MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Bell (65th)

To: Judiciary A

HOUSE BILL NO. 102

AN ACT TO PROVIDE THE REQUIREMENTS FOR AN APPLICATION TO OPERATE AMUSEMENT RIDES IN THE STATE OF MISSISSIPPI; TO REQUIRE AN INSPECTOR TO HAVE CERTAIN CERTIFICATIONS BEFORE INSPECTING AMUSEMENT RIDES; TO PROVIDE INSPECTION REQUIREMENTS FOR AMUSEMENT RIDES; TO PROVIDE REQUIREMENTS FOR OPERATORS OF AMUSEMENT RIDES; TO PROVIDE CERTAIN INCIDENT REPORTING REQUIREMENTS; TO BRING FORWARD SECTION 21-19-33, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE MUNICIPAL REGULATION OF AMUSEMENT PARKS AND OTHER EVENTS, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 69-5-3, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE POWERS AND DUTIES OF THE MISSISSIPPI FAIR COMMISSION, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. The following words and phrases shall have the meanings as defined in this section unless the context clearly indicates otherwise:

(1) "Amusement ride" or "ride" means a mechanical device that carries or conveys passengers along, around or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills or excitement. The term amusement ride does not include bungee jumping, zip lines, waterslides, or obstacle, challenge or adventure courses.

(2) "Operator" or "owner" means a person who owns, controls or has the duty to control the operation of amusement rides.

(3) "Commission" means the Mississippi Fair Commission.

SECTION 2. (1) An amusement ride may not be operated in this state unless the Mississippi Fair Commission has issued a certificate of operation to the owner or operator within the preceding twelve (12) months.

(2) An application for a certificate of operation shall be submitted to the commission not fewer than fifteen (15) business days before the amusement ride is operated in the state, and shall include the following:

(a) Certificate of insurance in the amount of not less than One Million Dollars ($1,000,000.00) that insures both the owner and the operator against liability for injury to persons and property arising out of the use or operation of the amusement ride;

(b) Payment of a fee in the amount of One Hundred Dollars ($100.00); and

(c) Proof of or a statement of compliance with the Workers' Compensation Law, Section 71-3-1 et seq.

(3) The certificate of operation shall be valid for one (1) year from the date of issue and shall be in a manner and format as prescribed by the commission. The certificate shall identify the ride's:

(a) Name and model;

(b) Serial number;

(c) Passenger capacity; and

(d) Recommended maximum speed.

(4) A copy of the certificate of operation shall be kept at the office of the amusement ride operator.

(5) The commission shall:

(a) Determine the manner and format of the certificate of operation, any forms to be used to apply for the certificate, the adhesive sticker that shall be affixed to the ride, and the certification to be filed;

(b) Make any forms and certifications available on the commission's website and shall provide adhesive stickers to inspectors;

(c) Allow an owner or operator to apply for certificates of operation for multiple rides at one (1) time, using one (1) form; and

(d) Charge one (1) fee for the filing of each application form, regardless of the number of rides listed on the application.

SECTION 3. (1) An amusement ride shall not be operated in the state unless:

(a) The ride has been inspected in the state within the preceding twelve (12) months by the State Fire Marshal's office or a person who is:

(i) Certified:

1. By the National Association of Amusement Ride Safety Officials as a Level II Inspector; or

2. By the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification pursuant to item (1) of subparagraph (i).

(ii) Insured, including for liability; and

(iii) Not the owner or operator of the ride or an employee or agent of the owner or operator.

(b) The inspection complied with the American Society for Testing and Materials (ASTM) current standard F770 concerning practices for ownership, operation, maintenance and inspection of amusement rides and devices; and

(c) A valid certificate of operation has been issued for the ride under Section 2 of this act.

(2) After a ride has been inspected under subsection (1) of this section:

(a) The owner or operator shall submit the certificate or other record of inspection to the commission within fifteen (15) days following the date of inspection;

(b) An adhesive sticker, in a format to be determined by the commission, shall be affixed to the ride that indicates:

(i) The date and location the inspection was completed; and

(ii) The name of the inspector.

(c) The owner or operator shall submit a certification, in a format as prescribed by the commission, to the organization hosting a fair, field day or other event or location, at which the owner or operator intends to operate a ride, stating that the ride has been inspected and stickers have been affixed before the ride is used to carry or convey passengers.

