

**SUBCHAPTER J. RULES TO IMPLEMENT THE AMUSEMENT  
RIDE SAFETY INSPECTION AND INSURANCE ACT**

28 TAC §§5.9002 – 5.9004, 5.9007, 5.9008, 5.9010, and 5.9012

**1. INTRODUCTION.** The Texas Department of Insurance proposes amendments to §§5.9002– 5.9004, 5.9007, 5.9008, 5.9010, and 5.9012, concerning rules to implement the Amusement Ride Safety Inspection and Insurance Act (the Act). This proposal is necessary to implement legislation enacted by the 79th Legislature, Regular Session, in House Bill (HB) 1892, effective June 17, 2005, and HB 2879 and Senate Bill (SB) 1282, both effective September 1, 2005, and to update statutory references and two amusement ride forms. The legislation clarifies insurance requirements for amusement rides to allow policies to be written in either a combined single limit or a split limit amount in accord with the newly specified minimum limits set forth in §2151.101 of the Occupations Code, and further defines and specifies an exception from amusement ride regulation for certain challenge courses that meet particular insurance requirements. The purposes of the proposed amendments are to conform applicable sections of the amusement ride rules to the new legislation, update statutory references in those sections and update two amusement ride forms. Proposed §5.9002 adds to the definition of “amusement ride” the exception for a challenge course or any part of a challenge course as defined in §2151.107 of the Act that meets certain specified insurance requirements as set forth in that section and in §2151.002 of the Act. Proposed §5.9004 updates statutory references and clarifies the insurance requirements for operating an amusement ride to allow insurance policies to be written

as a combined single limit or a split limit and to specify the minimum amounts in which such limits can be written. Proposed §5.9012 updates statutory references. Two amusement ride forms, [TDI Form AR-100](#) and [TDI Form AR-800](#) have been updated to add clarifying, corrective, and explanatory language and delete unnecessary language, and the sections which reference these forms that are adopted by reference, §§5.9003, 5.9004, 5.9007, 5.9008, and 5.9010, have been amended to note the revised effective date for these forms.

The department has filed a copy of the proposed forms with the Secretary of State's [Texas Register](#) section. Persons desiring copies of the proposed forms can obtain them from the Office of the Chief Clerk, Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas, 78714-9104. To request copies, please contact Sylvia Gutierrez at 512/463-6327.

**2. FISCAL NOTE.** Alexis Dick, deputy commissioner for the inspections division, has determined that, for each year of the first five years the amendments are in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering the amendments. Ms. Dick has also determined that there will be no measurable effect on local employment or the local economy.

**3. PUBLIC BENEFIT/COST NOTE.** Ms. Dick has determined that for each year of the first five years that the proposed sections are in effect, the anticipated public benefit from enforcing and administering these sections is improved and more efficient

regulation of amusement rides. Clarifying amusement ride insurance requirements by allowing combined single limit policies should alleviate availability issues based on an insurer's reluctance to write split limit policies. Defining and specifying the scope of certain challenge courses that meet particular insurance requirements will allow the department to focus its regulatory functions on those courses whose purpose is to give amusement, pleasure, or excitement. Updating two of the amusement ride forms which are obtained from the department will promote the efficient regulation of the Amusement Ride Safety Inspection and Insurance Act by providing clear instructions on the use of those forms. The department anticipates no additional regulatory costs as a result of the proposal and therefore no differential impact between small, large, and micro-businesses. Any costs to owners and operators of amusement rides or challenge courses to comply with the proposed amendments are the result of legislation and not the result of the adoption or implementation of these proposed amendments. The requirements of these amended sections are prescribed by statute and are further required as a safety measure. It is thus neither legal nor feasible to exempt small or micro-businesses or to waive compliance considering the purpose of the statute under which the amendments are to be adopted.

**4. REQUEST FOR PUBLIC COMMENT.** To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on October 3, 2005, to Gene C. Jarmon, General Counsel and Chief Clerk, Mail Code 113-2A, Texas Department of

Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments must be submitted simultaneously to Alexis Dick, Deputy Commissioner, Inspections Division, Mail Code 103-1A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Request for a public hearing should be submitted separately to the Chief Clerk's office.

