

**Subchapter J. Rules to Implement the Amusement Ride Safety Inspection and Insurance Act**

**28 TAC §§5.9001 - 5.9004 and 5.9006 - 5.9014**

**INTRODUCTION.** The Texas Department of Insurance (TDI) proposes to amend 28 TAC §§5.9001 - 5.9004 and 5.9006 - 5.9014, concerning inspection of amusement rides. Proposed amendments implement House Bill 1553, 88th Legislature, 2023, which revised the definition of "amusement ride" in Occupations Code §2151.002. The proposed amendments also make nonsubstantive updates to the sections.

**EXPLANATION.** HB 1553 revised the definition of "amusement ride" in Occupations Code §2151.002 to exclude from the definition water slides in which passengers are carried along a course that is less than 200 feet in length, are substantially constructed from vinyl or vinyl-coated polyester, and are not mechanically inflated using a continuous airflow device. The current definition of "amusement ride" in §5.9002 uses the language of the previous statutory definition, so the rule text needs to be updated to reflect the change made to the statute.

To reduce the need for additional rule amendments if the definition of "amusement ride" in Occupations Code §2151.002 is revised in the future, the definition of "amusement ride" is changed to state that it is "as defined in Occupations Code §2151.002," rather than restating the statute's definition in rule text. Similar amendments are made to the definitions of other terms that are already defined in Occupations Code §2151.002.

Proposed amendments also make revisions to the rule text to address changes since the rules were last adopted or amended, including revising text for consistent use of form names and to update form revision dates where necessary, and updating the program area name and mailing address for form submissions.

In addition, amendments make nonsubstantive changes for consistency with current TDI rule text drafting preferences. These include revising use of the word "shall" for consistency with TDI's current plain language preferences; and removing the unnecessary designation of "TDI" as an acronym in separate sections, since "TDI" is a defined term applicable throughout the subchapter. These amendments are not noted in the following descriptions of the sections unless it is necessary or appropriate to provide additional context or explanation.

Details of the sections' proposed amendments follow.

**Section 5.9001.** Amendments to §5.9001 update citations to the Occupations Code in the section's initial sentences and in paragraph (1), update citations to the Insurance Code in paragraphs (4) and (6), and revise punctuation in paragraph (7).

**Section 5.9002.** Amendments to §5.9002 revise the definitions of "Amusement ride," "Class A amusement ride," "Class B amusement ride," and "Mobile amusement ride" to remove text that repeats statutory language. Amendments instead define the terms by pointing to the definitions in Occupations Code §2151.002. Amendments also update citations to the Occupations Code and other codes throughout the section, replace the word "five" with the numeral "5" in paragraph (6)(B), lowercase "commissioner of insurance" in paragraph (7), remove a duplicate acronym designation for "ASTM" in paragraph (8), and replace "his or its" with "that person or entity's" in paragraph (13).

**Section 5.9003.** An amendment to §5.9003 updates the internet address where an amusement ride owner or operator may pay the annual fee required by the Amusement Ride Safety Inspection and Insurance Act. Additional changes revise punctuation, replace the phrase "over the Internet" with the word "online," and remove an unnecessary use of the word "online."

**Section 5.9004.** Amendments throughout §5.9004 update citations to the Occupations Code and make minor nonsubstantive wording and grammar changes for

clarity. References to forms in subsections (b)(5), (b)(8), (c), (c)(11), (c)(12), (e)(3), and (f) are also revised, as are program area names in subsections (c)(11), (c)(12), (e)(3), and (f). Amendments in subsection (b)(6), (c)(7), and (d) change the words "prior to" to "before." Amendments also replace TDI's old mailing address with its new mailing address and provide TDI's website where referenced forms may be obtained in subsections (c)(11), (e)(3), and (f), and an amendment in subsection (f) provides the TDI mailing address where the referenced form may be obtained. Another amendment replaces the word "line" with "lines" and "prior to" with "before."

**Section 5.9006.** Amendments to §5.9006 clarify and improve the readability of signage requirements in paragraph (1) and replace the words "at which" with "where" in paragraph (3).

**Section 5.9007.** Amendments to §5.9007 update references to forms in subsections (a)(1) and (b)(1). Amendments also update the applicable program area name and replace TDI's old mailing address with its new mailing address in subsections (a)(1) and (b)(1), and amendments in subsections (a)(1) and (b)(1) provide TDI's website where the referenced forms may be obtained. Plain language changes make minor nonsubstantive wording, punctuation, and grammar changes throughout the section for clarity.

**Section 5.9008.** An amendment to the introductory sentence of §5.9008 updates a citation to the Occupations Code. Additional amendments change the words "prior to" to "before" in paragraph (1) and revise a reference to a form in paragraph (2).

**Section 5.9009.** Amendments to §5.9009 make minor nonsubstantive wording, punctuation, and grammar changes throughout the section for clarity and update a citation to the Occupations Code.

