

1989

Session Law 89-111

Florida Senate & House of Representatives

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S 185 GENERAL BILL/CS/CS/2ND ENG by Appropriations; Agriculture; Forman (Similar CS/CS/H 165)
Amusement Rides & Structures/Safety; provides for safety standards for operation of amusement devices, amusement attractions, & temporary structures at public fairs & expositions, carnivals, festivals, celebrations, bazaars, permanent facilities, & parking lot still dates; provides for permits & certificates to operate; provides inspection requirements; provides for standards & test requirements for operation of amusement device or attraction, etc. Amends 616.091, 546.006, 570.46. Effective Date: 10/01/89.

02/08/89 SENATE Prefiled
02/17/89 SENATE Referred to Agriculture; Appropriations
04/04/89 SENATE Introduced, referred to Agriculture; Appropriations -SJ 22; On Committee agenda—Agriculture, 04/04/89, 2:00 pm, Room-B; Comm. Report: CS by Agriculture -SJ 97
04/06/89 SENATE CS read first time -SJ 114; Now in Appropriations -SJ 97
05/03/89 SENATE Extension of time granted Committee Appropriations
05/18/89 SENATE Extension of time granted Committee Appropriations
05/19/89 SENATE On Committee agenda—Appropriations, 05/23/89, 1:00 pm, Room-A-(LL-37)
05/23/89 SENATE Comm. Report: CS/CS by Appropriations, placed on Calendar -SJ 450
05/25/89 SENATE CS read first time -SJ 451
05/29/89 SENATE Placed on Special Order Calendar -SJ 493; CS passed as amended; YEAS 35 NAYS 0 -SJ 504
05/29/89 HOUSE In Messages
05/30/89 HOUSE Received, placed on Calendar -HJ 812; Read second time; Amendment adopted; Read third time; CS passed as amended; YEAS 113 NAYS 0 -HJ 812
05/30/89 SENATE In Messages
05/31/89 SENATE Concurred; CS passed as amended; YEAS 37 NAYS 0 -SJ 659
05/31/89 Ordered engrossed, then enrolled -SJ 659
06/12/89 Signed by Officers and presented to Governor
06/26/89 Approved by Governor; Chapter No. 89-111

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Merritt</u>	<u>Poole</u>	1. <u>AG</u>	<u>Fav/CS</u>
2. <u>Barrett</u>	<u>Smith</u>	2. <u>AP</u>	<u>Fav/CS</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Public Fairs and expositions

BILL NO. AND SPONSOR:

CS/SB 185 by
Appropriations, Agriculture,
and Senator Forman

I. SUMMARY:

A. Present Situation:

The first legislation concerning public fairs and expositions was enacted in 1917 in chapter 7388, Laws of Florida, to provide for and encourage the creation and incorporation of associations, not for profit, to conduct and operate public fairs and expositions for the benefit and development of the agricultural, horticultural, livestock, and other resources of Florida, and to state the powers, privileges, and exemptions of these associations. The law has been amended often in succeeding years and is now found in Chapter 616, Florida Statutes, relating to Public Fairs and Expositions.

The Bureau of Public Fairs and Expositions in the Division of Administration of the Department of Agriculture and Consumer Services has the responsibility, as authorized in s. 570.30 (7), Florida Statutes, to administer the provisions of chapter 616, Florida Statutes, relating to public fairs and expositions, fair permits, applications, fees, and inspection; premiums and awards; safety requirements; agricultural exhibits; and youth activities. The bureau also issues tax exemption certificates and distributes the Commissioner of Agriculture Premium and Awards Revolving Fund.

Currently subsection (2) of section 616.091, Florida Statutes, requires safety standards for the operation of amusement devices and temporary structures at carnivals, public fairs and expositions, festivals, celebrations, bazaars, and any parking lot still dates. [The 1986 Legislature added the provision requiring safety standards for the operation of amusement devices and temporary structures at festivals, celebrations, bazaars, and any parking lot still dates and provided an additional seven salaried positions with an appropriation of \$200,000 to the department from the General Inspection Trust Fund to implement the expanded responsibilities.] All amusement devices and temporary structures operating in the state are required to be registered and inspected by the department. A copy of each inspection report is to be kept on file by the fair manager or event coordinator. The department is given rulemaking authority to determine the rate of registration and inspection fees but is statutorily charged with the provision that the rate will cover 100 percent of the cost of the program. These funds are deposited in the General Inspection Trust Fund.

B. Effect of Proposed Changes:

The bill strengthens the safety standards for the operation of public fairs and expositions, carnivals, festivals, celebrations, bazaars, permanent facilities, and parking lot

still dates as regulated by the Department of Agriculture and Consumer Services.

Section 616.091(2)(a), relating to the purpose, intent, and general requirements of safety standards is expanded charging the department with the responsibility of inspecting and testing each amusement device at every public fair and exposition, carnival, festival, celebration, bazaar, permanent facilities and parking lot still date conducted in the state.

