

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 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 in its entirety. Due to the length of the Subpart, present law is not included as overstruck
19 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),

(2), (3), (4), and (5) are hereby amended and reenacted and R.S. 40:1485.2(6) and 1485.9 are hereby enacted to read as follows:

PART VII. REGULATION OF AMUSEMENT ATTRACTIONS

AND RIDES

SUBPART A. REGULATION

§1484.1. Short title

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

§1484.2. Purpose; administration and enforcement

A. The purpose of this Part 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 as provided for in this Part.

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

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

§1484.3. Definitions

As used in this Part, the following terms have the meanings specified in this 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 the International Association for
25 Testing and Materials.

26 (5) "Certificate of inspection" means a certificate or report prepared by a
27 third-party inspector pursuant to his inspection which verifies that the inflatable
28 amusement device, amusement attraction, or amusement ride complies with all

1 applicable adopted laws, rules, standards, and its corresponding manufacturer's
2 installation manuals, maintenance and service bulletins, and notices.

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

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

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

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

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

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

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

27 (13) "Investigate" or "investigation" means the thorough physical
28 examination of an inflatable amusement device, amusement attraction, or amusement
29 ride and its component parts by the office of state fire marshal in response to a

1 complaint or an accident, which may or may not have resulted in injury or death, to
2 determine the cause of the accident.

3 (14) "NAARSO" means the National Association of Amusement Ride Safety
4 Officials.

5 (15) "Operate" means to manage and coordinate an inflatable amusement
6 device, amusement attraction, or amusement ride at an event. The term includes
7 management or coordination which may or may not be performed by the owner of
8 the inflatable amusements device, amusement attraction, or amusement ride.

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

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

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

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

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

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

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

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

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

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

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

25 (1) A registration application.

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

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

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

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

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

13 D. The fee to replace a lost or damaged plate or decal is thirty dollars.
14 §1484.5. Third-party inspection of inflatable amusement devices, amusement
15 attractions, and amusement rides; certificate of inspection required; cease and
16 desist orders

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

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

28 (2) Upon completion of each inspection as required in this Section, the
29 third-party inspector shall submit a certificate of inspection to the office of state fire

1 marshal. The certificate shall be valid for not more than twelve months from the
2 date of issuance.

3 (3) 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 to the satisfaction of the state fire marshal.

11 §1484.6. Operation of amusement rides and amusement attractions; notice; changes
12 in schedule; certain required annual inspections; fines

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

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 amusement ride or
20 amusement attraction less than five days prior to commencing operation shall be
21 fined two hundred fifty dollars per ride or attraction.

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 fifty 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 amusement ride or amusement attraction.

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

1 operation and register the amusement ride or amusement attraction as required in this
2 Part.

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 to the state fire marshal or his designee the set-up inspection
8 report and any other documentation relating to the set-up inspection or an annual
9 inspection.

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

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

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

24 §1484.7. Operation of inflatable amusement devices; notice; changes in schedule;
25 finer

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

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

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

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

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

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

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

25 (4) The state fire marshal or his designee has free access to any premises in
26 the state where an inflatable amusement device is being installed, built, repaired, or
27 operated for the purpose of ascertaining whether such inflatable amusement device
28 is being installed, built, repaired, or operated in accordance with the provisions of

1 this Part and adopted standards, rules, regulations, and applicable manuals, service
2 bulletins, and notices.

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

5 (1) Open to public.

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

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

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

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

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

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

20 (1) A review of all necessary documents including service and repair
21 documents.

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

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

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

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

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

10 §1484.9. License required to inspect inflatable amusement devices, amusement
11 attractions, and amusement rides; prohibitions

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

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

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

23 §1484.10. Third-party inspector; educational and certification requirements

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

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

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

28 (3) Currently certified with an equivalent to NAARSO Level 1 certification

29 as determined by rules promulgated by the state fire marshal pursuant to this Part.