**Section 5.9010.** Amendments to §5.9010 replace the words "at which" with "where" in subsection (a) and revise references to forms in subsections (a) and (b).

**Section 5.9011.** An amendment to §5.9011 removes the unnecessary designation of the acronym "ASTM." "ASTM" is a defined term applicable throughout the subchapter, so it is not necessary to establish it as an acronym in the section.

**Section 5.9012.** Amendments to §5.9012 remove or replace the word "such" in subsections (a) and (d) and remove the phrase "set forth" in subsection (d). Citations to the Occupations Code in subsections (e) and (f) are also revised. Amendments also make minor nonsubstantive wording and punctuation changes throughout the section for clarity.

**Section 5.9013.** Amendments to §5.9013 update a statutory reference to use the defined term "the Act," add the word "with," change "his/her agent's" to "the state attorney general's agents," and insert a comma.

**Section 5.9014.** Amendments to §5.9014(a) change "he/she" to "the owner/operator," insert the word "it," and add the words "of this title" to a reference to an Administrative Code section. An amendment to subsection (b) revises text for better consistency with statutory language concerning compliance with the rules and statutes. Amendments in subsections (b) and (c) update citations to the Occupations Code.

**FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Jacob Martinez, manager in the Inspections Office, Property and Casualty Division, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the amendments, other than that imposed by statute. Mr. Martinez made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Mr. Martinez does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

**PUBLIC BENEFIT AND COST NOTE.** For each year of the first five years the proposed amendments are in effect, Mr. Martinez expects that administering the proposed amendments will have the public benefits of ensuring that TDI's rules conform to Occupations Code §2151.002 as amended by HB 1553.

Mr. Martinez expects that the proposed amendments will not increase the cost of compliance with Occupations Code §2151.002 because they do not impose requirements beyond those in the statute. The amendments merely update a definition for consistency with a statutory amendment and make additional nonsubstantive updates. As a result, any cost associated with the proposal results from the enforcement or administration of Occupations Code §2151.002.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities because the amendments merely update a definition for consistency with a statutory change and make additional nonsubstantive revisions. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

**EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045.** TDI has determined that this proposal does not impose a possible cost on regulated persons. Therefore, no additional rule amendments are required under Government Code §2001.0045.

**GOVERNMENT GROWTH IMPACT STATEMENT.** TDI has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

**TAKINGS IMPACT ASSESSMENT.** TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

**REQUEST FOR PUBLIC COMMENT.** TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on September 16, 2024. Send your comments to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC:

GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on September 16, 2024. If a public hearing is held, TDI will consider written and oral comments presented at the hearing.

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28 TAC §§5.9001 - 5.9004 and 5.9006 - 5.9014**

**STATUTORY AUTHORITY.** TDI proposes amendments to §§5.9001 - 5.9004 and 5.9006 - 5.9014 under Occupations Code §§2151.051, 2151.1021, and 2151.105 and Insurance Code §36.001.

Occupations Code §2151.051 provides that the commissioner administer and enforce Occupations Code Chapter 2151, which addresses the regulation of amusement rides.

Occupations Code §2151.1021 provides that the commissioner adopt rules requiring operators of mobile amusement rides to perform inspections of mobile amusement rides, including rules requiring daily inspections of safety restraints.

Occupations Code §2151.105 provides that the commissioner adopt rules requiring that a sign be posted to inform the public how to report an amusement ride that appears to be unsafe or to report an amusement ride operator who appears to be violating the law. The rules must require the sign to be posted at the principal entrance to the site at which an amusement ride is located or at any location on that site at which tickets for an amusement ride are available.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

**CROSS-REFERENCE TO STATUTE.** The amendments to §§5.9001 - 5.9004 and 5.9006 - 5.9014 implement Occupations Code §§2151.002, 2151.051, 2151.1021, 2151.105, and 2151.152.

**TEXT.**

**§5.9001. Purpose and Scope.**

It is the purpose of this subchapter to aid in implementing the Amusement Ride Safety Inspection and Insurance Act (Occupations Code, Chapter 2151, concerning Regulation of Amusement Rides) [~~hereinafter referred to as the Act~~]. The provisions of this subchapter are in addition to, and not in lieu of, the provisions of [~~the Act (Title 13,~~ Occupations Code[,] Chapter 2151[)]. This subchapter applies to:

(1) any amusement ride as defined in Occupations Code [~~the Act,~~ §2151.002, concerning Definitions;

(2) the owner and operator of any amusement ride;

(3) any agent or representative of the owner or operator of any amusement ride;

(4) any insurer, including any surplus lines insurer, as defined in [~~the~~ Insurance Code Chapter 981, concerning Surplus Lines Insurance, and any other nonadmitted company;

(5) any agent or representative of any insurer, including surplus lines agents, as defined in [~~the~~ Insurance Code Chapter 981 and agents of any nonadmitted company;

(6) any independently procured policy subject to [~~the~~ Insurance Code Chapter 101, concerning Unauthorized Insurance, §101.001 et seq., providing bodily injury liability insurance for amusement rides; and

(7) any inspector working as an independent contractor or as an employee

of an insurance carrier performing amusement ride inspections on behalf of[;] or under contract with[;] an insurance carrier.

