

**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

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.