

GREEN SHEET REDIGEST

HB 464

2019 Regular Session

Berthelot

AMUSEMENT PARKS: Provides relative to inflatable amusement devices, amusement attractions, and amusement rides

DIGEST

Present law defines "ASTM", "operate", "operator", and "ride operator". Proposed law retains present law but adds to the definitions.

Proposed law defines "audit", "child amusement attraction or amusement ride" or "kiddie amusement attraction or amusement ride", "adult attraction or ride", and "event".

Proposed law requires an owner of inflatable amusement devices, amusement attractions, or amusement rides to notify the office of the state fire marshal (fire marshal) if a plate or decal is lost or damaged. Proposed law provides that any plate that is lost or damaged shall be decommissioned, and prior to receiving a new plate or decal, the owner is required to return the damaged plate or decal to the fire marshal and pay the fee.

Present law sets the fee to replace a lost or damaged plate or decal at \$30.00. Proposed law retains present law.

Present law provides that, in order to operate amusements in the state, an operator must have a certificate of inspection provided by a third-party inspector and a certificate of registration issued by the fire marshal to an operator of the inflatable amusement device, amusement attraction, or amusement ride. Proposed law changes this requirement and provides that the operator must instead have a current certificate of registration, valid registration plate, and registration decal issued by the state fire marshal.

Proposed law provides for manufacturer's recommendations and specifications relative to the inspection of inflatable amusement devices, amusement attractions, and amusement rides.

Present law requires the third party inspector, upon completion of each inspection, to submit a certificate of inspection to the fire marshal. Proposed law retains present law and adds a requirement that the inspector also submit a certificate of inspection to the owner.

Present law requires the fire marshal, upon notification by a third-party inspector of non-compliance of an inflatable amusement device, amusement attraction, or amusement ride, to issue a cease and desist to the operator and to lift the cease and desist order only when the deficiencies have been remedied to the satisfaction of the state fire marshal. Proposed law retains present law but provides that the fire marshal may also issue a cease and desist to the owner indicating that operation of the inflatable amusement device, amusement attraction, or amusement ride, which does not comply, is to immediately cease in the state of La.

Proposed law requires the fire marshal to lift any cease and desist order and issue registration plates or registration decals, if applicable, for the inflatable amusement devices, amusement attractions, or amusement rides only when the deficiencies have been remedied to the satisfaction of a third party inspector and proof of satisfaction is submitted to the fire marshal.

Present law provides that an operator who notifies the fire marshal of his intent to commence operation of an amusement ride or amusement attraction fewer than five days prior to commencing operation shall be fined \$250.00 per ride or attraction. Proposed law retains present law but changes the fine from \$250.00 to the following:

- (1) \$50.00 per ride or attraction for the first offense.
- (2) \$75.00 per ride or attraction for the second offense.

(3) \$200.00 per ride or attraction for the third offense.

(4) \$250.00 per ride for each additional offense.

Proposed law provides that in determining the number of offenses that have occurred, only offenses occurring over a three year period preceding the offense at issue shall be considered.

Present law provides that prior to operating any new amusement ride or amusement attraction, the operator shall notify the fire marshal of his intent to commence operation and register the amusement ride or attraction. Proposed law retains present law and prohibits the operator from operating the amusement ride or attraction until the owner has registered the ride or attraction as required in present law.

Present law requires the fire marshal, or his designee, to inspect amusement rides, amusement attractions, or inflatable amusement devices operating at a fixed operation location for more than one year. Proposed law removes the condition that the amusements operate for more than one year, and extends the inspection requirement to amusements operating at a fixed operation location.

Proposed law changes the frequency of the inspection from at least once annually to no more than once annually. Proposed law allows more frequent inspections, if the additional inspections are in furtherance of an investigation arising from a reported ride accident or pursuant to a complaint.

Present law provides that an operator who notifies the fire marshal of his intent to commence operation of an inflatable amusement ride fewer than five days prior to commencing operation shall be fined \$200.00 per device. Proposed law retains present law but changes the fine from \$200.00 to the following:

(1) \$25.00 per ride or attraction for the first offense.

(2) \$50.00 per ride or attraction for the second offense.

(3) \$150.00 per ride or attraction for the third offense.

(4) \$200.00 per ride for each additional offense.

Proposed law provides that in determining the number of offenses that have occurred, only offenses occurring over a three year period preceding the offense at issue shall be considered.

Present law provides that prior to operating any new inflatable amusement device, the operator shall notify the fire marshal of his intent to commence operation and register the amusement ride or attraction. Proposed law retains present law and prohibits the operator from operating the inflatable amusement device until the owner has registered the device as required in present law.

