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House BILL NO. 267

INTRODUCED BY

Massolo

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING OPERATORS OF AMUSEMENT RIDES; DESCRIBING THE RESPONSIBILITIES OF PASSENGERS AND OPERATORS OF AMUSEMENT RIDES; PROVIDING FOR THE ASSUMPTION OF RISKS BY PASSENGERS; AND PROVIDING FOR INJURY REPORTS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) "Amusement ride" or "ride" means a mechanical, aquatic, or other device or attraction that carries passengers over a fixed or restricted route or that operates in a fixed or restricted area, primarily for the passengers' amusement.

(2) "Operator" means a person, business, or other entity that owns, leases, manages, or operates amusement rides.

(3) "Passenger" means a person:

- (a) waiting in the immediate vicinity of an amusement ride to get on the ride;
- (b) entering or getting on an amusement ride;
- (c) using an amusement ride;
- (d) getting off or exiting an amusement ride; or
- (e) leaving the immediate vicinity of an amusement ride.

NEW SECTION. Section 2. Operator's responsibilities. An operator shall:

- (1) exercise reasonable care to ensure the safety of passengers in constructing, erecting, maintaining, operating, and supervising amusement rides; and
- (2) ensure that there is an adequately staffed first aid station and a location for reporting injuries and accidents.

1 **NEW SECTION. Section 3. Passenger responsibilities and prohibitions.** (1) A passenger may not:

2 (a) use an amusement ride knowing that the passenger has insufficient knowledge or physical or
3 other ability to use the ride safely. A passenger who is unfamiliar with the operation of a ride shall ask an
4 operator or employee for assistance and instruction.

5 (b) enter or exit an amusement ride except at a time and place, if any, designated by an operator
6 or employee and in the manner and under the supervision of an operator or employee;

7 (c) throw or drop an object from or in the direction of an amusement ride;

8 (d) fail or refuse to comply with the instructions of an operator or employee operating or
9 supervising an amusement ride;

10 (e) act in a manner that could interfere with the safe operation of an amusement ride or with the
11 safety of a passenger;

12 (f) steer, control, or otherwise operate an amusement ride in a manner that might harm another
13 person;

14 (g) disable or attempt to disable any safety or restraining device;

15 (h) alter or enhance the designed speed, course, or direction of an amusement ride;

16 (i) operate or attempt to operate amusement ride controls designed to be operated only by an
17 employee operating the ride; or

18 (j) use an amusement ride when under the influence of alcohol or drugs to the point that the ability
19 of the passenger to safely use the ride is diminished. An operator or employee may prohibit a person from
20 using or continuing a ride if the operator or employee reasonably believes that the person is under the
21 influence of alcohol or drugs to the point that the person's ability to safely use or continue the ride is
22 diminished.

23 (2) A passenger shall follow warnings and other information posted by or orally given to the
24 passenger by an operator or employee.

25
26 **NEW SECTION. Section 4. Assumption of risk.** A passenger who is 13 years of age or older is
27 conclusively assumed to have knowledge of the risks and assumes the risks associated with amusement
28 rides if those risks are open and obvious to a reasonable person.

29
30 **NEW SECTION. Section 5. Injury reports.** (1) (a) A passenger who is injured on or by an

1 amusement ride shall report the injury to the operator within a reasonable time unless the nature of the
2 injury prevents the passenger from doing so, in which event the passenger shall, if possible, report the
3 injury to the operator not later than 90 days after the injury. The report must include:

4 (i) the passenger's name, address, and phone number;

5 (ii) a brief description of the injury and how it occurred; and

6 (iii) the names, addresses, and telephone numbers of known witnesses to the injury.

7 (b) Failure to report within 90 days limits the damages recoverable by a passenger from an operator
8 or employee to actual medical costs.

9 (2) The report must be kept by the operator for at least 3 years after its receipt and must be made
10 available for inspection by the injured passenger or the passenger's agent during business hours.

