

ACT No. 462

2016 Regular Session

HOUSE BILL NO. 1133

BY REPRESENTATIVE BERTHELOT

1 AN ACT

2 To amend and reenact Subpart A of Part VII of Title 40 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 40:1484.1 through 1484.28, and
4 1485.2(introductory paragraph), (2), (3), (4), and (5) and to enact R.S. 40:1485.2(6)
5 and 1485.9, relative to the regulation of inflatable amusement devices, amusement
6 attractions, and amusement rides; to provide for administration, enforcement, and
7 rulemaking authority of the state fire marshal; to provide for definitions; to require
8 registration of inflatable amusement devices, amusement attractions, and amusement
9 rides with the office of state fire marshal; to regulate the operation of such devices,
10 attractions, and rides; to provide for third-party inspections and certificates of
11 inspection; to provide for set-up inspections; to provide relative to license
12 requirements of third-party inspectors, set-up inspectors, firms, and certain persons;
13 to require certain insurance; to provide for applicable fees, costs, penalties, and
14 injunctive relief; to provide for applicability; to provide for prohibitions and
15 exemptions; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. Section 2 of this Act amends and reenacts Subpart A of Part VII of Title
18 40 of the Louisiana Revised Statutes of 1950 in its entirety. Due to the length of the Subpart,
19 present law is not included as overstruck text.

20 Section 2. Subpart A of Part VII of Title 40 of the Louisiana Revised Statutes of
21 1950, comprised of R.S. 40:1484.1 through 1484.28, and 1485.2(introductory paragraph),
22 (2), (3), (4), and (5) are hereby amended and reenacted and R.S. 40:1485.2(6) and 1485.9
23 are hereby enacted to read as follows:

1 PART VII. REGULATION OF AMUSEMENT ATTRACTIONS

2 AND RIDES

3 SUBPART A. REGULATION

4 §1484.1. Short title

5 This Part shall be known and may be cited as the Amusement Rides Safety
6 Law.

7 §1484.2. Purpose; administration and enforcement

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

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

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

24 §1484.3. Definitions

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

27 (1) "Amusement attraction" means any building or structure around, over,
28 or through which people may move or walk, without the aid of any moving device
29 integral to the building or structure, that provides amusement, pleasure, thrills, or
30 excitement. "Amusement attraction" does not include any enterprise principally

1 devoted to the exhibition of products of agriculture, industry, education, science,
2 religion, or the arts.

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

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

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

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

17 (d) Artificial climbing walls.

18 (e) Zip lines.

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

20 (4) "ASTM" means the American Society of the International Association for
21 Testing and Materials.

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

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

1 (7) "Compliance inspection" means a type of inspection performed as
2 deemed necessary by the state fire marshal or his designee, usually in conjunction
3 with an audit or investigation, or in response to a complaint.

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

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

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

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

16 (12) "Inspect" or "inspection" means the thorough physical examination and
17 functional testing of an inflatable amusement device, amusement attraction, or
18 amusement ride and its component parts necessary to ensure that the device,
19 attraction, or ride complies with all applicable adopted laws, rules, standards, and
20 corresponding manufacturer's installation manuals, maintenance and service repair
21 bulletins, or notices.

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

27 (14) "NAARSO" means the National Association of Amusement Ride Safety
28 Officials.

29 (15) "Operate" means to manage and coordinate an inflatable amusement
30 device, amusement attraction, or amusement ride at an event. The term includes

1 management or coordination which may or may not be performed by the owner of
2 the inflatable amusements device, amusement attraction, or amusement ride.

3 (16) "Operator" means a person or firm who may or may not own the
4 inflatable amusements devices, amusement attractions, or amusement rides who is
5 managing, coordinating, or has the duty to control the operation of the inflatable
6 amusements devices, amusement attractions, or amusement rides at an event.

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

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

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

24 (20) "Set-up inspector" means the person licensed by the office of state fire
25 marshal to conduct the set-up inspection prior to the opening of an amusement
26 attraction or prior to the operation of an inflatable amusement device or amusement
27 ride at each event.

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

1 (22) "Testing" means the set-up and activation of an inflatable amusement
2 device, amusement attraction, or amusement ride for the purpose of analyzing such
3 device, attraction, or ride and its component parts for safety. This may be done in
4 conjunction with an inspection.