### **§5.9002. Definitions.**

The following words and terms, when used in this subchapter, ~~shall~~ have the following meanings.

(1) Act--The Amusement Ride Safety Inspection and Insurance Act, (~~Title 13,~~ Occupations Code[;] Chapter 2151, concerning Regulation of Amusement Rides).

(2) Amusement ride--As defined in Occupations Code §2151.002, concerning Definitions. ~~[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;]~~

~~[(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) ASTM--The American Society for Testing and Materials.

(4) Class A amusement ride--As defined in Occupations Code §2151.002. ~~[An amusement ride with a fixed location and designed primarily for use by children 12 years of age or younger.]~~

(5) Class B amusement ride--As defined in Occupations Code §2151.002. ~~[Any amusement ride not defined as a Class A amusement ride.]~~

(6) Class B motorized train amusement ride--A Class B amusement ride that:

(A) consists of a motorized vehicle that tows one or more separate passenger cars in a manner similar to a train but without regard to whether the vehicle and cars operate on a fixed track or course;

(B) does not travel under its own power in excess of 5 ~~[five]~~ miles per hour;

(C) has safety belts for all passengers;

(D) does not run on an elevated track;

(E) has passenger seating areas enclosed by guardrails or doors; and

(F) does not have passenger cars that rotate independently from the motorized vehicle.

(7) Commissioner--The commissioner of insurance [~~Commissioner of Insurance~~].

(8) Inspector--A person qualified by training, education, or experience to conduct safety inspections of amusement rides or devices on behalf of an insurance company and in accordance with the [~~American Society for Testing and Materials (ASTM)~~], the manufacturer's standards and criteria, or standards established by the insurance company.

(9) Inspection--A procedure to be conducted by an inspector to determine whether an amusement ride or device is being assembled, maintained, tested, operated, and inspected in accordance with the current ASTM standards, the manufacturer's, or insurer's standards, whichever is the most stringent, and that determines the current operational safety of the ride or device.

(10) Interlocal agreement--An interlocal contract as defined in Government Code §791.003(2), concerning Definitions.

(11) Local government--A county, municipality, or special district; a junior college district, or other political subdivision of this state or another state; a local government corporation created under Transportation Code, Chapter 431, Subchapter D, concerning Local Government Corporations [~~Chapter 431~~]; a political subdivision corporation created under Local Government Code Chapter 304, concerning Energy Aggregation Measures for Local Governments; a local workforce development board created under Government Code §2308.253, concerning Creation of Local Workforce Development Boards; or a combination of two or more of such entities.

(12) Mobile amusement ride--As defined in Occupations Code §2151.002.

~~[An amusement ride that is designed or adapted to be moved from one location to another and is not fixed at a single location.]~~

(13) Owner/operator--The person or entity responsible for an amusement ride and that person or entity's ~~[his or its]~~ agents or representatives. A separate reference to owner or operator is ~~[shall be]~~ deemed to include owner/operator.

(14) TDI--The Texas Department of Insurance.

### **§5.9003. Administration and Enforcement.**

TDI ~~[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 fees must be paid by check or money order made payable to TDI ~~[the Texas Department of Insurance]~~; or, if paying online ~~[over the Internet]~~, the fee must be submitted through the following website: <https://feepay.txapps.texas.gov/tdi/amusement-ride-sticker-payments> ~~[Texas—OnLine Project, as directed by the Texas OnLine Authority]~~, which may add a surcharge for the ~~[online]~~ transaction. Except for overpayments resulting from mistakes of law or fact, all fees are nonrefundable and nontransferable.

### **§5.9004. Amusement Ride Operation Requirements.**

(a) Operational Requirements. An owner/operator may not operate an amusement ride unless the owner/operator has satisfied and is continuing to satisfy the requirements in subsections (a) - (f) of this section.

(b) Insurance. The owner/operator must file with ~~[the 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 Occupations Code ~~[the Act,]~~ Chapter 2151, concerning Regulation of Amusement

Rides.

(1) Occupations Code [The Act,] §2151.101, concerning Requirements for Operation, requires that any person who operates an amusement ride must have currently in force a combined single limit or split limit 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, concerning Surplus Lines Insurance, or have an independently procured policy subject to ~~the~~ Insurance Code~~]~~ Chapter 101, concerning Unauthorized Insurance, insuring the owner or operator against liability for injury to persons arising out of use of the amusement ride in an amount of not less than:

(A) for Class A amusement rides:

(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;

(B) for Class B amusement rides, except for Class B motorized train amusement rides:

(i) \$1,000,000 bodily injury and \$500,000 property damage per occurrence; or

(ii) \$1,500,000 per occurrence combined single limit.

