

2019 Regular Session

HOUSE BILL NO. 464

BY REPRESENTATIVE BERTHELOT

1 AN ACT

2 To amend and reenact R.S. 40:1484.3(4), (15), (16), and (18), 1484.4(D), 1484.5, 1484.6(B),
3 (D), (E)(2) and (3), 1484.7(B), (D), (E)(2) and (3), and (F), 1484.8, 1484.9(A),
4 1484.10, 1484.11(A) and (B), 1484.13(B)(6), (C), and (G), 1484.15(B) and (C),
5 1484.16(7), 1484.18(D) and (K), 1484.19(3), 1484.22, 1484.23(A)(introductory
6 paragraph),(C), and (D), and 1484.24(A) and (B)(1), (2), and (3) and to enact R.S.
7 40:1484.3(24) through (27), relative to inflatable amusement devices, amusement
8 attractions, and amusement rides; to provide for definitions; to provide for lost or
9 damaged registration plates or decals; to require a person to obtain certain
10 registration materials; to provide for manufacturer's recommendations and
11 specifications relative to inspections; to require a certificate of inspection be
12 submitted to an owner; to provide for the issuance and lifting of an order to cease and
13 desist by the office of the state fire marshal; to change the amount of certain fines;
14 to prohibit operation prior to registration; to provide for inspections of amusements
15 operating at a fixed operating location; to provide for set-up inspections; to provide
16 for inspector certifications; to provide a licensing exception for ride operators; to
17 prohibit assisting unlicensed persons in certain activities relative to amusements; to
18 require a firm to notify the office of state fire marshal of the termination of a licensed
19 employee; to provide for inspections and audits; to remove certain fees; to allow an
20 operator to provide certain documents only upon request; to provide for the office
21 of the state fire marshal's authority over inspectors; to provide for restraining orders
22 and permanent injunctions; to make technical changes; and to provide for related
23 matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 40:1484.3(4), (15), (16), and (18), 1484.4(D), 1484.5, 1484.6(B),
3 (D), (E)(2) and (3), 1484.7(B), (D), (E)(2) and (3), and (F), 1484.8, 1484.9(A), 1484.10,
4 1484.11(A) and (B), 1484.13(B)(6), (C), and (G), 1484.15(B) and (C), 1484.16(7),
5 1484.18(D) and (K), 1484.19(3), 1484.22, 1484.23(A)(introductory paragraph), (C), and (D),
6 and 1484.24(A) and (B)(1), (2), and (3) are hereby amended and reenacted and R.S.
7 40:1484.3(24) through (27) are hereby enacted to read as follows:

8 §1484.3. Definitions

9 As used in this Part, the following terms have the meanings specified in this
10 Section except where the context expressly indicates otherwise:

11 * * *

12 (4) "ASTM" means the American Society ~~of the International Association~~
13 for Testing and Materials or ASTM International.

14 * * *

15 (15) "Operate" means to manage and coordinate an inflatable amusement
16 device, amusement attraction, or amusement ride at an event or a fixed operation
17 location. The term includes management or coordination which may or may not be
18 performed by the owner of the inflatable amusements device, amusement attraction,
19 or amusement ride.

20 (16) "Operator" means a person or firm who may or may not own the
21 inflatable amusements devices, amusement attractions, or amusement rides who is
22 managing, coordinating, or has the duty to control the operation of the inflatable
23 amusements devices, amusement attractions, or amusement rides at an event or a
24 fixed operation location.

25 * * *

26 (18) "Ride operator" means the person or persons responsible for directly
27 supervising, monitoring, and attending to the inflatable amusement device,
28 amusement attraction, or amusement ride, including but not limited to collecting
29 tickets or money, ensuring the appropriate number of patrons ~~to get on~~ are boarding
30 and deboarding a ride, ensuring riders are the appropriate height, latching and

1 securing passengers, operating a ride, starting and stopping a ride, and monitoring
2 patrons' activities during a ride's operation to ensure their safety.

3 * * *

4 (24) "Adult amusement attraction or amusement ride" means an attraction
5 that is not a "child amusement attraction or amusement ride" or "kiddie amusement
6 attraction or amusement ride".

7 (25) "Audit" means an official inspection of an operator's actions and
8 documentation as it relates to the coordination of inflatable amusement devices,
9 amusement rides, and amusement attractions at an event and a set-up inspector's
10 actions, documentation, and tagging as it relates to the set-up inspection of inflatable
11 amusement devices, amusement rides, and amusement attractions at an event,
12 including each operator's and set-up inspector's adherence to applicable statutes and
13 rules.

14 (26) "Child amusement attraction or amusement ride" or "kiddie amusement
15 attraction or amusement ride" means an amusement attraction or amusement ride
16 designed primarily for use by children weighing ninety pounds or less per passenger
17 unit.

18 (27) "Event" means a private or public organized occasion, where people and
19 entertainment are usually present, which may be celebratory in nature and occurs at
20 a temporary operation location. This shall include but not be limited to fairs,
21 festivals, carnivals, parties, or gatherings.

22 §1484.4. Registration of inflatable amusement devices, amusement attractions, and
23 amusement rides; requirements

24 * * *

25 D. An owner shall notify the office of state fire marshal if a plate or decal is
26 lost or damaged. Any plate or decal that is lost or damaged shall be decommissioned.
27 Prior to receiving a new plate or decal, the owner shall return the damaged plate or
28 decal to the office of state fire marshal and pay the required fee. The fee to replace
29 a lost or damaged plate or decal is thirty dollars.

1 §1484.5. Third-party inspection of inflatable amusement devices, amusement
2 attractions, and amusement rides; certificate of inspection required; cease and
3 desist orders

4 A. Except for the purpose of testing, training, or inspection, no inflatable
5 amusement device, amusement attraction, or amusement ride shall be operated in this
6 state without a ~~certificate of inspection provided by a third-party inspector and a~~
7 current certificate of registration, valid registration plate, and registration decal
8 issued by the office of state fire marshal ~~to an operator of the inflatable amusement~~
9 ~~device, amusement attraction, or amusement ride.~~

10 B.(1) Each inflatable amusement device, amusement attraction, or
11 amusement ride shall be inspected by a third-party inspector for safety and subjected
12 to nondestructive testing, according to the manufacturer's recommendations, if any,
13 at least annually, in accordance with ASTM-F-24, as promulgated by the state fire
14 marshal in conformity with the Administrative Procedure Act, and other applicable
15 standards, regulations, manuals, manufacturers' specifications, service bulletins, and
16 notices.

17 (2) Upon completion of each inspection as required in this Section, the
18 third-party inspector shall submit a certificate of inspection to the office of state fire
19 marshal and the owner. The certificate shall be valid for not more than twelve
20 months from the date of issuance.

21 (3) If the third-party inspection shows that an inflatable amusement device,
22 amusement attraction, or amusement ride does not comply with all relevant
23 provisions of this Part and the adopted standards, regulations, and applicable
24 manuals, service bulletins, and notices, the third-party inspector shall notify and
25 submit ~~such the~~ findings to the state fire marshal within ten days of the inspection.
26 The office of state fire marshal shall issue a cease and desist order to the operator or
27 owner indicating that operation of the inflatable amusement device, amusement
28 attraction, or amusement ride, which does not comply, is to immediately cease in the
29 state. The state fire marshal shall lift ~~the~~ any cease and desist order and issue
30 registration plates or registration decals, if applicable, for the inflatable amusement

1 devices, amusement attractions, or amusement rides only when the deficiencies have
2 been remedied to the satisfaction of a third-party inspector and proof of satisfaction
3 is submitted to and approved by the state fire marshal.

4 §1484.6. Operation of amusement rides and amusement attractions; notice; changes
5 in schedule; certain required annual inspections; fines

6 * * *

7 B.(1) Any operator who gives written or electronic notification to the office
8 of state fire marshal of his intent to commence operation of the amusement ride or
9 amusement attraction ~~less~~ fewer than five days prior to commencing operation shall
10 be fined as follows: two hundred fifty dollars per ride or attraction.

11 (a) Fifty dollars per ride or attraction for the first offense.

12 (b) Seventy-five dollars per ride or attraction for the second offense.

13 (c) Two hundred dollars per ride or attraction for the third offense.

14 (d) Two hundred fifty dollars per ride or attraction for each additional
15 offense thereafter.

16 (2) In determining the number of offenses that have occurred, only offenses
17 occurring over the three-year period preceding the offense at issue shall be
18 considered.

19 * * *

20 D. Prior to operating any new amusement ride or amusement attraction, the
21 operator shall notify the office of state fire marshal of his intent to commence
22 operation ~~and register,~~ but shall not operate the amusement ride or amusement
23 attraction until the owner has registered the amusement ride or amusement attraction
24 as required in this Part.

25 E.

26 * * *

27 (2) During an office of state fire marshal ~~event~~ inspection or audit, the
28 operator shall submit to the state fire marshal or his designee the set-up inspection
29 report and any other documentation relating to the set-up inspection or an annual
30 inspection.

1 (3) In the case of amusement rides or amusement attractions operating at a
 2 fixed operation location ~~for more than one year~~, the state fire marshal or his designee
 3 shall inspect ~~such the~~ the amusement rides or amusement attractions ~~at least~~ no more
 4 than once annually, except in furtherance of an investigation arising from a reported
 5 ride accident or pursuant to a complaint. The inspection is to ensure compliance
 6 with the provisions of this Part and adopted standards, rules, regulations, and
 7 applicable manuals, service bulletins, and notices.

8 * * *

9 §1484.7. Operation of inflatable amusement devices; notice; changes in schedule;
 10 fines

11 * * *

12 B.(1) Any operator who gives written or electronic notification to the office
 13 of state fire marshal of his intent to commence operation of the inflatable amusement
 14 device ~~less~~ fewer than five days prior to commencing operation shall be fined ~~two~~
 15 ~~hundred dollars per device.~~ as follows:

- 16 (a) Twenty-five dollars per ride or attraction for the first offense.
- 17 (b) Fifty dollars per ride or attraction for the second offense.
- 18 (c) One hundred fifty dollars per ride or attraction for the third offense.
- 19 (d) Two hundred dollars per ride or attraction for each additional offense
 20 thereafter.

21 (2) In determining the number of offenses that have occurred, only offenses
 22 occurring over the three-year period preceding the offense at issue shall be
 23 considered.

24 * * *

25 D. Prior to operating any new inflatable amusement device, the operator
 26 shall notify the office of state fire marshal of his intent to commence operations, ~~and~~
 27 ~~register~~ but shall not operate the inflatable amusement device until the owner has
 28 registered the inflatable amusement device as required in this Part.

29 E.

30 * * *

1 (2) During an office of state fire marshal ~~event~~ inspection or audit, the
2 operator shall submit to the state fire marshal or his designee the set-up inspection
3 report and any other documentation relating to the set-up inspection or an annual
4 inspection.

5 (3) In the case of inflatable amusement devices operating at a fixed operation
6 location ~~for more than one year~~, the fire marshal or his designee shall inspect ~~such~~
7 the inflatable amusement devices at least no more than once annually, except in
8 furtherance of an investigation arising from a reported ride accident or pursuant to
9 a complaint. The inspection is to ensure compliance with the provisions of this Part
10 and adopted standards, rules, regulations, and applicable manuals, service bulletins,
11 and notices.

12 * * *

13 F. The provisions of this Part apply only to inflatable amusement devices
14 which are all of the following:

- 15 (1) Open to public.
- 16 (2) Located on grounds other than those of a one- or two-family dwelling.
- 17 (3) Co-located with other ~~amusements~~, inflatable amusement devices,
18 attractions, or rides governed by this Part.

19 * * *

20 §1484.8. Set-up inspection; requirements; notification to the fire marshal

21 A. An ~~owner or~~ operator shall have a set-up inspection conducted on all
22 inflatable amusement devices, amusement attractions, and amusement rides at least
23 once prior to their operation at each event in the state.

24 B. The set-up inspection may be conducted by a third-party inspector or an
25 employee of the ~~owner or~~ operator of the inflatable amusement device, amusement
26 attraction, or amusement ride who is specially trained to perform a set-up inspection.

27 C. ~~The set-up inspection includes but is not limited to the following:~~

28 ~~(1) A review of all necessary documents including service and repair~~
29 ~~documents.~~

30 ~~(2) Observation and examination of the assembly, set-up, and operation.~~

1 ~~(3) An inspection of the foundation, blocking, fuel containers, and~~
 2 ~~mechanical and electrical condition.~~

3 ~~Ɖ.~~ If an inflatable amusement device, amusement attraction, or amusement
 4 ride is in compliance pursuant to the findings of a set-up inspection and
 5 corresponding adopted rules and regulations, the third-party inspector or set-up
 6 inspector shall affix a tag to the inflatable amusement device, amusement attraction,
 7 or amusement ride.

8 E.D. If an inflatable amusement device, amusement attraction, or amusement
 9 ride is not in compliance pursuant to the findings of a set-up inspection and
 10 corresponding adopted rules and regulations, a third-party inspector or set-up
 11 inspector shall cease operation of the inflatable amusement device, amusement
 12 attraction, or amusement ride and notify the office of state fire marshal within two
 13 hours of the determination, and tag it accordingly.

14 F.E. The office of state fire marshal shall specifically adopt rules and
 15 regulations in accordance with the Administrative Procedure Act for enforcement of
 16 this Section.

17 §1484.9. License required to inspect inflatable amusement devices, amusement
 18 attractions, and amusement rides; prohibitions

19 A. A person or firm shall not engage in the testing or inspection of an
 20 inflatable amusement device, amusement attraction, or amusement ride for the
 21 purpose of providing an annual third-party inspection as required by this Part, unless
 22 the person or firm holds a current and valid license issued by the state fire marshal
 23 as provided in this Part.

24 * * *
 25 §1484.10. Third-party inspector; educational and certification requirements

26 A third-party inspector shall not engage in third-party inspections as
 27 described in R.S. 40:1484.5 unless the inspector is one of the following:

- 28 (1) A licensed engineer experienced in materials testing.
- 29 (2) Currently certified by NAARSO with a Level 1 or greater certification.

1 (3) Currently certified with an equivalent to NAARSO Level 1 or greater
2 certification as determined by rules promulgated by the state fire marshal pursuant
3 to this Part.

4 §1484.11. License required to operate inflatable amusement devices, amusement
5 rides, and amusement attractions; service and repairs by owners; prohibitions

6 A. A person or firm, not to include a ride operator as defined in this Part,
7 shall not engage in the operation of an inflatable amusement device, amusement
8 attraction, or amusement ride unless the person or firm holds a current and valid
9 license issued by the state fire marshal as provided in this Part.

10 B. No person or firm shall aid, abet, facilitate, or otherwise assist any
11 unlicensed person or firm in the ~~engagement of any testing or inspecting operation~~
12 of an inflatable amusement device, amusement attraction, or amusement ride when
13 ~~such~~ the person or firm knew or should have known the latter person or firm was
14 unlicensed.

15 * * *

16 §1484.13. Application for firm license; third-party inspection firm license;
17 operating firm license; requirements to maintain; prohibitions; penalties

18 * * *

19 B. An applicant for a third-party inspection firm license shall submit all of
20 the following to the state fire marshal:

21 * * *

22 (6) The name of the person who will serve as the ~~designated agent of~~ contact
23 for the firm.

24 * * *

25 C. An applicant for an operating firm license shall submit the following to
26 the state fire marshal:

27 (1) A completed firm application including the names of all owners,
28 managers, or members.

29 (2) ~~Documentation that the firm is an entity duly authorized to conduct~~
30 ~~business within this state. If the firm is physically located in Louisiana,~~

1 documentation shall be in the form of a local or parish occupational license, if such
 2 license exists, and if incorporated, a certificate of good standing issued by the
 3 secretary of state. If the firm is physically located outside of the state,
 4 documentation shall be in the form of a certificate of good standing issued by the
 5 secretary of state as a foreign corporation including the name of the firm's registered
 6 agent of service.

7 (3) An original certificate of insurance documenting that the firm has general
 8 liability coverage in a minimum amount of one million dollars and in which all
 9 inflatable amusement devices, amusement attractions, or amusement rides subject
 10 to coverage are listed on the declarations page.

11 (4)(3) An original certificate of insurance documenting that the firm has a
 12 current and valid worker's compensation insurance policy as required by state law.

13 (5)(4) The name of the person who will serve as the ~~designated agent of~~
 14 contact for the firm.

15 (6)(5) The application fee authorized by this Part.

16 * * *

17 G. The ~~designated agent of~~ a firm shall notify the state fire marshal within
 18 ten days of the following:

- 19 (1) A change in the business address of the firm.
- 20 (2) A change in ownership of or interest in the firm.
- 21 (3) The termination of a licensed employee.

22 * * *

23 §1484.15. Set-up inspection; license endorsement

24 * * *

25 B. Third-party inspectors, as licensed by this Part, may ~~obtain a set-up~~
 26 ~~inspection endorsement to perform set-up inspections as required by this Part, under~~
 27 their third-party inspector endorsement.

28 C. Employees of the ~~owners or~~ operators of an inflatable amusement device,
 29 amusement attraction, or amusement ride may become licensed as specified by this

1 Part to perform the set-up inspection of an inflatable amusement device, amusement
2 attraction, or amusement ride owned or operated by his employer.

3 * * *

4 §1484.16. Powers and duties of the state fire marshal

5 The state fire marshal shall:

6 * * *

7 (7) Conduct inspections and perform audits to ensure compliance with this
8 Part and investigate at reasonable times, and within reasonable limits and manner,
9 inflatable amusement devices, amusement attractions, or amusement rides in any
10 area where they are assembled, maintained, stored, serviced, or in use. The state fire
11 marshal or his designee, upon presenting credentials to an owner or operator, is
12 authorized to act as described in this Paragraph without prior notice.

13 * * *

14 §1484.18. Fees; required renewal; penalties

15 * * *

16 D. The licensing fees for an individual's license are as follows:

17 (1) Initial Fee:

18 (a) Third-party inspector endorsement: \$250.00

19 (b) Operator or Owner endorsement: \$250.00

20 (c) Set-up inspector endorsement: \$250.00

21 ~~(d) Qualifier endorsement: \$1,000.00~~

22 (2) Renewal Fee:

23 (a) Third-Party inspector endorsement: \$50.00

24 (b) Operator or Owner endorsement: \$50.00

25 (c) Set-up inspector endorsement: \$50.00

26 ~~(d) Qualifier endorsement: \$100.00~~

27 * * *

28 K. There are no fees associated with ~~compliance~~ any inspections and audits
29 performed by the office of state fire marshal, unless otherwise indicated by this Part.

30 * * *

1 §1484.19. Prohibited acts; operator

2 No person or firm shall do any of the following:

3 * * *

4 (3) Operate an inflatable amusement device, amusement attraction, or
5 amusement ride contrary to ~~applicable codes, standards, or manufacturer's~~
6 specifications or codes or standards adopted in rules promulgated by the state fire
7 marshal without specific written authorization from the office of state fire marshal.

8 * * *

9 §1484.22. Notice of violation of standard; cease and desist order

10 A. If after an inspection, investigation, or audit of any inflatable amusement
11 device, amusement ride, or amusement attraction, the office of state fire marshal
12 determines that the respective device, ride, or attraction is in violation of any
13 standard promulgated pursuant to the provisions of this Part, and that there may be
14 a substantial probability of death or ~~serious~~ physical injury to the public from its
15 continued use, a notice of violation may be given to both the owner and operator of
16 the device, ride, or attraction, and a red tag shall be attached to ~~such~~ the device, ride,
17 or attraction. The attached red tag constitutes a cease and desist order.

18 B. After the red tag is attached, the use of the inflatable amusement device,
19 amusement ride, or amusement attraction is prohibited. The red tag shall not be
20 removed until the device, ride, or attraction is made safe for public use, in
21 accordance with R.S. 40:1484.5(B)(3), and the required safeguards are provided.
22 The tag shall not be removed except by the state fire marshal or his designee.

23 §1484.23. Insurance; bond

24 A. No ~~owner or~~ operator shall operate an amusement attraction or
25 amusement ride unless the ~~owner or~~ operator has either of the following:

26 * * *

27 C. In the event of cancellation of the policy or bond, the office of state fire
28 marshal shall be notified ~~immediately~~ by either the insurer or the bond holder no
29 later than ten days prior to cancellation.

1 D. ~~The~~ Upon request, the operator shall provide to any sponsor, lessor,
 2 landowner, or other person responsible for the offering of an amusement ride or
 3 attraction for public use a copy of the required insurance policy or bond and the
 4 certificate of registration issued by the state fire marshal.

5 * * *

6 §1484.24. Violations and penalties; cease and desist order; injunctive relief

7 A. If the state fire marshal finds that any person, operator, inspector, or firm
 8 has violated any provision of this Part or any regulation, rule, or issued order, he may
 9 impose upon that person, operator, inspector, or firm a fine in an amount not to
 10 exceed five thousand dollars for each violation. Each day on which the violation
 11 occurs is considered a separate offense.

12 B.(1) In addition to or in lieu of administrative sanctions and civil penalties
 13 provided in this Part, the state fire marshal is empowered to issue an order to any
 14 person, operator, inspector, or firm engaged in any activity, conduct, or practice
 15 constituting a violation of any provision of this Part, directing ~~such the~~ the person,
 16 operator, inspector, or firm to cease and desist from ~~such the~~ the activity, conduct, or
 17 practice. The order shall be issued in the name of the state of Louisiana under the
 18 official seal of the state fire marshal.

19 (2) If the person, operator, inspector, or firm to whom the state fire marshal
 20 directs a cease and desist order does not cease and desist the prohibited activity,
 21 conduct, or practice immediately after service of ~~such the~~ the cease and desist order by
 22 certified mail or personal service, the state fire marshal may seek, in any court of
 23 competent jurisdiction and proper venue, a writ of injunction enjoining ~~such the~~ the
 24 person, operator, inspector, or firm from engaging in any activity, conduct, or
 25 practice prohibited by this Part.

26 (3) Upon a proper showing by the state fire marshal that ~~such a~~ a person,
 27 operator, inspector, or firm has engaged in any activity, conduct, or practice
 28 prohibited by this Part, the court shall issue a temporary restraining order restraining
 29 the ~~same~~ same person, operator, inspector, or firm from engaging in unlawful activity,
 30 conduct, or practices pending the hearing on a preliminary injunction, and in due

1 course a permanent injunction shall be issued after a hearing, commanding the
2 cessation of the unlawful activity, conduct, or practices.

3 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____