

**SUBJECT:** Regulating the safety of amusement rides

**COMMITTEE:** Public Safety — committee substitute recommended

**VOTE:** 6 ayes — Keel, Berman, Carter, Gutierrez, P. King, Najera  
3 nays — B. Turner, Driver, Hupp

**WITNESSES:** For — Carol Baker; Paul Borchardt, Wonderland Amusement Park; Chris Elliot, representing the Lane Family; George Lane  
Against — None  
On — John Hanschen, Outdoor Amusement Business Association; Rose Ann Reeser, Texas Department of Insurance

**BACKGROUND:** Article 21.60, Section 4, of the Insurance Code, known as the Amusement Ride Safety Inspection and Insurance Act, regulates the operation of amusement rides. The Act defines a “Class A amusement ride” as a ride designed primarily for children under 12. All other rides are “Class B rides.”

Current law requires an amusement ride operator to maintain insurance coverage of at least \$100,000 per occurrence with a \$300,000 annual aggregate for Class A rides and \$1,000,000 per occurrence for Class B rides.

The law requires each amusement ride to be inspected at least once annually by the insurer or a person with whom the insurer has contracted. Inspection of rides must include a method to test critical parts of a ride that the Texas Department of Insurance (TDI) determines could be subject to failure from stress and wear. The ride operator must obtain a written certificate that the ride has been inspected and meets standards for insurance coverage, which must be filed with the insurance policy.

The operator must file a quarterly injury report with TDI, including a description of each injury caused by a ride that results in death or requires medical treatment. Failure to comply with the insurance and inspection requirements is a Class C misdemeanor, punishable by a maximum fine of

\$500. A ride operator is required to pay an annual fee to TDI of \$20 for every ride subject to regulation.

Under current law, law enforcement officials or the TDI must obtain a court order to shut down an unsafe ride.

DIGEST:

CSHB 1059 would authorize municipal, county, or state law enforcement officials to enter and inspect a ride at any time without notice to determine whether a ride operator was in compliance with the insurance and inspection requirements of the Amusement Ride Safety Inspection and Insurance Act.

CSHB 1059 would allow law enforcement officials immediately to shut down an amusement ride if:

- ! the operator of the ride was unable to provide a copy of the certificate of inspection or insurance policy;
- ! the officer reasonably believed the ride operator was not in compliance with the insurance and inspection requirements; or
- ! the officer reasonably believed that any circumstance was making the operation of the ride unsafe or any passenger's safety was threatened.

If closed, a ride would remain shut down until the operator presented to the appropriate law enforcement agency proof of compliance with the act, or until the insurance commissioner issued a written statement permitting the ride to resume operation and stating that the operator had the required documents on file with TDI at the time the ride was closed.

The operator of the ride would be required immediately to provide a copy of the inspection certificate and insurance policy to any officer who requested the information.

An operator whose ride was shut down for a reason other than being unable to provide the required proof of inspection and insurance could not reopen the ride until:

- ! onsite corrections had been made to the satisfaction of the law enforcement officer;
- ! a district judge, county judge, judge of a county court at law, justice of the peace, or municipal judge permitted the ride to resume operation; or
- ! the insurance company reinspected the ride and delivered to the TDI and the law enforcement officer a reinspection certificate declaring the ride to be

in compliance, and explaining any necessary repairs that had been made.

The ride operator of a ride shut down could file suit for relief in a district court in the county in which the ride was located when the prohibition was enforced.

The TDI inspection requirements would be changed to provide that the manufacturer, not TDI, would decide which critical parts of a ride are reasonably subject to injury-causing failure and should be tested for stress and wear.

The bill would increase from \$20 to \$40 the annual fee paid to TDI for each ride owned by any operator, a net annual gain of \$28,000 in all funds.

CSHB 1059 would not apply to rides that operate in a fixed location in a park attended by more than 200,000 visitors in the year preceding the inspection. The bill would specify that a "class A amusement ride" has a fixed location.

