

2016 Regular Session

HOUSE BILL NO. 1133

BY REPRESENTATIVE BERTHELOT

AMUSEMENT PARKS: Provides relative to revisions of the Amusement Rides Safety Law

1 AN ACT

2 To amend and reenact R.S. 40:1485.2(1)(introductory paragraph), (2), (3), (4)(introductory  
3 paragraph) and (5) and Subpart A of Part VII of Title 40 of the Louisiana Revised  
4 Statutes of 1950, to be comprised of R.S. 40:1484.1 through 1484.28, relative to the  
5 Amusement Rides Safety Law and the Carnival and Amusement Rider Safety Act;  
6 to provide for administration, enforcement, and rule making authority of the state fire  
7 marshal; to provide for definitions; to require registration of inflatable amusement  
8 devices, amusement attractions, and amusement rides with the office of state fire  
9 marshal; to regulate the operation of such devices, attractions, and rides; to provide  
10 for third-party inspections and certificates of inspection; to provide for set-up  
11 inspections; to provide relative to license requirements of third-party inspectors, set-  
12 up inspectors, firms, and certain persons; to require certain insurance; to provide for  
13 applicable fees, costs, penalties, and injunctive relief; to provide for applicability; to  
14 provide for prohibitions and exemptions; and to provide for related matters

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. Section 2 of this Act amends and reenacts Subpart A of Part VII of Title  
17 40 in its entirety. Due to the length of the Subpart, present law is not included as overstruck  
18 text.

1 Section 2. Subpart A of Part VII of Title 40 of the Louisiana Revised Statutes of  
2 1950, comprised of R.S. 40:1484.1 through 1484.28, is hereby amended and reenacted to  
3 read as follows:

4 PART VII. REGULATION OF AMUSEMENT ATTRACTIONS

5 AND RIDES

6 SUBPART A. REGULATION

7 §1484.1. Short title

8 This Part shall be known and may be cited as the Amusement Rides Safety  
9 Law.

10 §1484.2. Purpose; administration and enforcement

11 A. The purpose of this Part is to regulate the testing, inspection, and  
12 operation of inflatable amusement devices, amusement attractions, and amusement  
13 rides to prohibit the use of such devices, attractions, and rides when they have not  
14 been properly registered, have not received a proper and timely certificate of  
15 inspection, and have not received a set-up inspection.

16 B. The state fire marshal shall administer and enforce the provisions of this  
17 Part and may promulgate rules and regulations which he considers necessary to such  
18 administration and enforcement pursuant to the Administrative Procedure Act. In  
19 formulating necessary rules and regulations, the state fire marshal may use  
20 recognized standards, including but not limited to those of the ANSI, ASTM, those  
21 recognized by federal law or regulation, those published by nationally recognized  
22 standards-making organizations, those industry standards established by accepted  
23 practices or trade associations, or those contained in manufacturers' installation  
24 manuals.

25 C. The state fire marshal has the authority to charge and collect fees as  
26 provided for in this Part.

27 §1484.3. Definitions

28 As used in this Part, the following terms have the meanings specified in this  
29 Section except where the context expressly indicates otherwise:

1           (1) "Amusement attraction" means any building or structure around, over,  
2           or through which people may move or walk, without the aid of any moving device  
3           integral to the building or structure, that provides amusement, pleasure, thrills, or  
4           excitement. "Amusement attraction" does not include any enterprise principally  
5           devoted to the exhibition of products of agriculture, industry, education, science,  
6           religion, or the arts.

7           (2) "Amusement ride" means any mechanized device or combination of  
8           devices which carries passengers along, around, or over a fixed or restricted course  
9           for the purpose of giving its passengers amusement, pleasure, thrills, or excitement.  
10          "Amusement ride" also includes any mechanized device or combination of devices  
11          of a permanent nature even though such device or combination of devices is subject  
12          to building regulations issued by cities or parishes and existing applicable safety  
13          orders. "Amusement rides" also include the following:

14           (a) Bungee rides or bungee operations which utilize as a component a  
15           bungee cord, which is an elastic rope made of rubber, latex, or other elastic-type  
16           materials whether natural or synthetic.

17           (b) Go-karts, which means a ride in which a vehicle is controlled or driven  
18           by patrons on a fixed course.

19           (c) Any wave pool, water slide, or other similar attraction that totally or  
20           partially immerses a patron in water.

21           (d) Artificial climbing walls.

22           (e) Zip lines.

23           (3) "ANSI" means the American National Standards Institute.

24           (4) "ASTM" means the American Society of American Materials.

25           (5) "Certificate of inspection" means a certificate or report prepared by a  
26           third-party inspector pursuant to his inspection which verifies that the inflatable  
27           amusement device, amusement attraction, or amusement ride complies with all  
28           applicable adopted laws, rules, standards, and its corresponding manufacturer's  
29           installation manuals, maintenance and service bulletins, or notices.

1           (6) "Certificate of registration" means a certificate issued by the office of  
2           state fire marshal upon receipt of a completed registration application, valid  
3           insurance as required by this Part, and a certificate of inspection.

4           (7) "Compliance inspection" means a type of inspection performed by the  
5           state fire marshal as he deems necessary, usually in conjunction with an audit or  
6           investigation, or in response to a complaint.

7           (8) "Employee" means a person who performs services for wages or salary  
8           from his employer.

9           (9) "Firm" means a sole proprietorship, corporation, limited liability  
10           company, or similar type of business entity.

11           (10) "Fixed operation location" means an operating location wherein  
12           amusement devices, amusement attractions, or amusement rides are operated for an  
13           indefinite period of time and are not often disassembled and reassembled.

14           (11) "Inflatable amusement device" means any amusement attraction that  
15           incorporates a structural and mechanical system that employs a high-strength fabric  
16           or film that achieves its strength, shape, and stability by pretensioning with internal  
17           air pressure for activities including, but not limited to, bouncing, climbing, sliding,  
18           or interactive play, which may or may not be enclosed.

