

# SENATE . . . . . No. 1245

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## The Commonwealth of Massachusetts

PRESENTED BY:

*James E. Timilty*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to amusement devices.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*James E. Timilty*

*Carolyn C. Dykema*

*8th Middlesex*

# SENATE . . . . . No. 1245

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By Mr. Timilty, petition (accompanied by bill, Senate, No. 1245) of Dykema and Timilty for legislation relative to amusement devices [Joint Committee on Public Safety and Homeland Security].

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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An Act relative to amusement devices.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1                   SECTION 1. Chapter 140 of the General Laws is hereby amended by  
2 striking out section 205A, as appearing in the 2006 Official Edition, and inserting in place  
3 thereof the following section:-

4                   Section 205A. Operation of Amusement Devices

5                   (a) Amusement Device Defined

6                   “Amusement Device” shall mean a fixed or portable mechanical device  
7 similar to, but not limited to ferris wheels, carousels, inclined railways or similar devices  
8 including inflatable, as well as amusement devices as defined by the American Society for  
9 Testing and Materials (ASTM). Go karts, concession go kart and other mechanical devices that  
10 are confined to one path of travel shall be considered an amusement device per path of travel for  
11 purposes of this section. This section shall not apply to recreational tramways as defined by  
12 section 71I of chapter 143, coin operated amusement rides or devices, skill games or playground

equipment; provided however that the commissioner of public safety, hereinafter called the commissioner, shall have the discretion to further define an amusement device operated under this section.

(b) License; Insurance Requirement; fees

(1) For the purposes of this section, the commissioner shall adopt rules and regulations establishing standards for the design, construction, inspection and operation of amusement devices for the safety of the public and criteria and procedures for the issuance, denial, renewal, suspension and revocation of a license and permit for the operation of amusement devices; provided, however, that a final adjudication that there has been a violation of federal law, state law or any other rule adopted by the department, shall be cause for the denial, suspension or revocation of any license issued under this section. The operation of amusement devices in violation of the regulations or without a valid license and permit shall be considered a punishable violation for the purposes of this section.

(2) No person shall individually or through an agent operate or cause to be operated an amusement device unless such person has obtained a license and permit from the commissioner.

(3) The commissioner, upon receipt of proof that a person has obtained liability insurance as required by this section and upon certification that an amusement device has met the standards established by the commissioner, may issue a license and permit for the operation of the amusement devices.

(4) A person who possesses a Massachusetts certificate of competency to inspect amusement devices, issued under section 62 of chapter 146, and who has furnished to the

commissioner proof of liability insurance for an amount of at least \$1,000,000 for general liability, shall provide to the commissioner an inspection report and a certificate of liability.

(5) The fee for a license under this section shall be determined annually by said commissioner of administration and finance under section 3B of chapter 7 for the filing thereof. All licenses issued pursuant to this section shall expire annually on a date determined by the commissioner or on the date that the insurance certificate is no longer valid, which ever occurs sooner, unless revoked for cause, and shall be valid throughout the commonwealth.

(c) Itinerary

An owner shall be required to provide proper notice as further determined by the commissioner as to the location and dates that the amusement device will be operated in the commonwealth.

(d) Injury

If an injury requiring medical treatment has occurred on such an amusement device, reasonably due to a defect or malfunction in the amusement device, or if the amusement device constitutes a hazard to life, limb, or property, as determined by the commissioner or his designee, the amusement device shall be closed immediately and, within 1 hour, the owner shall notify the commissioner or his designee in writing upon a form approved by the commissioner. The amusement device shall remain closed until all necessary repairs have been completed to the satisfaction of the commissioner or his designee. All such injuries shall be investigated by the department of public safety in coordination with the Massachusetts state police. Failure to follow this provision shall constitute the operation of an unsafe ride and shall be punishable by a fine not to exceed \$5,000.00 or by imprisonment for not more than one year, or both. The

licensee shall pay to the commissioner a fee as determined under section 3B of chapter 7 for each hour or fraction thereof spent by each inspector while engaged in an investigation.

(e) Identification of Amusement Device

All amusement devices shall bear identification as determined by the commissioner.

(f) Inspection

All persons authorized by this section to conduct inspections and not employed by the department of public safety, shall be certified by the department of public safety. An owner of an amusement device shall maintain and preserve a log of all regular maintenance schedules, service and repair reports, periodic inspections performed and any accident or injury which may have occurred on an amusement device which shall be made available upon request to the department of public safety.

(g) Owner Responsibilities

(1) Owners shall maintain permanent and extensive training and inspection policies relative to routine and emergency procedures. All locations which have 35 or more amusement devices on the premises shall employ full-time emergency medical personnel and maintain ambulance services within the park. All owners shall have at least 1 individual on staff that is certified by the commissioner as qualified to oversee the operation, maintenance and inspection of amusement devices provided however that no minor shall operate an amusement device. The owner shall furnish to the commissioner proof that all mechanical and large inflatable amusement devices are covered for an amount of at least \$2,000,000 for combined

single limit bodily injury and property damage and at least \$1,000,000 for small inflatable devices and which meet the rules and regulations as established by the commissioner. If the insurance contract expires or is cancelled, notice shall be furnished by the insurance carrier to the commissioner prior to the termination and the amusement device shall be closed until insurance is obtained and a new license issued. Operational programs and policies relative to the training, inspection, maintenance and safety of amusement devices shall be subject to review and modification by the commissioner or his designee. Proof of coverage shall include, but not be limited to, proof of liability insurance issued by an insurance company approved to do business within the commonwealth, or a bond security or other type of indemnity against liability providing substantially equivalent coverage.

(h) Penalty for Violation

Whoever violates this section shall, for each such violation, be punished by a fine of not more than \$5,000 or by imprisonment for not more than 1 year, or both.

(i) Retained Revenue account; Fees; Fines

The department of public safety may collect and expend an amount not to exceed \$50,0000 for the purpose of enforcement, training, and education of state inspectors; provided, that the department may charge fees for licensing, investigation, training, and overtime for inspections at the owner's request, and collect fines for violations of this section; and further provided that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expense and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system.

100                   SECTION 2. Section 60 of chapter 146 of the General Laws, as so  
101   appearing, is hereby amended by striking out, in line 2, the words "or an inspector of amusement  
102   devices".

103                   SECTION 3. section 60 is hereby further amended by inserting after the  
104   word "administration", in line 5, the following sentence:- The application of a person desiring to  
105   act as an inspector of amusement devices shall be accompanied by a fee, the amount of which  
106   shall be determined annually by the commissioner of administration.