**5. STATUTORY AUTHORITY.** The amended sections are proposed pursuant to Title 13, Occupations Code, Chapter 2151, and the Insurance Code §36.001. The 79th Legislature, Regular Session, enacted HB 1892, HB 2879 and SB 1282. The legislation clarifies insurance requirements for amusement rides to allow policies to be written in either a combined single limit or a split limit amount in accord with the newly specified minimum limits set forth in §2151.101 of the Occupations Code and further defines and specifies an exception from amusement ride regulation for certain challenge courses that meet particular insurance requirements. Section 36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

**6. CROSS REFERENCE TO STATUTE.** The following statutes are affected by this proposal:

<u>Rule Number</u>	<u>Statute</u>
--------------------	----------------

§§5.9002– 5.9004, 5.9007, 5.9008, Title 13, Occupations Code, Chapter 2151  
5.9010, and 5.9012

## 7. TEXT.

**§5.9002. Definitions.** The following words and terms, when used in this subchapter, shall have the following meanings.

- (1) (No change.)
- (2) Amusement ride--Any mechanical, gravity, or water device or devices that carry or convey passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, or excitement, but such term does not include:
  - (A) any coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator; [or]
  - (B) nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, playground slides, trampolines, and physical fitness devices; or
  - (C) a challenge course or any part of a challenge course, as defined in §2151.107 of the Act to mean a challenge, ropes, team building, or obstacle course that is constructed and used for educational, team and confidence building, or

physical fitness purposes, if the person who operates the challenge course has an insurance policy currently in effect written by an insurance company authorized to do business in this state or by a surplus lines insurer, as defined by Chapter 981, Insurance Code, or has an independently procured policy subject to Chapter 101, Insurance Code, insuring the operator against liability for injury to persons arising out of the use of the challenge course, in an amount not less than:

(i) for facilities with a fixed location:

(I) \$100,000 bodily injury and \$50,000 property damage per occurrence, with a \$300,000 annual aggregate; or  
(II) \$150,000 per occurrence combined single limit, with a \$300,000 annual aggregate; and

(ii) for facilities other than those with a fixed location:

(I) \$1,000,000 bodily injury and \$500,000 property damage per occurrence; or  
(II) \$1,500,000 per occurrence combined single limit.

(3) – (11) (No change.)

**§5.9003. Administration and Enforcement.** The Texas Department of Insurance is required by the Act to administer and enforce the Act. Owners/operators operating amusement rides must pay a fee of \$40 per year for each amusement ride subject to the Act. The fee payment shall accompany the insurance policy and amusement ride

inspection certificate (TDI Form AR-100, Amusement Ride Certificate of Inspection/Re-Inspection, Revised Effective October, 2005 [May, 2000]) required by the Act and by §5.9004 of this title (relating to Amusement Ride Operation Requirements). The fees shall be paid by certified check or money order made payable to the Texas Department of Insurance. The applicant shall attach the certified check or money order to the inspection certificate (TDI Form AR-100, Revised Effective October, 2005 [May, 2000]). The certified check or money order may be one check or money order for the total amount of fees for all rides or a separate check for each ride.

**§5.9004. Amusement Ride Operation Requirements.** An owner/operator may not operate an amusement ride unless the owner/operator has satisfied and is continuing to satisfy the following requirements.

(1) The owner/operator must file with Texas Department of Insurance (TDI) the insurance policy or a photocopy of the insurance policy certifying that the policy is a true copy of the insurance policy provided to the insured as required by the Act, §2151.101. The Act, §2151.101, requires that any person who operates an amusement ride must have currently in force a combined single limit or split limit [an] insurance policy written by an insurance company authorized to do business in this state or by a surplus lines insurer, as defined by the Insurance Code, Chapter 981 [Article 1.14-2], or an independently procured policy subject to the Insurance Code, §101.001 et seq., in an amount of not less than \$100,000 bodily injury and \$50,000

property damage per occurrence with a \$300,000 annual aggregate or \$150,000 per occurrence combined single limit with a \$300,000 annual aggregate for Class A amusement rides and an amount of not less than \$1,000,000 bodily injury and \$500,000 property damage [\$1 million] per occurrence or \$1,500,000 per occurrence combined single limit for Class B amusement rides insuring the owner or operator against liability for injury to persons arising out of the use of the amusement ride. [The policy shall apply on a per occurrence basis to bodily injury. Combined single limit policies covering bodily injury and property damage or any other coverage combined with bodily injury will not be acceptable unless the policy specifically provides at least the minimum limits for injury to persons as required by the Act.] The following requirements must also be met.