19           (12) "Inspect" or "inspection" means the thorough physical examination and  
20           functional testing of inflatable amusement devices, amusement attractions, and  
21           amusement rides and their component parts necessary to ensure that the such device,  
22           attraction, or ride complies with all applicable adopted laws, rules, standards, and  
23           corresponding manufacturer installation manuals, maintenance and service repair  
24           bulletins, or notices.

25           (13) "Investigate" or "investigation" means the thorough physical  
26           examination of an inflatable amusement device, amusement attraction, or amusement  
27           ride and their component parts by the office of state fire marshal in response to a  
28           complaint or an accident, which may or may not have resulted in injury or death, to  
29           determine the cause of the accident.

1           (14) "NAARSO" means the National Association of Amusement Ride Safety  
2           Officials.

3           (15) "Operate" means to manage and coordinate the inflatable amusements  
4           devices, amusement attractions, or amusement rides at an event. The term includes  
5           management or coordination which may or may not be performed by the owner of  
6           the inflatable amusements devices, amusement attractions, or amusement rides.

7           (16) "Operator" means a person or firm who may or may not own the  
8           inflatable amusements devices, amusement attractions, or amusement rides who is  
9           managing, coordinating, or has the duty to control the operation of the inflatable  
10           amusements devices, amusement attractions, or amusement rides at an event. The  
11           term may include an agency of the state or any of its political subdivisions.

12           (17) "Owner" means a person or firm, or the agent of a person or firm, who  
13           owns an amusement attraction, amusement ride, or more than two inflatable  
14           amusement devices, and at least one of the person's or firm's inflatable amusement  
15           devices, amusement attractions, or amusement rides is utilized in this state.

16           (18) "Ride operator" means the person or persons responsible for  
17           supervising, monitoring, and attending to the inflatable amusement device,  
18           amusement attraction, or amusement ride, including but not limited to collecting  
19           tickets or money, ensuring the appropriate number of patrons to get on a ride,  
20           ensuring riders are the appropriate height, latching and securing passengers,  
21           operating a ride, starting and stopping a ride, and monitoring patrons' activities  
22           during a ride's operation to ensure their safety.

23           (19) "Set-up inspection" means a review of all necessary documents,  
24           including service and repair documents, the observation of and examination of the  
25           assembly, set-up, and operation of an inflatable amusement device, amusement  
26           attraction, or amusement ride, and an inspection of the foundation, blocking, fuel  
27           containers, and mechanical and electrical conditions of such a device, attraction, or  
28           ride.

1           (20) "Set-up inspector" means the person or persons charged with conducting  
2           the set-up inspection prior to the opening of an amusement attraction or prior to the  
3           operation of an inflatable amusement device or amusement ride at each event.

4           (21) "Temporary operation location" means an operating location where  
5           inflatable amusement devices, amusement attractions, or amusement rides are  
6           operated for a finite period of time not to exceed thirty days.

7           (22) "Testing" means the set-up and activation of an inflatable amusement  
8           device, amusement attraction, or amusement ride for the purpose of analyzing such  
9           device, attraction, or ride and their component parts for safety. This may be done in  
10           conjunction with an inspection.

11           (23) "Third-party inspector" means a person licensed by the office of state  
12           fire marshal to test and inspect inflatable amusement devices, amusement attractions,  
13           and amusement rides.

14           §1484.4. Registration of inflatable amusement devices, amusement attractions, and  
15           amusement rides; requirements

16           A. Any owner of an inflatable amusement device, amusement attraction, or  
17           amusement ride shall register each of his inflatable amusement devices, amusement  
18           attractions, or amusement rides with the office of state fire marshal prior to its use  
19           in this state. An owner shall renew the registration each year for each inflatable  
20           amusement device, amusement attraction, or amusement ride being used in this state.

21           B. To register the inflatable amusement device, amusement attraction, or  
22           amusement ride, the owner shall submit all of the following to the office of state fire  
23           marshal for approval:

24                   (1) A registration application.

25                   (2) A certificate of inspection dated no earlier than sixty days prior to the  
26                   date of submission of a registration application.

27                   (3) A copy of the general liability insurance in which all inflatable  
28                   amusement devices, amusement attractions, or amusement rides being registered are  
29                   listed on the submitted insurance declaration page.

1           C. Upon approval by the state fire marshal, a certificate of registration shall  
2           be issued as follows:

3           (1) Initial registration. Initial registration can occur at any time. A  
4           registration plate shall be issued bearing a permanent registration number. The  
5           registration plate shall be permanently affixed to the inflatable amusement device,  
6           amusement attraction, or amusement ride in a conspicuous location.

7           (2) Annual registration renewal. A decal bearing the month and year of the  
8           annual renewal shall be issued and affixed to the plate to indicate its current  
9           registration with the state fire marshal.

10           D. The cost to replace a lost or damaged plate or decal is thirty dollars.  
11           §1484.5. Third-party inspection of inflatable amusement devices, amusement  
12           attractions, and amusement rides; certificate of inspection required; cease and  
13           desist orders

14           A. Except for the purpose of testing, training, or inspection, no inflatable  
15           amusement device, amusement attraction, or amusement ride shall be operated in this  
16           state without an inspection conducted by a third-party inspector and a certificate of  
17           inspection issued by the office of state fire marshal to an operator of the inflatable  
18           amusement device, amusement attraction, or amusement ride.

19           B.(1) Each inflatable amusement device, amusement attraction, or  
20           amusement ride shall be inspected by a third-party inspector for safety and subjected  
21           to nondestructive testing at least annually, in accordance with ASTM-F-24, as  
22           promulgated by the state fire marshal in conformity with the Administrative  
23           Procedure Act, regulations, and applicable manuals, service bulletins, and notices.

24           (2) Upon completion of each inspection as required in this Section, the  
25           third-party inspector shall certify the results of his inspection to the office of state  
26           fire marshal.

27           (3) If the inspection shows that an inflatable amusement device, amusement  
28           attraction, or amusement ride complies with all relevant provisions of this Part and  
29           the adopted standards, regulations, and applicable manuals, service bulletins, and

1 notices, the office of state fire marshal shall issue a certificate of inspection valid for  
2 not more than twelve months from the date of issuance.