11 -END-

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 NEW SECTION. SECTION 1. PURPOSE. THE LEGISLATURE FINDS THAT:

12 (1) AMUSEMENT RIDES ARE USED BY A LARGE NUMBER OF MONTANA'S CITIZENS AND
13 ATTRACT A LARGE NUMBER OF NONRESIDENTS, SIGNIFICANTLY CONTRIBUTING TO MONTANA'S
14 TOURIST INDUSTRY AND TAX BASE;

15 (2) THE SAFETY OF THE PUBLIC USING AMUSEMENT RIDES IS AN IMPORTANT MATTER OF
16 PUBLIC POLICY;

17 (3) THERE ARE INHERENT RISKS ASSOCIATED WITH THE MACHINERY, EQUIPMENT, OR
18 ANIMALS THAT ARE IMPRACTICABLE OR IMPOSSIBLE FOR AN AMUSEMENT RIDE OWNER OR
19 OPERATOR TO ELIMINATE WITH ALL REASONABLE SAFETY PRECAUTIONS;

20 (4) AN INFORMED PATRON IS IN THE BEST POSITION TO AVOID THE RISKS INHERENT TO
21 AMUSEMENT RIDES; AND

22 (5) THE SAFETY OF AMUSEMENT RIDES WILL BE GREATLY IMPROVED AT MINIMAL COST IF
23 RIDERS ARE SUBJECT TO MINIMUM SAFETY STANDARDS FOR THEIR OWN PROTECTION AND THE
24 PROTECTION OF OTHERS.

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26 NEW SECTION. Section 2. Definitions. As used in [sections 1 through 5], the following definitions
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28 (1) "Amusement ride" or "ride" means a mechanical, aquatic, or other device or attraction that
29 carries passengers over a fixed or restricted route or that operates in a fixed or restricted area, primarily
30 for the passengers' amusement.

1 (2) "Operator" means a person, business, or other entity that owns, leases, manages, or operates
2 amusement rides.

3 (3) "Passenger" means a person:

4 (a) waiting in the immediate vicinity of an amusement ride to get on the ride;

5 (b) entering or getting on an amusement ride;

6 (c) using an amusement ride;

7 (d) getting off or exiting an amusement ride; or

8 (e) leaving the immediate vicinity of an amusement ride.

9

10 **NEW SECTION. Section 3. Operator's responsibilities.** An operator shall:

11 (1) exercise reasonable care to ensure the safety of passengers in constructing, erecting,
12 maintaining, operating, and supervising amusement rides; ~~and~~

13 (2) ensure that there is an adequately staffed first aid station and a location for reporting injuries
14 and accidents;

15 (3) ENSURE THAT WHEN SUPERVISING OR OPERATING A RIDE, THE OPERATOR OR AN
16 EMPLOYEE OF THE OPERATOR IS NOT UNDER THE INFLUENCE OF ALCOHOL OR DRUGS TO THE POINT
17 THAT THE OPERATOR'S OR EMPLOYEE'S ABILITY TO SUPERVISE OR OPERATE THE RIDE IS
18 DIMINISHED; AND

19 (4) POST IN A CONSPICUOUS PLACE NEAR THE ENTRANCE TO EACH RIDE AN EASILY
20 READABLE SIGN THAT LISTS THE PASSENGER RESPONSIBILITIES AND PROHIBITIONS CONTAINED IN
21 [SECTION 4], AS WELL AS ADDITIONAL LANGUAGE OR ANOTHER SIGN THAT INCLUDES:

22 (A) OPERATIONAL INSTRUCTIONS, IF ANY;

23 (B) SAFETY GUIDELINES FOR RIDERS, IF ANY;

24 (C) RESTRICTIONS ON THE USE OF THE AMUSEMENT RIDE, IF ANY;

25 (D) BEHAVIOR OR ACTIVITIES THAT ARE PROHIBITED, IF ANY; AND

26 (E) THE FOLLOWING STATEMENT: "STATE LAW REQUIRES RIDERS AND PASSENGERS TO OBEY
27 ALL WARNINGS AND DIRECTIONS FOR THIS RIDE AND BEHAVE IN A MANNER THAT WILL NOT CAUSE
28 OR CONTRIBUTE TO INJURY TO THEMSELVES OR OTHERS. RIDERS MUST REPORT INJURIES BEFORE
29 LEAVING THE PREMISES. FAILURE TO COMPLY IS PUNISHABLE BY A FINE OR IMPRISONMENT, OR
30 BOTH."

