

By: Ortega

H.B. No. 2289

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of amusement rides by the Texas Department of Licensing and Regulation.

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

SECTION 1. Section 2151.002, Occupations Code, is amended by amending Subdivisions (4) and (5) and adding Subdivision (5-a) to read as follows:

(4) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of insurance~~].

(5) "Department" means the Texas Department of Licensing and Regulation [~~Insurance~~].

(5-a) "Executive director" means the executive director of the department.

SECTION 2. Section 2151.051, Occupations Code, is amended to read as follows:

Sec. 2151.051. GENERAL POWERS AND DUTIES. The executive director [~~commissioner~~] shall administer and enforce this chapter.

SECTION 3. Section 2151.052(a), Occupations Code, is amended to read as follows:

(a) The commission [~~commissioner~~] shall establish reasonable and necessary fees, in an amount not to exceed \$40 per year, for each amusement ride covered by this chapter.

SECTION 4. Section 2151.101(a), Occupations Code, is

1 amended to read as follows:

2 (a) A person may not operate an amusement ride unless the  
3 person:

4 (1) has had the amusement ride inspected at least once  
5 a year by an insurer or a person with whom the insurer has  
6 contracted;

7 (2) obtains a written certificate from the insurer or  
8 person with whom the insurer has contracted stating that the  
9 amusement ride:

10 (A) has been inspected;

11 (B) meets the standards for insurance coverage;

12 and

13 (C) is covered by the insurance required by  
14 Subdivision (3);

15 (3) except as provided by Sections [2151.1011](#) and  
16 [2151.1012](#), has a combined single limit or split limit insurance  
17 policy currently in effect written by an insurance company  
18 authorized to do business in this state or by a surplus lines  
19 insurer, as defined by Chapter [981](#), Insurance Code, or has an  
20 independently procured policy subject to Chapter [101](#), Insurance  
21 Code, insuring the owner or operator against liability for injury  
22 to persons arising out of the use of the amusement ride in an amount  
23 of not less than:

24 (A) for Class A amusement rides:

25 (i) \$100,000 bodily injury and \$50,000  
26 property damage per occurrence with a \$300,000 annual aggregate; or

27 (ii) a \$150,000 per occurrence combined

1 single limit with a \$300,000 annual aggregate; and

2 (B) for Class B amusement rides:

3 (i) \$1,000,000 bodily injury and \$500,000  
4 property damage per occurrence; or

5 (ii) \$1,500,000 per occurrence combined  
6 single limit;

7 (4) files with the department [~~commissioner~~], as  
8 required by this chapter, the inspection certificate and the  
9 insurance policy or a photocopy of the certificate or policy  
10 authorized by the executive director [~~commissioner~~]; and

11 (5) files with each sponsor, lessor, landowner, or  
12 other person responsible for the amusement ride being offered for  
13 use by the public a photocopy of the inspection certificate and the  
14 insurance policy required by this subsection.

15 SECTION 5. Sections [2151.1021](#)(a) and (c), Occupations Code,  
16 are amended to read as follows:

17 (a) The commission [~~commissioner~~] shall adopt rules  
18 requiring operators of mobile amusement rides to perform  
19 inspections of mobile amusement rides, including rules requiring  
20 daily inspections of safety restraints.

21 (c) The executive director [~~commissioner~~] shall prescribe  
22 forms for inspections required under this section and shall require  
23 records of the inspections to be made available for inspection by  
24 any municipality, county, or state law enforcement officials at any  
25 location at which an amusement ride is operated.

26 SECTION 6. Sections [2151.1022](#)(b) and (c), Occupations Code,  
27 are amended to read as follows:

1 (b) The operator shall file with the department  
2 [~~commissioner~~] quarterly a report, on a form designed by the  
3 executive director [~~commissioner~~], describing each governmental  
4 action taken in the quarter covered by the report for which the  
5 operator is required by Subsection (a) to maintain records. A  
6 report is not required in any quarter in which no reportable  
7 governmental action was taken in any state in which the person  
8 operated the amusement ride.