(A) (No change.)

(B) The policy must contain a schedule listing by name and serial number if applicable of each amusement ride insured by the policy. In the event of additions or deletions of amusement rides during the policy term, such changes shall be shown on a change endorsement, a copy of which must be submitted to TDI. Additions will also require an inspection certificate (TDI Form AR-100, Amusement Ride Certificate of Inspection/Re-Inspection, Revised Effective October, 2005 [May, 2000]) and a \$40 fee for each amusement ride to be submitted to TDI prior to any operation of the added amusement ride. Additions or deletions shall be filed no later than 10 days after the change.

(C) – (D) (No change.)

(E) If the owner/operator obtains an additional amusement ride device, the ride shall be added to the insurance policy and a copy of the endorsement submitted to TDI along with the required inspection certificate (TDI Form AR-100, Amusement Ride Certificate of Inspection/Re-Inspection, Revised Effective October, 2005 [May, 2000]) and the \$40 fee prior to operation in Texas.

(2) The owner/operator must also file the original amusement ride inspection certificate (TDI Form AR-100, Amusement Ride Certificate of Inspection/Re-Inspection, Revised Effective October, 2005 [~~Rev. May, 2000~~]) certifying with respect to each amusement ride the matters required by the Act. A separate inspection certificate is required for each amusement ride showing the name, serial number, manufacturer of the ride, the inspector's name, the owner/operator, a picture of the ride in an operable state taken at the time of the inspection, and other information as requested. The serial number and name/description of the amusement ride shall coincide with the same information identified on the insurance policy. If major components of the ride, i.e., the crane used in a bungee operation, are interchangeable, the name, serial number, and manufacturer of the inspected component shall be included on the inspection certificate. The inspection certificate is valid for a period of one year, and for expedience in processing, should if possible coincide with the effective date of the insurance policy. The inspection shall be conducted by the insurer or a person with whom the insurer has contracted. The inspector shall provide both the insurer and owner/operator with a

written certificate that the inspection has been made and that the amusement ride meets the standards for coverage.

(A) – (F) (No change.)

(G) It shall be the responsibility of the amusement ride owner/operator to complete the following prior to any operation of the ride:

(i) – (iv) (No change.)

(v) in addition to the requirements of this paragraph, a mobile amusement ride on which a death occurs may not be operated until the requirements of §2151.1526 [§2151.152] of the Act are met [as set forth therein].

(vi) in addition to the requirements of this paragraph, an amusement ride whose operation has been prohibited by a municipal, county, or state law enforcement official pursuant to §2151.152 or §2151.1525 of the Act may not be operated until the requirements of that section are met [as set forth therein]. Any on-site corrections that are made pursuant to the requirements of §2151.1525 [§2151.152] of the Act must be presented to the appropriate municipal, county, or state law enforcement official.

(H) TDI Form AR-100, Amusement Ride Certificate of Inspection/Re-Inspection, Revised Effective October, 2005 [May, 2000], is adopted [herein] by reference and shall be used for each filing of an amusement ride inspection certificate required by this section. This form (the Amusement Ride Certificate of Inspection/Re-Inspection) is published by the Texas Department of Insurance and

copies of the form may be obtained from the Loss Control Regulation Division, Mail Code 103-9A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

(I) – (J) (No change.)

(3) Renewal of the policy or inspection certificate shall be completed with sufficient lead time to provide these documents to TDI with a minimum of 10 working days to review and approve the documents prior to the expiration of either the policy or the inspection certificate.

(A) In the event of policy cancellation or expiration, the policy shall promptly be replaced or renewed without any lapse in coverage while the amusement ride is offered for use by the public. Any operation without a valid and current insurance policy and current inspection certificate constitutes an illegal operation and is subject to the enforcement provisions and penalties pursuant to §§2151.151, 2151.152, 2151.1525, 2151.1526, and 2151.153 of the Act. The sponsor, lessor, landowner, or other person responsible for an amusement ride offered for use by the public shall be notified by the owner/operator of the coverage discontinuance.

