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SENATE BILL 5633

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State of Washington

61st Legislature

2009 Regular Session

By Senators Swecker, Haugen, and Stevens

Read first time 01/28/09. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to amusement rides; amending RCW 67.42.010,  
2 67.42.020, 67.42.025, 67.42.030, 67.42.040, 67.42.050, 67.42.060,  
3 67.42.070, 67.42.080, 67.42.090, and 19.28.351; adding new sections to  
4 chapter 67.42 RCW; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 67.42.010 and 1993 c 203 s 2 are each amended to read  
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

10 (1) (~~"Amusement structure" means electrical or mechanical devices~~  
11 ~~or combinations of devices operated for revenue and to provide~~  
12 ~~amusement or entertainment to viewers or audiences at carnivals, fairs,~~  
13 ~~or amusement parks. "Amusement structure" also means a bungee jumping~~  
14 ~~device regardless of where located. "Amusement structure" does not~~  
15 ~~include games in which a member of the public must perform an act, nor~~  
16 ~~concessions at which customers may make purchases.)) "Amusement  
17 apparatus" means an amusement structure or amusement ride, but does not  
18 include any structure, device, ride, or other apparatus excluded from~~

1 the definition of either amusement structure or amusement ride. An  
2 amusement apparatus may be:  
3 (a) Situated inside, outside, or as a part of a building;  
4 (b) Stationary or mobile; or  
5 (c) Temporarily or permanently installed at a location.  
6 (2)(a) "Amusement ride" means any vehicle, boat, bungee jumping  
7 device, or other mechanical device used to convey one or more  
8 individuals for amusement, entertainment, diversion, or recreation:  
9 (i) Operated for revenue; and  
10 (ii) Moving:  
11 (A) Upon or within a structure((τ)) or track;  
12 (B) Along cables or rails((τ));  
13 (C) Through the air by centrifugal force or otherwise((τ)); or  
14 (D) Across water((τ, that is used to convey one or more individuals  
15 for amusement, entertainment, diversion, or recreation)).  
16 (b) "Amusement ride" includes, but is not limited to, devices  
17 commonly known as: Skyrides, ferris wheels, carousels, parachute  
18 towers, tunnels of love, bungee jumping devices, go carts, bumper cars,  
19 and roller coasters.  
20 (c) "Amusement ride" does not include:  
21 ((+a)) (i) Conveyances for persons in recreational winter sports  
22 activities such as ski lifts, ski tows, j-bars, t-bars, and similar  
23 devices subject to regulation under chapter ((70-88)) 79A.40 RCW;  
24 ((+b)) (ii) Any stationary single-passenger or dual-passenger  
25 coin-operated ride that is manually, mechanically, or electrically  
26 operated and customarily placed in a public location and that does not  
27 normally require the supervision or services of an operator;  
28 ((+c)) (iii) Nonmechanized playground equipment, not operated for  
29 revenue, including but not limited to((τ)): Swings, seesaws,  
30 stationary spring-mounted animal features, rider-propelled merry-go-  
31 rounds, climbers, slides, trampolines, and physical fitness devices; or  
32 ((+d)) (iv) Water slides.  
33 (3)(a) "Amusement structure" means electrical or mechanical devices  
34 or combinations of one or more structures and/or devices:  
35 (i) Operated for revenue; and  
36 (ii) Providing amusement or entertainment to a person or persons  
37 who climb(s) in or upon the structure.

1        (b) "Amusement structure" also means a bungee jumping device  
2 regardless of where located.

3        (c) "Amusement structure" does not include booths or other  
4 enclosures typically found at carnivals, fairs, or amusement parks in  
5 or from which are offered:

6        (i) Games, such as coin-toss, ring-throw, or darts, that do not  
7 involve the transportation of the participant; or

8        (ii) Concessions.

9        (4) "Department" means the department of labor and industries.

10        ~~((+4))~~ (5) "Insurance policy" means an insurance policy written by  
11 an insurer authorized to do business in this state under Title 48 RCW.