(2) Occupations Code [The Act,] §2151.1011, concerning Liability Insurance for Certain Amusement Rides, requires that any person who operates a Class B motorized train amusement ride must have an insurance policy currently in effect written by an insurance company authorized to conduct business in this state or by a surplus lines ~~line~~ insurer, as defined by Insurance Code Chapter 981, or have an independently procured policy subject to Insurance Code Chapter 101, insuring the owner or operator against liability for injury to persons arising out of the use of the amusement ride in an amount

of not less than \$1 million in aggregate for all liability claims occurring in a policy year.

(3) A local government may satisfy the insurance requirements prescribed by paragraphs (1) and (2) of this subsection by obtaining liability coverage through an interlocal agreement.

(4) The policy or certified photocopy of the policy must be complete, including all applicable coverage forms and endorsements. Certificates of insurance will not be acceptable for this purpose.

(5) The policy must contain a schedule listing by name and serial number if applicable to ~~of~~ each amusement ride insured by the policy. In the event of additions or deletions of amusement rides during the policy term, such changes ~~must~~ ~~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/Reinspection) ~~[Inspection/Re-Inspection]~~, revised effective February 2022 ~~[Revised Effective October, 2005]~~) and a \$40 fee for each amusement ride to be submitted to TDI before ~~[prior to]~~ any operation of the added amusement ride. Additions or deletions ~~must~~ ~~shall~~ be filed not ~~[no]~~ later than 10 days after the change.

(6) In the event of policy cancellation by either the insured owner/operator or the insurance company, the company ~~must~~ ~~shall~~ furnish notice of ~~[such]~~ cancellation to TDI as soon as possible, but not later than 10 days before the ~~[prior to]~~ cancellation.

(7) The owner/operator will provide to any sponsor, lessor, landowner, or other person responsible for an amusement ride offered for use by the public~~[,]~~ a photocopy of the inspection certificate and the insurance policy required by this section.

(8) If the owner/operator obtains an additional amusement ride device, the ride ~~must~~ ~~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)) and the \$40 fee before ~~[prior to]~~ operation in Texas.

(c) Inspection/Reinspection Certificate. 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)]~~ certifying with respect to each amusement ride the matters required by the Act. A separate inspection certificate is required for each amusement ride that shows the ride's ~~[showing the]~~ name, serial number, and manufacturer ~~[of the ride]~~, as well as 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, name, and description ~~[and name/description]~~ of the amusement ride must ~~[shall]~~ coincide with the same information identified on the insurance policy. If major components of the ride (for example, the crane used in a bungee operation) ~~[i.e., the crane used in a bungee operation,]~~ are interchangeable, then the name, serial number, and manufacturer of the inspected component must ~~[shall]~~ be included on the inspection certificate. The inspection certificate is valid for a period of one year, and for expedience in processing, it should, if possible, coincide with the effective date of the insurance policy. The inspection must ~~[shall]~~ be conducted by the insurer or a person with whom the insurer has contracted. The inspector must ~~[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.

(1) The inspection certificate may ~~[shall]~~ not be submitted to TDI until all discrepancies have been resolved and all necessary repair(s) or replacement(s) required for the amusement ride to meet the standards for coverage have been made.

(2) The inspection required by Occupations Code §2151.101(a) ~~[of the Act]~~ must include a method to test the stress- and wear-related damage of critical parts of a ride that the manufacturer of the amusement ride determines are reasonably subject to

failure as the result of stress and wear and could cause injury to a member of the ~~[general]~~ public as a result of a failure. The inspection must ~~[shall]~~ include a review of the owner/operator's daily inspection records and inspection and maintenance program in accordance with ASTM practice or the manufacturer's guidelines/inspection criteria. The inspection must ~~[shall]~~ be conducted with the amusement ride or device in an operable state and include an evaluation of the device for a minimum of one complete operating cycle.

(3) If the amusement ride or device consists of interchangeable major components, such as cranes used in bungee jumping operations, the crane or major component used during the inspection is ~~[shall be]~~ considered an integral part of the amusement ride and the inspection certificate must ~~[shall]~~ include the manufacturer and serial number of the crane or major component inspected with the amusement ride. If the inspected crane or major component is replaced by another unit, a new inspection is required to include the new identification and serial number of the replacement unit.

(4) Any bungee jumping amusement device must ~~[shall]~~ include a safety net or air bag as an integral part of the ride. The safety net or air bag must ~~[shall]~~ be of sufficient size to cover the jump zone. The safety net or air bag must ~~[shall]~~ be rated for the maximum free-fall ~~[free fall]~~ height possible from the jump platform used. If the jump area is over water, the water must be of sufficient depth to provide an adequate safety cushion. The safety net or air bag must ~~[shall]~~ be inspected as an integral part of the amusement ride.

(5) The inspection certificate must ~~[shall]~~ be signed by a representative of the insurer.

(6) If the amusement ride or device does not meet the inspection standards, the amusement ride may ~~[shall]~~ not be operated until all necessary repair(s) and/or replacement(s) have been made and the ride reinspected and an inspection/reinspection

~~[inspection/re-inspection]~~ certificate issued.

