

SENATE No. 1245

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

8th Middlesex

Carolyn C. Dykema

SENATE No. 1245

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].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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

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

16 (b) License; Insurance Requirement; fees

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

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

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

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

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

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

42 (c) Itinerary

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

46 (d) Injury

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

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

59 (e) Identification of Amusement Device

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

62 (f) Inspection

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

69 (g) Owner Responsibilities

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

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

88 (h) Penalty for Violation

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

91 (i) Retained Revenue account; Fees; Fines

92 The department of public safety may collect and expend an amount not to
93 exceed \$50,000 for the purpose of enforcement, training, and education of state inspectors;
94 provided, that the department may charge fees for licensing, investigation, training, and overtime
95 for inspections at the owner's request, and collect fines for violations of this section; and further
96 provided that for the purposes of accommodating discrepancies between the receipt of retained
97 revenues and related expenditures, the department may incur expense and the comptroller may
98 certify for payment amounts not to exceed the lower of this authorization or the most recent
99 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.