for
19 each calendar year. An amusement device may not be operated in this State without first
20 obtaining a license from the commissioner. A license application must include the
21 following:

22 A. The name of the person or corporation using or operating the traveling circus or
23 amusement device;

24 B. A statement of proposed territory within the limits of the State including the
25 names of the cities and towns in which the traveling circus or amusement device is to
26 exhibit or operate; and

27 C. A certificate of public liability insurance in an amount to be determined by the
28 commissioner, issued by an authorized insurer or approved surplus lines insurer
29 pursuant to Title 24-A or any risk retention group registered in any state pursuant to
30 15 United States Code, Chapter 65 or through a purchasing group registered in any
31 state pursuant to 15 United States Code, Chapter 65.

32 Upon receipt of the application, accompanied by a certificate of public liability insurance
33 and, for a traveling circus required to pay a license fee under subsection 2, payment of the
34 required fee, the commissioner shall issue a license.

35 **2. License fees.** The following license fees apply.

36 A. For traveling circuses that are held outdoors or under tents or similar temporary
37 cover or enclosure, the fee is \$500.

1 B. For traveling circuses held indoors in an auditorium, arena, civic center or similar
2 type building, the fee is \$300.

3 For traveling circuses produced in their entirety by a nonprofit charitable organization, a
4 license is required but no fee is charged.

5 **3. Inspection fee.** An amusement device may be inspected as determined by the
6 commissioner. The amusement device inspection fee is \$75 per inspector per hour with a
7 minimum charge of \$75.

8 For purposes of this section, "amusement device" means a device by which a person
9 is carried or conveyed or is allowed to move on, around or over a fixed course within a
10 defined area intended to thrill, excite or amuse, including, but not limited to, bungee
11 jumping and water slides, regardless of whether a fee to use the device is charged.
12 "Amusement device" does not include an amusement ride, vehicle or device the operation
13 of which is regulated as to safety by any other provision of law, except a municipal
14 ordinance under Title 30-A, section 3001, or any coin-operated amusement device on a
15 nonmoving base that is designed to accommodate one child.

16 **§477. Rulemaking**

17 The commissioner shall adopt rules to implement this chapter. Rules adopted
18 pursuant to this section are routine technical rules pursuant to Title 5, chapter 375,
19 subchapter 2-A.

20 **Sec. B-2. 8 MRSA §658,** as amended by PL 2013, c. 595, Pt. U, §5, is further
21 amended to read:

22 **§658. Unincorporated places**

23 County commissioners within their counties and counties within their limits shall
24 respectively exercise over unincorporated places all the powers of municipal officers and
25 towns under chapters ~~3, 7 and 18~~ 20 to 25.

26 **Sec. B-3. 8 MRSA §701,** as amended by PL 2013, c. 595, Pt. U, §6, is further
27 amended to read:

28 **§701. Jurisdiction**

29 All penalties provided in chapters 3, 7 and ~~18~~ 20 to 25 must be recovered by
30 complaint for the use of the town where incurred.

31 **Sec. B-4. 22 MRSA §1607,** as amended by PL 2013, c. 595, Pt. U, §8, is further
32 amended to read:

33 **§1607. Application**

34 This chapter does not apply to fairs licensed, defined and regulated under Title 7,
35 chapter 4, or military activities. It does not apply to persons, associations, corporations,
36 trusts or partnerships licensed under Title 8, ~~chapter~~ chapters 11 and 18.