3 (4) If the third-party inspection shows that an inflatable amusement device,  
4 amusement attraction, or amusement ride does not comply with all relevant  
5 provisions of this Part and the adopted standards, regulations, and applicable  
6 manuals, service bulletins, and notices, the third-party inspector shall notify and  
7 submit such findings to the state fire marshal within ten days of the inspection. The  
8 office of state fire marshal shall issue a cease and desist order to the operator. The  
9 state fire marshal shall lift the cease and desist order only when the deficiencies have  
10 been remedied as indicated by a third-party inspector or the office of state fire  
11 marshal.

12 §1484.6. Operation of amusement rides and amusement attractions; notice; changes  
13 in schedule; fines

14 A. At least five days prior to commencing operation of any amusement ride  
15 or amusement attraction, except for the purpose of testing, training, and inspection,  
16 the operator shall give written or electronic notification to the office of state fire  
17 marshal of his intent to commence operation of the amusement ride or amusement  
18 attraction.

19 B. Any operator who gives written or electronic notification to the office of  
20 state fire marshal of his intent to commence operation of the amusement ride or  
21 amusement attraction less than five days prior to commencing operation shall be  
22 fined two hundred and fifty dollars per ride or attraction.

23 C. If, after the notification, the operator changes his schedule of locations or  
24 dates, he shall immediately notify the office of state fire marshal of the change. An  
25 operator shall pay a fine of two hundred and fifty dollars for any change in schedule  
26 of location or date that occurs less than five days prior to the commencement of  
27 operation of the amusement ride or amusement attraction.

28 D. Prior to operating any new amusement ride or amusement attraction, the  
29 operator shall notify the office of state fire marshal of his intent to commence



1 operation and furnish the office of state fire marshal with a copy of a current  
2 certificate of inspection as provided in R.S. 40:1484.4.

3 E.(1) The state fire marshal or his designee may inspect all amusement rides  
4 or amusement attractions operating in the state at least once during the duration of  
5 the event at which the amusement ride or amusement attraction is being operated.

6 (2) During an office of state fire marshal event inspection or audit, the  
7 operator shall submit the set-up inspection report, as provided in R.S. 40:1484.8, to  
8 the state fire marshal or his designee.

9 (3) In the case of amusement rides or amusement attractions operating at  
10 fixed locations for more than one year, the state fire marshal or his designee shall  
11 inspect such amusement rides or amusement attractions at least annually. The  
12 inspection is to ensure compliance with the provisions of this Part and adopted  
13 standards, rules, regulations, and applicable manuals, service bulletins, and notices.

14 (4) The state fire marshal or his designee has free access to any premises in  
15 the state where an amusement ride or amusement attraction is being installed, built,  
16 repaired, or operated, for the purpose of ascertaining whether such amusement ride  
17 or amusement attraction is being installed, built, repaired, or operated in accordance  
18 with the provisions of this Part and adopted standards, rules, regulations, and  
19 applicable manuals, service bulletins, and notices.

20 F. The state fire marshal or his designee has the authority to publish a listing  
21 of all noncompliant operators and make such list available to the public upon written  
22 demand.

23 §1484.7. Operation of inflatable amusement devices; notice; changes in schedule;  
24 fin

25 A. At least five days prior to commencing operation of any inflatable  
26 amusement device, except for the purpose of testing, training, and inspection, the  
27 operator shall give written or electronic notification to the office of state fire marshal  
28 of his intent to commence operation of the inflatable amusement device.

1           B. Any operator who fails to give written or electronic notification to the  
2           office of state fire marshal of his intent to commence operation of the inflatable  
3           amusement device shall pay a fine of two hundred dollars per device.

4           C. If, after the notification, the operator changes his schedule of locations or  
5           dates, he shall immediately notify the office of state fire marshal of the change. An  
6           operator shall pay a fine of two hundred dollars for any change in schedule of  
7           location or date that occurs less than five days prior to the commencement of  
8           operation of the inflatable amusement device.

9           D. Prior to operating any new inflatable amusement device, the operator  
10          shall notify the office of state fire marshal of his intent to commence operations and  
11          furnish the office of state fire marshal with a copy of a current certificate of  
12          inspection as provided in R.S. 40:1484.4.

13          E.(1) The fire marshal or his designee may inspect all inflatable amusement  
14          devices operating in this state at least once during the duration of the event at which  
15          the inflatable amusement device is being operated.

16          (2) During an office of state fire marshal event inspection or audit, the  
17          operator shall submit the set-up inspection report, as provided in R.S. 40:1484.8, to  
18          the state fire marshal or his designee.

19          (3) In the case of inflatable amusement devices operating at fixed locations  
20          for more than one year, the fire marshal or his designee shall inspect such inflatable  
21          amusement devices at least annually to ensure compliance with the provisions of this  
22          Part and adopted standards, rules, regulations, and applicable manuals, service  
23          bulletins, and notices.

24          (4) The state fire marshal or his designee has free access to any premises in  
25          the state where an inflatable amusement device is being installed, built, repaired, or  
26          operated, for the purpose of ascertaining whether such inflatable amusement device  
27          is being installed, built, repaired, or operated in accordance with the provisions of  
28          this Part and adopted standards, rules, regulations, and applicable manuals, service  
29          bulletins, and notices.

1           F. The provisions of this Part only apply to inflatable amusement devices  
2           which are all of the following:

3           (1) Open to public.

4           (2) Located on grounds other than those of a one- or two-family dwelling.

5           (3) Co-located with other amusements, attractions, or rides governed by this  
6           Part.

7           G. The state fire marshal or his designee has the authority to publish a listing  
8           of all noncompliant operators and make such list available to the public upon written  
9           demand.

10          §1484.8. Set-up inspection; requirements; notification to the fire marshal

11           A. An owner or operator shall have a set-up inspection conducted on all  
12           inflatable amusement devices, amusement attractions, and amusement rides at least  
13           once prior to their operation at each event in the state.

14           B. The set-up inspection may be conducted by a third-party inspector or an  
15           employee of the owner or operator of the inflatable amusement device, amusement  
16           attraction, or amusement ride who is specially trained to perform a set-up inspection.

