

SENATE No. 2174

The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen
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SENATE, Thursday, June 5, 2014

The committee on Ways and Means, to whom was referred the Senate Bill relative to amusement devices (Senate, No. 1184), reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2174).

For the committee,
Stephen M. Brewer

**SENATE No. 2174,
amended**

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

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. To provide for certain unanticipated obligations of the commonwealth and
2 to meet certain requirements of law for fiscal year 2014, the sum set forth in section 2 is hereby
3 appropriated from the General Fund, for the several purposes and subject to the conditions
4 specified in said section 2, subject to laws regulating the disbursement of public funds.

5 SECTION 2.

6 8315-1041 For the department of public safety, which may expend not more than
7 \$50,000 in revenues collected from fees for licenses and inspections for amusement devices and
8 fines pursuant to section 205A of chapter 140 of the General Laws; provided, that funds shall be
9 expended for the operation of the department, for training and educating state inspectors and for
10 enforcement; and provided further, that for the purpose of accommodating timing discrepancies
11 between the receipt of retained revenues and related expenditures, the department may incur
12 expenses and the comptroller may certify for payment amounts not to exceed the lower of this

13 authorization or the most recent revenue estimate as reported in the state accounting system
14\$50,000

15 SECTION 3. Chapter 140 of the General Laws is hereby amended by striking out section
16 205A, as appearing in the 2012 Official Edition, and inserting in place thereof the following
17 section:-

18 Section 205A. (a) For the purposes of this section, "amusement device" shall mean a
19 fixed or portable mechanical device including, but not limited to, a ferris wheel, carousel,
20 inclined railway or similar device, including inflatables, any amusement device as defined by the
21 American Society for Testing and Materials and a go-kart, a concession go kart or any other
22 mechanical device that is confined to 1 path of travel. The commissioner of public safety may
23 further define an amusement device operated under this section. This section shall not apply to
24 recreational tramways as defined in section 71I of chapter 143, coin-operated amusement rides or
25 devices, skill games or playground equipment. This section shall not apply to fixed carousels that
26 are owned and operated by a non-profit corporation; provided, that the non-profit corporation has
27 submitted an inspection report with the department of public safety demonstrating that the fixed
28 carousel is safe; provided further that such an inspection report shall be submitted annually.

Comment [WW(1): Hedlund amendment

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30 (b) (1) The commissioner shall adopt rules and regulations establishing standards for
31 the design, construction, inspection and operation of amusement devices for the safety of the
32 public and criteria and procedures for the issuance, denial, renewal, suspension and revocation of
33 licenses and permits for the operation of amusement devices; provided, however, that a final
34 adjudication that there has been a violation of federal or state law or any other rule adopted by
35 the department of public safety shall be cause for the denial, suspension or revocation of any
36 license issued under this section. The commissioner may adopt rules and regulations creating
37 exemptions for other fixed carousels, which do not pose a risk to public safety.

Comment [WW(2): Hedlund amendment

39 (2) No person shall individually or through an agent operate or cause to be
40 operated an amusement device unless such person has obtained a license and permit from the
41 commissioner. The commissioner, upon receipt of proof that a person has obtained liability

42 insurance as required by this section and upon certification that an amusement device has met the
43 standards established by the commissioner, may issue a license and permit for the operation of
44 the amusement device.

45 (3) A person who possesses a certificate of competency to inspect amusement
46 devices issued under section 62 of chapter 146 and who has furnished to the commissioner proof
47 of liability insurance for an amount of at least \$1,000,000 for general liability shall provide to the
48 commissioner an inspection report and a certificate of liability for each amusement device
49 inspected.

50 (4) The fees for licenses and permits issued under this section shall be determined
51 annually by the secretary of administration and finance under section 3B of chapter 7. All
52 licenses issued pursuant to this section shall be valid throughout the commonwealth and shall
53 expire annually on a date determined by the commissioner or on the date that the insurance
54 certificate is no longer valid, whichever first occurs, unless the license is revoked for cause.

