



Rep. Kevin Joyce

**Filed: 4/16/2008**

09500HB5319ham002

LRB095 15419 WGH 49537 a

1 AMENDMENT TO HOUSE BILL 5319

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5319, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Carnival and Amusement Rides Safety Act is  
6 amended by changing Sections 2-10, 2-15, and 2-20 as follows:

7 (430 ILCS 85/2-10) (from Ch. 111 1/2, par. 4060)

8 Sec. 2-10. No amusement ride or amusement attraction shall  
9 be operated at a carnival or fair in this State without a  
10 permit having been issued by the Director to an operator of  
11 such equipment. At least 30 days prior to the first day of  
12 operation, ~~On or before the first of May of each year,~~ any  
13 person required to obtain a permit by this Act shall apply to  
14 the Director for a permit on a form furnished by the Director  
15 which form shall contain such information as the Director may  
16 require. The Director may waive the requirement that an

1 application for a permit must be filed at least 30 days prior  
2 to the first day of operation ~~on or before May 1 of each year~~ if  
3 the applicant gives satisfactory proof to the Director that he  
4 could not reasonably comply with the date requirement and if  
5 the applicant immediately applies for a permit after the need  
6 for a permit is first determined. For the purpose of  
7 determining if an amusement ride or amusement attraction is in  
8 safe operating condition and will provide protection to the  
9 public using such amusement ride or amusement attraction, each  
10 amusement ride or amusement attraction shall be inspected by  
11 the Director before it is initially placed in operation in this  
12 State, and shall thereafter be inspected at least once each  
13 year.

14 If, after inspection, an amusement ride or amusement  
15 attraction is found to comply with the rules adopted under this  
16 Act, the Director shall issue a permit for the operation of the  
17 amusement ride or amusement attraction. The permit shall be  
18 issued conditioned upon the payment of the permit fee and any  
19 applicable inspection fee at the time the application for  
20 permit to operate is filed with the Department and may be  
21 suspended as provided in the Department's rules.

22 If, after inspection, additions or alterations are  
23 contemplated which change a structure, mechanism,  
24 classification or capacity, the operator shall notify the  
25 Director of his intentions in writing and provide any plans or  
26 diagrams requested by the Director.

1 (Source: P.A. 92-26, eff. 1-1-02.)

2 (430 ILCS 85/2-15) (from Ch. 111 1/2, par. 4065)

3 Sec. 2-15. Penalties.

4 (a) Criminal penalties.

5 1. Any person who operates an amusement ride or  
6 amusement attraction at a carnival or fair without having  
7 obtained a permit from the Director or who violates any  
8 order or rule issued by the Director under this Act is  
9 guilty of a Class A misdemeanor. Each day shall constitute  
10 a separate and distinct offense.

11 2. Any person who interferes with, impedes, or  
12 obstructs in any manner the Director or any authorized  
13 representative of the Department in the performance of  
14 their duties under this Act is guilty of a Class A  
15 misdemeanor.

16 (b) Civil penalties. Unless otherwise provided in this Act,  
17 any person who operates an amusement ride or amusement  
18 attraction without having obtained a permit from the Department  
19 in violation of this Act is subject to a civil penalty not to  
20 exceed \$2,500 per violation for a first violation and not to  
21 exceed \$5,000 for a second or subsequent violation.

22 Prior to any determination, or the imposition of any civil  
23 penalty, under this subsection (b), the Department shall notify  
24 the operator in writing of the alleged violation. The  
25 Department shall afford the operator 15 days from the date of

1 the notice to present any written information that the operator  
2 wishes the Department to consider in connection with its  
3 determination in the matter. Upon written request of the  
4 operator, the Department shall convene an informal  
5 fact-finding conference, provided such request is received by  
6 the Department within 15 days of the date of the notice of the  
7 alleged violation. In determining the amount of a penalty, the  
8 Director may consider the appropriateness of the penalty to the  
9 person or entity charged, upon determination of the gravity of  
10 the violation. Penalties may be recovered in a civil action  
11 brought by the Director of Labor in any circuit court. In this  
12 litigation, the Director of Labor shall be represented by the  
13 Attorney General.

14 (Source: P.A. 94-801, eff. 5-25-06.)

15 (430 ILCS 85/2-20)

16 Sec. 2-20. Employment of carnival workers.

17 (a) Beginning on January 1, 2008, no person, firm,  
18 corporation, or other entity that owns or operates a carnival  
19 or fair shall employ a carnival worker who (i) has been  
20 convicted of any offense set forth in Article 11 of the  
21 Criminal Code of 1961, (ii) is a registered sex offender, as  
22 defined in the Sex Offender Registration Act, or (iii) has ever  
23 been convicted of any offense set forth in Article 9 of the  
24 Criminal Code of 1961.

25 (b) A person, firm, corporation, or other entity that owns

1 or operates a carnival or fair must conduct a criminal history  
2 records check and perform a check of the Illinois Sex Offender  
3 Registry for carnival workers at the time they are hired, and  
4 annually thereafter ~~consistent with the Illinois Uniform~~  
5 ~~Conviction Information Act and perform a check of the Sex~~  
6 ~~Offender Registry.~~

7 Effective November 1, 2008, the check of the sex offender  
8 registry shall be performed through the National Sex Offender  
9 Public Registry.

10 The criminal history records check performed under this  
11 subsection (b) shall be performed by the Illinois State Police,  
12 another State or federal law enforcement agency, or a business  
13 belonging to the National Association of Professional  
14 Background Check Screeners.

15 Carnival workers who are foreign nationals and have been  
16 granted visas by the United States Citizenship and Immigration  
17 Services in conjunction with the United States Department of  
18 Labor's H-2B or J-1 programs and are lawfully admitted into the  
19 United States shall be exempt from the background check  
20 requirement imposed under this subsection. ~~In the case of~~  
21 ~~carnival workers who are hired on a temporary basis to work at~~  
22 ~~a specific event, the carnival or fair owner may work with~~  
23 ~~local enforcement agencies in order expedite the criminal~~  
24 ~~history records check required under this subsection (b).~~

25 Individuals who are under the age of 17 are exempt from the  
26 criminal history records check requirements set forth in this

1 subsection (b).

2 (c) Any person, firm, corporation, or other entity that  
3 owns or operates a carnival or fair must have a substance abuse  
4 policy in place for its workers, which shall include random  
5 drug testing of carnival workers.

6 (d) Any person, firm, corporation, or other entity that  
7 owns or operates a carnival or fair that violates the  
8 provisions of subsection (a) of this Section or fails to  
9 conduct a criminal history records check or a sex offender  
10 registry check for carnival workers in its employ, as required  
11 by subsection (b) of this Section, shall be assessed a civil  
12 penalty in an amount not to exceed \$1,000 for a first offense,  
13 not to exceed \$5,000 for a second offense, and not to exceed  
14 \$15,000 for a third or subsequent offense. The collection of  
15 these penalties shall be enforced in a civil action brought by  
16 the Attorney General on behalf of the Department.

17 (e) A carnival or fair owner is not responsible for:

18 (1) any personal information submitted by a carnival  
19 worker for criminal history records check purposes; or

20 (2) any information provided by a third party for a  
21 criminal history records check or a sex offender registry  
22 check.

23 A carnival or fair owner shall not be liable to any  
24 employee in carrying out the requirements of this Section.

25 (Source: P.A. 95-397, eff. 8-24-07; 95-687, eff. 10-23-07.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".