1 §1484.11. License required to operate inflatable amusement devices, amusement
2 rides, and amusement attractions; service and repairs by owners; prohibitions

3 A. A person or firm shall not engage in the operation of an inflatable
4 amusement device, amusement attraction, or amusement ride unless the person or
5 firm holds a current and valid license issued by the state fire marshal as provided in
6 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. The state fire marshal may, by rule, allow the owner of an inflatable
12 amusement device, amusement attraction, or amusement ride, or an employee of the
13 owner, to perform minor service and repairs of the inflatable amusement device,
14 amusement ride, or amusement attraction. The owner shall document such service
15 or repair and assume responsibility for all such service or repair.

16 §1484.12. Exemptions from licensure

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

22 §1484.13. Application for firm license; third-party inspection firm license;
23 operating firm license; requirements to maintain; prohibitions; penalties

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

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

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

3 (2) Documentation that the firm is an entity duly authorized to conduct
4 business within this state. If the firm is physically located in Louisiana,
5 documentation shall be in the form of a local or parish occupational license, if such
6 license exists, and if incorporated, a certificate of good standing issued by the
7 secretary of state. If the firm is physically located outside of the state,
8 documentation shall be in the form of a certificate of good standing issued by the
9 secretary of state as a foreign corporation including the name of the firm's registered
10 agent of service.

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

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

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

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

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

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

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

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

26 (2) Documentation that the firm is an entity duly authorized to conduct
27 business within this state. If the firm is physically located in Louisiana,
28 documentation shall be in the form of a local or parish occupational license, if such
29 license exists, and if incorporated, a certificate of good standing issued by the

1 secretary of state. If the firm is physically located outside of the state,
2 documentation shall be in the form of a certificate of good standing issued by the
3 secretary of state as a foreign corporation including the name of the firm's registered
4 agent of service.

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

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

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

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

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

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

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

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

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

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

7 §1484.14. Application for an individual license; requirements to maintain;
8 prohibitions; penalties

9 A. To engage in the inspection or operation of an inflatable amusement
10 device, amusement attraction, or amusement ride, an individual shall apply for and
11 obtain a license and the respective relevant endorsement for inspection or operation.
12 The inspection endorsement authorizes the licensee to conduct any necessary testing.
13 Each individual license holder shall maintain his license on his person while
14 engaging in any such activity and present his license for inspection upon demand of
15 any employee of the office of state fire marshal, a fire department, or any law
16 enforcement officer.

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

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

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

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

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

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

7 §1484.15. Set-up inspection; license endorsement

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

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

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

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

21 §1484.16. Powers and duties of the state fire marshal

22 The state fire marshal shall:

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

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

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

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

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

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

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

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

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

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

26 §1484.17. Notice; hearing; revocation of certificate or license

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

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

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

5 (3) Demonstrated professional incompetence or gross negligence.

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

8 §1484.18. Fees; required renewal; penalties

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

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

13 (1) Initial Registration Fee:

14 (a) Inflatable amusement device: \$100.00

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

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

17 (2) Annual Renewal Fee:

18 (a) Inflatable amusement device: \$100.00

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

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

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

22 (1) Initial Fee:

23 (a) Inspection endorsement: \$500.00

24 (b) Operation endorsement: \$500.00

25 (2) Renewal Fee:

26 (a) Inspection endorsement: \$100.00

27 (b) Operation endorsement: \$100.00

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

1 (1) Initial Fee:

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

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

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

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

6 (2) Renewal Fee:

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

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

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

10 (d) Qualifier endorsement: \$100.00

11 E. All licenses are valid for one year, unless a multi-year license is created,

12 and shall be renewed by the license holder within the thirty days prior to the license

13 expiration date. The state fire marshal may create a prorated fee system to allow

14 employee license renewal dates to coincide with the firm license renewal date.

15 F. Any license not renewed within the thirty days prior to its expiration date

16 is past due for renewal and subject to late fees. The license holder shall pay a late

17 fee penalty of twenty-five dollars for a license renewed within the first forty-five

18 days past the license expiration date. The license holder shall pay a late fee penalty

19 of fifty dollars for a license renewed between forty-six and sixty days past the license

20 expiration date.