(7) It ~~is~~ ~~[shall be]~~ the responsibility of the amusement ride owner/operator to complete the following before ~~[prior to]~~ any operation of the ride:

(A) to request the insurer to certify that the insurance policy and the inspection certificate are true copies by an official of the insurer;

(B) to receive the completed policy and inspection certificate from the insurer if they elect to provide coverage; and

(C) to submit a certified copy of the insurance policy, the original inspection certificate, and the fee to TDI for review. A planning factor of 10 days should be allowed for TDI review and approval before ~~[prior to]~~ any operation of the ride. Errors of omission or commission on either the policy or inspection certificate may delay TDI approval.

(8) Immediately after any injury or death involving equipment failure, structural failure, or operator error, the amusement ride/device must ~~[shall]~~ be closed for public use until a new inspection is performed and an inspection/reinspection ~~[inspection/re-inspection]~~ certificate is submitted to TDI.

(9) In addition to the requirements of paragraphs (7) and (8) of this subsection, a mobile amusement ride on which a death occurs may not be operated until the requirements of Occupations Code §2151.1526, concerning Prohibition of Mobile Amusement Ride Operation, ~~[of the Act]~~ are met.

(10) In addition to the requirements of this subsection, an amusement ride whose operation has been prohibited by a municipal, county, or state law enforcement official under Occupations Code [pursuant to] §2151.152, concerning Other Enforcement Actions, or §2151.1525, concerning Prohibition of Amusement Ride Operation, ~~[of the Act]~~ may not be operated until the requirements of that section are met. Any on-site corrections that are made under ~~[pursuant to]~~ the requirements of Occupations Code

§2151.1525 ~~[of the Act]~~ must be presented to the appropriate municipal, county, or state law enforcement official.

(11) TDI Form AR-100~~[,]~~ (~~Amusement Ride Certificate of Inspection/Reinspection~~), revised effective February 2022 ~~[Inspection/Re-Inspection, Revised Effective October, 2005]~~, is adopted by reference and must ~~[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 TDI ~~[the Texas Department of Insurance]~~ and copies of the form may be obtained from the Inspections Office, MC: PC-INSP, ~~[Loss Control Regulation Division, Mail Code 103-9A,]~~ Texas Department of Insurance, P.O. Box 12030, ~~[149104,]~~ Austin, Texas 78711-2030, or on TDI's website at www.tdi.texas.gov/forms/formlisting.html. ~~[78714-9104.]~~

(12) The inspection/reinspection ~~[inspection/re-inspection]~~ certificate, insurance policy, and fee must ~~[shall]~~ be submitted to the Inspections Office ~~[TDI, Loss Control Regulation Division,]~~ for review. If the inspection/reinspection ~~[inspection/re-inspection]~~ certificate and insurance policy meet the requirements of this subchapter, the ~~[inspection/re-inspection]~~ certificate will be date-stamped and forwarded to the owner/operator with TDI Form AR-101 (Texas Amusement Ride Compliance Sticker), effective ~~[Effective]~~ May~~[,]~~ 2000, and adopted ~~[herein]~~ by reference. TDI Form AR-101 will indicate the expiration date of the inspection certificate and must ~~[shall]~~ be affixed to a major component of the amusement ride in a location visible to the ride participants.

(13) The records of the inspections required by this section will ~~[shall]~~ be made available for inspection by any municipal, county, or state law enforcement official at the location where ~~[at which]~~ the amusement ride is operated.

(d) Insurance Policy and Inspection Certificate Renewal. Renewal of the policy or inspection certificate must ~~[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 before [~~prior to~~] the expiration of either the policy or the inspection certificate.

(1) In the event of policy cancellation or expiration, the policy must [~~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 under [~~pursuant to~~] Occupations Code §§2151.151, concerning Injunction; 2151.152; [r] 2151.1525; [r] 2151.1526; [r] and 2151.153, concerning Criminal Penalties [of the Act]. The sponsor, lessor, landowner, or other person responsible for an amusement ride offered for use by the public must [~~shall~~] be notified by the owner/operator of the coverage discontinuance.

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

(A) insurance coverage insuring the owner or operator against liability arising out of the use of the amusement ride/device in an amount of not less than:

(i) for Class A amusement rides:

(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;

(ii) for Class B amusement rides, except for Class B motorized train amusement rides:

(I) \$1,000,000 bodily injury and \$500,000 property damage per occurrence; or

(II) \$1,500,000 per occurrence combined single limit;

(iii) for Class B motorized train amusement rides, \$1,000,000 in aggregate for all liability claims occurring in a policy year; and

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

(e) Daily Inspections. In addition to the inspection required under this section, the owner/operator who operates a mobile amusement ride must perform and record daily inspections of the mobile amusement ride including safety restraints on each mobile amusement ride.

