

**Senate Bill No. 783**

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Passed the Senate September 6, 2007

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*Secretary of the Senate*

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Passed the Assembly September 5, 2007

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2007, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 7912, 7914, and 7915 of, and to add Sections 7916, 7917, 7918, and 7919 to, the Labor Code, relating to amusement rides.

## LEGISLATIVE COUNSEL'S DIGEST

SB 783, Torlakson. Amusement Rides Safety Law.

Under the Amusement Rides Safety Law, the Division of Occupational Safety and Health regulates the safe installation, repair, maintenance, use, operation, and inspection of all amusement rides, as defined, for the protection of the general public using those amusement rides. However, the Permanent Amusement Ride Safety Inspection Program regulates permanent amusement rides, as defined.

The Permanent Amusement Ride Safety Inspection Program prohibits the operation of a permanent amusement ride without a policy of insurance in an amount of not less than \$1,000,000 per occurrence insuring the owner or operator against liability for injury or death to persons arising out of the use of the permanent amusement ride. The Amusement Rides Safety Law prohibits the operation of an amusement ride without a policy of insurance in an amount of not less than \$500,000 insuring the owner or operator against liability for injury suffered by persons riding the amusement ride.

This bill would increase the minimum policy of insurance amount under the Amusement Rides Safety Law to \$1,000,000 per occurrence, effective January 1, 2009.

Existing law requires an operator of an amusement ride to report or cause to be reported to the division immediately by telephone each known incident where the maintenance, operation, or use of the amusement ride results in a fatality or injury to a person that requires medical service other than ordinary first aid treatment.

This bill would also require a report for incidents where the maintenance, operation, or use of the amusement ride results in a loss of consciousness that requires medical service other than ordinary first aid treatment, major mechanical failure, or a patron falling from a moving ride or falling from a ride that has

temporarily stopped in an elevated position. The bill would additionally require that a written accident report on a form designated by the division be submitted to the division within 24 hours of any incident.

The Permanent Amusement Ride Safety Inspection Program authorizes the division to inspect any permanent amusement ride after the report of an accident to the division.

This bill would grant similar inspection authority to the division with respect to any amusement ride.

The Permanent Amusement Ride Safety Inspection Program requires each owner of a permanent amusement ride to provide specified training for its employees in the safe operation and maintenance of amusement rides.

This bill would establish a similar requirement for each owner of any amusement ride. This bill would additionally require the owner of an amusement ride to maintain all records necessary to demonstrate that these requirements have been met, and, effective January 1, 2009, make these records available to a division inspector upon request.

The Permanent Amusement Ride Safety Inspection Program authorizes the division to impose on an owner or operator of a permanent amusement ride a civil penalty if the division determines that the owner or operator subject to the program has willfully or intentionally violated the program or any rule or regulation promulgated under that program and that violation results in death or serious injury. The program also requires the division to enforce the program by the issuance of citations and notices of civil penalty and establishes a process of appeal to the Occupational Safety and Health Appeals Board.

This bill would, under the Amusement Rides Safety Law, grant to the division similar authority to impose civil penalties, would impose similar enforcement requirements upon the division, and would establish a similar process of appeal.

This bill would require the division to adopt rules and regulations necessary for the administration of the Amusement Rides Safety Law, including the reporting requirements established under the bill.

Because this bill would impose additional requirements upon an owner and operator of an amusement ride, a violation of which

would be a misdemeanor, the bill would create new crimes, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7912 of the Labor Code is amended to read:

7912. No person shall operate an amusement ride unless there is in existence and on file with the division a policy of insurance, issued by a company licensed by the Department of Insurance to do business in the state, or by a nonadmitted insurer employed by a surplus lines broker licensed by the Department of Insurance, in an amount of not less than five hundred thousand dollars (\$500,000) until January 1, 2009, and, effective on and after January 1, 2009, one million dollars (\$1,000,000) per occurrence insuring the owner or operator against liability for injury suffered by persons riding the amusement ride.