17           C. The set-up inspection includes but is not limited to the following:

18           (1) A review of all necessary documents including service and repair  
19           documents.

20           (2) Observation of and examination of the assembly, set-up, and operation.

21           (3) An inspection of the foundation, blocking, fuel containers, and  
22           mechanical and electrical condition.

23           D. If an inflatable amusement device, amusement attraction, or amusement  
24           ride is in compliance pursuant to the findings of a set-up inspection and  
25           corresponding adopted rules and regulations, the third-party inspector or set-up  
26           inspector shall affix a tag to the inflatable amusement device, amusement attraction,  
27           or amusement ride.

28           E. If an inflatable amusement device, amusement attraction, or amusement  
29           ride is not in compliance pursuant to the findings of a set-up inspection and

1 corresponding adopted rules and regulations, a third-party inspector or set-up  
2 inspector shall cease operation of the inflatable amusement device, amusement  
3 attraction, or amusement ride and notify the office of state marshal within two hours  
4 of the determination, and tag it accordingly.

5 F. The office of state fire marshal shall specifically adopt rules and  
6 regulations in accordance with the Administrative Procedure Act for enforcement of  
7 this Section.

8 §1484.9. Third-party inspectors; license required to inspect inflatable amusement  
9 devices, amusement attractions, and amusement rides

10 A. A person or firm shall not engage in the testing or inspection of an  
11 inflatable amusement device, amusement attraction, or amusement ride unless the  
12 person or firm holds a current and valid license issued by the state fire marshal as  
13 provided in this Part.

14 B. No person or firm shall aid, abet, facilitate, or otherwise assist any  
15 unlicensed person or firm in the engagement of any testing or inspecting of an  
16 inflatable amusement device, amusement attraction, or amusement ride when such  
17 person or firm knew or should have known the latter person or firm was unlicensed.

18 C. A person or firm shall not test or inspect an inflatable amusement device,  
19 amusement attraction, or amusement ride if such person or firm is also the owner or  
20 operator of the same.

21 §1484.10. Third-party inspector; educational and certification requirements

22 A third-party inspector shall not engage in third-party inspections as  
23 described in R.S. 40:1484.5 unless the inspector is one of the following:

24 (1) A licensed engineer experienced in materials testing.

25 (2) Currently certified by NAARSO with a Level 1 certification.

26 (3) Currently certified with an equivalent to NAARSO Level 1 certification  
27 as determined by rules promulgated by the state fire marshal pursuant to this Part.

28 §1484.11. License required to operate inflatable amusement devices, amusement  
29 rides, and amusement attractions; service and repairs by owners; prohibitions

1           A. A person or firm shall not engage in the operation of an inflatable  
2           amusement device, amusement attraction, or amusement ride unless the person or  
3           firm holds a current and valid license issued by the state fire marshal as provided in  
4           this Part.

5           B. No person or firm shall aid, abet, facilitate, or otherwise assist any  
6           unlicensed person or firm in the engagement of any testing or inspecting of an  
7           inflatable amusement device, amusement attraction, or amusement ride when such  
8           person or firm knew or should have known the latter person or firm was unlicensed.

9           C. The state fire marshal may, by rule, allow the owner of an inflatable  
10          amusement device, amusement attraction, or amusement ride, or an employee of the  
11          owner, to perform minor service and repairs of the inflatable amusement device,  
12          amusement ride, or amusement attraction. The owner shall document such service  
13          or repair and assume responsibility for all such service or repair.

14          §1484.12. Exemptions from licensure

15          The requirements of licensure as provided in this Part are not applicable to  
16          an officer or employee of the United States, this state, or any political subdivision  
17          of either, while engaged in the performance of his official duties within the course  
18          and scope of his employment with the United States, this state, or any political  
19          subdivision of either.

20          §1484.13. Application for firm license; third-party inspection firm license;  
21          operating firm license; requirements to maintain; prohibitions; penalties

22          A. To engage in testing, inspection, or operation of an inflatable amusement  
23          device, amusement attraction, or amusement ride, a firm shall apply for and obtain  
24          a license for the type of endorsement it performs.

25          B. An applicant for a third-party inspection firm license shall submit all of  
26          the following to the state fire marshal:

27                 (1) A completed firm application including the names of all owners,  
28                 managers, or members.

29                 (2) Documentation that the firm is an entity duly authorized to conduct  
30                 business within this state. If the firm is physically located in Louisiana,

1 documentation shall be in the form of a local or parish occupational license and, if  
2 incorporated, registration with the secretary of state. If the firm is physically located  
3 outside of the state, documentation shall be in the form of registration with the  
4 secretary of state as a foreign corporation including the name of the firm's registered  
5 agent of service.

6 (3) An original certificate of insurance documenting that the firm has general  
7 liability coverage in a minimum amount of one million dollars.

8 (4) An original certificate of insurance documenting that the firm has "Errors  
9 and Omissions" coverage in a minimum amount of one million dollars.

10 (5) An original certificate of insurance documenting that the firm has a  
11 current and valid worker's compensation insurance policy as required by state law.

12 (6) The name of the person who will serve as the designated agent of the  
13 firm.

14 (7) The application fee authorized by this Part.

15 (8) Proof of employment of a qualified individual with proper certification  
16 and training at each of its operating locations.

17 C. An applicant for an operating firm license shall submit the following to  
18 the state fire marshal:

19 (1) A completed firm application including the names of all owners,  
20 managers, or members.

21 (2) Documentation that the firm is an entity duly authorized to conduct  
22 business within this state. If the firm is physically located in Louisiana,  
23 documentation shall be in the form of a local or parish occupational license and, if  
24 incorporated, registration with the secretary of state. If the firm is physically located  
25 outside of the state, documentation shall be in the form of registration with the  
26 secretary of state as a foreign corporation including the name of the firm's registered  
27 agent of service.

28 (3) An original certificate of insurance documenting that the firm has general  
29 liability coverage in a minimum amount of one million dollars and in which all

1 inflatable amusement devices, amusement attractions, or amusement rides subject  
2 to the coverage are listed on the declarations page.