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

8 §1484.4. Registration of inflatable amusement devices, amusement attractions, and
9 amusement rides; requirements

10 A. Any owner of an inflatable amusement device, amusement attraction, or
11 amusement ride shall register each of his inflatable amusement devices, amusement
12 attractions, or amusement rides with the office of state fire marshal prior to its use
13 in this state. An owner shall renew the registration each year for each inflatable
14 amusement device, amusement attraction, or amusement ride being used in this state.

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

18 (1) A registration application.

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

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

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

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

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

4 D. The fee to replace a lost or damaged plate or decal is thirty dollars.

5 §1484.5. Third-party inspection of inflatable amusement devices, amusement
6 attractions, and amusement rides; certificate of inspection required; cease and
7 desist orders

8 A. Except for the purpose of testing, training, or inspection, no inflatable
9 amusement device, amusement attraction, or amusement ride shall be operated in this
10 state without a certificate of inspection provided by a third-party inspector and a
11 certificate of registration issued by the office of state fire marshal to an operator of
12 the inflatable amusement device, amusement attraction, or amusement ride.

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

19 (2) Upon completion of each inspection as required in this Section, the
20 third-party inspector shall submit a certificate of inspection to the office of state fire
21 marshal. The certificate shall be valid for not more than twelve months from the
22 date of issuance.

23 (3) If the third-party inspection shows that an inflatable amusement device,
24 amusement attraction, or amusement ride does not comply with all relevant
25 provisions of this Part and the adopted standards, regulations, and applicable
26 manuals, service bulletins, and notices, the third-party inspector shall notify and
27 submit such findings to the state fire marshal within ten days of the inspection. The
28 office of state fire marshal shall issue a cease and desist order to the operator. The
29 state fire marshal shall lift the cease and desist order only when the deficiencies have
30 been remedied to the satisfaction of the state fire marshal.

1 §1484.6. Operation of amusement rides and amusement attractions; notice; changes
2 in schedule; certain required annual inspections; fines

3 A. At least five days prior to commencing operation of any amusement ride
4 or amusement attraction, except for the purpose of testing, training, and inspection,
5 the operator shall give written or electronic notification to the office of state fire
6 marshal of his intent to commence operation of the amusement ride or amusement
7 attraction.

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

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

17 D. Prior to operating any new amusement ride or amusement attraction, the
18 operator shall notify the office of state fire marshal of his intent to commence
19 operation and register the amusement ride or amusement attraction as required in this
20 Part.

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

24 (2) During an office of state fire marshal event inspection or audit, the
25 operator shall submit to the state fire marshal or his designee the set-up inspection
26 report and any other documentation relating to the set-up inspection or an annual
27 inspection.

28 (3) In the case of amusement rides or amusement attractions operating at a
29 fixed operation location for more than one year, the state fire marshal or his designee
30 shall inspect such amusement rides or amusement attractions at least annually. The

1 inspection is to ensure compliance with the provisions of this Part and adopted
2 standards, rules, regulations, and applicable manuals, service bulletins, and notices.

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

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

12 §1484.7. Operation of inflatable amusement devices; notice; changes in schedule;
13 fin

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

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

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

27 D. Prior to operating any new inflatable amusement device, the operator
28 shall notify the office of state fire marshal of his intent to commence operations and
29 register the inflatable amusement device as required in this Part.

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

4 (2) During an office of state fire marshal event inspection or audit, the
5 operator shall submit to the state fire marshal or his designee the set-up inspection
6 report and any other documentation relating to the set-up inspection or an annual
7 inspection.

8 (3) In the case of inflatable amusement devices operating at a fixed operation
9 location for more than one year, the fire marshal or his designee shall inspect such
10 inflatable amusement devices at least annually to ensure compliance with the
11 provisions of this Part and adopted standards, rules, regulations, and applicable
12 manuals, service bulletins, and notices.

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

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

21 (1) Open to public.

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

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

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

1 §1484.8. Set-up inspection; requirements; notification to the fire marshal

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

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

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

9 (1) A review of all necessary documents including service and repair
10 documents.

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

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

14 D. If an inflatable amusement device, amusement attraction, or amusement
15 ride is in compliance pursuant to the findings of a set-up inspection and
16 corresponding adopted rules and regulations, the third-party inspector or set-up
17 inspector shall affix a tag to the inflatable amusement device, amusement attraction,
18 or amusement ride.