12        **Sec. 2.** RCW 67.42.020 and 1993 c 203 s 3 are each amended to read  
13 as follows:

14        ~~((Before))~~ Except as provided under section 3 of this act, when  
15 operating, renting, or leasing any amusement ride or structure, the  
16 owner or operator of the apparatus shall:

17        ~~((Obtain a permit))~~ Possess a valid amusement apparatus  
18 operating decal issued pursuant to RCW 67.42.030;

19        ~~((Have the amusement ride or structure inspected for safety at~~  
20 ~~least once annually by an insurer, a person with whom the insurer has~~  
21 ~~contracted, or a person who meets the qualifications set by the~~  
22 ~~department and obtain from the insurer or person a written certificate~~  
23 ~~that the inspection has been made and that the amusement ride or~~  
24 ~~structure meets the standards for coverage and is covered by the~~  
25 ~~insurer as required by subsection (3) of this section. A bungee~~  
26 ~~jumping device, including, but not limited to, the crane, tower,~~  
27 ~~balloon or bridge, person lift basket, platforms, bungee cords, end~~  
28 ~~attachments, anchors, carabiners or locking devices, harnesses, landing~~  
29 ~~devices, and additional ride operation hardware shall be inspected for~~  
30 ~~safety prior to beginning operation and annually by an insurer, a~~  
31 ~~person with whom the insurer has contracted, or a person authorized by~~  
32 ~~the department to inspect bungee jumping devices. The operator of the~~  
33 ~~bungee jumping device shall obtain a written certificate which states~~  
34 ~~that the required inspection has been made and the bungee jumping~~  
35 ~~device meets the standards for coverage and is covered by the insurer~~  
36 ~~as required by subsection (3) of this section;~~

1       ~~(3))~~ Have and keep in effect an insurance policy in an amount not  
2 less than one million dollars per occurrence insuring: (a) The owner  
3 or operator; and (b) any municipality or county on whose property the  
4 amusement (~~(ride or structure stands)~~) apparatus is located, or any  
5 municipality or county which has contracted with the owner or operator  
6 against liability for injury to persons arising out of the use of the  
7 amusement (~~(ride or structure)~~) apparatus;

8       ~~((4) File with the department the inspection certificate and  
9 insurance policy required by this section; and~~

10       ~~(5))~~ (3) File with each sponsor, lessor, landowner, or other  
11 person responsible for an amusement (~~(structure or ride)~~) apparatus  
12 being offered for use by the public a certificate stating that the  
13 insurance required by subsection (~~(3))~~ (2) of this section is in  
14 effect.

15       NEW SECTION. Sec. 3. A new section is added to chapter 67.42 RCW  
16 to read as follows:

17       Nothing in this chapter requires that an amusement apparatus  
18 operating decal be obtained by:

19       (1) A person operating or otherwise making an amusement apparatus  
20 available without charge to the person's family or invitees at his or  
21 her place of residence, but only if:

22       (a) The person operating the apparatus owns the residence; or

23       (b) The owner of the residence has authorized the use of the  
24 apparatus.

25       (2) A person, firm, partnership, corporation, or other entity  
26 operating an amusement apparatus when the apparatus is part of an act  
27 or stage performance to entertain an audience and access to the  
28 apparatus by the general public is prohibited.

29       Sec. 4. RCW 67.42.025 and 1986 c 86 s 2 are each amended to read  
30 as follows:

31       (1) An amusement (~~(ride)~~) apparatus that has been inspected in any  
32 state, territory, or possession of the United States that, in the  
33 discretion of the department, has a level of regulation comparable to  
34 this chapter, shall be deemed to meet the inspection requirement of  
35 this chapter.

1 (2) An amusement (~~(ride)~~) apparatus inspector who is authorized to  
2 inspect amusement (~~(rides)~~) apparatus in any state, territory, or  
3 possession of the United States, who, in the discretion of the  
4 department, has a level of qualifications comparable to those required  
5 under this chapter, shall be deemed qualified to inspect amusement  
6 (~~(rides)~~) apparatus under this chapter.