21 G. The state fire marshal shall suspend a license if the license is not renewed

22 within sixty days past its expiration date or if the license holder has not maintained

23 the license. The cost to reinstate a suspended license is the cost of the respective

24 license holder's initial fee plus twenty dollars.

25 H. The cost for a duplicate or replacement firm or individual license is

26 twenty dollars, regardless of how many endorsements are carried.

27 I. The cost to transfer an individual license from one firm to another is

28 twenty dollars.

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

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

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

8 §1484.19. Prohibited acts; operator

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

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

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

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

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

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

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

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

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

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

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

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

5 §1484.20. Prohibited acts; third-party inspector

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

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

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

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

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

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

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

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

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

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

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

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

1 (12) Fail to abide by the administrative rules promulgated pursuant to this

2 Part.

3 §1484.21. Prohibited acts; set-up inspector

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

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

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

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

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

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

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

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

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

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

25 (10) Fail to abide by the administrative rules promulgated pursuant to this
26 Part.

27 §1484.22. Notice of violation of standard; cease and desist order

28 A. If after an inspection, investigation, or audit of any inflatable amusement
29 device, amusement ride, or amusement attraction, the office of state fire marshal

1 determines that the respective device, ride, or attraction is in violation of any
2 standard promulgated pursuant to the provisions of this Part, and that there may be
3 a substantial probability of death or serious physical injury to the public from its
4 continued use, a notice of violation may be given to both the owner and operator of
5 the device, ride, or attraction, and a red tag shall be attached to such device, ride, or
6 attraction. The attached red tag constitutes a cease and desist order.

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

12 §1484.23. Insurance; bond

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

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

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

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

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

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

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

5 §1484.24. Violations and penalties; cease and desist order; injunctive relief

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

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

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

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

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

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

7 C. In addition to the foregoing provisions, the state fire marshal may assess
8 civil penalties attributable to the operator of an inflatable amusement device,
9 amusement ride, or amusement attraction to the owner or lessee of the site on which
10 the inflatable amusement device, amusement attraction, or amusement ride is
11 located, if the owner or lessee of the site failed to reasonably determine that the
12 operator of the inflatable amusement device, amusement ride, or amusement
13 attraction is in proper compliance with the requirements of this Part.

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

16 §1484.25. Exemptions

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

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

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

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

1 (4) Non-motorized rides and attractions.

2 §1484.26. Local regulation

3 Nothing contained in this Part shall prevent any local governmental
4 subdivision of this state from licensing or regulating any inflatable amusement
5 device, amusement attraction, or amusement ride, carnival, or circus as otherwise
6 provided by law.

7 § 1484.27. Waiver of inspection

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

15 §1484.28. Rules adopted

16 The state fire marshal shall adopt and issue rules, in accordance with the
17 provisions of the Administrative Procedure Act, establishing standards for the
18 installation, repair, maintenance, use, operation, and inspection of inflatable
19 amusement devices, amusement attractions, and amusement rides for the protection
20 of the public. The rules shall be based upon generally accepted engineering
21 standards and shall be concerned with but not necessarily limited to engineering
22 force stresses, safety devices, and preventive maintenance. The rules shall provide
23 for the reporting of accidents and injuries incurred from the operation of inflatable
24 amusement devices, amusement attractions, or amusement rides.

25 * * *

26 §1485.2. Definitions

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

29 * * *

1 (2) "Firm" means a sole proprietorship, corporation, limited liability
2 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.

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

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

11 (ii) Entering a carnival or amusement ride.

12 (iii) Using a carnival or amusement ride.

13 (iv) Exiting a carnival or amusement ride.

14 (v) Leaving a carnival or amusement ride and still in the immediate vicinity
15 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.

22 * * *

23 §1485.9. Applicability

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

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)]

HB 1133 Reengrossed

2016 Regular Session

Berthelot

Abstract: Revises provisions relative to inflatable amusement devices, amusement attractions, and amusement rides.

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, and 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.

Present law (R.S. 40:1596.2) provides that the "assistant secretary" of the Dept. of Public Safety in charge of the office of state fire protection is commonly known as the "state fire marshal".