3 (4) An original certificate of insurance documenting that the firm has a  
4 current and valid worker's compensation insurance policy as required by state law.

5 (5) The name of the person who will serve as the designated agent of the  
6 firm.

7 (6) The application fee authorized by this Part.

8 D. Each firm as a condition of licensure shall be open for inspection by the  
9 state fire marshal or his designated representative at any reasonable time for the  
10 purpose of observation and collection of facts and data relating to proper  
11 enforcement of this Part. No person acting on behalf of the firm shall refuse to admit  
12 the state fire marshal or his designated representative to an operating location or its  
13 business location where the firm keeps records. A firm physically located outside  
14 of Louisiana may be charged for the travel expenses of the state fire marshal to  
15 conduct such an inspection.

16 E. As a further condition of licensure, the acceptance of a license by a firm  
17 is deemed as the firm's consent to submit to reasonable requests for documentation  
18 by the state fire marshal or his designated representatives and to cooperate in a  
19 lawful investigation by the office of state fire marshal. A firm refusing to cooperate  
20 with any lawful investigation by the office of state fire marshal is subject to any  
21 applicable penalty as provided in this Part, including suspension or revocation of a  
22 license.

23 F. Each firm shall clearly display its license in a conspicuous location at its  
24 place of business.

25 G. The designated agent of a firm shall notify the state fire marshal within  
26 ten days of the following:

27 (1) A change in the business address of the firm.

28 (2) A change in ownership of or interest in the firm.

29 §1484.14. Application for an individual license; requirements to maintain;  
30 prohibitions; penalties

1           A. To engage in testing, inspection, or operation of an inflatable amusement  
2           device, amusement attraction, or amusement ride, an individual shall apply for and  
3           obtain a license and apply for and obtain the relevant endorsement to test, inspect,  
4           or operate. Such license and endorsement authorizes its holder to perform testing,  
5           inspection, or operation of an inflatable amusement device, amusement attraction,  
6           or amusement ride. Each individual license holder shall maintain his license on his  
7           person while engaging in this activity. Each such license holder shall present his  
8           license for inspection upon demand of any employee of the office of state fire  
9           marshal, a fire department, or any law enforcement officer.

10           B. As a further condition of licensure, the acceptance of a license by an  
11           individual is deemed as the individual's consent to submit to reasonable requests for  
12           documentation by the office of state fire marshal or his designated representatives  
13           and to cooperate in a lawful investigation by the office of state fire marshal. Any  
14           person refusing to cooperate with any lawful investigation by the office of state fire  
15           marshal is subject to any applicable penalty as described in this Part, including  
16           suspension or revocation of a license.

17           C. Each individual license holder shall notify the state fire marshal, as  
18           specified by the state fire marshal, within ten days of the following:

19                   (1) A change in business or home address.

20                   (2) A separation from an employer or change in employer.

21           D. An individual licensed as provided in this Section shall not contract his  
22           services as an independent contractor or agent with any other firm, whether such firm  
23           is engaged in testing, inspection, or operation.

24           E. An individual shall meet all certification, continuing education, training,  
25           and testing requirements as established by this Part and related adopted rule or  
26           regulation.

27           §1484.15. Set-up inspection; license endorsement

28           A. To perform the set-up inspection of an inflatable amusement device,  
29           amusement attraction, or amusement ride, an individual shall apply for and obtain



1 a license and a set-up inspection endorsement which authorizes its holder to perform  
2 the set-up inspection.

3 B. Third-party inspectors, as licensed by this Part, may obtain a set-up  
4 inspection endorsement to perform set-up inspections as required by this Part.

5 C. Employees of the owners or operators of an inflatable amusement device,  
6 amusement attraction, or amusement ride may become licensed as specified by this  
7 Part to perform the set-up inspection of an inflatable amusement device, amusement  
8 attraction, or amusement ride owned or operated by his employer.

9 D. In conformity with the Administrative Procedure Act, the state fire  
10 marshal shall promulgate rules for qualifications, including required training, for the  
11 administration and enforcement of this Section.

12 §1484.16. Powers and duties of the state fire marshal

13 The state fire marshal shall:

14 (1) Formulate and administer such rules as may be determined essentially  
15 necessary for the enforcement of this Part.

16 (2) Evaluate the qualifications of firms or persons applying for or  
17 maintaining a license pursuant to this Part.

18 (3) Have authority to set qualifications and fitness of applicants for a license  
19 as provided in this Part, which may include conducting examinations.

20 (4) Issue full or provisional licenses to firms and persons meeting the  
21 qualifications established by this Part.

22 (5) Have authority, after notice and opportunity for hearing, to increase or  
23 decrease the limits of insurance coverage and authorize acceptance of surplus lines  
24 coverage if the state fire marshal determines that due to loss experience, market  
25 conditions, or other good reason, the liability insurance coverage required by this  
26 Part is unavailable to applicants for or holders of licenses.

27 (6) Have authority to conduct inspections of licensed firms, whether in state  
28 or out of state, for the purpose of observation and collection of facts and data relating  
29 to proper enforcement of this Part.

1           (7) Conduct inspections and perform audits to ensure compliance with this  
2           Part and investigate at reasonable times, and within reasonable limits and manner,  
3           inflatable amusement devices, amusement attractions, or amusement rides in any  
4           area where they are assembled or in use. The state fire marshal or his designee, upon  
5           presenting credentials to an owner or operator, is authorized to act as described in  
6           this Paragraph without prior notice.

7           (8) Employ such persons as he may deem qualified consistent with  
8           applicable civil service regulations and incur expenses as may be necessary in  
9           connection with the administration of this Part.

10           (9) Investigate all written complaints lodged against firms or individuals  
11           alleged to have violated provisions of this Part or related promulgated rules and  
12           pursue administrative action against the firms or individuals.

13           (10) Investigate all accidents related to an inflatable amusement device,  
14           amusement attraction, or amusement ride resulting in injury or death, or as requested  
15           by an operator, customer, patron, rider, or user.