(3) A ride shall be inspected for safety by the owner or operator:

(a) After the ride has been set up but before being used to carry or convey passengers; and

(b) Every day thereafter that the ride is used to carry or convey passengers.

(4) The owner or operator of an amusement ride shall:

(a) Keep records of all safety inspections;

(b) Make those records available to the commission promptly upon request;

(c) Keep a paper or electronic copy of all required forms or certifications, and all safety inspections conducted by the owner or operator during the preceding twelve (12) months for each ride:

(i) On or near that ride; or

(ii) At the office of the amusement ride operator; and

(d) Operate, maintain and inspect all rides in compliance with ASTM current standards for ownership, operation, maintenance and inspection of amusement rides and devices.

SECTION 4. (1) An operator of an amusement ride shall:

(a) Be at least eighteen (18) years of age;

(b) Operate only one (1) amusement ride at a time;

(c) Be in attendance at all times that the ride is operating; and

(d) Operate the ride in accordance with the ride manufacturer's specifications.

(2) An operator of an amusement ride may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(3) A passenger shall:

(a) Understand that there are risks in riding an amusement ride;

(b) Exercise good judgment and act in a responsible and safe manner while riding an amusement ride; and

(c) Obey all signage that is reasonably written and posted and all direction from ride operators and owners that are given in a clear and understandable manner.

SECTION 5. (1) The owner or operator of amusement rides or devices shall record all administration of emergency health care

service and treatment after an incident, and shall include documentation of all first-aid treatment.

(2) A first-aid incident report shall be completed for major injuries or illnesses that result in hospital admission or where medical treatment is given, recommended, or may be required at a future date.

(3) Information recorded in the first-aid incident report shall include, but not be limited to, the following:

(a) Date the incident occurred;

(b) Name, address and telephone number of the person receiving emergency health care services or treatment;

(c) Manufacturer's name of the amusement ride or device where or on which the incident occurred;

(d) Physical description of the injury or illness;

(e) Description of the events causing and related to the incident;

(f) Description of the first-aid service or treatment administered, including medications given;

(g) Incident classification; and

(i) Additional information deemed necessary by the owner or operator of the amusement ride.

(4) When recording an applicable first-aid related incident, the owner or operator shall classify the injury or illness based upon each of the following categories, using the available, reported or observed reliable information, or both:

(i) Facility-related incidents that occur on facility premises;

(ii) Nonfacility related incidents that do not occur on facility premises;

(iii) Amusement ride or device incidents that occur while riding during the operation of the amusement ride or device, including, but not limited to, during the start-up or shut-down procedures;

(iv) Loading and unloading incidents that occur while a person is within the area designated for loading and unloading of an amusement ride or device that was under the direct control of an amusement ride and device operator or attendant;

(v) Queue line incidents that occur while in a queue line for an amusement ride or device; or

(vi) Other incidents that occur in a location other than as described in this subsection that should also be categorized in accordance with other predetermined descriptions that may be established by the owner or operator.

SECTION 6. The owner or operator of an amusement ride or device shall investigate and determine the cause of any incident described in subsection (4) of Section 5 of this act.

SECTION 7. The owner or operator of an amusement ride or device shall notify the appropriate manufacturer of an incident that resulted in a serious injury that required hospital admission within seven (7) days of the occurrence of the incident.

SECTION 8. Section 21-19-33, Mississippi Code of 1972, is brought forward as follows:

21-19-33. The governing authorities of municipalities shall have the power to adopt reasonable ordinances for the regulation of circuses, shows, theaters, bowling alleys, concerts, theatrical exhibitions, skating rinks, pistol or shooting galleries, amusement parks and devices, and other similar things. Said authorities shall have the power and authority to regulate, prohibit, or suppress billiard tables, poolrooms, fortune-tellers, cane or knife racks, and slot machines and other gambling devices within the corporate limits. However, such governing authorities shall not be authorized to regulate, prohibit or suppress any gambling device, machine or equipment that is owned, possessed, controlled, installed, procured, repaired or transported within the corporate limits in accordance with subsection (4) of Section 97-33-7 or Section 75-76-34. In addition, such governing authorities shall not be authorized to regulate, prohibit or suppress the ownership and display of antique coin machines as defined in Section 27-27-12.