Proposed law changes all references in present law from the "assistant secretary" to the "fire marshal" or "office of state fire marshal".

Proposed law authorizes the state fire marshal (fire marshal) to administer and enforce the provisions of proposed law and to adopt rules and regulations which he considers necessary for such administration and enforcement.

Present law authorizes the assistant secretary to adopt rules in accordance with the Administrative Procedure Act (APA) to establish standards for the installation, repair, maintenance, use, operation, and inspection of amusement attractions and rides for the protection of the public. Further authorizes the assistant secretary to adopt rules based upon generally accepted engineering standards including but not limited to engineering force stresses, safety devices, and preventive maintenance. Proposed law changes "assistant secretary" to the "fire marshal" and adds "inflatable amusement device". Proposed law otherwise retains present law.

Proposed law authorizes the fire marshal to charge and collect certain fees as provided in proposed law and requires procedures for the imposition of fines and appeals of such fines to be governed in accordance with the Administrative Procedure Act (APA).

Present law and proposed law provide for certain definitions.

Present law defines "amusement ride", "certificate of inspection", and "operator". Proposed law modifies these present law definitions.

Present law defines "air-supported structure", "assistant secretary", "department", and "inspector". Proposed law removes present law.

Proposed law adds other certain definitions.

Proposed law requires the owner of an inflatable amusement device, amusement attraction, or amusement ride to provide for the initial registration of such device, attraction, or ride. Requires a registration application, a certain certificate of inspection, and a copy of certain general liability insurance to be submitted to the fire marshal. Further requires the annual registration renewal of such devices, attractions, and rides.

Proposed law requires certain third-party inspection of inflatable amusement devices, amusement attractions, and amusement rides. Prohibits the operation of such device, attraction, or ride unless a respective certificate of inspection has been provided by a third-party inspector and a certificate of registration has been issued by the fire marshal.

Proposed law requires a third-party inspector to provide notice to the fire marshal when an inflatable amusement device, amusement attraction, or amusement ride does not comply with certain inspection requirements of proposed law. Provides for the fire marshal to subsequently issue a cease and desist order to a respective operator, and such order shall not be lifted unless deficiencies have been remedied accordingly.

Proposed law requires an operator to notify the fire marshal at least 5 days prior to commencing the operation of an amusement attraction or amusement ride. Assesses a \$250.00 fine per ride or attraction if the operator notifies the fire marshal less than 5 days prior to operation. Further assesses a \$250.00 fine per ride or attraction if the operator notifies the fire marshal of a change in date or location less than 5 days prior to operation. Proposed law applies to inflatable amusement devices, except the fine for respective late notices to the fire marshal changes from \$250.00 to \$200.00 for each inflatable amusement device.

Proposed law authorizes the fire marshal or his designee to inspect all inflatable amusement devices, rides, and attractions during the duration of the event at which such device, ride, or attraction is operated. Requires the fire marshal or his designee to provide an inspection of the device, ride, or attraction if such device, ride, or attraction is operating at a fixed location for more than 1 year.

Proposed law provides the fire marshal with free access to any premises in this state where an inflatable amusement device, amusement ride, or amusement attraction is being installed, built, repaired, or operated. Authorizes the fire marshal to publish a listing of all noncompliant operators and make such list available to the public upon written demand.

Proposed law requires an operator to submit certain documents during a fire marshal inspection or audit.

With respect to inflatable amusement devices, proposed law applies to the those inflatable amusement devices that are all of the following: (1) Open to public, (2) Located on grounds other than those of a 1 or 2 family dwelling, and (3) Co-located with other amusements, attractions, or rides.

Proposed law provides for set-up inspections. Requires 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. Provides for the set-up inspection to be conducted by a third-party inspector or an employee of the owner or operator specially trained to perform a set-up inspection.