19 E. If an inflatable amusement device, amusement attraction, or amusement
20 ride is not in compliance pursuant to the findings of a set-up inspection and
21 corresponding adopted rules and regulations, a third-party inspector or set-up
22 inspector shall cease operation of the inflatable amusement device, amusement
23 attraction, or amusement ride and notify the office of state fire marshal within two
24 hours of the determination, and tag it accordingly.

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

1 §1484.9. License required to inspect inflatable amusement devices, amusement
2 attractions, and amusement rides; prohibitions

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

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

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

14 §1484.10. Third-party inspector; educational and certification requirements

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

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

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

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

21 §1484.11. License required to operate inflatable amusement devices, amusement
22 rides, and amusement attractions; service and repairs by owners; prohibitions

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

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

1 C. The state fire marshal may, by rule, allow the owner of an inflatable
2 amusement device, amusement attraction, or amusement ride, or an employee of the
3 owner, to perform minor service and repairs of the inflatable amusement device,
4 amusement ride, or amusement attraction. The owner shall document such service
5 or repair and assume responsibility for all such service or repair.

6 §1484.12. Exemptions from licensure

7 The requirements of licensure as provided in this Part are not applicable to
8 an officer or employee of the United States, this state, or any political subdivision
9 of either, while engaged in the performance of his official duties within the course
10 and scope of his employment with the United States, this state, or any political
11 subdivision of either.

12 §1484.13. Application for firm license; third-party inspection firm license;
13 operating firm license; requirements to maintain; prohibitions; penalties

14 A. To engage in the inspection or operation of an inflatable amusement
15 device, amusement attraction, or amusement ride, a firm shall apply for and obtain
16 a license and the respective relevant endorsement for inspection or operation. The
17 inspection endorsement authorizes the licensee to conduct any necessary testing.

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

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

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

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

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

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

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

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

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

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

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

16 (2) Documentation that the firm is an entity duly authorized to conduct
17 business within this state. If the firm is physically located in Louisiana,
18 documentation shall be in the form of a local or parish occupational license, if such
19 license exists, and if incorporated, a certificate of good standing issued by the
20 secretary of state. If the firm is physically located outside of the state,
21 documentation shall be in the form of a certificate of good standing issued by the
22 secretary of state as a foreign corporation including the name of the firm's registered
23 agent of service.

24 (3) An original certificate of insurance documenting that the firm has general
25 liability coverage in a minimum amount of one million dollars and in which all
26 inflatable amusement devices, amusement attractions, or amusement rides subject
27 to coverage are listed on the declarations page.

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

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

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

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

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

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

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

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

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

25 §1484.14. Application for an individual license; requirements to maintain;
26 prohibitions; penalties

27 A. To engage in the inspection or operation of an inflatable amusement
28 device, amusement attraction, or amusement ride, an individual shall apply for and
29 obtain a license and the respective relevant endorsement for inspection or operation.
30 The inspection endorsement authorizes the licensee to conduct any necessary testing.

1 Each individual license holder shall maintain his license on his person while
2 engaging in any such activity and present his license for inspection upon demand of
3 any employee of the office of state fire marshal, a fire department, or any law
4 enforcement officer.

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

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

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

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

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

19 E. An individual licensed as provided in this Section shall meet all
20 certification, continuing education, training, and testing requirements as established
21 by this Part and related adopted rule or regulation.

22 §1484.15. Set-up inspection; license endorsement

23 A. To perform the set-up inspection of an inflatable amusement device,
24 amusement attraction, or amusement ride, an individual shall apply for and obtain
25 a license and a set-up inspection endorsement which authorizes its holder to perform
26 the set-up inspection.

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

29 C. Employees of the owners or operators of an inflatable amusement device,
30 amusement attraction, or amusement ride may become licensed as specified by this

1 Part to perform the set-up inspection of an inflatable amusement device, amusement
2 attraction, or amusement ride owned or operated by his employer.

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

6 §1484.16. Powers and duties of the state fire marshal

7 The state fire marshal shall:

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

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

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

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

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

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

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

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

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

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

10 §1484.17. Notice; hearing; revocation of certificate or license

11 Licenses, as provided for in this Part, may be revoked or suspended after
12 notice and hearing in accordance with the Administrative Procedure Act and upon
13 a finding that a person or firm acted in any of the following manners:

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

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

18 (3) Demonstrated professional incompetence or gross negligence.