7 **Sec. 5.** RCW 67.42.030 and 1985 c 262 s 3 are each amended to read  
8 as follows:

9 (1) (~~Application for an operating permit to operate an amusement~~  
10 ~~ride or structure shall be made on an annual basis by the owner or~~  
11 ~~operator of the amusement ride or structure. The~~) An application for  
12 an amusement apparatus operating decal shall be made on forms or in a  
13 manner prescribed by the department and shall include the application  
14 fee required by rule and the certificates of insurance and inspection  
15 required by RCW 67.42.020(~~(+2)~~) (3) and subsection (2) of this  
16 section.

17 (2) (~~The department shall issue a decal with each permit. The~~  
18 ~~decal shall be affixed on or adjacent to the control panel of the~~  
19 ~~amusement ride or structure in a location visible to the patrons of the~~  
20 ~~ride or structure~~) (a) An applicant for an amusement apparatus  
21 operating decal shall identify the apparatus for which a decal is being  
22 applied and certify that all of the components of the apparatus have  
23 been inspected for safety.

24 (b)(i) After the date of any invalidating event identified in RCW  
25 67.42.040(2), an inspection must be performed by either:

- 26 (A) A qualified inspector retained by the applicant's insurer; or  
27 (B) A person meeting the qualifications for an amusement apparatus  
28 inspector as established by the department by rule.

29 (ii) The person performing the inspection under this subsection  
30 must verify the date of the inspection and that the apparatus meets or  
31 exceeds the safety standards applicable to the apparatus as adopted by  
32 the department under this chapter.

33 (3) If the requirements of this section are met, the department  
34 shall issue an amusement apparatus operating decal with each permit to  
35 the applicant.

36 (4) When the amusement apparatus identified in the application is

1 operated, rented, leased, or otherwise made available to the public,  
2 the decal shall be displayed in a location visible to the patrons of  
3 the apparatus.

4 **Sec. 6.** RCW 67.42.040 and 1993 c 203 s 4 are each amended to read  
5 as follows:

6 (1) Except as provided in subsection (2) of this section or unless  
7 a shorter period is specified by the department, ~~((permits))~~ amusement  
8 apparatus operating decals issued under RCW 67.42.030 are valid for a  
9 one-year period from the date of issuance and are not transferable.

10 (2) ~~((If an amusement ride or structure))~~ An amusement apparatus  
11 operating decal becomes invalid immediately when:

12 (a) The insurance policy required by RCW 67.42.020(2) is canceled;  
13 or

14 (b) Amusement apparatus for which the decal has been issued:

15 (i) Is materially rebuilt or materially modified so as to change  
16 the original action of the amusement ~~((ride or structure, the amusement~~  
17 ~~ride or structure shall be subject to a new inspection under RCW~~  
18 ~~67.42.020 and the owner or operator shall apply for a new permit under~~  
19 ~~RCW 67.42.030.))~~ apparatus;

20 ~~((3) If an amusement ride or structure for which a permit has been~~  
21 ~~issued pursuant to RCW 67.42.030))~~ (ii) Is a bungee jumping device or  
22 a permanently installed amusement apparatus and the device or apparatus  
23 is moved and installed in another ~~((place but is not materially rebuilt~~  
24 ~~or materially modified so as to change the original action of the~~  
25 ~~amusement ride or structure, no new permit is required prior to the~~  
26 ~~expiration of the permit.~~

27 ~~(4))~~ location;

28 (iii) Is a bungee jumping device ~~((or a))~~ and any part of ~~((a))~~ the  
29 device ~~((7))~~ is repaired or replaced including, but not limited to, the  
30 crane, tower, platforms, bungee cords, end attachments, carabiners or  
31 locking devices, harnesses, person lift basket, mobile crane, balloon  
32 or balloon basket, anchor or anchor attachment structure, or landing  
33 device ~~((, that is replaced shall be reinspected by an insurer, a person~~  
34 ~~with whom the insurer has contracted, or by a person authorized by the~~  
35 ~~department to inspect bungee jumping devices, and the owner or operator~~  
36 ~~of the device shall apply for a new permit under RCW 67.42.030.~~

