

RÉSUMÉ DIGEST

ACT 234 (HB 464)

2019 Regular Session

Berthelot

Relative to inflatable amusement devices, amusement attractions, and amusement rides, existing law defines "ASTM", "operate", "operator", and "ride operator". New law retains existing law but adds to the definitions.

New law defines "audit", "child amusement attraction or amusement ride" or "kiddie amusement attraction or amusement ride", "adult amusement attraction or amusement ride", and "event".

New law requires an owner of inflatable amusement devices, amusement attractions, or amusement rides to notify the office of the state fire marshal (fire marshal) if a plate or decal is lost or damaged. New law provides that any plate that is lost or damaged shall be decommissioned, and prior to receiving a new plate or decal, the owner is required to return the damaged plate or decal to the fire marshal and pay the fee.

Existing law sets the fee to replace a lost or damaged plate or decal at \$30.00. New law retains existing law.

Prior law provided that, in order to operate amusements in the state, an operator must have a certificate of inspection provided by a third-party inspector and a certificate of registration issued by the fire marshal to an operator of the inflatable amusement device, amusement attraction, or amusement ride. New law changes this requirement and provides that the operator must instead have a current certificate of registration, valid registration plate, and registration decal issued by the state fire marshal.

New law provides for manufacturer's recommendations and specifications relative to the inspection of inflatable amusement devices, amusement attractions, and amusement rides.

Prior law required the third-party inspector, upon completion of each inspection, to submit a certificate of inspection to the fire marshal. New law adds a requirement that the inspector also submit a certificate of inspection to the owner.

Prior law required the fire marshal, upon notification by a third-party inspector of noncompliance of an inflatable amusement device, amusement attraction, or amusement ride, to issue a cease and desist to the operator and to lift the cease and desist order only when the deficiencies had been remedied to the satisfaction of the state fire marshal. New law provides that the fire marshal may also issue a cease and desist to the owner indicating that operation of the inflatable amusement device, amusement attraction, or amusement ride, which does not comply, is to immediately cease in the state of La.

New law requires the fire marshal to lift any cease and desist order and issue registration plates or registration decals, if applicable, for the inflatable amusement devices, amusement attractions, or amusement rides only when the deficiencies have been remedied to the satisfaction of a third-party inspector and proof of satisfaction is submitted to the fire marshal.

Prior law provided that an operator who notified the fire marshal of his intent to commence operation of an amusement ride or amusement attraction fewer than five days prior to commencing operation would be fined \$250.00 per ride or attraction. New law changes the fine from \$250.00 to the following:

- (1) \$50.00 per ride or attraction for the first offense.
- (2) \$75.00 per ride or attraction for the second offense.
- (3) \$200.00 per ride or attraction for the third offense.
- (4) \$250.00 per ride for each additional offense.

New law provides that in determining the number of offenses that have occurred, only offenses occurring over a three-year period preceding the offense at issue shall be considered.

Prior law provided that prior to operating any new amusement ride or amusement attraction, the operator would notify the fire marshal of his intent to commence operation and register the amusement ride or attraction. New law prohibits the operator from operating the amusement ride or attraction until the owner has registered the ride or attraction as required in prior law.

Prior law required the fire marshal, or his designee, to inspect amusement rides, amusement attractions, or inflatable amusement devices operating at a fixed operation location for more than one year. New law removes the condition that the amusements operate for more than one year and extends the inspection requirement to amusements operating at a fixed operation location.

New law changes the frequency of the inspection from at least once annually to no more than once annually. New law allows more frequent inspections, if the additional inspections are in furtherance of an investigation arising from a reported ride accident or pursuant to a complaint.

Prior law provided that an operator who notified the fire marshal of his intent to commence operation of an inflatable amusement ride fewer than five days prior to commencing operation would be fined \$200.00 per device. New law changes the fine from \$200.00 to the following:

- (1) \$25.00 per ride or attraction for the first offense.
- (2) \$50.00 per ride or attraction for the second offense.
- (3) \$150.00 per ride or attraction for the third offense.
- (4) \$200.00 per ride for each additional offense.

New law provides that in determining the number of offenses that have occurred, only offenses occurring over a three-year period preceding the offense at issue shall be considered.

Prior law provided that prior to operating any new inflatable amusement device, the operator would notify the fire marshal of his intent to commence operation and register the amusement ride or attraction. New law prohibits the operator from operating the inflatable amusement device until the owner has registered the device as required in prior law.