16           §1484.17. Notice; hearing; revocation of certificate or license

17           Licenses, as provided for in this Part, may be revoked or suspended after  
18           notice and hearing in accordance with the Administrative Procedure Act and upon  
19           a finding that a person or firm did any of the following:

20           (1) Willfully violated any provision of this Part or any rule, regulation, or  
21           adopted order.

22           (2) Used deceit or false or misleading information to obtain any certificate  
23           or license pursuant to this Part.

24           (3) Demonstrated professional incompetence or gross negligence.

25           (4) Assisted any person attempting to evade the provisions of this Part or any  
26           related adopted rules or regulations.

27           §1484.18. Fees; required renewal; penalties

28           A. The fire marshal is authorized to assess and collect fees as provided in  
29           this Part.

1           B. Fees for the registration of each inflatable amusement device, amusement  
2           attraction, or amusement ride are as follows:

3           (1) Initial Registration Fee:

4           (a) Inflatable amusement device: \$100.00

5           (b) Child or "Kiddie" amusement attraction or amusement ride: \$100.00

6           (c) Adult amusement attraction or amusement ride: \$200.00

7           (2) Annual Renewal Fee:

8           (a) Inflatable amusement device: \$100.00

9           (b) Child or "Kiddie" amusement attraction or amusement ride: \$100.00

10          (c) Adult amusement attraction or amusement ride: \$200.00

11          C. The licensing fees for a firm are as follows:

12          (1) Initial Fee:

13          (a) Inspection endorsement: \$500.00

14          (b) Operation endorsement: \$500.00

15          (2) Renewal Fee:

16          (a) Inspection endorsement: \$100.00

17          (b) Operation endorsement: \$100.00

18          D. The licensing fees for an individual's license are as follows:

19          (1) Initial Fee:

20          (a) Third-party inspector endorsement: \$250.00

21          (b) Operator or Owner endorsement: \$250.00

22          (c) Set-up inspector endorsement: \$250.00

23          (d) Qualifier endorsement: \$1,000.00

24          (2) Renewal Fee:

25          (a) Third-Party inspector endorsement: \$50.00

26          (b) Operator or Owner endorsement: \$50.00

27          (c) Set-up inspector endorsement: \$50.00

28          (d) Qualifier endorsement: \$100.00

29          E. All licenses are valid for one year, unless a multi-year license is created,  
30          and shall be renewed by the license holder within the thirty days prior to the license

1 expiration date. The state fire marshal may create a prorated fee system to allow  
2 employee license renewal dates to coincide with the firm license renewal date.

3 F. Any license not renewed within the thirty days prior to its expiration date  
4 is past due for renewal and subject to late fees. The license holder shall pay a late  
5 fee penalty of twenty-five dollars for a license renewed within the first forty-five  
6 days past the license expiration date. The license holder shall pay a late fee penalty  
7 of fifty dollars for a license renewed between forty-six and sixty days past the license  
8 expiration date.

9 G. The state fire marshal shall suspend a license if the license is not renewed  
10 within sixty days past its expiration date or if the license holder has not maintained  
11 the license. The cost to reinstate a suspended license is the cost of the respective  
12 license holder's initial fee plus twenty dollars.

13 H. The cost for a duplicate or replacement firm or individual license is  
14 twenty dollars, regardless of how many endorsements are carried.

15 I. The cost to transfer an individual license from one firm to another is  
16 twenty dollars.

17 J. The fees established in this Section are not refundable, except when  
18 certain conditions apply as the state fire marshal may establish.

19 K. There are no fees associated with compliance inspections and audits  
20 performed by the office of state fire marshal, unless otherwise indicated by this Part.

21 L. All fees collected pursuant to this Part shall be used exclusively for the  
22 operation and maintenance of the amusement rides and safety division within the  
23 office of the state fire marshal, code enforcement and building safety.

24 §1484.19. Prohibited acts; operator

25 No person or firm shall do any of the following:

26 (1) Engage in the operation of an inflatable amusement device, amusement  
27 attraction, or amusement ride without a valid license issued as provided in this Part.

28 (2) Aid and abet an unlicensed individual, employee, or firm in the testing,  
29 inspection, or operation of an inflatable amusement device, amusement attraction,  
30 or amusement ride without a valid license.

1           (3) Operate an inflatable amusement device, amusement attraction, or  
2           amusement ride contrary to applicable codes, standards, or manufacturer's  
3           specifications without specific written authorization from the office of state fire  
4           marshal.

5           (4) Submit an application or any other document to the office of state fire  
6           marshal when the person reasonably should have known the document contained  
7           false or misleading information.

8           (5) Engage in false, misleading, or deceptive acts or practices.

9           (6) Fail to maintain a valid license as required by this Part.

10          (7) Fail to maintain a valid insurance policy as required by this Part.

11          (8) Refuse to admit the state fire marshal or his designated representative to  
12          an operating location or refuse to cooperate in the purposes of such admittance as  
13          required by this Part.

14          (9) Fail to maintain his license on his person and present it for inspection as  
15          required by this Part.

16          (10) Refuse to cooperate with any lawful investigation by the office of state  
17          fire marshal.

18          (11) Fail to abide by the administrative rules promulgated pursuant to this  
19          Part.

20          §1484.20. Prohibited acts; third-party inspector

21          No person or firm shall do any of the following:

22          (1) Engage in the inspection or testing of an inflatable amusement device,  
23          amusement ride, or amusement attraction without a valid license.

24          (2) Aid and abet an unlicensed operator in the operation of an inflatable  
25          amusement device, amusement attraction, or amusement ride.

26          (3) Aid and abet an unlicensed individual or firm in the inspection or testing  
27          of an inflatable amusement device, amusement ride, or amusement attraction.

28          (4) Certify, test, or inspect an inflatable amusement device, amusement  
29          attraction, or amusement ride contrary to the provisions of this Part and adopted  
30          standards, regulations, and applicable manuals, service bulletins and notices.

1           (5) Submit an application or any other document to the office of state fire  
2           marshal when the third-party inspector reasonably should have known the document  
3           contained false or misleading information.