1 **NEW SECTION. Section 4. Passenger responsibilities and prohibitions.** (1) A passenger may not:

2 (a) use an amusement ride knowing that the passenger has insufficient knowledge or physical or
3 other ability to use the ride safely. A passenger who is unfamiliar with the operation of a ride shall ask an
4 operator or employee for assistance and instruction.

5 (b) enter or exit an amusement ride except at a time and place, if any, designated by an operator
6 or employee and in the manner and under the supervision of an operator or employee;

7 (c) throw or drop an object from or in the direction of an amusement ride;

8 (d) fail or refuse to comply with the instructions of an operator or employee operating or
9 supervising an amusement ride;

10 (e) act in a manner that could interfere with the safe operation of an amusement ride or with the
11 safety of a passenger;

12 (f) steer, control, or otherwise operate an amusement ride in a manner that might harm another
13 person;

14 (g) disable or attempt to disable any safety or restraining device;

15 (h) alter or enhance the designed speed, course, or direction of an amusement ride;

16 (i) operate or attempt to operate amusement ride controls designed to be operated only by an
17 **OPERATOR OR AN** employee operating the ride; or

18 (j) use an amusement ride when under the influence of alcohol or drugs to the point that the ability
19 of the passenger to safely use the ride is diminished. An operator or employee may prohibit a person from
20 using or continuing a ride if the operator or employee reasonably believes that the person is under the
21 influence of alcohol or drugs to the point that the person's ability to safely use or continue the ride is
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23 (2) A passenger shall follow warnings and other information posted by or orally given to the
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26 **NEW SECTION. Section 5. Assumption of risk.** A passenger who is 13 years of age or older is
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30 **NEW SECTION. Section 6. Injury reports.** (1) (a) A passenger who is injured on or by an

1 amusement ride shall report IN WRITING the injury to the operator ~~within a reasonable time~~ BEFORE
2 LEAVING THE AMUSEMENT RIDE PREMISES, unless the nature of the injury prevents the passenger from
3 doing so, in which event the passenger shall, if possible, report the injury to the operator OR TO THE
4 OWNER OF THE PREMISES WHERE THE AMUSEMENT RIDE WAS LOCATED AT THE TIME OF THE INJURY
5 not later than 90 days after the injury. The report must include:

6 (i) the passenger's name, address, and phone number;

7 (ii) a brief description of the injury and how it occurred, INCLUDING THE DATE, APPROXIMATE
8 TIME, LOCATION, AND AMUSEMENT RIDE UPON WHICH THE INJURY OCCURRED; and

9 (iii) the names, addresses, and telephone numbers of known witnesses to the injury.

10 (b) Failure to report within 90 days limits the damages recoverable by a passenger from an operator
11 or employee to actual medical costs.

12 (2) The report must be kept by the operator for at least 3 years after its receipt and must be made
13 available for inspection by the injured passenger or the passenger's agent during business hours.

14

15 NEW SECTION. SECTION 7. PENALTY. IF A PERSON WILLFULLY VIOLATES ANY OF THE
16 PROVISIONS OF [SECTIONS 1 THROUGH 6], THE PERSON IS GUILTY OF A MISDEMEANOR AND, UPON
17 CONVICTION, IS SUBJECT TO A FINE NOT TO EXCEED \$500 OR IMPRISONMENT NOT TO EXCEED 6
18 MONTHS OR BOTH.

19

-END-

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19 -END-