1       ~~(5) A bungee jumping operator shall have any bungee jumping device~~  
2 ~~or structure that is moved and installed in another location~~  
3 ~~reinspected by an insurer, a person with whom the insurer has~~  
4 ~~contracted, or a person authorized by the department to inspect bungee~~  
5 ~~jumping devices before beginning operation.~~

6       ~~(6) Any new operator who purchases an existing bungee jumping~~  
7 ~~device or structure must have the bungee jumping device inspected and~~  
8 ~~permitted as required under RCW 67.42.020 before beginning operation));~~

9       (iv) Is a climbing wall and any personal restraining device or part  
10 of a restraining device is repaired or replaced;

11       (v) Is sold or ownership of the apparatus is otherwise transferred  
12 to a new owner.

13       **Sec. 7.** RCW 67.42.050 and 1985 c 262 s 5 are each amended to read  
14 as follows:

15       (1)(a) The department shall adopt rules under chapter 34.05 RCW to  
16 administer this chapter, including provisions relating to:

17       (i) Inspector qualifications and safety standards;  
18       (ii) Issuance of orders and rulings, including demand and filings;  
19       (iii) Citations and penalties, not to exceed five thousand dollars  
20 per violation; and

21       (iv) Any other actions as may be necessary for the implementation  
22 and enforcement of this chapter.

23       (b) Such rules may exempt amusement ~~((rides or structures))~~  
24 apparatus otherwise subject to this chapter if the amusement ~~((rides or~~  
25 ~~structures))~~ apparatus are located on lands owned by ~~((the))~~ the  
26 United States government or its agencies and are required to comply  
27 with federal safety standards at least equal to those under this  
28 chapter.

29       (2)(a) The department may order, in writing, the cessation of the  
30 operation of an amusement ~~((ride or structure))~~ apparatus for which:

31       (i) No valid permit is in effect ((or for which));  
32       (ii) The owner or operator does not have an insurance policy as  
33 required by RCW 67.42.020; or  
34       (iii) The apparatus is found by the department to be unsafe.

35       (b) Incident reporting is required by rule.

36       (3) All proceedings relating to ~~((permits))~~ applications,

1 citations, or orders to cease operation under this chapter shall be  
2 conducted pursuant to chapter 34.05 RCW.

3 **Sec. 8.** RCW 67.42.060 and 1993 c 203 s 5 are each amended to read  
4 as follows:

5 (1) The department may ~~((charge))~~ establish, by rule, a reasonable  
6 fee ~~((not to exceed ten dollars for each permit issued))~~ to review each  
7 application received under RCW 67.42.030.

8 (2)(a) In establishing the fee for reviewing applications received  
9 during the first fiscal year after the effective date of this act, the  
10 department may exceed the fiscal growth factor limit as provided under  
11 RCW 43.135.055, but may not establish a fee exceeding:

12 (i) One hundred fifty dollars for each application relating to a  
13 bungee jumping device; or

14 (ii) Twenty dollars for each application relating to any other  
15 amusement apparatus.

16 (b) The fee may provide for a reduced per apparatus fee for  
17 reviewing applications submitted at the same time that relate to more  
18 than five materially identical apparatus.

19 (3) Subsequent fee changes shall be subject to the fiscal growth  
20 factor limit as provided under RCW 43.135.055.

21 (4) All fees, penalties, and other amounts collected by the  
22 department under this chapter shall be deposited in the ~~((state~~  
23 ~~general))~~ electrical license fund. ~~((This subsection does not apply to~~  
24 ~~permits issued under RCW 67.42.030 to operate a bungee jumping device.~~

25 ~~(2) The department may charge a reasonable fee not to exceed one~~  
26 ~~hundred dollars for each permit issued under RCW 67.42.030 to operate~~  
27 ~~a bungee jumping device. Fees collected under this subsection shall be~~  
28 ~~deposited in the state general fund for appropriation for the~~  
29 ~~permitting and inspection of bungee jumping devices under this~~  
30 ~~chapter.))~~

31 (5) No amount deposited under the authority of this section may be  
32 used for any purpose other than the regulation of amusement apparatus  
33 under this chapter.