Proposed law provides that if an inflatable amusement device, amusement attraction, or amusement ride complies with the requirements of a set-up inspection, the third-party inspector or set-up inspector is required to affix a tag to such device, attraction, or ride. Provides that if such device, attraction, or ride is not in compliance with the requirements of a set-up inspection, the third-party inspector or set-up inspector is required to cease operation of such device, attraction, or ride and provide notice to the fire marshal within 2 hours of the determination of noncompliance. Requires the respective inspector to affix a tag to the device, attraction, or ride indicating its noncompliance.

Proposed law prohibits a person or firm from engaging in the testing and inspection or operation of an inflatable amusement device, amusement attraction, or amusement ride unless the person or firm holds a current and valid license as provided in proposed law.

Proposed law prohibits a person or firm from aiding, abetting, facilitating, or otherwise assisting any unlicensed person or firm in the engagement of testing and inspecting or operating when such person or firm knew or should have known the latter person or firm was unlicensed.

Proposed law prohibits a person or firm from testing and inspecting an inflatable amusement device, amusement attraction, or amusement ride if such person or firm is also the owner or operator of the same.

Proposed law prohibits a third-party inspector from engaging in third-party inspections unless the inspector has certain licensed engineering experience in materials testing or certain other certification as required in proposed law.

Proposed law authorizes the fire marshal to adopt administrative rules allowing the owner of an inflatable amusement device, amusement attraction, or amusement ride, or an employee of the owner to perform minor service and repairs of such device, attraction, or ride. Requires the owner to document such service or repair and assume responsibility for all such service or repair.

The provisions of proposed law are inapplicable to an officer or employee of the U.S., the state of La., or any political subdivision of either, while engaged in the performance of his official duties within the course and scope of his employment.

Proposed law requires a firm or operator applying for a firm license to obtain a license and endorsement to test and inspect or operate an inflatable amusement device, amusement attraction, or amusement ride. Further requires an applicant for a third-party inspection firm license or an operating firm license to submit a complete application including the names of certain persons, documentation that the firm is an entity duly authorized to conduct business within this state, certain documentation issued by the secretary of state if the firm is incorporated, regardless of whether such firm is physically located in the state, certain insurance information, and the payment of the required application fee.

Proposed law requires, as a condition of licensure, for a firm to be open for inspection by the fire marshal or his designated representative at any reasonable time for the purpose of observation and collection of facts and data relating to the proper enforcement of proposed law.

As a further condition of licensure, proposed law provides that a firm's or individual's acceptance of a license by the fire marshal is deemed as the firm's or individual's consent to submit to reasonable requests for documentation by the fire marshal or his designated representatives and to cooperate in lawful investigations. Provides that a firm or individual's refusal to cooperate with any lawful investigation by the fire marshal is subject to any applicable penalty prescribed in proposed law, including suspension or revocation of a license.

Proposed law prohibits a person acting on behalf of a firm to refuse the admittance of the fire marshal or his designated representative to an operating location or its business location where the firm keeps records. Provides that a firm physically located outside of the state of La. may be charged for the travel expenses of the fire marshal to conduct such an inspection.

Proposed law requires a firm to clearly display its license in a conspicuous location at its place of business. Requires the designated agent of a firm or an individual to notify the fire marshal within 10 days of a change in the business address of the firm, or a change in ownership of or interest in the firm, and in the case of an individual, a change that constitutes separation from an employer or change in employer.

Proposed law requires an individual to apply for and obtain a license and the relevant endorsement to inspect and test or operate an inflatable amusement device, amusement

attraction, or amusement ride. Requires an individual license holder to maintain his license on his person while engaging in such activity and to present his license for inspection upon demand of any employee of the office of state fire marshal, a fire department, or any law enforcement officer.

Proposed law prohibits an individual licensed as provided in proposed law from contracting his services as an independent contractor or agent with any other firm, whether such firm is engaged in testing, inspection, or operation.

Proposed law requires an individual to meet all certification, continuing education, training, and testing requirements as established in proposed law and any related adopted rule or regulation.

Proposed law requires the attainment of a license and respective endorsement to perform the set-up inspection of an inflatable amusement device, amusement attraction, or amusement ride. Authorizes employees of the owners or operators of such a device, attraction, or ride to become licensed to perform the set-up inspection.