4           (6) Engage in false, misleading, or deceptive acts or practices.

5           (7) Fail to maintain a valid license as required by this Part.

6           (8) Fail to maintain a valid insurance policy as required by this Part.

7           (9) Refuse to admit the state fire marshal or his designated representative to  
8           any operating location or refuse to cooperate in the purposes of such admittance as  
9           required by this Part.

10           (10) Fail to maintain his license on his person and to present it for inspection  
11           as required by this Part.

12           (11) Refuse to cooperate with any lawful investigation by the office of state  
13           fire marshal.

14           (12) Fail to abide by the administrative rules promulgated pursuant to this  
15           Part.

16           §1484.21. Prohibited acts; set-up inspector

17           No person or firm shall do any of the following:

18           (1) Engage in the set-up inspection of an inflatable amusement device,  
19           amusement ride, or amusement attraction without a valid license.

20           (2) Aid and abet an unlicensed operator in the operation of an inflatable  
21           amusement device, amusement ride, or amusement attraction.

22           (3) Certify or inspect inflatable amusement devices, amusement rides, or  
23           amusement attractions contrary to the provisions of this Part and adopted standards,  
24           regulations, and applicable manuals, service bulletins, and notices.

25           (4) Submit an application or any other document to the office of state fire  
26           marshal when the person or firm reasonably should have known the document  
27           contained false or misleading information.

28           (5) Engage in false, misleading, or deceptive acts or practices.

29           (6) Fail to maintain a valid license as required by this Part.

1           (7) Refuse to admit the state fire marshal or his designated representative to  
2           any operating location or refuse to cooperate in the purposes of such admittance as  
3           required by this Part.

4           (8) Fail to maintain his license on his person and to present it for inspection  
5           as required by this Part.

6           (9) Refuse to cooperate with any lawful investigation by the office of the  
7           state fire marshal.

8           (10) Fail to abide by the administrative rules promulgated pursuant to this  
9           Part.

10          §1484.22. Notice of violation of standard

11           A. If after an inspection, investigation, or audit of any inflatable amusement  
12           device, amusement ride, or amusement attraction, the office of state fire marshal  
13           determines that the respective device, ride, or attraction is in violation of any  
14           standard promulgated pursuant to the provisions of this Part, and that there may be  
15           a substantial probability of death or serious physical injury to the public from its  
16           continued use, a notice of violation may be given to both the owner and operator of  
17           the device, ride, or attraction, and a red tag shall be attached to such device, ride, or  
18           attraction. The attached red tag constitutes a cease and desist order.

19           B. After the red tag is attached, the use of the inflatable amusement device,  
20           amusement ride, or amusement attraction is prohibited. The red tag shall not be  
21           removed until the device, ride, or attraction is made safe for public use and the  
22           required safeguards are provided. The tag shall not be removed except by the state  
23           fire marshal or his designee.

24          §1484.23. Insurance; bond

25           A. No owner or operator shall operate an amusement attraction, or  
26           amusement ride unless the owner or operator has either of the following:

27           (1) A policy of insurance in an amount of not less than one million dollars  
28           insuring the operator against liability for injury suffered by persons riding the  
29           amusement attraction or ride.

1           (2) A bond in a like amount; provided; the aggregate liability of the surety  
2           of any such bond shall not exceed the face amount.

3           B. A certificate verifying coverage shall be filed with the office of the state  
4           fire marshal, code enforcement and building safety.

5           C. In the event of cancellation of the policy or bond, the office of state fire  
6           marshal shall be notified immediately by either the insurer or the bond holder no  
7           later than ten days prior to cancellation.

8           D. The operator shall provide to any sponsor, lessor, landowner, or other  
9           person responsible for the offering of an amusement ride or attraction for public use  
10           a copy of the required insurance policy or bond and the inspection certificate issued  
11           by the fire marshal.

12           E. The provisions of this Section shall also apply to operators of inflatable  
13           amusement devices. However, the policy of liability insurance or bond amount  
14           required of such operators shall be in an amount of not less than three hundred  
15           thousand dollars.

16           §1484.24. Violations and penalties; injunctive relief

17           A. If the state fire marshal finds that any person, operator, or firm has  
18           violated any provision of this Part or any regulation, rule, or issued order, he may  
19           impose upon that person, operator, or firm a fine in an amount not to exceed five  
20           thousand dollars for each violation. Each day on which the violation occurs is  
21           considered a separate offense

22           B.(1) In addition to or in lieu of administrative sanctions and civil penalties  
23           provided in this Part, the state fire marshal is empowered to issue an order to any  
24           person, operator, or firm engaged in any activity, conduct, or practice constituting  
25           a violation of any provision of this Part, directing such person, operator, or firm to  
26           cease and desist from such activity, conduct, or practice. The order shall be issued  
27           in the name of the state of Louisiana under the official seal of the state fire marshal.

28           (2) If the person, operator, or firm to whom the state fire marshal directs a  
29           cease and desist order does not cease and desist the prohibited activity, conduct, or  
30           practice immediately after service of such cease and desist order by certified mail or



1        personal service, the state fire marshal may seek, in any court of competent  
2        jurisdiction and proper venue, a writ of injunction enjoining such person, operator,  
3        or firm from engaging in any activity, conduct, or practice prohibited by this Part.

4            (3) Upon a proper showing by the state fire marshal that such person,  
5        operator, or firm has engaged in any activity, conduct, or practice prohibited by this  
6        Part, the court shall issue a temporary restraining order restraining the same from  
7        engaging in unlawful activity, conduct, or practices pending the hearing on a  
8        preliminary injunction, and in due course a permanent injunction shall be issued after  
9        a hearing, commanding the cessation of the unlawful activity, conduct, or practices.

10          (4) A temporary restraining order, preliminary injunction, or permanent  
11        injunction issued as provided in this Part is not subject to being released upon bond.

12          (5) In the suit for an injunction, the state fire marshal may demand of the  
13        defendant a penalty of fifty dollars per day for each violation, reasonable attorney  
14        fees, and court costs. Judgment for penalty, attorney fees, and court costs may be  
15        rendered in the same judgment in which the injunction is made final.

