

No. 1994-58

AN ACT

HB 1777

Relating to the protection of amusement riders and for actions against amusement ride operators.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Amusement Rider Safety and Liability Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Amusement park.” A tract or area used principally as a location for amusement structures or rides. The term includes only permanent amusement and water parks.

“Amusement ride.” Any device, including a water-based device, that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement.

“Amusement ride operator.” Any person, firm or corporation that is engaged in operating for the public an amusement structure or ride at a permanent amusement or water park.

“Rider.” A person 14 years of age or older utilizing an amusement ride. The term includes any person who is an invitee, whether or not the person pays consideration.

Section 3. Rider’s responsibility.

(a) Responsibilities.—A rider is responsible for obeying the posted rules or oral instructions of amusement rides and shall abide by the following:

(1) A rider may not board or dismount from an amusement ride except at a designated area if one is provided.

(2) A rider may not throw or expel any object or matter from an amusement ride.

(3) A rider may not act in any manner contrary to posted and oral rules while boarding, riding on or dismounting from any amusement ride.

(4) A rider may not engage in any reckless act or activity which may tend to injure himself or others.

(5) While using amusement rides that require steering or control of himself or a car device, every rider shall maintain reasonable control of his

speed and course at all times. A rider shall not steer the ride in such a manner as to intentionally harm another person.

(6) A rider may not disconnect, disable or attempt to disconnect or disable any safety device, seat belt, harness or other restraining device before, during or after movement of the ride has started except at the express instruction of the operator.

(7) A rider may not disembark or attempt to disembark from any amusement ride before, during or after movement of a ride has started except upon the express instruction of the operator.

(8) A rider may not board or attempt to board any amusement ride if he is under the influence of alcohol or any controlled substance as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, which impacts his ability to safely use the ride and abide by the posted and oral instructions. The operator may prevent a rider who is perceptibly or apparently under the influence of drugs or alcohol from riding on an amusement ride. An operator who prevents a rider from boarding a ride in accordance with this paragraph shall not be criminally or civilly liable in any manner or to any extent whatsoever if the operator has a reasonable basis for believing that the rider is under the influence of drugs or alcohol.

(9) A rider may not alter or enhance the intended speed, course or direction of a ride by using any unauthorized device, instrument or method.

(10) A rider 14 years of age or older embarking on a ride after failing to pay appropriate consideration for its use, when required by amusement park rules and regulations, shall be considered to be a trespasser.

(11) A rider shall not attempt to gain access to controls of an amusement ride designed solely to be operated by employees of amusement parks.

(b) Exceptions.—Subsection (a) shall not apply to an individual who because of deafness, blindness, mental limitation or a language barrier is not capable of understanding the posted rules or oral instructions.

(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Blindness.” A condition such that an individual has 3/60 or 10/200 or less normal vision.

“Deafness.” A condition such that an individual is totally deaf or whose hearing is so impaired that he is unable to understand or communicate the spoken English language.

Section 4. Actions against amusement ride operators.

It shall be the duty of each rider to heed all posted and oral warnings and to refrain from acting in a manner which may knowingly cause or contribute to the injury of himself or others or in a manner contrary to prohibited acts for riders set forth in section 3. Notice of these prohibited acts shall be displayed as set forth in section 5. Proof that a rider sustained an injury in the

course of knowingly acting contrary to section 3 shall be evidence of comparative negligence in a suit against an operator by that rider.

Section 5. Posting of notice.

Every operator shall post the safety responsibilities of riders based upon standards set forth by the American Society for Testing Materials, Department of Agriculture regulations and as set forth in section 3 in a conspicuous place at each ride. The language and symbols used shall be the same as designated by the American Society for Testing Materials.

Section 6. Report of incident.

(a) Reporting.—A rider shall report in writing to the operator all of the details of any incident as soon as possible. The report shall include the rider's name and address, a brief description of the incident and injuries claimed, including the location, date, time and alleged cause, the name and address of the ride operator, others involved and witnesses, if any.

(b) Applicability.—This section shall have no effect on a rider's right to commence a civil action.

Section 7. Nonapplicability.

Nothing contained in this section shall be construed as limiting or otherwise affecting the liability and responsibilities of an amusement park operator under the act of June 18, 1984 (P.L.384, No.81), known as the Amusement Ride Inspection Act, or as preventing the maintenance of an action against an amusement operator for negligent construction, maintenance or operation of an amusement ride. In addition, nothing in this section shall be construed as limiting or otherwise affecting the responsibility and liability of an amusement park operator to provide reasonable supervision for riders.

Section 8. Effective date.

This act shall take effect in 60 days.

APPROVED—The 1st day of July, A.D. 1994.

ROBERT P. CASEY