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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4278

(By Delegates Fletcher, Anderson, Webster,
Hrutkay, Amores and Michael)



Passed February 27, 2002

In Effect Ninety Days from Passage

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FOR

H. B. 4278

(BY DELEGATES FLETCHER, ANDERSON, WEBSTER,
HRUTKAY, AMORES AND MICHAEL)

[Passed February 27, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, fourteen and fifteen, article ten, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto four new sections, designated sections twelve-a, sixteen, seventeen and eighteen, all relating to amusement ride safety; defining terms; providing a criminal penalty for any person who operates or assembles an amusement ride while intoxicated; requiring notice of conviction be forwarded to commissioner of labor; allowing suspension and revocation of permits; establishing minimum age for amusement ride operators; providing civil penalties; and requiring deposit of civil penalties in special revenue account.

Be it enacted by the Legislature of West Virginia:

That sections two, fourteen and fifteen, article ten, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto four new sections, designated sections twelve-a, sixteen, seventeen and eighteen, all to read as follows:

**ARTICLE 10. AMUSEMENT RIDES AND AMUSEMENT ATTRACTIONS
SAFETY ACT.**

§21-10-2. Definitions.

1 As used in this article:

2 (a) "Amusement ride" means a mechanical device which
3 carries or conveys passengers along, around or over a fixed or
4 restricted route or course for the purpose of giving its passen-
5 gers amusement, pleasure, thrills or excitement. The term
6 includes carnival rides and fair rides of a temporary or portable
7 nature which are assembled and reassembled or rides which are
8 relocated from place to place. "Amusement ride" may not be
9 construed to mean any mechanical device which is coin
10 operated and does not include the operation of a ski lift, the
11 operation of tramways at state parks, the operation of vehicles
12 of husbandry incidental to any agricultural operations or the
13 operation of amusement devices of a permanent nature which
14 are subject to building regulations issued by cities or counties
15 and existing applicable safety orders;

16 (b) "Amusement attraction" means any building or structure
17 around, over or through which people may move or walk
18 without the aid of any moving device integral to the building or
19 structure that provides amusement, pleasure, thrills or excite-
20 ment, including those of a temporary or portable nature which
21 are assembled and reassembled or which are relocated from
22 place to place. The term does not include any enterprise
23 principally devoted to the exhibition of products of agriculture,

24 industry, education, science, religion or the arts and shall not be
25 construed to include any concession stand or booth for the
26 selling of food or drink or souvenirs;

27 (c) "Intoxicated" means influenced or affected by the
28 ingestion of alcohol, a controlled substance, any intoxicant or
29 any combination of alcohol, controlled substances and intoxi-
30 cants.

31 (d) "Mobile amusement ride or mobile amusement attrac-
32 tion" means an amusement ride or amusement attraction which
33 is erected in a single physical location for a period of less than
34 twelve consecutive months;

35 (e) "Operator" means the person having direct control of
36 the starting, stopping and speed of an amusement ride or
37 attraction.

38 (f) "Owner" means any person, corporation, partnership, or
39 association who owns an amusement ride or attraction or, in the
40 event that the amusement ride or attraction is leased, the lessee.

41 (g) "Stationary amusement ride or stationary amusement
42 attraction" means an amusement ride or amusement attraction
43 that is erected in a single physical location for a period of more
44 than twelve consecutive months.

§21-10-12a. Minimum age for operating amusement ride.

1 No individual under the age of eighteen may be the operator
2 of an amusement ride or attraction.

§21-10-14. Criminal penalty for violation.

1 Any operator or owner who knowingly permits the opera-
2 tion of an amusement ride or amusement attraction in violation
3 of the provisions of sections six, seven, eight, nine, eleven,

4 twelve or twelve-a of this article is guilty of a misdemeanor
5 and, upon conviction thereof, shall be fined not less than two
6 hundred fifty dollars nor more than one thousand dollars,
7 confined in the county or regional jail not more than twelve
8 months, or both. Each day that a violation continues shall be
9 considered a separate violation.

**§21-10-15. Operating or assembling an amusement ride while
intoxicated; criminal penalty.**

1 (a) A person may not operate or assemble an amusement
2 ride or attraction while intoxicated.

3 (b) A person who violates subsection (a) of this section is
4 guilty of a misdemeanor and, upon conviction thereof, shall be
5 fined not less than one thousand dollars and not more than two
6 thousand five hundred dollars, or confined in the county or
7 regional jail for not less than thirty days and not more than one
8 year, or both.

9 (c) The clerk of the magistrate court or circuit court in
10 which a person is convicted of a violation of this section shall
11 notify the commissioner within ten days of the conviction.

§21-10-16. Revocation and suspension of permits.

1 The commissioner may revoke or temporarily suspend the
2 permit to operate issued pursuant to the provisions of section
3 seven of this article to an owner or employee or contractor of an
4 owner is convicted of, or enters a guilty plea or a plea of nolo
5 contendere to, a violation of subsection (a), section fifteen of
6 this article.

§21-10-17. Civil penalties for violations.

1 (a) If an individual is convicted of, or enters a guilty plea or
2 a plea of nolo contendere to, a violation of subsection (a),

3 section fifteen of this article, and the individual was not the
4 owner of the ride being operated or assembled, the commis-
5 sioner may impose a civil penalty not to exceed five thousand
6 dollars on the owner of the ride being operated or assembled.

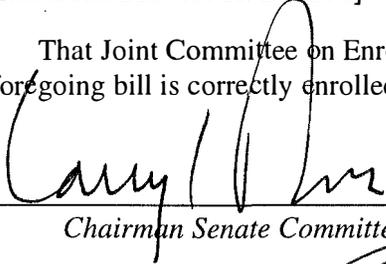
7 (b) All civil penalties collected by the commissioner shall
8 be deposited into the amusement rides and amusement attrac-
9 tions safety fund created in section four of this article.

§21-10-18. Continuing authority of state fire marshal.

1 Nothing in this article shall be construed to be in conflict
2 with or to in any way limit the authority of the state fire marshal
3 under the provisions of article three, chapter twenty-nine of this
4 code pertaining to fire prevention and control.

Enr. Com. Sub. for H. B. 4278] 6

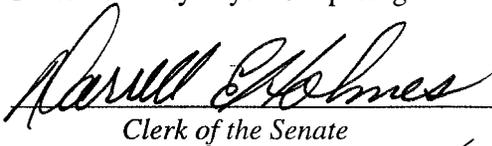
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

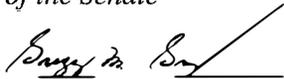

Chairman Senate Committee


Chairman House Committee

Originating in the House.

In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 17th
day of March, 2002.

Governor

PRELIMINARY

CUSTOMER

Date: 2/1/02
Time: 1:45 pm