A definition is provided for the following terms: amusement device, temporary amusement device, permanent amusement device, sponsor of event, permit, certificate to operate, serious injury, manager, amusement attraction, and permanent facilities. The bill provides that a permit must be issued by the department to the owner before an amusement device or attraction can be operated in the state. It also requires the owner of a temporary amusement device to obtain a certificate from the department. Criteria that the owner must meet before the department can issue permits and certificates include written application, proof that the amusement device has passed all required inspections, and proof that the owner has liability insurance coverage or bond in an amount not less than \$1 million per occurrence. The bill also repeals paragraphs (3) and (4) of s. 546.006. This provision provides exemption for amusement rides regulated by the department from the requirement of insurance coverage or bond. Provisions for imposing an administrative fine and permit revocation and reinstatement by the department are listed. Requirements for displaying the permit are provided.

Inspection requirements and procedures for permanent and temporary amusement devices are provided in the bill. In the case of a permanent amusement device, it must be inspected by the department at the time of application for the initial permit. Thereafter the permanent facilities may be inspected by in-house full-time employees who meet the requirements of the department and they may provide the department with an affidavit that all devices and attractions on the premises have been inspected and tested.

A temporary amusement device must be inspected by the department upon first entry into the state. Thereafter must be inspected at least annually by a professional engineer, qualified inspector of an insurance underwriter, or other qualified inspector, of whom must be approved by the department.

In addition to minimum departmental compliance, inspections of both must include some form of test for metal fatigue. Visual inspection of a temporary amusement device is permitted if the owner supplies a valid and current certificate of inspection from another jurisdiction and only if the jurisdiction offers similar reciprocity. The bill further provides an additional 30 days if the owner is unable to secure an inspection within 1 year after the date of the previous inspection and only then if the request was made at least 60 days prior to the inspection anniversary date. The bill provides for unannounced inspections. The bill addresses the subject of daily inspections and tests for temporary amusement devices.

The bill provides that in the event of an accident involving death or serious injury, each manager is required to report the incident within 24 hours and the department is authorized to impound the amusement device or amusement attraction and perform all necessary tests to determine the cause of the accident. The owner is responsible for the cost of such testing.

The bill provides that each device shall comply with the American Society for Testing and Materials Committee F-24

Standards on Amusement Rides and Devices. In the absence of applicable testing requirements, the department shall establish minimum requirements for metal fatigue and may establish more stringent rules.

Section 570.46 is amended to expand the duties of the provision of this act. The Bureau of Fairs and Expositions is transferred to the Division of Standards of the Department of Agriculture.

The effective date of the bill is October 1, 1989.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The Department of Agriculture and Consumer Services estimates that the Non-Destructive Testing requirement will cost the industry regulated by Chapter 616, \$1.3 million dollars annually. With the passage of this bill, the industry will continue to meet the insurance requirements of \$1 million per occurrence insuring the owner or lessee against liability or a bond in a like amount. The bill requires registration and inspection fees to be determined at a rate that will cover 100 percent of the cost of the program. The public will be impacted to the extent that the cost may be passed on to them through admission and ride fees.

B. Government:

The Department of Agriculture and Consumer Services estimates that the costs to administer the provisions of this bill for FY 1989-90 will be 1 position and \$144,000 from trust funds. This amount would be offset through an increase in inspection fees accomplished by rule changes.

III. COMMENTS:

This bill does not provide a specific appropriation. However, both the Senate and the House versions of the 1989-90 General Appropriations Act contain sufficient additional resources to administer this act.

IV. AMENDMENTS:

None.

Original
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STORAGE NAME: s0185-f.hag
DATE: June 7, 1989

**HOUSE OF REPRESENTATIVES
HOUSE COMMITTEE ON AGRICULTURE
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/SB 185
RELATING TO: Public Fairs and Expositions
SPONSOR(S): Committee on Appropriations, Agriculture, and Senator Forman
EFFECTIVE DATE: October 1, 1989
DATE BECAME LAW:
CHAPTER #:
COMPANION BILL(S): Similar to CS/CS/HB 165 by Appropriations, Agriculture, and Representative Geller
OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2)

I. SUMMARY:

A. PRESENT SITUATION:

The Bureau of Public Fairs and Expositions under the Department of Agriculture and Consumer Services (department) is responsible for inspecting all amusement rides and temporary structures operating in Florida and regulated under Chapter 616.091(2), Florida Statutes. The law applies throughout the state to amusement rides and temporary structures at public fairs, expositions, carnivals, festivals, celebrations, bazaars, and any parking lot still dates. All amusement rides and temporary structures at permanent parks are exempt from regulation.