SEC. 2. Section 7914 of the Labor Code is amended to read:

7914. (a) An operator of an amusement ride shall report or cause to be reported to the division immediately by telephone each known incident where the maintenance, operation, or use of the amusement ride results in any of the following:

- (1) A fatality.
- (2) A loss of consciousness or other injury to a person which requires medical service other than ordinary first aid treatment.
- (3) Major mechanical failure. For purposes of this section, “major mechanical failure” means the stoppage of operation resulting from or in a structural failure, a mechanical or electrical failure of a drive or control system component, or a failure of a restraint system that significantly compromises ride safety. “Major mechanical failure” does not include a foreseeable malfunction that activates a safety system.
- (4) A patron falling from a moving ride or from a ride that has temporarily stopped in an elevated position.

(b) If a fatality, reportable injury, or major mechanical failure, as defined in subdivision (a), is caused by the failure, malfunction, or operation of an amusement ride, the equipment or conditions that caused the accident shall be preserved for the purpose of investigation by the division.

(c) In addition to the report by telephone required under subdivision (a), an operator of an amusement ride shall submit a written accident report to the division within 24 hours of an incident on a form designated by the division.

(d) A division inspector may inspect an amusement ride upon receipt of the report of an incident.

(e) Whenever a state, county, or local fire or police agency is called to an accident involving an amusement ride covered by this part in which a serious injury or illness, or death occurs, the nearest office of the division shall be notified by telephone immediately by the responding agency.

SEC. 3. Section 7915 of the Labor Code is amended to read:

7915. (a) Any owner or operator of any amusement ride who fails to comply with any provision of this part or any rule, regulation, or safety order adopted pursuant to this part shall be guilty of a misdemeanor.

(b) Whenever an owner or operator of any amusement ride fails to pay any fee required under Section 7904 within 60 days after notification, the owner or operator shall pay, in addition to the fee required, a penalty fee equal to 100 percent of the required fee. For purposes of this section, the date of the invoice shall be considered the date of notification.

(c) The division shall not issue any permit to any owner or operator of any amusement ride who fails to pay any fee until the fee is paid.

SEC. 4. Section 7916 is added to the Labor Code, to read:

7916. (a) An owner of an amusement ride shall provide training for its employees in the safe operation and maintenance of amusement rides, as required by Sections 4, 6, 7, and 8 of ASTM F770-06, Standard Practice for Ownership and Operation of Amusement Rides and Devices, adopted by the American Society for Testing and Materials, as amended or as may be amended from time to time and as the division deems appropriate, and the injury prevention program required under Section 6401.7.

(b) The owner of an amusement ride shall maintain all of the records necessary to demonstrate that the requirements of subdivision (a) have been met, including employee training records and maintenance, repair, inspection, and injury and illness records for each amusement ride, as specified in ASTM F770-06 referenced in subdivision (a). On and after January 1, 2009, the owner of an amusement ride shall make the records available to a division inspector upon request.

SEC. 5. Section 7917 is added to the Labor Code, to read:

7917. If the division determines that an owner or operator of an amusement ride subject to this part has willfully or intentionally violated this part or a rule or regulation promulgated under this part, and that the violation resulted in a death or reportable injury as specified in Section 7914, the division shall impose on that owner or operator a civil penalty of not less than five thousand dollars (\$5,000) and not more than twenty-five thousand dollars (\$25,000).

SEC. 6. Section 7918 is added to the Labor Code, to read:

7918. The division shall enforce this part by the issuance of a citation and notice of civil penalty in a manner consistent with that specified in Section 6317 or in some other manner as deemed appropriate by the division. An owner or operator who receives a citation and penalty may appeal the citation and penalty to the Occupational Safety and Health Appeals Board in a manner consistent with that specified in Section 6319.

SEC. 7. Section 7919 is added to the Labor Code, to read:

7919. The division shall adopt rules and regulations necessary for the administration of this part, including, the reporting requirements established under Section 7914.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved \_\_\_\_\_, 2007

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*Governor*