

## **BILL ANALYSIS**

Senate Research Center

H.B. 1059  
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Economic Development  
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Engrossed

### **DIGEST**

Currently, amusement rides cannot legally operate in Texas until insurance coverage is obtained and filed with the Texas Department of Insurance with an approved safety inspection certificate. An annual inspection is required under the Amusement Ride Safety Inspection and Insurance Act (Article 21.60, Insurance Code). The statute places responsibility on the operator to have insurance before the rides can be used by the public and on the insurance companies to ascertain that the amusement ride is in good operating condition before they issue the insurance and inspection certificate. However, if safety concerns are present or if there is a failure to comply with statutory insurance or inspection requirements, the only option available to law enforcement officials is to institute action in a court in order to shut down the ride. H.B. 1059 authorizes state and local law enforcement officials to conduct spot inspections and immediately shut down an amusement ride if safety concerns are present or for failure to comply with statutory insurance or inspection requirements. This bill also increases penalties and enforcement measures for noncompliance with safety and insurance regulations and increases mandated insurance coverage to be consistent for all types of rides.

### **PURPOSE**

As proposed, H.B. 1059 regulates amusement rides, and provides a penalty.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2(3), Article 21.60, Insurance Code, to redefine "Class A amusement ride."

SECTION 2. Amends Section 3(a), Article 21.60, Insurance Code, to raise the maximum annual fee for each amusement ride covered by this Act from \$20 to \$40.

SECTION 3. Amends Section 4, Article 21.60, Insurance Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Prohibits a person from operating an amusement ride unless the person has filed with certain people a photocopy of the inspection certificate and the insurance policy required by this section, rather than a certificate of insurance. Makes nonsubstantive changes.

(b) Requires the inspection required by this section to include a method to test the stress and wear related damage of critical parts of the ride that the manufacturer of the amusement ride, rather than the board (Texas Department of Insurance or commissioner of insurance), determines are reasonably subject to failure. Makes a nonsubstantive changes.

(d) Requires a person who operates an amusement ride in this state to maintain accurate records of any governmental action taken in any state relating to the amusement ride. Requires the operator to file with the board on a quarterly basis a report on a board designed form providing certain information. Provides that a report is not required under this section in any quarter in which no reportable governmental action was taken in any state in which the person operated the amusement ride.

SECTION 4. Amends the heading of Section 9, Article 21.60, Insurance Code, as follows:

Sec. 9. New heading: PENALTIES.

SECTION 5. Amends Section 9, Article 21.60, Insurance Code, by amending Subsections (a) and (c), and adding Subsection (f), as follows:

- (a) Includes a person's failure to comply with any requirement under Sections 4, 5, 10(e), 10(f), or 10(g), of this article, as a commission of an offense. Makes a conforming and a nonsubstantive change.
- (c) Provides that an offense under this section is a Class B, rather than a Class C, misdemeanor.
- (f) Requires the prosecuting attorney in a case in which a person is convicted of an offense under this section to report the offense to the department of insurance (TDI) by a certain date.

SECTION 6. Amends Article 21.60, Insurance Code, by adding Section 10, as follows:

Sec. 10. ENFORCEMENT. (a) Authorizes a municipal, county, or state law enforcement official (official) to determine compliance with Section 4 (Amusement Ride Operation Requirements) or 5 (Filing Affidavit) of this article in conjunction with the State Board of Insurance (board) and institute an action in a court of competent jurisdiction to enforce this article.

(b) Authorizes an official to enter and inspect without notice any amusement ride at any time to ensure public safety.

(c) Requires the operator of an amusement ride to immediately provide the inspection certificate and the insurance policy required by Section 4 of this article to an official requesting the information. Authorizes a photocopy of the inspection certificate or insurance policy to be provided instead of the certificate or policy.

(d) Authorizes an official, except as provided by Subsection (i), to immediately prohibit operation of an amusement ride if: (1) the operator of the amusement ride is unable to provide the documents or a photocopy of the documents required by Subsection (c); (2) the law enforcement official reasonably believes the amusement ride is not in compliance with Section 4; or (3) operation of the amusement ride, conduct of the operator, or any other circumstance causes the official to reasonably believe that the amusement ride is unsafe or the safety of a passenger on the amusement ride is threatened.

(e) Prohibits a person, if the operation of an amusement ride is prohibited under Subsection (d)(1) or (2), from operating the amusement ride unless: (1) the operator presents to the appropriate municipal, county, or state law enforcement agency proof of compliance with Section 4; or (2) the commissioner of insurance or the commissioner's designee determines that on the date the amusement ride's operation was prohibited the operator had on file with the board the documents required by Section 4 and issues a written statement permitting the amusement ride to resume operation.

(f) Prohibits a person, if on the date an amusement ride's operation is prohibited under Subsection (d)(3) the amusement ride is not in compliance with Section 4, from operating the amusement ride until after a person subsequently complies with Section 4.

(g) Prohibits a person, if on the date an amusement ride's operation is prohibited under Subsection (d)(3) the amusement ride is in compliance with Section 4, from operating the amusement ride until: (1) on-site corrections are made to the satisfaction of the appropriate official; (2) an order from a district judge, county judge, judge of county court at law, justice of the peace, or municipal judge permits the amusement ride to resume operation; or (3) an insurance company insuring the amusement ride re-inspects the amusement ride in the same manner required under Section 4 on the date the amusement ride's operation was prohibited and delivers to the board and the appropriate officer a reinspection certificate containing the enumerated information.

(h) Authorizes the owner or operator of the amusement ride to file suit for relief from an action taken under Subsection (d) of this section in a district court in the county in which the amusement ride was located when the prohibition against operation was enforced.

(i) Provides that Subsection (d) does not apply to an amusement ride with a fixed location and operated at an amusement park that was attended by more than 200,000 customers in the year preceding the inspection under Subsection (b).

SECTION 7. Repealer: Section 9(e), Article 21.60, Insurance Code (authority of a municipal or law enforcement official to determine compliance and institute an action in court to enforce this article).

SECTION 8. Effective date: immediately.  
Makes application of this Act prospective.

SECTION 9. Emergency clause.  
Effective date: upon passage.