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

21 §1484.18. Fees; required renewal; penalties

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

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

26 (1) Initial Registration Fee:

27 (a) Inflatable amusement device: \$100.00

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

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

30 (2) Annual Renewal Fee:

1 (a) Inflatable amusement device: \$100.00

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

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

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

5 (1) Initial Fee:

6 (a) Inspection endorsement: \$500.00

7 (b) Operation endorsement: \$500.00

8 (2) Renewal Fee:

9 (a) Inspection endorsement: \$100.00

10 (b) Operation endorsement: \$100.00

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

12 (1) Initial Fee:

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

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

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

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

17 (2) Renewal Fee:

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

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

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

21 (d) Qualifier endorsement: \$100.00

22 E. All licenses are valid for one year, unless a multi-year license is created,
23 and shall be renewed by the license holder within the thirty days prior to the license
24 expiration date. The state fire marshal may create a prorated fee system to allow
25 employee license renewal dates to coincide with the firm license renewal date.

26 F. Any license not renewed within the thirty days prior to its expiration date
27 is past due for renewal and subject to late fees. The license holder shall pay a late
28 fee penalty of twenty-five dollars for a license renewed within the first forty-five
29 days past the license expiration date. The license holder shall pay a late fee penalty

1 of fifty dollars for a license renewed between forty-six and sixty days past the license
2 expiration date.

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

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

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

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

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

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

18 §1484.19. Prohibited acts; operator

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

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

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

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

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

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

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

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

7 (8) 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 (9) Fail to maintain his license on his person and present it for inspection as
11 required by this Part.

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

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

16 §1484.20. Prohibited acts; third-party inspector

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

18 (1) Engage in the inspection or testing of an inflatable amusement device,
19 amusement ride, or amusement attraction without a valid license issued as provided
20 in this Part.

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

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

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

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

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

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

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

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

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

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

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

13 §1484.21. Prohibited acts; set-up inspector

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

15 (1) Engage in the set-up inspection of an inflatable amusement device,
16 amusement ride, or amusement attraction without a valid license issued as provided
17 in this Part.

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

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

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

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

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

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

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

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

5 (10) Fail to abide by the administrative rules promulgated pursuant to this
6 Part.

7 §1484.22. Notice of violation of standard; cease and desist order

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

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

21 §1484.23. Insurance; bond

22 A. No owner or operator shall operate an amusement attraction or
23 amusement ride unless the owner or operator has either of the following:

24 (1) An insurance policy in an amount of not less than one million dollars
25 insuring the operator against liability for injury suffered by persons riding the
26 amusement attraction or ride.

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

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

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

4 D. The operator shall provide to any sponsor, lessor, landowner, or other
5 person responsible for the offering of an amusement ride or attraction for public use
6 a copy of the required insurance policy or bond and the certificate of registration
7 issued by the state fire marshal.

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

12 §1484.24. Violations and penalties; cease and desist order; injunctive relief

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

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

24 (2) If the person, operator, or firm to whom the state fire marshal directs a
25 cease and desist order does not cease and desist the prohibited activity, conduct, or
26 practice immediately after service of such cease and desist order by certified mail or
27 personal service, the state fire marshal may seek, in any court of competent
28 jurisdiction and proper venue, a writ of injunction enjoining such person, operator,
29 or firm from engaging in any activity, conduct, or practice prohibited by this Part.

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

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

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

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

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

22 §1484.25. Exemptions

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

25 (1) Non-mechanized playground equipment including but not limited to
26 swings, seesaws, stationary spring-mounted animal features, underpropelled
27 merry-go-rounds, climbers, slides, trampolines, swinging gates, and physical fitness
28 devices except where an admission fee is charged for usage or an admission fee is
29 charged to areas where such equipment is located.

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

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

7 (4) Non-motorized rides and attractions.

8 §1484.26. Local regulation

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

13 §1484.27. Waiver of inspection

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

21 §1484.28. Rules adopted

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

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

* * *

§1485.2. Definitions

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

* * *

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

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

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

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

(i) Waiting in the immediate vicinity to enter a carnival or amusement ride.

(ii) Entering a carnival or amusement ride.

(iii) Using a carnival or amusement ride.

(iv) Exiting a carnival or amusement ride.

(v) Leaving a carnival or amusement ride and still in the immediate vicinity of the ride.

(b) The term "rider" does not include employees or agents of the owner while engaged in the duties of their employment.

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

* * *

1 §1485.9. Applicability
2 The provisions of Subpart A of Part VII of Title 40 of the Louisiana Revised
3 Statutes of 1950, comprised of R.S. 1484.1 through 1484.28, are applicable in their
4 entirety to the provisions of this Subpart.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____