(1) Records of the daily inspections must be available for inspection by any municipal, county, or state law enforcement official at the location where ~~[at which]~~ the amusement ride is operated, and the records must be maintained with the amusement ride for a period of one year.

(2) The daily inspection record must include an inspection of the following:

- (A) safety belts, bars, locks, and other passenger restraints;
- (B) all automatic and manual safety devices;
- (C) signal systems, brakes, and control devices;
- (D) safety pins and keys;
- (E) fencing, guards, barricades, stairways, and ramps;
- (F) ride structure and moving parts;
- (G) tightness of bolts and nuts;
- (H) blocking, support braces, and jackstands;
- (I) electrical equipment;
- (J) lubrication as per manufacturer's instructions;
- (K) hydraulic and/or pneumatic equipment;
- (L) communication equipment necessary for operation (if applicable);
- (M) operation of ride prior to opening through one complete cycle of proper functioning; and
- (N) any other component that is included in the manufacturer's

specific ride maintenance and safety checks or current ASTM standards, or that the operator or person performing the daily inspection deems necessary for inspection.

(3) ~~[The Texas Department of Insurance (TDI)]~~ adopts and incorporates ~~[herein]~~ by reference TDI Form AR-300 (Texas Amusement Ride Safety Inspection and Insurance Act Daily Inspection Record), revised effective May 2022 ~~[Effective May, 2000]~~. This form is published by TDI, and copies of the form may be obtained from the Inspections Office, MC: PC-INSP, [Loss Control Regulation Division, Mail Code 103-9A,] Texas Department of Insurance, P.O. Box 12030 ~~[149104]~~, Austin, Texas 78711-2030, or on TDI's website at [www.tdi.texas.gov/forms/formlisting.html](http://www.tdi.texas.gov/forms/formlisting.html). ~~[78714-9104.]~~ This form sets forth the inspection requirements of this subsection and also includes the name of the device, location (city, state), date of the inspection, manufacturer and serial number, and owner/operator. The form must be signed by the person performing the daily inspection and the inspector's ~~[his]~~ supervisor.

(4) Daily inspection record forms used by industry associations, individual operators, or individual manufacturers may be used to fulfill the requirements of this subsection if the forms contain all of the inspection items and elements set forth in this subsection and the TDI Form AR-300 ~~[(Daily Inspection Record)]~~.

(5) In addition to the requirements of this subsection, the owner/operator who operates a mobile amusement ride must also follow the manufacturer's specific checklist for specific ride maintenance and safety checks.

(f) Schedule of Operations. In addition to the inspection requirements of this section, TDI Form AR-102 (Amusement Ride Schedule of Operations in Texas), revised effective May 2022, which ~~[Amusement Ride Schedule of Operations in Texas, Effective May, 2000,]~~ is adopted ~~[herein]~~ by reference, must be used to provide ~~[and shall include]~~ a schedule of operating locations and dates for each six-month period for mobile operations. This form is published by TDI, and copies of the form may be obtained from

the Inspections Office, MC: PC-INSP, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030, or on TDI's website at www.tdi.texas.gov/forms/formlisting.html. This information must ~~shall~~ be provided by the owner/operator to the Inspections Office, MC: PC-INSP ~~[TDI, Loss Control Regulation Division, Mail Code 103-9A]~~, Texas Department of Insurance, P.O. Box 12030 ~~[149104]~~, Austin, Texas 78711-2030 ~~[78714-9104]~~, a minimum of 10 days before ~~[in advance of]~~ each six-month period. Any changes in the schedule must be submitted on an amended TDI Form AR-102 to TDI by the owner/operator within 10 days of the ~~such~~ change.

#### **§5.9006. Public Information Sign.**

An owner/operator who operates an amusement ride in this state must ~~shall~~ post a sign to inform the public how to report an amusement ride that appears to be unsafe or to report an amusement ride operator who appears to be violating the law.

(1) The sign must be at least 20 inches in width and 30 inches in length and must be in at least 50-point~~[, all capital]~~ block letters, bold-faced red-on-white-background type and must be readable from a distance of 25 feet.

(2) The sign must be printed in both English and Spanish.

(3) The sign must be posted at the principal entrance(s) to the site at which an amusement ride is located or at any location on that site where ~~[at which]~~ tickets for an amusement ride are available.

(4) The sign must state the following:

Figure: 28 TAC §5.9006(4) (No change.)

#### **§5.9007. Quarterly Reports.**

(a) An owner/operator who operates an amusement ride (the operator) must ~~shall~~ maintain accurate records of each injury caused by the ride in any state in which the 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 by reference TDI Form AR-800 (Quarterly Injury Report Amusement Ride Safety Inspection and Insurance Act), revised effective May 2022 ~~[Revised Effective October, 2005]~~. This form is published by TDI, and copies of the form may be obtained from the Inspections Office, MC: PC-INSP ~~[Loss Control Regulation Division, Mail Code 103-9A]~~, Texas Department of Insurance, P.O. Box 12030 ~~[149104]~~, Austin, Texas 78711-2030, or on TDI's website at www.tdi.texas.gov/forms/formlisting.html. ~~[78714-9104.]~~ The operator must ~~[shall]~~ file an injury report on TDI Form AR-800 with TDI on a quarterly basis and must ~~[shall]~~ include in the report a description of each verifiable injury caused by a ride that results in death or an injury that requires medical treatment.