55 (c) An owner shall be required to provide proper notice as further determined by the
56 commissioner as to the location and dates that the amusement device shall be operated.

57 (d) If an injury requiring medical treatment occurs on an amusement device which is due
58 to a defect or malfunction in the amusement device, the device shall be closed immediately and,
59 within 1 hour, the owner shall notify the commissioner or the commissioner's designee in
60 writing on a form approved by the commissioner. If the amusement device constitutes a hazard
61 to life, limb or property, as determined by the commissioner or the commissioner's designee, the
62 amusement device shall be closed immediately. An amusement device closed under this section
63 shall remain closed until all necessary repairs have been completed to the satisfaction of the

64 commissioner or the commissioner's designee. All injuries occurring on an amusement device
65 that result in medical treatment shall be investigated by the department, in coordination with the
66 department of state police. In addition to penalties under subsection (h), a violation of this
67 subsection shall constitute the operation of an unsafe ride and shall be punishable by a fine of not
68 more than \$5,000 or by imprisonment in a jail or house of correction for not more than 1 year, or
69 both such fine and imprisonment. The licensee shall pay to the commissioner a fee as
70 determined under section 3B of chapter 7 for each hour or fraction of an hour spent by each
71 inspector while engaged in an investigation under this subsection.

72 (e) An amusement device shall bear identification as determined by the commissioner.

73 (f) A person authorized by this section to conduct inspections who is not employed by the
74 department shall be certified by the department. An owner of an amusement device shall
75 maintain and preserve a log of all regular maintenance schedules, service and repair reports,
76 periodic inspections performed and any accident or injury which may have occurred on an
77 amusement device and such log shall be made available to the department upon request.

78 (g) A licensee shall maintain permanent and extensive training and inspection policies
79 relative to routine and emergency procedures. Licensees at locations which have 35 or more
80 amusement devices on the premises shall employ full-time emergency medical personnel and
81 maintain ambulance services on such premises. Licensees shall have at least 1 individual on
82 staff that is certified by the commissioner as qualified to oversee the operation, maintenance and
83 inspection of amusement devices; provided, however, that no minor shall operate an amusement
84 device. The licensee shall furnish to the commissioner proof that all mechanical and large
85 inflatable amusement devices are covered by a liability insurance policy in an amount of at least

86 \$2,000,000 for combined single limit bodily injury and property damage and at least \$1,000,000
87 for small inflatable devices and which shall meet the rules and regulations as established by the
88 commissioner. No insurance policy shall expire or be cancelled unless notice of such pending
89 expiration or cancellation shall be provided by the insurance carrier to the commissioner prior to
90 such expiration or cancellation; provided, however, that upon such expiration or cancellation, the
91 amusement device shall be closed and the license and permit shall be automatically revoked until
92 the required insurance has been obtained and a new license and permit have been issued. Proof
93 of coverage shall include, but not be limited to, proof of liability insurance issued by an
94 insurance company approved to do business within the commonwealth or a surety bond in an
95 amount to be determined by the commissioner or other type of indemnity against liability
96 providing substantially equivalent coverage. Operational programs and policies relative to the
97 training, inspection, maintenance and safety of amusement devices shall be subject to review and
98 modification by the commissioner or the commissioner's designee.

99 (h) Whoever violates this section shall be punished by a fine of not more than \$5,000 or
100 by imprisonment in a jail or house of correction for not more than 1 year or both, for each such
101 violation.

102 SECTION 3. Section 60 of chapter 146 of the General Laws, as so appearing, is hereby
103 amended by striking out, in line 2, the words "or an inspector of amusement devices".

104 SECTION 4. Said section 60 of said chapter 146, as so appearing, is hereby further
105 amended by striking out, in line 5, the words "commissioner of administration" and inserting in
106 place thereof the following words:- secretary of administration and finance. The application of a

107 person desiring to act as an inspector of amusement devices shall be accompanied by a fee, the
108 amount of which shall be determined annually by the secretary.