Proposed law provides the fire marshal with certain rights and authorities, including but not limited to the authority to formulate and administer certain necessary rules, including rules pertaining to the evaluation of qualifications and examinations of persons and firms, the authority to issue certain licenses, to decrease limits of insurance coverage and authorize acceptance of surplus lines, and the authority to conduct inspections, investigations, and audits.

Proposed law provides that licenses may be revoked or suspended after notice and hearing in accordance with the APA and upon a finding that a person or firm did any of the following: (1) Willfully violated any provision of proposed law, (2) Used deceit or false or misleading information to obtain any certificate or license issued as provided in proposed law, (3) Demonstrated professional incompetence or gross negligence, or (4) Assisted any person attempting to evade the provisions of proposed law.

Present law (R.S. 40:1484.4 and 1484.5) provides for certain inspections by the assistant secretary, certain certificates of inspection, and certain fees. Proposed law removes present law.

Proposed law authorizes the fire marshal to assess and collect certain fees. Fees for the registration of each inflatable amusement device, amusement attraction, or amusement ride are as follows:

(1) Initial Registration Fee:

(a) Inflatable amusement device: \$100.00

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

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

(2) Annual Renewal Fee:

(a) Inflatable amusement device: \$100.00

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

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

Proposed law provides for firm license fees as follows:

(1) Initial Fee:

(a) Inspection endorsement: \$500.00

(b) Operation endorsement: \$500.00

(2) Renewal Fee:

(a) Inspection endorsement: \$100.00

(b) Operation endorsement: \$100.00

Proposed law provides licensing fees for an individual's license as follows:

(1) Initial Fee:

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

(b) Operator or Owner endorsement: \$250.00

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

(d) Qualifier endorsement: \$1,000.00

(2) Renewal Fee:

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

(b) Operator or Owner endorsement: \$50.00

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

(d) Qualifier endorsement: \$100.00

Proposed law provides that licenses are valid for 1 year, unless a multi-year license is created. Requires a license to be renewed by the license holder within the 30 days prior to the license expiration date. Authorizes the fire marshal to create a prorated fee system to allow employee license renewal dates to coincide with the firm license renewal date.

Proposed law provides that a license not renewed within the 30 days prior to its expiration date is past due for renewal and subject to late fees. Requires the license holder to pay a late fee penalty of \$25.00 for a license renewed within the first 45 days past the license expiration date. Requires the license holder to pay a late fee penalty of \$50.00 for a license renewed between 46 and 60 days past the license expiration date.

Proposed law provides for the fire marshal's suspension of a license if the license is not renewed within 60 days past its expiration date or if the license holder has not maintained the license.

Proposed law provides that the cost to reinstate a suspended license is the cost of the respective license holder's initial fee plus \$20.00. Provides a \$20.00 fee for a duplicate or replacement firm or individual license, regardless of how many endorsements are carried. Further provides a cost of \$20.00 to transfer an individual license from one firm to another.

Proposed law provides that certain funds are refundable, except when certain conditions apply as established by the fire marshal. Provides that no fees are associated with compliance inspections and audits performed by the fire marshal, unless indicated otherwise. Further requires all collected fees to be used exclusively for the operation and maintenance of the amusement rides and safety division within the office of state fire marshal.

Proposed law prohibits a person, firm, third-party inspector, or set-up inspector from engaging in certain acts including but not limited to: (1) The operation of an inflatable amusement device, amusement attraction, or amusement ride without a valid license, (2) Aiding and abetting an unlicensed individual, employee, or firm in the testing, inspection, or operation of an inflatable amusement device, amusement attraction, or amusement ride, (3) Operating an inflatable amusement device, amusement attraction, or amusement ride contrary to proposed law, (4) Engaging in certain false, misleading, or deceptive practices, and (5) Failing to maintain certain valid licenses and insurance.

Present law provides if after inspection or investigation of any amusement ride or attraction, the assistant secretary determines such ride or attraction is in violation of any promulgated standard or determines substantial probability of death or serious physical injury to the public from the continued use of such ride or attraction, a notice of violation is required to be given in writing to the operator of the amusement ride or attraction. Proposed law removes present law.

Present law requires a copy of the notice to be attached to the amusement ride or attraction. Provides that after the notice of violation is issued, use of the amusement ride or attraction is prohibited. Provides that the the notice of violation issued by the assistant secretary constitutes a cease and desist order, the violation of which constitutes a misdemeanor offense punishable by a fine of not more than \$1,000.00 and imprisonment for not more than 30 days or both. Proposed law removes present law.

Present law provides that the notice may not be removed until the amusement ride or attraction is made safe for public use and the required safeguards are provided. The notice may not be removed except by the assistant secretary. Proposed law removes present law.

Proposed law requires a red tag to be attached to an inflatable amusement device, amusement ride, or amusement attraction when an inspection, investigation, or audit determines such device, ride, or attraction is in violation of any standard adopted rule or there may be a substantial probability of death or serious physical injury to the public from continued use. Provides for the red tag to constitute a cease and desist order prohibiting use of such device, ride, or attraction.

Proposed law prohibits removal of the red tag unless the device, ride, or attraction is made safe for public use and the required safeguards are provided. Provides for the red tag to be removed only by the fire marshal or his designee.

Present law provides for certain judicial review of actions of the assistant secretary in accordance with the APA. Proposed law deletes present law.

Present law requires certain insurance or a bond. Prohibits a person from operating an amusement attraction or amusement ride unless the person has either a policy of insurance in an amount of not less than \$1,000,000.00 that provides certain coverage against the operator's liability for injury suffered by persons, or a bond in the amount of \$1,000,000.00, provided the aggregate liability of the surety does not exceed the face amount of the bond. Proposed law retains present law but changes person to "owner or operator" and adds "inflatable amusement device" to the provisions of present law.

Present law applies to operators of "air-supported structures"; however, the policy of liability insurance or bond amount required of such operators is an amount not less than \$300,000.00. Proposed law changes "air-supported structures" to "inflatable amusement devices" but otherwise retains present law.

Present law requires certain verification of insurance coverage to be submitted to the assistant secretary. Requires an insurer or bond holder to notify the assistant secretary no less than 10 days prior to the cancellation of the required insurance policy or bond. Proposed law changes "assistant secretary" to "fire marshal" but otherwise retains present law.

Present law requires 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 assistant secretary. Proposed law changes "assistant secretary" to "fire marshal" and adds "inflatable amusement device" to the provisions of present law. Proposed law otherwise retains present law.

Present law authorizes the assistant secretary to assess a civil penalty of not more than \$250.00 for each violation of present law or adopted rules and regulations. Provides that each day on which a violation occurs is considered a separate offense. Provides for penalties to be assessed through certain adjudicatory hearings. Authorizes the assistant secretary to institute civil proceedings to enforce the rulings of the assistant secretary. Proposed law removes present law.

Proposed law provides that if the fire marshal finds that any person, operator, or firm has violated any provision of proposed law, he may impose a fine in an amount not to exceed \$5,000.00 for each violation. Provides that each day on which the violation occurs is considered a separate offense.

Present law authorizes the assistant secretary to institute civil proceedings seeking certain injunctive relief. Authorizes the assistant secretary to assess civil penalties attributable to the operator of an amusement ride or attraction to the owner or lessee of the site on which the amusement ride or attraction is located, if the owner or lessee of the site failed to reasonably determine that the operator of the amusement ride or attraction is in proper compliance with the provisions of present law. Proposed law changes "assistant secretary" to "fire marshal" and adds "inflatable amusement device" to the provisions of present law. Proposed law otherwise retains present law.

Proposed law empowers the fire marshal, in addition to or in lieu of administrative sanctions and civil penalties, to issue a cease and desist order to any person, operator, or firm engaged in any activity, conduct, or practice constituting a violation of proposed law. Provides that if such person, operator, or firm served with a cease and desist order does not cease and desist the prohibited activity, conduct, or practice, the fire marshal may seek a writ of injunction enjoining such prohibited activity, conduct, or practice. Further requires the court to issue a temporary restraining order upon certain showings by the fire marshal, and requires a permanent injunction in due course, after a certain hearing.

Proposed law provides that a temporary restraining order, preliminary injunction, or permanent injunction issued according to proposed law is not subject to being released upon bond.

Proposed law authorizes the fire marshal to demand from the defendant a penalty of \$50.00 per day for each violation, reasonable attorney fees, and court costs. Provides that judgment for penalty, attorney fees, and court costs may be rendered in the same judgment in which the injunction is made final.

Present law authorizes the assistant secretary to assess civil penalties attributable to the operator of an amusement ride or amusement attraction to the owner or lessee of the site on which the amusement attraction or amusement ride is located, if the owner or lessee of the site failed to reasonably determine that the operator of such ride or attraction is in proper compliance as provided in present law. Proposed law changes "assistant secretary" to "fire marshal" and adds "inflatable amusement device" to the provisions of present law. Proposed law otherwise retains present law.

Present law provides provisions to exempt all of the following from the provisions of present law:

- (1) Certain non-mechanized playground equipment including but not limited to swings, seesaws, stationary spring-mounted animal features, underpropelled merry-go-rounds, climbers, slides, trampolines, swinging gates, and physical fitness devices, except where an admission fee is charged for usage or an admission fee is charged to areas where such equipment is located.
- (2) An amusement attraction or ride owned and operated by a nonprofit religious, educational, or charitable institution or association if such attraction or ride is located within a building subject to inspection by the assistant secretary or certain local governmental subdivisions of the state.
- (3) Coin-operated mechanical devices occupying less than 36 square feet of floor space.
- (4) Non-motorized rides and attractions.

Proposed law changes "assistant secretary" to "fire marshal" and adds "inflatable amusement device" to the exemption provisions of present law. Proposed law otherwise retains present law.

The provisions of present law do not prevent a local governmental subdivision from licensing or regulating any amusement attraction, ride, carnival, or circus as otherwise provided by law. Proposed law adds "inflatable amusement device" to the provisions of present law, but otherwise retains present law.

Present law authorizes the assistant secretary to waive the requirement for an amusement attraction, ride, or any respective component part to be inspected prior to operation in this state if an operator gives satisfactory proof to the assistant secretary that such attraction, ride, or respective component part has passed an inspection conducted by a public agency whose inspection standards and requirements are at least equal to the requirements and standards established in present law. Proposed law changes "assistant secretary" to "fire marshal" and adds "inflatable amusement device" to the provisions of present law. Proposed law otherwise retains present law.

Proposed law adds the term "firm" to present law (R.S. 40:1485.2) within the Carnival and Amusement Rider Safety Act. Proposed law defines a firm as a sole proprietorship, corporation, limited liability company, or similar type of business entity. Proposed law makes other technical changes but otherwise retains present law.

Proposed law provides that the entirety of the Amusement Rides Safety Law is applicable to the entirety of the Carnival and Amusement Rider Safety Act.

(Amends R.S. 40:1484.1-1484.28, 1485.2(1)(intro. para.), (2), (3), (4), and (5); Adds R.S. 40:1485.2(6) and 1485.9)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Include a designee of the fire marshal as a proper person to perform certain actions in proposed law.
2. Modify the definition of "operator" within proposed law.
3. Clarify that a third-party inspector provides the certificate of inspection and the fire marshal issues the certificate of registration.
4. Modify terminology with respect to certain certificates issued by the secretary of state that are required to be filed with the fire marshal.
5. Require a third-party inspector to submit a certificate of inspection to the fire marshal after certain inspections.
6. Provide the fire marshal with sole authority to indicate the remediation of certain deficiencies.
7. Require an operator to submit the set-up inspection report and other certain documentation to the fire marshal or his designee.
8. Clarify the distinction between license endorsements for inspection and operation.
9. Reorganize certain language in proposed law to improve readability.

10. Make technical corrections.

The House Floor Amendments to the engrossed bill:

1. Modify certain language of proposed law to improve clarity and readability.
2. Make technical corrections.