(2) For purposes of this section, the term "medical treatment" includes treatment (other than first aid) administered by a physician or by registered professional personnel under the standing orders of a physician.

(3) For purposes of this section, the term "medical treatment" does not include first-aid treatment (one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and any other minor injuries that do not ordinarily require medical care) even though treatment is provided by a physician or by registered professional personnel.

(4) The quarterly injury report is not required of the operator for any quarter in which no reportable injury occurs in any state.

(b) An owner/operator who operates an amusement ride must ~~[(the operator) shall]~~ maintain accurate records of any governmental action taken in any state relating to that particular amusement ride, including an inspection resulting in the repair or replacement of equipment used in the operation of the amusement ride.

(1) TDI adopts and incorporates ~~[herein]~~ by reference TDI Form AR-801 (Quarterly Governmental Action Report Amusement Ride Safety Inspection and Insurance Act), revised effective May 2022. ~~[Effective May, 2000.]~~ This form is published by TDI, and copies of the form may be obtained from the Inspections Office, MC: PC-INSP, ~~Loss Control Regulation Division, Mail Code 103-9A,~~ Texas Department of Insurance, P.O. Box 12030 ~~[149104]~~, Austin, Texas 78711-2030, or on TDI's website at www.tdi.texas.gov/forms/form13amusement.html. ~~[78714-9104.]~~ The owner/operator must ~~[operator shall]~~ file a governmental action report on TDI Form AR-801 with TDI on a quarterly basis and must ~~[shall]~~ include in the report a description of each governmental action taken in any state during the quarter covered by the report relating to that particular amusement ride, including an inspection resulting in the repair or replacement of equipment used in the operation of the amusement ride.

(2) For purposes of this section, the term "governmental action" includes an action in the exercise of police power or in the exercise of constitutional, legislative, administrative, or judicial powers conferred on federal, state, or local government, and that ~~[which]~~ results in any notification to the owner/operator relating to the amusement ride, including notifications of any perceived deficiencies regarding the safety of the amusement ride or the possibility of actual or imminent noncompliance ~~[non-compliance]~~ with applicable laws~~;~~ or any action taken in an administrative law forum or court of law, including private civil lawsuits.

(3) The quarterly governmental action report is not required of the owner/operator ~~[operator]~~ for any quarter in which no reportable governmental action was taken in any state.

(c) An owner/operator who operates an amusement ride ~~[(the operator)]~~ must ~~[shall]~~ maintain for not less than two years at the location where the ride is operated, for inspection by a municipal, county, or state law enforcement official, a photocopy of any

quarterly report required under subsection (a) or (b) of this section to be filed with the commissioner.

**§5.9008. Filing Affidavit.**

In addition to the requirements of Occupations Code ~~[the Act,]~~ §2151.101(b), concerning Requirements for Operation, the following requirements apply.

(1) In the event a contract for use of an amusement ride provides that the amusement ride will not be operated until after July 1 but before ~~[prior to]~~ December 31 of any year, then timely filing of the insurance policy and inspection certificate must ~~[shall]~~ be made with ~~[Texas Department of Insurance (TDI)]~~ prior to the operation of the amusement ride. In no event may an amusement ride be operated before the inspection certificate, insurance policy, and fee are submitted to TDI as required by §5.9004 of this title (relating to Amusement Ride Operation Requirements).

(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/Reinspection), revised effective February 2022 ~~[Inspection/ Re-Inspection, Revised Effective October, 2005]~~) 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.

**§5.9009. Information Request.**

~~[The Texas Department of Insurance (TDI)]~~ may request~~[,]~~ from the owner/operator, sponsor, lessor, landowner, or other person responsible for an amusement ride offered for use by the public~~[,]~~ information concerning whether ~~[or not]~~ insurance in the amount required by ~~[Title 13,]~~ Occupations Code~~[,]~~ Chapter 2151, concerning Regulation of Amusement Rides, or this subchapter is in effect for ~~[on]~~ the

amusement ride. The owner/operator, sponsor, lessor, landowner, or other person to whom the information request is made must ~~[shall]~~ respond to TDI within 15 days after the request is made. The response must be by written verification. For the purpose of verification, the written response must ~~[shall]~~ include a copy of the declarations page of the policy insuring the amusement ride owner/operator ~~[owner or operator]~~.

