

CARNIVAL AND AMUSEMENT RIDES

House Bill 5509 as introduced First Analysis (5-30-00)

Sponsor: Rep. Tony Stamas
**Committee: Conservation and Outdoor
Recreation**

THE APPARENT PROBLEM:

Current law provides for the regulation of carnival and amusement rides under the Carnival-Amusement Safety Act of 1966. While these regulations provide for the inspection of such rides for safety purposes and to check the structural soundness of the rides, there are no regulations outlining the responsibility of patrons. Operators of such rides report that they face an ongoing and increasing problem from lawsuits by individuals who claim to have been injured while riding carnival or amusement rides. According to operators, many of these injuries may be due to the patron's failure to obey the safety rules for the ride or are simply fraudulent. What is needed, say operators, is legislation that would both place some responsibility for obeying the safety rules on patrons and that would ensure that if injuries occur they are promptly reported.

THE CONTENT OF THE BILL:

The bill would amend the Carnival-Amusement Safety Act to add language specifying responsibilities of riders and operators of carnival or amusement rides.

Rider responsibilities. The bill would require the rider of an amusement ride to adhere to certain requirements. ("Rider" would be defined to mean a person waiting in the immediate vicinity of a ride to get on the ride, as well as a person using the ride, getting on or off the ride, or leaving a ride but still in the immediate vicinity.) A rider would have to, at a minimum, do all of the following:

- obey the reasonable safety rules posted, and oral instructions given by the operator (unless those rules or instructions were contrary to the safety rules in the act);
- refrain from acting in any manner that may cause or contribute to the injury of himself or herself or others, including such things as exceeding the limits of the person's ability; interfering with, failing to use, or disconnecting safety devices; altering the intended speed, course or direction of a ride; extending arms or

legs beyond the carrier or seating area; throwing or dropping objects from or toward a ride; getting on or off at other than the designated time and place; not reasonably controlling the speed or direction of the ride or the rider's body (when the ride requires that); or in any way interfering with the operation of the ride.

In addition, a rider could not get on or attempt to get on a ride unless the rider (or his or her parent or guardian) reasonably determined that the rider:

- has sufficient knowledge to get on, use, and get off the ride safely;
- has read and understands any applicable signs and meets any posted height, medical, or other requirements;
- knows the range and limits of his or her ability and that the ride will not exceed those limits;
- is not under the influence of alcohol or any drug that affects his or her ability to safely use the ride or obey the rules or instructions; and
- is authorized by the operator to get on the ride.

Reporting injuries. Before leaving the operator's premises, a rider (or his or her parent or guardian) would be required to report in writing to the operator or an employee, on a form provided by the operator or employee, any injury sustained on the rider. The report would have to include the injured person's name, address, and telephone number; a brief description of the incident, the injury claimed, and the location, date, and time of the injury; the cause of the injury, if known; and the name, address, and telephone number of any witness. If the rider or his or her parent or guardian was unable to file a report because of the severity of the injury, the report would have to be filed as soon as reasonably possible.

Failure to file a report under this provision would not affect the rider's right to bring a civil action related to the incident.

Operator responsibilities. The bill would require the operator of a carnival or amusement ride to display signs indicating the applicable rider safety responsibilities listed in the bill and the location of stations to report injuries (signs would have to be posted at stations for reporting injuries, first aid stations, at every ride, and at from two to four other locations on the premises [depending on the number of entrances or exits for riders], including any entrance or exit most commonly used by riders).

In addition, the bill would require a sign to be posted at each carnival ride, prominently displayed at a conspicuous location, clearly visible to the public, and bold and legible in design. Each sign would have to include operational instructions, safety guidelines for riders, restrictions on the use of the ride, behavior or activities that are prohibited, and a legend that states:

State law requires riders to obey all warnings and directions for carnival or amusement rides and behave in a manner that will not cause or contribute to the injury or themselves or others. Riders must report injuries prior to leaving the premises. Failure to comply is punishable as provided by law.

(A violation of the act [which currently applies only to operators of amusement rides] is a misdemeanor.)

MCL 408.652 et al.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

According to proponents of the bill, as many as 16 other states have some form of rider safety regulations. Adopting these regulations in Michigan will help to ensure the safety of patrons and help to protect amusement ride owners in lawsuits by encouraging more prompt notice of injuries. Many times when a lawsuit is filed against an amusement ride operator, the filing of the lawsuit is the first notice they have that an injury occurred. By this time it is difficult for the operator to fully investigate what allegedly occurred. Requiring the injured party to promptly report an injury will allow an operator to promptly investigate and

discuss the incident with witnesses while it is still fresh in their minds. Not only will this help the operator to prepare a defense, this may also help to discourage fraudulent claims by creating the implication that, if the alleged injury was not reported, it may not have occurred.

In addition, requiring that safety guidelines be posted and that patrons follow those guidelines may help to eliminate the risk of some injuries. This is particularly true, given that the federal government's Consumer Product Safety Commission has reported that as many as 70 percent of amusement ride incidents are caused by patrons.

Response:

It should be noted that a violation of the Carnival-Amusement Safety Act is a misdemeanor (this penalty was included in the act to apply to operators who fail to maintain and operate rides in a safe manner). By adding requirements for patrons to the act, the bill would also subject riders to criminal penalties for, for instance, sticking their arms out of a ride, or, failing to report an injury before leaving the carnival.

POSITIONS:

Representatives from the Outdoor Amusement Business Association, Inc. and the Michigan Association of Fairs testified in support of the bill. (5-25-00)

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.