

1 ENGROSSED SENATE
2 BILL NO. 379

By: Simpson of the Senate

3 and

4 Ownbey of the House
5

6 An Act relating to homemade amusement rides; defining
7 terms; prohibiting homemade amusement rides in
8 public; setting penalties; providing enhanced penalty
9 under certain circumstance; authorizing operation of
10 certain ride with permit and inspection; requiring
11 posting of permit and certificate of inspection;
12 directing the Department of Labor to promulgate rules
13 and forms; construing authority of municipality to
14 regulate homemade amusement rides; directing certain
15 compliance; authorizing Department of Labor to adopt
16 certain standards; providing for development of other
17 standards; setting items to be evaluated; granting
18 certain immunity to the Department of Labor;
19 directing fees in sufficient amounts to cover
20 administration and costs; providing for codification;
21 and providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 474 of Title 40, unless there is
25 created a duplication in numbering, reads as follows:

26 A. As used in this section:

27 1. "Homemade amusement ride" means any self-designed and
28 constructed moving, mechanical or motorized device or combination of
29 devices or elements that carry, convey, transport or direct a person

1 or persons on a course or into, around, through or over water, ice,
2 air or terrain, for amusement or entertainment and which device or
3 elements of the device uses a power source, which may include, but
4 is not limited to, a motor vehicle, all-terrain vehicle, motorcycle,
5 lawn mower, tractor, airplane, electric or gasoline motor, or
6 mechanical or self-propelled action, to accomplish movement.

7 However, homemade amusement ride shall not include a device or
8 elements of a device that is:

- 9 a. designed, constructed and used by a child or children
10 under the age of sixteen (16) years,
- 11 b. designed, constructed and used by a parent or
12 stepparent for his or her children or family members,
- 13 c. designed, constructed and used by a person sixteen
14 (16) years of age or older, with or without
15 participation by other persons aged sixteen (16) years
16 or older,
- 17 d. constructed and used according to a manufacturer's
18 instructions, purpose and design, or
- 19 e. designed and constructed for use solely on private
20 property by the owner or operator of the device and
21 invitees of the owner or operator unless such private
22 property is open to the general public for the purpose
23 of participating with, operating or riding in or on
24 the homemade amusement ride;

1 2. "Owner" or "operator" means a person who designed and
2 constructed a homemade amusement ride or who controls or has the
3 duty to control the operation of the device or any elements relating
4 to the device and its operation;

5 3. "Invitee" means a person specifically offered and allowed to
6 participate with, operate or ride the homemade amusement ride on or
7 in with the knowledge and consent of the owner or operator;

8 4. "Public or group setting" means use of public property, or
9 property not owned by the owner or operator of a homemade amusement
10 ride, where the general public, or one or more persons who are not
11 related to the owner or operator of a homemade amusement ride, is
12 solicited, enticed, offered, allowed or encouraged to participate
13 with, operate or ride in or on the homemade amusement ride; and

14 5. "Certificate of inspection" means a certificate issued by
15 the Commissioner of Labor which indicates that a safety, materials
16 and skill evaluation of the homemade amusement ride and its operator
17 has been performed pursuant to the rules adopted by the Department
18 of Labor.

19 B. 1. Except as provided in subsection C of this section, it
20 shall be unlawful for any owner or operator of a homemade amusement
21 ride, as such terms are defined in this section, to operate or offer
22 to operate a homemade amusement ride in a public or group setting,
23 as defined in this section. A violator shall, upon conviction, be
24 guilty of a misdemeanor punishable by a fine in an amount not less

1 than Fifty Dollars (\$50.00) nor more than One Thousand Dollars
2 (\$1,000.00), except as provided in paragraph 2 of this subsection.

3 2. In the case of a death of a child-participant while the
4 owner or operator is in violation of the provisions of this section
5 or any rule adopted thereto, and the child-victim is fifteen (15)
6 years of age or less, the violator shall, upon conviction, be guilty
7 of a felony punishable by a fine not less than One Thousand Dollars
8 (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by
9 imprisonment for a term not exceeding four (4) years, or by both
10 such fine and imprisonment.

11 C. An owner of a homemade amusement ride may operate or offer
12 to operate a homemade amusement ride in a public or group setting,
13 as defined in this section, with or without charging a fee to
14 participate, upon obtaining a state permit and certificate of
15 inspection for the device from the Department of Labor, and paying
16 the appropriate fees. The owner shall have both the state permit
17 and certificate of inspection posted and visible to the public
18 during the operation of the homemade amusement ride. No homemade
19 amusement ride shall be authorized to operate if the operation of
20 such device is deemed contrary to any ordinance or other provision
21 of law.

22 D. The Department of Labor shall promulgate rules and forms for
23 the issuance of permits, inspection procedures, and assessment of
24 fees for the permit and inspection of homemade amusement rides, and

1 for any sanctions adopted by rule for violations. Nothing in this
2 section shall prohibit a municipality from establishing any
3 ordinance regulating homemade amusement rides within the
4 jurisdiction of the municipality, and if an ordinance is adopted,
5 the owner or operator must comply with the ordinance in addition to
6 the provisions of this section or be deemed in violation of this
7 section. The Department may adopt standards similar to the
8 standards of the American Society for Testing of Materials
9 International (ASTM) for operation of amusement rides and devices,
10 or shall develop other applicable standards to evaluate the safety
11 features, design, materials, the operator's skill, experience and
12 training, the age-appropriateness of both the design and materials,
13 and the potential risk of injury or death during normal operation of
14 the homemade amusement rides.

15 E. The Department of Labor, including its officers, employees,
16 and agents, shall be immune from liability for any acts or omissions
17 relating to operation of a homemade amusement ride and for the
18 issuance of the permit and certificate of inspection authorizing a
19 homemade amusement ride to operate in a public or group setting as
20 defined in this section.

21 F. The Department of Labor shall establish fees pursuant to the
22 provisions of this section in amounts sufficient to cover the costs
23 of administration, including issuance of permits, conducting or
24 contracting for inspections and evaluations of homemade amusement

1 rides, investigation of alleged violations of any adopted rules or
2 provisions of this section, and collection of any imposed
3 administrative fines for disciplinary sanctions.

4 SECTION 2. This act shall become effective November 1, 2011.

5 Passed the Senate the 2nd day of March, 2011.

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Presiding Officer of the Senate

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9 Passed the House of Representatives the ____ day of _____,

10 2011.

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Presiding Officer of the House
of Representatives

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