

SESSION OF 2018

SUPPLEMENTAL NOTE ON SENATE BILL NO. 307

As Amended by Senate Committee on Federal
and State Affairs

Brief*

SB 307, as amended, would make amendments to the Kansas Amusement Ride Act.

Definitions

“Home-owned amusement ride” would mean an amusement ride that is owned and operated by a nonprofit, community-based organization and is operated for less than 20 days a year, at only one location each year.

“Registered agritourism activity” would have the same meaning as it does in the Agritourism Promotion Act (KSA 2017 Supp. 32-1430 *et seq.*).

“Amusement ride” would specifically exclude:

- Registered agritourism activities;
- Any ride commonly known as a hayrack ride, in which patrons sit in a wagon or cart that is then pulled by horses or a tractor or other motor vehicle;
- Any ride commonly known as a barrel train, which has a series of handmade cars fashioned from barrels that are connected and pulled by a tractor or other motor vehicle; and

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Amusement rides owned by an individual and operated solely within a single county for strictly private use.

The definition of “amusement ride” would also be amended to remove language including all rides and devices in American Society for Testing and Materials (ASTM) International F24 Committee Standards.

“Water slide” would mean a slide that is at least 20 feet in height and uses water to propel the patron through the ride. The bill would specify that slides owned or operated by municipalities would not be included in this definition.

The definition of “qualified inspector,” as it relates to acceptable training requirements, would be changed from Level II National Association of Amusement Ride Safety Officials (NAARSO) certification to Level I NAARSO certification. References to the Pennsylvania Department of Agriculture general qualified inspector status also would be removed from the definition. The definition would specify that any inspector of inflatable devices that are rented on a regular basis and erected at temporary locations would be required to provide evidence of:

- Five years experience working with inflatable devices; and
- Qualified training from a third party, such as advanced inflatable safety operations certification from the Safe Inflatable Operators Training Organization, or other similar qualification from another nationally recognized institution.

Finally, “serious injury” would include injury or illness that requires immediate admission and overnight hospitalization and observation by a licensed physician. The current definition includes injuries or illnesses requiring immediate medial treatment.

Home-owned Amusement Rides, Registered Agritourism Activities

Permits

The bill would provide that a home-owned amusement ride or registered agritourism activity could not be operated in Kansas without a valid permit issued by the Department of Labor (Department). The owner of such a ride would be required to apply to the Department for a permit in such form and manner as prescribed by the Secretary of Labor (Secretary). The application would be required to include:

- Name of owner and operator of the ride;
- Location of ride or location ride is stored when not in use;
- Valid certificate of inspection; and
- Proof of insurance.

Once an application was approved, the permit fee received, and a permit was issued for the home-owned amusement ride or registered agritourism activity, the permit would be valid until the ride was sold, otherwise transferred to a new owner, or permanently taken out of service. Any new owners would be required to apply for and be issued a permit before operating the home-owned amusement ride or registered agritourism activity.

Permit Fees

Applicants for operating permits for home-owned amusement rides or registered agritourism activities would have to pay permit fees according to the following schedule:

- At a permanent location:

- \$75 for rides designed for patrons less than 42 inches tall; and
- \$100 for rides designed for patrons more than 42 inches tall;
- At a temporary location, \$30; and
- Owned or operated by a municipality or nonprofit entity at a permanent or temporary location, \$10.

Permit fees would be returned to applicants if their applications were denied by the Department. Permit fees collected by the Secretary would be credited to the Amusement Ride Safety Fund.

Registration

The bill would require each home-owned amusement rides or registered agritourism activity be registered with the Department prior to operation. Registration would be in such form and manner as prescribed by the Secretary and require payment of registration fees as follows:

- At a permanent location, \$500;
- At a temporary location, \$250; and
- Owned or operated by a municipality or nonprofit entity at permanent or temporary location, \$50.

The registration fee would be a one-time fee paid by the owner, regardless of the number of rides owned by such owner. Registration fees collected by the Secretary would be credited to the Amusement Ride Safety Fund.

Insurance Requirements

The owner or operator of any home-owned amusement rides or registered agritourism activity would be required to

provide for coverage of at least \$750,000 per occurrence with a \$1,000,000 annual aggregate. Continuing law states owners and operators of amusement rides are required to provide for coverage of at least \$1,000,000 per occurrence with a \$2,000,000 annual aggregate, or self-insure or participate in a public entity self-insurance pool, if the owner is the State or any subdivision of the State; the bill would clarify this requirement.

Inspections and Inspectors

The bill would provide that home-owned amusement rides and registered agritourism activities could not be operated in the state without a valid certificate of inspection, and would have to be inspected by a qualified inspector at least every 24 months.

General Provisions

Inflatables

The bill would state that no inflatable device, rented on a regular basis and erected at a temporary location, could be operated in the state unless the operator had attained a basic inflatable safety operations certification from the Safe Inflatable Operators Training Organization, or a similar qualification from a nationally recognized organization.

Inspector Liability

The bill would specify the qualified inspector would not be liable for any personal injury or property damage resulting from any act required or permitted by the Kansas Amusement Ride Act or performed in the scope of the inspector's duties. These provisions would not apply to a qualified inspector's intentional or willful misconduct.

Qualified inspectors who prevail in any action or proceeding brought against them for acts or omissions while engaged in discharge of the inspector's duties could be awarded court costs and reasonable attorney's fees.

Permit Applications, Amusement Rides

The bill would specify that permit applications for amusement rides manufactured before July 1, 2018, would have to include certification that the ride qualifies as service proven, as that term is used in applicable ASTM International F24 Committee Standards.

For rides manufactured on and after July 1, 2018, permit applications would have to include certification that the ride meets applicable ASTM International F24 Committee Standards pertaining to ride maintenance and operation.

The bill also would include home-owned amusement rides and registered agritourism activities in provisions of the Kansas Amusement Ride Act not otherwise modified by the bill.

Serious Injury

The bill would specify that, upon notification of serious injury, the Department must acknowledge receipt of the notice and determine whether an investigation is necessary.

Background

The bill was introduced by the Senate Committee on Ways and Means. In the Senate Committee on Federal and State Affairs hearing, Senator Billinger, as well as representatives of Gary's Berries, the Kansas League of Municipalities, the Kansas Recreation and Park Association, the National Christmas Tree Association, the Sheridan County Amusement Company, Sky Zone, and the Wallace

County Amusement Association testified in favor of the bill. Written-only testimony in support of the bill was provided by the cities of Lenexa, Manhattan, Olathe, and Prairie Village; the Kansas Association of Counties; the Kansas State Alliance of YMCAs; the Travel Industry Association; and a private citizen.

A representative from the Department provided neutral testimony.

The Senate Committee amended provisions related to hayrack rides, barrel trains, water slides, inflatable devices, and notification of serious injury.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department indicates enactment of the bill would have no fiscal effect on the agency.