16            C. In addition to the foregoing provisions, the state fire marshal may assess  
17        civil penalties attributable to the operator of an inflatable amusement device,  
18        amusement ride, or amusement attraction to the owner or lessee of the site on which  
19        the inflatable amusement device, amusement attraction, or amusement ride is  
20        located, if the owner or lessee of the site failed to reasonably determine that the  
21        operator of the inflatable amusement device, amusement ride, or amusement  
22        attraction is properly in compliance with the requirements of this Part.

23            D. Procedures for the imposition of fines and appeals of such fines shall be  
24        governed in accordance to Administrative Procedure Act.

25        §1484.25. Exemptions

26            The following inflatable amusement devices, amusement attractions, or  
27        amusement rides are exempt from the provisions of this Part:

28            (1) Non-mechanized playground equipment including, but not limited to,  
29        swings, seesaws, stationary spring-mounted animal features, underpropelled  
30        merry-go-rounds, climbers, slides, trampolines, swinging gates, and physical fitness

1 devices except where an admission fee is charged for usage or an admission fee is  
2 charged to areas where such equipment is located.

3 (2) An inflatable amusement device, amusement attraction, or amusement  
4 ride which is owned and operated by a nonprofit religious, educational, or charitable  
5 institution or association if such attraction or ride is located within a building subject  
6 to inspection by the fire marshal or his designee.

7 (3) Coin-operated mechanical devices occupying less than thirty-six square  
8 feet of floor space.

9 (4) Non-motorized rides and attractions.

10 §1484.26. Local regulation

11 Nothing contained in this Part shall prevent any local governmental  
12 subdivision of this state from licensing or regulating any inflatable amusement  
13 device, amusement attraction, or amusement ride, carnival, or circus as otherwise  
14 provided by law.

15 § 1484.27. Waiver of inspection

16 The state fire marshal may waive the requirement that an inflatable  
17 amusement device, amusement attraction, ~~or~~ amusement ride, or any component part  
18 be inspected before being operated in this state if an operator gives satisfactory proof  
19 to the office of state fire marshal that such device, amusement attraction, or ride or  
20 any component part has passed an inspection conducted by a public agency whose  
21 inspection standards and requirements are at least equal to those requirements and  
22 standards established by the fire marshal pursuant to the provisions of this Part.

23 §1484.28. Rules adopted

24 The state fire marshal shall adopt and issue rules, in accordance with the  
25 provisions of the Administrative Procedure Act, establishing standards for the  
26 installation, repair, maintenance, use, operation, and inspection of inflatable  
27 amusement devices, amusement attractions, and amusement rides for the protection  
28 of the public. The rules shall be based upon generally accepted engineering  
29 standards and shall be concerned with but not necessarily limited to engineering  
30 force stresses, safety devices, and preventive maintenance. The rules shall provide

1 for the reporting of accidents and injuries incurred from the operation of inflatable  
2 amusement devices, amusement attractions, or amusement rides.

3 \* \* \*

4 §1485.2. Definitions

5 For the purposes of this Subpart, the following terms and phrases ~~shall~~ have  
6 the meanings ascribed to them:

7 (1) "Carnival or amusement ride" means either of the following:

8 \* \* \*

9 (2) Firm means a sole proprietorship, corporation, limited liability company,  
10 or similar type of business entity.

11 ~~(2)~~(3) "Owner" means a person, a firm, the state, or a political subdivision  
12 of the state that owns an amusement ride or, if the ride is leased, the lessee of the  
13 ride.

14 ~~(3)~~(4) "Parent or guardian" means each parent, custodian, or guardian  
15 responsible for the control, safety, training, or education of a rider who is a minor,  
16 has a disability, or is incompetent.

17 ~~(4)~~(a)~~(5)~~(a) "Rider" means any person who is:

18 \* \* \*

19 ~~(5)~~(6) "Sign" means any symbol or language reasonably calculated to  
20 communicate information to riders or their parents or guardians, including but not  
21 limited to placards, prerecorded messages, live public addresses, stickers, pictures,  
22 pictograms, guidebooks, brochures, video, verbal information, and visual signals.

23 \* \* \*

24 §1485.9. Applicability

25 The provisions of Subpart A of Part VII of Title 40, comprised of R.S. 1484.1  
26 through 1484.28, are applicable in their entirety to the provisions of this Subpart.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 1133 Original

2016 Regular Session

Berthelot

**Abstract:** Revises the Amusement Rides Safety Law and the Carnival and Amusement Rider Safety Act

Proposed law provides that the purpose of the Amusement Rides Safety Law is to regulate the testing, inspection, and operation of inflatable amusement devices, amusement attractions, and amusement rides to prohibit the use of such devices, attractions, and rides when they have not been properly registered, have not received a proper and timely certificate of inspection, and have not received a set-up inspection.

Proposed law authorizes the fire marshal to administer and enforce the provisions of proposed law and promulgate rules and regulations which he considers necessary to such administration and enforcement pursuant to the Administrative Procedure Act.

Proposed law authorizes the state fire marshal to charge and collect certain fees.

Proposed law provides for certain definitions.

Proposed law requires the registration of inflatable amusement devices, amusement attractions, and amusement rides. Provides certain requirements for registration including certain applications, fees, and insurance.

Proposed law requires annual renewal of registration and applicable fees.

Proposed law requires third-party inspection of inflatable amusement devices, amusement attractions, and amusement rides. Requires certain licensing for third-party inspections and reporting to be made by such inspectors.

Proposed law requires certain set-up inspections and licensing for such inspections.

Proposed law provides for the operation of inflatable amusement devices, amusement attractions, and amusement rides. Requires certain persons to provide certain notice to the fire marshal prior to operation. Provides certain penalties for late notice.

Proposed law provides certain authorizations and requirements for the state fire marshal or his designee to inspect such inflatable amusement devices, amusement rides, or amusement attractions operating in this state.

(Amends R.S. 40:1484.1-1484.28, 1485.2(1)(intro. para.), (2), (3), (4)(intro. para.) and (5) and 1485.9)