(B) A renewal certificate of insurance will be acceptable for the purpose of this paragraph, if the renewal certificate shows:

(i) insurance coverage against liability for injury to persons arising out of the use of the amusement ride/device;

(ii) an amount of insurance of not less than \$100,000 [per] bodily injury and \$50,000 property damage per occurrence with a \$300,000 annual aggregate or \$150,000 per occurrence combined single limit with a \$300,000 annual aggregate for Class A amusement rides and an amount of insurance of not less than \$1,000,000 bodily injury and \$500,000 property damage per occurrence or \$1,500,000 per occurrence combined single limit [~~\$1 million per bodily injury occurrence~~] for Class B amusement rides; and

(iii) a policy term that includes the period of time during which the amusement ride will be offered for public use.

(4) – (5) (No change.)

#### **§5.9007. Quarterly Reports.**

(a) An owner/operator who operates an amusement ride (the operator) shall maintain accurate records of each injury caused by the ride in any state which injury results in death or requires medical treatment. An injury is caused by the ride if the injury occurs on the ride or is in any way associated with the ride.

(1) The Texas Department of Insurance (TDI) adopts and incorporates [~~herein~~] by reference TDI Form AR-800 (Quarterly Injury Report) Revised Effective October, 2005 [~~May, 2000~~]. This form is published by TDI and copies of the form may be obtained from the Loss Control Regulation Division, Mail Code 103-9A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. The operator

shall file an injury report on TDI Form AR-800 with TDI on a quarterly basis and shall include in the report a description of each verifiable injury caused by a ride that results in death or injury that requires medical treatment.

- (2) – (4) (No change.)
- (b) – (c) (No change.)

**§5.9008. Filing Affidavit.** In addition to the requirements of the Act, §2151.101(b), the following requirements apply.

- (1) (No change.)
- (2) If the amusement ride is inspected more than once a year due to the requirements of this subchapter, a supplemental inspection certificate (TDI Form AR-100, Amusement Ride Certificate of Inspection/Re-Inspection, Revised Effective October, 2005 [Rev. May, 2000]) must be submitted to TDI not later than 15 days after each subsequent inspection. An additional annual \$40 fee is not required for supplemental inspection certificates.

**§5.9010. Confirmation of Required Insurance and Inspection Certificate; Rule Construction.**

- (a) After the required insurance policy and inspection certificate, including certified check or money order for the total amount of annual fee have been received by the Texas Department of Insurance (TDI) and found to be in compliance with the Act

and this subchapter, the original amusement ride inspection certificate (TDI Form AR-100, Amusement Ride Certificate of Inspection/Re-Inspection, Revised Effective October, 2005 [Rev. May, 2000]) will be stamped "Texas Department of Insurance Amusement Ride Program," will include the date of approval and will be returned to the insured owner or operator as evidence of compliance with filing requirements. The returned inspection certificate must be kept on the premises at which the amusement ride is offered for public use and made available to any person granted authority under the Act to investigate compliance with the Act. A TDI Form AR-101, (Texas Amusement Ride Compliance Sticker), Effective May, 2000, will be returned with each inspection certificate. This weatherproof form shall be affixed to the appropriate ride or device in a place easily visible to all ride participants.

(b) If the required insurance policy, inspection certificate, and/or annual fee is found not to be in compliance with the Act, this subchapter, or other applicable law, notice will be provided to the insured owner or operator or their insurer by TDI indicating the necessary action(s) for compliance. If noncompliance is due to mechanical problems or failure to meet insurance standards, another TDI Form AR-100, Amusement Ride Certificate of Inspection/Re-Inspection, Revised Effective October, 2005 [Rev. May, 2000] shall be submitted to TDI for approval after the necessary corrective action(s) or repair(s) have been completed by the owner or operator. After the necessary actions have been completed by the owner/operator to the satisfaction of TDI, TDI Form AR-100, Revised Effective October, 2005 [Rev. May, 2000] will be

stamped and mailed to the insured owner or operator as described in subsection (a) of this section.

(c) (No change.)

**§5.9012. Denial of Entry to Amusement Rides; Prohibiting Operation of Amusement Rides.**

(a) – (e) (No change.)

(f) A municipal, county, or state law enforcement official may immediately prohibit operation of an amusement ride as set forth in §2151.152, §2151.1525 or §2151.1526 of the Act, and a person may not operate the amusement ride until the requirements of §2151.152, §2151.1525, and §2151.1526 of the Act are met [as set forth therein].

**8. CERTIFICATION.** This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on \_\_\_\_\_, 2005.

---

Gene C. Jarmon  
General Counsel and Chief Clerk  
Texas Department of Insurance