SECTION 9. Section 69-5-3, Mississippi Code of 1972, is brought forward as follows:

69-5-3. (1) The Department of Agriculture and Commerce shall set up rules and regulations consistent with the law governing the distribution of state monies for premiums or awards. It will be the duty of the department, at least twice each year,

to approve premium lists or awards, and give out rules governing participants in state premium money in Mississippi. The department may invite the presidents of the various district livestock shows before the department when determining policies affecting district livestock shows.

(2) The Department of Agriculture and Commerce is hereby authorized to accept money or funds donated to the department, including funds to be awarded as prizes in livestock competition.

(3) The Department of Agriculture and Commerce shall have charge of the State Fairgrounds located in Jackson, Mississippi, including all buildings and improvements thereon, and shall have full power and authority in perfecting plans and causing to be held thereon the Mississippi State Fair and other such events that may be authorized by the department.

(4) The Department of Agriculture and Commerce is hereby authorized to employ an attorney as prescribed in Section 69-1-14.

(5) The Department of Agriculture and Commerce may take any action authorized in Section 1 of Laws 2000, Chapter 306.

(6) The Department of Agriculture and Commerce may allow a commercial, charitable or governmental entity to use, publish and advertise such entity's name in connection with any of the buildings, improvements, grounds or objects located on the State Fairgrounds in Jackson, except for the Kirk Fordice Equine Center, or in connection with any of the events conducted on the State Fairgrounds in return for a monetary consideration paid to the

department. Furthermore, the department may lease to any public, private, commercial or charitable entity for a term not to exceed twenty (20) years naming rights to buildings, except for the Kirk Fordice Equine Center, or property, including, but not limited to, new construction, improvements to existing buildings, grounds and/or objects located on the State Fairgrounds in return for consideration benefitting the commission. The lessee shall pay the cost of erecting, maintaining and removing signage related to the property. Those funds received from an entity for allowing its name to be used, published or advertised in connection with the buildings, improvements, objects or events shall be retained by the department to be used for capital improvements to the fairgrounds or in its annual operating budget. The department shall not enter into any such agreement with any vendor whose products are illegal for participation in or use by persons eighteen (18) years of age and under.

(7) The Commissioner of Agriculture and Commerce is authorized to form and establish a private foundation or nonprofit corporation to receive and disburse the funds generated by the sale of naming rights described in subsection (6) of this section and for any other donations made to the department. The funds shall be disbursed in accordance with guidelines described in this section, and the foundation or nonprofit corporation shall be subject to the reporting requirements described in subsection (10) of this section. All funds shall remain with the foundation until

disbursement and shall not be transferred to the State General Fund. No public funds shall be deposited into the account of the private foundation or nonprofit corporation established by the department for the benefit of the State Fairgrounds, nor shall the Legislature appropriate any State General Fund or Special Fund monies to the foundation or nonprofit corporation for such purposes. All monies received by the foundation shall be maintained separately from funds allocated to the department for operating and administrative costs associated with the State Fairgrounds. In addition to the reporting of information to be included in the annual legislative report of the department, the private foundation or nonprofit corporation shall be subject to annual financial audits by the State Auditor and by auditors of donors in the same manner as required for state agencies.

(8) The Department of Agriculture and Commerce shall have the authority to enter into a lease or right-of-way with a third party covering any land or buildings on the State Fairgrounds and any funds generated from such lease or right-of-way shall remain in a special fund managed by the department for the benefit of the State Fairgrounds. All monies in the special fund may be used for capital improvements to the State Fairgrounds or in the department's annual operating budget for operating and administrative costs associated with the State Fairgrounds. Any unexpended funds remaining in the special fund shall not lapse

into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited in the fund.

(9) The Department of Agriculture and Commerce is hereby authorized, with the advice of the Mississippi Fair Advisory Council, to adopt such rules and regulations as may be necessary or desirable to carry out, execute or implement the provisions of this article.

(10) The Department of Agriculture and Commerce shall report by January 1 of each year a detailed financial statement of all monies received and expended under subsection (6) and subsection (7) of this section to the Lieutenant Governor, the Speaker of the House of Representatives and the Chairman of the Senate Agriculture Committee and the Chairman of the House of Representatives Agriculture Committee.

SECTION 10. This act shall take effect and be in force from and after July 1, 2021.