Operating a ride that had been shut down before it was allowed to reopen or failing to comply with insurance and inspection requirements would be a Class B misdemeanor, punishable by up to 180 days in jail and/or a maximum fine of \$2,000.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS  
SAY:**

Current law on ride safety is weak and fails to offers sufficient means for enforcement. Law enforcement officials should be able to shut down dangerous rides immediately, without having to spend the time to get a court order. In some cases, the people operating the rides are intoxicated or under the influence of drugs. Other times, rides show obvious wear or other safety problems that should be dealt with immediately. The threat of jail time or lost revenue from closed operations that CSHB 1059 would provide would encourage operators to maintain the safety of their rides.

In 1998, a 15-year-old Austin girl was killed and two others were injured when a safety bar malfunctioned on a carnival ride and they were thrown from their seats. Other people had noticed the problem earlier in the day, but

the ride operators failed to take action. If law enforcement officers had been able to inspect the ride and shut it down, the tragedy might have been averted.

Although law officers are not trained as mechanics, they regularly issue citations for operation of dangerous vehicles. Even though officers are not trained to recognize every potential problem on a carnival ride, they certainly would be qualified to observe and to shut down a ride for egregious safety breaches. Riders themselves often notice problems and report them. The bill would allow officers to take action when riders call safety problems to their attention.

An operator who felt that an officer had shown unfair treatment or had performed an inaccurate inspection could easily go to a local magistrate to remedy the problem. In light of the transient nature of traveling carnivals, this immediate type of remedy would benefit everyone.

The inspection process properly should remain with private industry. Insurance companies should be in charge of inspecting rides, not the state. Insurers have a financial incentive to make sure rides are safe because, otherwise, they potentially face huge damage claims. Transferring inspection responsibilities to the state would be costly and increase unneeded state regulation of private business.

Amusement parks with over 200,000 visitors annually should be exempt from the bill because they tend to have their own well-trained inspectors. While the state only requires annual inspections, big parks usually do daily inspections of their rides.

Doubling the TDI fee for every ride would help pay for inspection programs and training by the department.

**OPPONENTS  
SAY:**

Law enforcement officials are not mechanics and have no experience in inspecting amusement rides. They should not be given the responsibility or authority to do so. An officer who shut down a perfectly safe ride could cause operators financial harm and needless bad publicity. An officer who did not shut down a ride that was later found to be unsafe potentially could face liability problems.

CSHB 1059 states that officers could shut down rides if they “reasonably believe” them to be dangerous. This wording is vague and would open the door to officers closing rides for no compelling reason. This could allow officers could abuse their powers.

The bill should provide limits on the type of law enforcement officers allowed to inspect rides and how many officers could make inspections at one time. In an extreme case, the bill could allow an entire police force to comb carnival grounds looking for safety problems they could not verify. Conceivably, every ride in a carnival could be shut down under these circumstances.

Operators spend large amounts of money on safety, repairs, equipment testing, and employee training. As with any other mechanical apparatus, accidents are bound to happen. Allowing untrained law officers to shut down rides based on mere suspicion of safety problems would be unfair to responsible operators.

OTHER  
OPPONENTS  
SAY:

The bill should establish a system of independent inspectors for carnival rides, rather than leaving the responsibility to employees of insurance companies. An insurance company has a financial interest in maintaining an insurance policy and therefore might be reluctant to find fault with a ride it insures.

The bill should require the state to hire and train inspectors. Putting inspection responsibility with the state would ensure that inspectors get proper training. The cost of hiring new state inspectors could be offset by inspection fees.

Another way to ensure to ride safety would be to require riders to abide by written or verbal rules. Many ride accidents occur not because of unsafe equipment, but because riders do not behave responsibly.

Larger amusement parks with annual attendance of over 200,000 should not be exempt from the bill. Larger parks have so much more traffic than smaller, traveling carnivals that they should be held to stricter safety standards.

Some cities often have small, established, fixed-location amusement parks with an annual attendance of under 200,000. If larger parks are to be

exempted, then these smaller parks also should be exempt because they are very safe and are an important resource for the community.

NOTES:

The committee substitute:

- ! changed the definition of “Class A amusement ride;”
- ! restored insurance requirements that would have been changed by the original bill;
- ! specified that tests be done on parts of the ride determined by the manufacturer, not TDI, to be critical; and
- ! exempted amusement rides with a fixed location at a park with over 200,000 visitors every year.

The companion bill, SB 312 by Barrientos, has been referred to the Senate Economic Development Committee.