Present law requires an owner or operator to have a set-up inspection conducted on all inflatable amusement devices, amusement attractions, and amusement rides at least once prior to their operation at each event in the state. Proposed law removes the requirement from the owner and limits the requirement to the operator.

Present law allows the set-up inspection to be conducted by a third-party inspector or an employee of the owner or operator. Proposed law only allows the set-up inspection to be conducted by a third-party inspector or an employee of the operator.

Present law provides that a set-up inspection includes a review of all necessary documents, observation and examination of the assembly, set-up, and operation, and an inspection of the foundation, blocking, fuel containers, and mechanical and electrical condition. Proposed law repeals present law.

Present law requires a third-party inspector, who engages in third-party inspections as described in present law to be currently certified by National Association of Amusement

Ride Safety Officials (NAARSO) with a Level 1 certification or the equivalent. Proposed law requires a third-party inspector, who engages in third-party inspections as described in present law to be currently certified by NAARSO with a Level 1 or greater certification or the equivalent.

Present law prohibits a person or firm from engaging in the operation of an inflatable amusement device, amusement attraction, or amusement ride unless the person or firm holds a current and valid license issued by the fire marshal. Proposed law excludes ride operators from the prohibition.

Present law prohibits a person or firm from assisting any unlicensed person or firm in the engagement of any testing or inspecting of an inflatable amusement device, amusement attraction, or amusement ride when the person or firm knew or should have known the latter person or firm was unlicensed. Proposed law removes the prohibition on assisting the unlicensed person or firm in the engagement of any testing or inspecting of the amusements and imposes a prohibition on assisting the unlicensed person or firm in the operation of the amusements.

Present law requires an applicant for an operating firm license to submit to the fire marshal, documentation that the firm is an entity duly authorized to conduct business within this state and provides procedural requirements. Proposed law repeals present law.

Proposed law requires a firm to notify the fire marshal within ten days of the termination of a licensed employee.

Present law requires the fire marshal to conduct inspections and perform audits to ensure compliance with present law and investigate at reasonable times, and within reasonable limits and manner, inflatable amusement devices, amusement attractions, or amusement rides in any area where they are assembled or in use. Proposed law retains present law and also requires inspections and audits in any area where the amusements are maintained, stored, or serviced.

Present law provides for a qualified endorsement licensing fee and renewal fee. Proposed law repeals present law.

Present law provides that there are no fees associated with compliance inspections and audits performed by the fire marshal. Proposed law retains present law and extends the no fee provision to include any inspection and audit performed by the fire marshal.

Present law requires an operator to provide to any sponsor, lessor, landowner, or other person responsible for the offering of an amusement ride or attraction for public use a copy of the required insurance policy or bond and the certificate of registration issued by the fire marshal. Proposed law retains present law but provides that the operator only has to provide the documentation upon request.

Present law provides that if the state fire marshal finds that any person, operator, or firm has violated any provision of present law, he may impose a fine of up to \$5,000 for each violation. Proposed law retains present law and adds inspectors to the list of persons who may be fined.

Present law allows the fire marshal to issue an order to any person, operator, or firm engaged in any activity, conduct, or practice constituting a violation of any provision of present law to cease and desist from the activity, conduct, or practice. Proposed law retains present law and adds inspectors to the list of persons subject to being issued the order to cease and desist.

Present law allows the fire marshal to seek an injunction against any person, operator, or firm who fails to comply with a cease and desist. Proposed law retains present law and adds inspectors to the list of persons who are subject to an injunction.

Present law provides that, upon showing by the fire marshal that a person, operator, or firm has engaged in activity prohibited by present law, the court shall issue a temporary restraining order pending the hearing on a preliminary injunction, and in due course issue a

permanent injunction. Proposed law retains present law and adds inspectors to the list of persons who the court shall issue a restraining order against.

(Amends R.S. 40:1484.3(4), (15), (16), and (18), 1484.4(D), 1484.5, 1484.6(B), (D), (E)(2) and (3), 1484.7(B), (D), (E)(2) and (3), and (F), 1484.8, 1484.9(A), 1484.10, 1484.11(A) and (B), 1484.13(B)(6), (C), and (G), 1484.15(B) and (C), 1484.16(7), 1484.18(D) and (K), 1484.19(3), 1484.22, 1484.23(A)(intro. para.), (C), and (D), and 1484.24(A) and (B)(1), (2), and (3); Adds R.S. 40:1484.3(24) - (27))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Makes technical changes.

The House Floor Amendments to the engrossed bill:

1. Makes technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Consumer Protection, and International Affairs

1. Makes technical changes.
2. Revises language concerning three-year period.