Other amusement rides and temporary structures operating in the state must be registered and inspected by the department. Chapter 86-164, Laws of Florida, provides that inspection fees are established by rule of the department and cover 100% of the cost of the inspection program. These fees are deposited in the General Inspection Trust Fund.

Each ride is inspected and tested by the department or its designee after set-up and every day before operating. The full operation of all control devices, speed-limiting devices, brakes, and other equipment provided for safety are to be tested. A copy of the inspection report is to be on file in the office of the manager of the fair or coordinator of the event before the ride is opened to the public. A "manager" is defined in s. 616.091, F.S., as "a person having possession, custody, or managerial

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DATE: June 7, 1989
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control of an amusement device or temporary structure, whether as owner, lessee, or agent, or otherwise."

Each amusement ride is identified by a firmly attached metal plate on which must be the name and number of the device, its model number, name and address of the manufacturer, maximum safe number of passengers, and the maximum safe speed. Any amusement device capable of exceeding its maximum safe operating speed must be provided with a maximum-speed-limiting-device. All parts must be properly aligned and may not be bent to force a fit.

If the department or its designee finds that an amusement ride is unsafe, that person may issue a stop-operation order against the use of that device. The ride may not be operated until it has been made safe and reinspected.

Section 546.006, F.S., exempts ride owners from liability coverage requirements.

B. EFFECT OF PROPOSED CHANGES:

This legislation strengthens the amusement ride inspection regulations by requiring all permanent and temporary amusement rides operating in Florida to obtain an annual permit issued by the department. Temporary amusement rides are also required to obtain a daily certificate to operate. The permits and certificates to operate are issued to the owner of an amusement ride after that ride has passed all required inspections and liability coverage in the amount of \$1 million has been satisfied. A test for metal fatigue must be performed annually on each ride.

Permanent rides located at amusement facilities which maintain full-time, in-house inspectors who meet the requirements of the department are exempt from the initial inspection by the department and must provide the department with an affidavit stating that all rides have been inspected and tested in accordance with the department's requirements.

It is the responsibility of the manager of each temporary amusement ride to visually inspect each ride daily and keep the last 14 inspections on file. Managers are required to report to the department all accidents relating to amusement rides.

In the case of a temporary ride, that ride requires only visual inspection by the department if: (1) the owner of the ride supplies a valid and current certificate of inspection from another jurisdiction, and (2) the jurisdiction providing the certificate offers similar reciprocity for certificates of inspection issued by the state of Florida.

Any amusement ride which is rebuilt or modified must be inspected prior to operation in Florida. The permit issued to that ride must be updated to include those modifications. The department is authorized to enter unannounced and inspect amusement rides or examine any documents pertaining to the modifications.

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

According to Dick Morrow, of DACS, state operating costs are estimated at \$310,000, one hundred percent of which would be paid by the private sector. The cost of non-destructive ride testing to be paid by individual amusement ride owners by private contracting is estimated by the Department of Agriculture and Consumer Services at \$1.3 million.

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

One new position was appropriated this year for the Bureau of Public Fairs and Expositions.

III. LONG RANGE CONSEQUENCES:

CS/CS/SB 185 is consistent with Section 187.201(7), F.S., relating to the state comprehensive plan. The goal for public safety is to protect the public from natural and manmade disasters.

CS/CS/SB 185 strengthens the law regulating amusement ride inspection, thus decreasing the chance for an accident due to mechanical failure.

IV. COMMENTS:

The Agriculture Issues Statement refers only to traditional agricultural issues, therefore, this bill does not relate to that statement.

This bill incorporates seven of the eleven recommendations made in the Legislative Staff Report on Amusement Rides dated April 10, 1989. The report was presented to the House Agriculture committee on April 18, 1989.

The department is authorized to impound any amusement ride related to an accident involving death or serious injury and perform all necessary tests to determine the cause of the accident.

The department is allowed to impose an administrative fine of up to \$500 per violation per day or revoke any permit issued to a ride if that ride operates without the required inspections, insurance, or with any mechanical, structural, or electrical defect which presents a risk of serious injury to passengers.

The American Society for Testing and Materials Committee F-24 on Amusement Rides and Safety Devices' standards are adopted.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT: FY 89-90 FY 90-91

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

EXPENDITURES:

Department of Agriculture and
Consumer Services

Operating Capital Outlay (OCO)	\$ 5,525	\$ 0
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2. Recurring or Annualized Continuation Effects:

EXPENDITURES:

Department of Agriculture and
Consumer Affairs

Salaries and Benefits (8 FTE)	\$265,991	\$276,734
Expenses	82,018	81,800
Total	\$348,009	\$358,534

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

EXPENDITURES:

General Inspection Trust Fund	\$310,000	\$315,500
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REVENUES:

General Inspection Trust Fund	\$310,000	\$315,500
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B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

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V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Kim McCarl
Kim McCarl, Legislative Analyst

Staff Director:

Becky Everhart
Becky Everhart

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:
