

I was involved in my capacity as an engineer in the investigation of Caleb Schwab's death at the Schlitterbahn water park. Due to this matter being subject to ongoing criminal and civil investigations, I am unable to testify before this committee or answer any questions regarding specifics related to my investigation. I am precluded from commenting further regarding the Schwab matter.

I am here today to testify and answer questions regarding my review and understanding of the laws, industry standards and regulations addressing amusement park rides, including water parks, in Kansas and around the country. I am also here to offer guidance on how Kansas can improve or modify its laws to improve amusement park safety.

Respectfully,
Edward Pribonic, P.E.

Mr. Pribonic will address the need for broad and detailed amusement ride safety legislation. Mr. Pribonic has reviewed and prepared some comments on the proposed Kansas House bill.

Although I applaud the recognition that such legislation is needed, and the impressive efforts in preparing the first draft, I believe the current bill as proposed will have little effect on defining safety requirements or monitoring their implementation.

I strongly suggest the adoption by reference of all ASTM F24 amusement ride and device standards. These standards have been under development for nearly 40 years by hundreds of leading experts from the amusement industry, government, law, medicine and certifying agencies. They include issues and safety knowledge specific to these types of devices that could not reasonably be expected to be conceived by those not experienced in this industry.

The bill should include all types of amusement rides and devices and there should be no exceptions. Section 4 lists a few commonly recognized rides, but it is far from being an exhaustive list. I think that including winter equipment, (ski related), and converted machinery is very wise and insightful. Just as I am impressed with that section, my enthusiasm for the bill is deflated by the following section which excludes some of the most injury producing devices in use today; inflatables, trampolines, boat rides, zip lines, go-karts, and home owned amusement rides.

From the single minded viewpoint of safety, exclusions are illogical and in direct opposition to the implied goal of the bill, which is to assure the highest level of safety possible for patrons and operators of amusement rides and devices. There is no acceptable argument for providing the seemingly random exclusion of equipment that fully meets the definition of amusement rides and devices.

In regard to new section 3, the owner shall prominently and in multiple locations, display signage explaining the patrons duty to report injuries and instructions on where and how to contact the owners representatives for immediate assistance and/or reporting forms.

There is also a serious defect in the language of new section 3.D.3.b,

(b) The owner of an amusement ride shall notify the department of any *serious injury (NEED DEFINITION, SEE ASTM F747)*, reported by a patron, or any injury caused by a malfunction or failure of an amusement ride or caused by an operator or patron error **which impairs the function of an amusement ride.** (THIS MAKES NO SENSE. IT DOES NOT SERVE THE PUBLIC INTEREST. IT IS A LOOPHOLE WHICH ALLOWS

OWNERS TO AVOID REPORTING OF INJURIES IF THE INJURY DID NOT IMPAIR THE FUNCTION OF THE RIDE. INJURIES RARELY, IF EVER, IMPAIR THE FUNCTION OF A RIDE.

In regard to the exclusion of “home owned amusement rides, it would expose great numbers of amusement ride patrons to risks on rides that may not be inspected regularly, or properly maintained or operated by unqualified persons. This exemption would permit state or county fairs, church camps, church fairs, private clubs, or any “non-profit” from all safety standards to which this regulation is directed.

Why do patrons of rides used at these venues not deserve the same level of safety as would be expected at an amusement park? Will they be sufficiently warned that the rides at these venues may not be safe? What is the upside of the trade-off? The “home owned” group avoids cost of maintenance, inspections and good supervision. What does the state receive in return for children who pay for their ride with injuries or even death?

I can point to several incidents of which I have knowledge, where operations claiming such exemptions, have delivered at least one fatality and many crippling injuries. How can they be held liable for negligence if they have no obligation to comply with any standard of care?

Although Section 7 of the bill casts a net for gathering rides to be properly designed, built and maintained by stating that the ASTM standards should be applied, it goes on to cut a huge hole in the net by making compliance contingent upon the manufacturers consent. This is simply a version of letting the fox guard the hen house.

To expect to author an original and comprehensive set of design, inspection, maintenance, control and operational requirements, is an overly ambitious and extremely lengthy process that is unlikely to ever be accomplished and which could be avoided. There is a reason why so many states and foreign countries have adopted the ASTM standards. They already exist, they are the recognized standard of care, and they are free.

Adoption of the ASTM standards, with minor edits and specific administrative sections as necessary would produce a bill on a par with the best programs in the U.S., as these standards form the basis of the amusement rides safety bills currently enacted in the U.S.

Other items I would caution on in regard to the draft bill are the requirement of the ride certification to submit to the state, as proof of compliance, the calculations, analyses, testing results and drawings as required under ASTM for the design and manufacture of safe amusement rides. Further, the certification letter should be signed and stamped by a U.S. registered professional engineer, and include a statement that he has personally reviewed all of the documents.

I urge your committee to continue their hard work, but redirect it to a more knowledge based foundation, the ASTM and add to it the legislative and administrative verbiage to make the bill enforceable and effective in raising the bar for amusement rides safety and make Kansas a leader in protecting its citizens.