9 (c) A person who operates an amusement ride shall maintain  
10 for not less than two years at any location where the ride is  
11 operated, for inspection by a municipal, county, or state law  
12 enforcement official, a photocopy of any quarterly report required  
13 under this section or Section 2151.103 to be filed with the  
14 department [~~commissioner~~].

15 SECTION 7. Section 2151.103(c), Occupations Code, is  
16 amended to read as follows:

17 (c) The operator shall file an injury report with the  
18 department [~~commissioner~~] on a quarterly basis. The report shall  
19 be made on a form prescribed by the executive director  
20 [~~commissioner~~] and shall include a description of each injury  
21 caused by a ride that results in death or requires medical  
22 treatment.

23 SECTION 8. Section 2151.105(a), Occupations Code, is  
24 amended to read as follows:

25 (a) The commission [~~commissioner~~] shall adopt rules  
26 requiring that a sign be posted to inform the public how to report  
27 an amusement ride that appears to be unsafe or to report an

1 amusement ride operator who appears to be violating the law.

2 SECTION 9. Section [2151.151](#), Occupations Code, is amended  
3 to read as follows:

4 Sec. 2151.151. INJUNCTION. The district attorney of a  
5 county in which an amusement ride is operated or, on request of the  
6 executive director [~~commissioner of insurance~~], the attorney  
7 general or an agent of the attorney general, may seek an injunction  
8 against a person operating an amusement ride in violation of this  
9 chapter or in violation of a rule adopted by the commission  
10 [~~commissioner~~] under Section [2151.1021](#) or [2151.105](#).

11 SECTION 10. Sections [2151.152](#)(a), (b), and (c), Occupations  
12 Code, are amended to read as follows:

13 (a) The executive director or a [A] municipal, county, or  
14 state law enforcement official, in conjunction with the executive  
15 director, may determine compliance with a provision of Subchapter  
16 C, other than Section [2151.104](#), [~~in conjunction with the~~  
17 ~~commissioner~~] and may institute an action in a court of competent  
18 jurisdiction to enforce this chapter.

19 (b) The executive director or a [A] municipal, county, or  
20 state law enforcement official may enter and inspect without notice  
21 any amusement ride at any time to ensure public safety.

22 (c) The operator of an amusement ride shall immediately  
23 provide the inspection certificate and the insurance policy  
24 required by Section [2151.101](#) to the executive director or a  
25 municipal, county, or state law enforcement official requesting the  
26 information. A photocopy of the inspection certificate or  
27 insurance policy may be provided instead of the certificate or

1 policy.

2 SECTION 11. Sections 2151.1525(a), (b), and (d),  
3 Occupations Code, are amended to read as follows:

4 (a) Except as provided by Subsection (e), the executive  
5 director or a municipal, county, or state law enforcement official  
6 may immediately prohibit operation of an amusement ride if:

7 (1) the operator of the amusement ride is unable to  
8 provide the documents or a photocopy of the documents required by  
9 Section 2151.152(c);

10 (2) the executive director or law enforcement official  
11 reasonably believes the amusement ride is not in compliance with  
12 Section 2151.101; or

13 (3) the operation of the amusement ride, conduct of a  
14 person operating the amusement ride, conduct of a person assembling  
15 the amusement ride if it is a mobile amusement ride, or any other  
16 circumstance causes the executive director or law enforcement  
17 official to reasonably believe that the amusement ride is unsafe or  
18 the safety of a passenger on the amusement ride is threatened.

19 (b) If the operation of an amusement ride is prohibited  
20 under Subsection (a)(1) or (2), a person may not operate the  
21 amusement ride unless:

22 (1) the operator presents to the executive director or  
23 the appropriate municipal, county, or state law enforcement  
24 official proof of compliance with Section 2151.101; or

25 (2) the executive director [~~commissioner~~] or the  
26 executive director's [~~commissioner's~~] designee determines that on  
27 the date the amusement ride's operation was prohibited the operator

1 had on file with the department [~~board~~] the documents required by  
2 Section 2151.101 and issues a written statement permitting the  
3 amusement ride to resume operation.