**§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<sup>[7]</sup> (Amusement Ride Certificate of Inspection/Reinspection), revised effective February 2022, ~~[Inspection/ Re-Inspection, Revised Effective October, 2005]~~) 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 where ~~[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<sup>[7]</sup> (Texas Amusement Ride Compliance Sticker), effective ~~[Effective]~~ May<sup>[7]</sup> 2000, will be returned with each inspection certificate. This weatherproof form must ~~[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 must [~~Amusement Ride Certificate of Inspection/Re-Inspection, Revised Effective October, 2005 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, the TDI Form AR-100[ ~~Revised Effective October, 2005~~] will be stamped and mailed to the insured owner or operator as described in subsection (a) of this section.

(c) Nothing in this subchapter may be construed to authorize the operation of an amusement ride until all applicable requirements of law are met.

#### **§5.9011. Standards and Compliance.**

An amusement ride covered by the Act that is sold, maintained, or operated in this state must [~~shall~~] comply with current standards established by the [~~American Society for Testing and Materials (ASTM)~~]. Those standards are minimum standards. To the extent that the standards of the ASTM [~~American Society for Testing and Materials~~] conflict with the requirements of the Act, the more stringent requirement or standard applies.

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

(a) The owner/operator of an amusement ride or device must [~~shall~~] have the ability to view patrons so that no one is permitted on a [~~such~~] ride or device who appears to be in an intoxicated, drugged, or other condition of health that could be detrimental to the safety of the patron, [~~themselves,~~] other patrons, the operator, or spectators.

(b) The owner/operator must [~~shall~~] exercise reasonable control to prohibit the wearing of improper attire or lack of attire as deemed appropriate for the ride or device.

(c) The owner/operator must [~~will~~] prohibit the carrying of any article that [~~which~~]

might be dropped or thrown from the ride or device.

(d) The restrictions ~~[set forth]~~ in this section and others that will preclude participation on an amusement ride or device must ~~[shall]~~ be posted in plain view at the entrance to the ride. No operator may waive these ~~[such]~~ restrictions.

(e) A municipal, county, or state law enforcement official may enter and inspect without notice any amusement ride or device at any time to ensure public safety, and the owner/operator of an amusement ride must comply with the requirements of Occupations Code §2151.152 ~~[of the Act]~~, concerning Other Enforcement Actions, including providing copies of the inspection certificate and insurance policy and cooperating in the prohibiting of the operation of the amusement ride, if applicable.

(f) A municipal, county, or state law enforcement official may immediately prohibit operation of an amusement or device ride as set forth in Occupations Code §§2151.152; ~~[,]2151.1525,~~ concerning Prohibition of Amusement Ride Operation; or ~~[,]2151.1526,~~ concerning Prohibition of Mobile Amusement Ride Operation ~~[of the Act]~~, and a person may not operate the amusement ride until the requirements of Occupations Code §§2151.152, 2151.1525, and 2151.1526 ~~[of the Act]~~ are met.

### **§5.9013. Injunctions.**

Any person who operates an amusement ride, amusement attraction, or amusement device, and offers such for the public, must meet the requirements of the ~~[Texas Amusement Ride Safety Inspection and Insurance]~~ Act. Failure to comply with or violations of the Act constitute a Class B misdemeanor. Each day of public operation constitutes ~~[shall constitute]~~ a separate and distinct offense. The district attorney of each county in which an amusement ride or device is operated or, on request of the commissioner of insurance, the state attorney general, or one of the state attorney general's ~~[his/her]~~ agents, may seek an injunction against any person operating an

amusement ride or device in violation of the Act or in violation of this subchapter.

**§5.9014. Penalties; Enforcement.**

(a) An amusement ride owner/operator commits an offense if the owner/operator [~~he/she~~] fails to comply with any requirement under §5.9004 of this title (relating to Amusement Ride Operation Requirements), §5.9006 of this title (relating to Public Information Sign), §5.9007 of this title (relating to Quarterly Reports), or §5.9008 of this title (relating to Filing Affidavit). An owner/operator, sponsor, lessor, landowner, or other person responsible for an amusement ride offered for use by the public commits an offense if the owner/operator [~~he/she~~] fails to provide information required by this subchapter or provides false information under §5.9004(a)(2)(G) of this title. Any offense under this subchapter is considered a Class B misdemeanor. Each time a violation of this subchapter is committed it constitutes a separate offense.

(b) In addition to action by the state attorney general, local municipal, county, or state law enforcement officials may be solicited to determine compliance with this subchapter or with Occupations Code Chapter 2151, Subchapter C, concerning Operation of Amusement Rides, other than Occupations Code §2151.104, concerning Access to Rides, [§§2151.101 – 2151.103 of the Act] in conjunction with TDI [~~Texas Department of Insurance~~], and may institute an action in a court of competent jurisdiction to enforce the Act [~~Title 13, Occupations Code, Chapter 2151,~~] and this subchapter.

(c) The prosecuting attorney in a case in which a person is convicted of an offense under Occupations Code §2151.153, concerning Criminal Penalties, must [~~of the Act shall~~] report the offense to TDI not later than the 90th day after the date of the conviction.

**CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on August 5, 2024.

Signed by:

*Jessica Barta*

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Jessica Barta, General Counsel  
Texas Department of Insurance