34 **Sec. 9.** RCW 67.42.070 and 1985 c 262 s 7 are each amended to read  
35 as follows:



1        It is a gross misdemeanor for any person ((who operates an  
2 amusement ride or structure without complying with the requirements of  
3 this chapter is guilty of a gross misdemeanor)) to operate:

4        (1) An amusement apparatus without a valid amusement apparatus  
5 operating decal, and any person is injured by the operation of the  
6 apparatus; or

7        (2) A bungee jumping device from any location where written  
8 permission of the owner is required by RCW 67.42.090, and the operator  
9 has not obtained the written permission of the owner.

10        NEW SECTION. Sec. 10. A new section is added to chapter 67.42 RCW  
11 to read as follows:

12        (1) If he or she has reason to believe there has been a violation  
13 of this chapter, the director and the director's authorized  
14 representatives may issue a subpoena to enforce the production and  
15 examination of any of the following, whether written or electronic:

16            (a) A listing of the amusement apparatus owned or operated;

17            (b) Contracts or other agreements between an amusement apparatus  
18 owner, lessor, or operator;

19            (c) Records relating to any incident required to be reported by  
20 rule; or

21            (d) Any other information necessary to enforce this chapter.

22        (2) The subpoena may be issued only if an amusement apparatus  
23 owner, lessor, or operator fails to provide the information in  
24 subsection (1) of this section when requested by the department.

25        (3) The superior court has the power to enforce such a subpoena by  
26 proper proceedings.

27        (4) This section applies to all amusement apparatus owners,  
28 lessors, and operators regardless of whether the amusement apparatus  
29 has a valid operating decal.

30        **Sec. 11.** RCW 67.42.080 and 1985 c 262 s 8 are each amended to read  
31 as follows:

32        Nothing contained in this chapter prevents a county or municipality  
33 from adopting and enforcing ordinances which relate to the operation of  
34 amusement ((rides or structures)) apparatus and supplement the  
35 provisions of this chapter.

1       **Sec. 12.** RCW 67.42.090 and 1993 c 203 s 6 are each amended to read  
2 as follows:

3       (1) Bungee jumping from a publicly owned bridge or publicly owned  
4 land is ~~((allowed only if))~~ prohibited unless permission has been  
5 granted ~~((by))~~, in writing, by a public officer designated by the chief  
6 executive officer of the government body that has jurisdiction over the  
7 bridge or land.

8       (2) Bungee jumping into publicly owned waters is ~~((allowed only~~  
9 ~~if))~~ prohibited unless permission has been granted ~~((by))~~, in writing,  
10 by a public officer designated by the chief executive officer of the  
11 government body that has jurisdiction over the body of water.

12       (3) Bungee jumping from a privately owned bridge is ~~((allowed only~~  
13 ~~if))~~ prohibited unless permission has been granted, in writing, by the  
14 owner of the bridge.

15       **Sec. 13.** RCW 19.28.351 and 2003 1st sp.s. c 25 s 910 are each  
16 amended to read as follows:

17       All sums received from licenses, permit fees, or other sources,  
18 herein shall be paid to the state treasurer and placed in a special  
19 fund designated as the "electrical license fund," and paid out upon  
20 vouchers duly and regularly issued therefor and approved by the  
21 director of labor and industries or the director's designee following  
22 determination by the board that the sums are necessary to accomplish  
23 the intent of this chapter ~~((19.28))~~ and chapter 67.42 RCW. The  
24 treasurer shall keep an accurate record of payments into, or receipts  
25 of, the fund, and of all disbursements therefrom, and must distinguish  
26 deposits and disbursement made pursuant to this chapter from those made  
27 pursuant to chapter 67.42 RCW.

28       ~~((During the 2003-2005 biennium, the legislature may transfer~~  
29 ~~moneys from the electrical license fund to the state general fund such~~  
30 ~~amounts as reflect the excess fund balance of the fund.))~~

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