4 (d) If on the date an amusement ride's operation is  
5 prohibited under Subsection (a)(3) the amusement ride is in  
6 compliance with Section 2151.101, a person may not operate the  
7 amusement ride until:

8 (1) on-site corrections are made;

9 (2) an order from a district judge, county judge,  
10 judge of a county court at law, justice of the peace, or municipal  
11 judge permits the amusement ride to resume operation; or

12 (3) an insurance company insuring the amusement ride  
13 on the date the amusement ride's operation was prohibited:

14 (A) reinspects the amusement ride in the same  
15 manner required by Section 2151.101; and

16 (B) delivers to the executive director  
17 [~~commissioner~~] or the executive director's [~~commissioner's~~]  
18 designee and the appropriate law enforcement official a  
19 reinspection certificate:

20 (i) stating that the required reinspection  
21 has occurred;

22 (ii) stating that the amusement ride meets  
23 coverage standards and is covered by insurance in compliance with  
24 Section 2151.101; and

25 (iii) explaining the necessary repairs, if  
26 any, that have been made to the amusement ride after its operation  
27 was prohibited.

1 SECTION 12. Section 2151.1526(b), Occupations Code, is  
2 amended to read as follows:

3 (b) If a mobile amusement ride was in compliance with  
4 Section 2151.101 when its operation was initially prohibited under  
5 Subsection (a), a person may resume operating the mobile amusement  
6 ride only after an insurance company insuring the amusement ride on  
7 the date its operation was prohibited:

8 (1) reinspects the amusement ride in the same manner  
9 required under Section 2151.101; and

10 (2) delivers to the executive director [~~commissioner~~]  
11 or the executive director's [~~commissioner's~~] designee a  
12 reinspection certificate:

13 (A) stating that the required reinspection has  
14 occurred;

15 (B) stating that the amusement ride meets  
16 coverage standards and is covered by insurance in compliance with  
17 Section 2151.101; and

18 (C) explaining the necessary repairs, if any,  
19 that have been made to the amusement ride after its operation was  
20 prohibited.

21 SECTION 13. Section 2151.153(a), Occupations Code, is  
22 amended to read as follows:

23 (a) A person commits an offense if the person fails to  
24 comply with any requirement of:

25 (1) Section 2151.101, 2151.102, 2151.103,  
26 2151.1525(b), (c), or (d), or 2151.1526(a); or

27 (2) a rule adopted by the commission [~~commissioner~~]



1 under Section [2151.1021](#) or [2151.105](#).

2 SECTION 14. The Texas Department of Insurance and the Texas  
3 Department of Licensing and Regulation may enter into a memorandum  
4 of understanding that:

5 (1) identifies in detail the applicable powers and  
6 duties that are transferred between the two agencies by this Act;  
7 and

8 (2) establishes a plan for the identification and  
9 transfer of the records, personnel, property, and unspent  
10 appropriations of the Texas Department of Insurance that are  
11 related to the regulation of amusement rides under Chapter [2151](#),  
12 Occupations Code.

13 SECTION 15. (a) On January 1, 2020, the following are  
14 transferred from the Texas Department of Insurance to the Texas  
15 Department of Licensing and Regulation:

16 (1) the powers, duties, functions, programs, and  
17 activities of the Texas Department of Insurance relating to the  
18 licensing and regulation of amusement rides under Chapter [2151](#),  
19 Occupations Code;

20 (2) any obligations and contracts of the Texas  
21 Department of Insurance that are directly related to implementing a  
22 power, duty, function, program, or activity transferred under this  
23 Act; and

24 (3) all property and records in the custody of the  
25 Texas Department of Insurance that are related to a power, duty,  
26 function, program, or activity transferred under this Act and all  
27 funds appropriated by the legislature for that power, duty,

1 function, program, or activity.

2 (b) The rules, policies, procedures, and decisions of the  
3 commissioner of insurance under Chapter [2151](#), Occupations Code, are  
4 continued in effect as rules, policies, procedures, and decisions  
5 of the Texas Commission of Licensing and Regulation until  
6 superseded by a rule or other appropriate action of the Texas  
7 Commission of Licensing and Regulation.

8 SECTION 16. (a) Except as provided by Subsection (b) of  
9 this section, this Act takes effect January 1, 2020.

10 (b) Section 14 of this Act takes effect September 1, 2019.