Prior law required an owner or operator to have a set-up inspection conducted on all inflatable amusement devices, amusement attractions, and amusement rides at least once prior to their operation at each event in the state. New law removes the requirement from the owner and limits the requirement to the operator.

Prior law allowed the set-up inspection to be conducted by a third-party inspector or an employee of the owner or operator. New law only allows the set-up inspection to be conducted by a third-party inspector or an employee of the operator.

Prior law provided that a set-up inspection included a review of all necessary documents; observation and examination of the assembly, set-up, and operation; and an inspection of the foundation, blocking, fuel containers, and mechanical and electrical condition. New law repeals prior law.

Prior law required a third-party inspector, who engaged in third-party inspections as described in prior law, to be currently certified by National Association of Amusement Ride Safety Officials (NAARSO) with a Level 1 certification or the equivalent. New law requires a third-party inspector, who engaged in third-party inspections as described in prior law to be currently certified by NAARSO with a Level 1 or greater certification or the equivalent.

Prior law prohibited a person or firm from engaging in the operation of an inflatable amusement device, amusement attraction, or amusement ride unless the person or firm held a current and valid license issued by the fire marshal. New law excludes ride operators from the prohibition.

Prior law prohibited a person or firm from assisting any unlicensed person or firm in the engagement of any testing or inspecting of an inflatable amusement device, amusement attraction, or amusement ride when the person or firm knew or should have known the latter person or firm was unlicensed. New law removes the prohibition on assisting the unlicensed person or firm in the engagement of any testing or inspecting of the amusements and imposes a prohibition on assisting the unlicensed person or firm in the operation of the amusements.

Prior law required an applicant for an operating firm license to submit to the fire marshal documentation that the firm is an entity duly authorized to conduct business within this state and provided procedural requirements. New law repeals prior law.

New law requires a firm to notify the fire marshal within ten days of the termination of a licensed employee.

Prior law required the fire marshal to conduct inspections and perform audits to ensure compliance with existing law and investigate at reasonable times, and within reasonable limits and manner, inflatable amusement devices, amusement attractions, or amusement rides in any area where they were assembled or in use. New law requires inspections and audits also in any area where the amusements are maintained, stored, or serviced.

Prior law provided for a qualified endorsement licensing fee and renewal fee. New law repeals prior law.

Prior law provided that there were no fees associated with compliance inspections and audits performed by the fire marshal. New law extends the no fee provision to include any inspection and audit performed by the fire marshal.

Prior law required an operator to provide to any sponsor, lessor, landowner, or other person responsible for the offering of an amusement ride or attraction for public use a copy of the required insurance policy or bond and the certificate of registration issued by the fire marshal. New law provides that the operator only has to provide the documentation upon request.

Prior law provided that if the state fire marshal found that any person, operator, or firm had violated any provision of existing law, he might impose a fine of up to \$5,000 for each violation. New law adds inspectors to the list of persons who may be fined.

Prior law allowed the fire marshal to issue an order to any person, operator, or firm engaged in any activity, conduct, or practice constituting a violation of any provision of existing law to cease and desist from the activity, conduct, or practice. New law adds inspectors to the list of persons subject to being issued the order to cease and desist.

Prior law allowed the fire marshal to seek an injunction against any person, operator, or firm who fails to comply with a cease and desist. New law adds inspectors to the list of persons who are subject to an injunction.

Prior law provided that, upon showing by the fire marshal that a person, operator, or firm had engaged in activity prohibited by existing law, the court should issue a temporary restraining order pending the hearing on a preliminary injunction and in due course issue a permanent injunction. New law adds inspectors to the list of persons who the court shall issue a restraining order against.

Effective August 1, 2019.

(Amends R.S. 40:1484.3(4), (15), (16), and (18), 1484.4(D), 1484.5, 1484.6(B), (D), (E)(2) and (3), 1484.7(B), (D), (E)(2) and (3), and (F), 1484.8, 1484.9(A), 1484.10, 1484.11(A) and (B), 1484.13(B)(6), (C), and (G), 1484.15(B) and (C), 1484.16(7), 1484.18(D) and (K), 1484.19(3), 1484.22, 1484.23(A)(intro. para.), (C), and (D), and 1484.24(A) and (B)(1), (2), and (3); Adds R.S. 40:1484.3(24)-(27))