



HOUSE BILL 39: Labor/Up Amusement Device Penalties

2015-2016 General Assembly

Committee:
Introduced by:
Analysis of: S.L. 2015-152

Date:
Prepared by: Janice Paul
Staff Attorney

SUMMARY: *S.L. 2015-152 increases the civil and criminal penalties for the violation of safety laws pertaining to amusement devices, and directs the Department of Labor to study the need for regulation of zip-lines.*

This act also creates a new Class E felony for willful violations of the Amusement Device Safety Act (Act) that results in serious injury or death.

The new Class E felony for willful violations of the Act became effective December 1, 2015, and applies to violations occurring on or after that date. Other changes to the statute governing violations, civil penalties, appeal, and criminal penalties under the Act became effective July 16, 2015, and apply to violations occurring on or after that date. The remainder of this act became effective July 16, 2015.

CURRENT LAW: The Amusement Device Safety Act of North Carolina is contained in Article 14B of Chapter 95 of the General Statutes. The purpose of the Article is to prevent injuries, and to govern the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration, relocation and investigation of accidents involving amusement devices.

BILL ANALYSIS: S.L. 2015-152 amends the Amusement Device Safety Act to increase the penalties for violations of certain provisions of the Act. Specifically, the act does the following:

Section 1 creates a definition of "annual gross volume" as used in the Amusement Device Safety Act and the Passenger Tramway Safety Act.

Section 2 amends G.S. 95-111.13 by:

- Increasing penalties for each day each device is operated or used in violation of the Article by five times the amounts specified in current law.
- Authorizing the Commissioner of Labor to determine whether the amount of the fine is appropriate given the annual gross volume of the person¹, the seriousness of the violation, the presence or absence of good faith, and any record of previous violations.
- Adding a new subsection (j) providing that willful violation of any provision of the Article that results in serious injury or death constitutes a Class E felony, and requiring the court to impose a fine (*under Structured Sentencing², the court may but is not required to impose a fine*).

¹ The term "person" is defined in G.S. 95-111.3(g) as "any individual, association, partnership, firm, corporation, private organization, or the State of North Carolina or any political subdivision thereof or any unit of local government."

² G.S. 15A-1340.17(b).

O. Walker Reagan
Director



Research Division
(919) 733-2578

House Bill 39

Page 2

- Setting out in a separate subsection (k) the provision that any State prosecutor may proceed against a violator on a charge of willful or culpable homicide [*under current law, this provision is contained in subsection (i)*].

Section 3 makes a technical change.

Section 4 directs the Department of Labor to study the need for regulation of zip-line operations, to include consideration of certain listed issues. The Department of Labor is to submit a report containing its findings, recommendations, and any proposed legislation to the specified members of the General Assembly by February 1, 2016.

Section 5 makes a conforming change in the Passenger Tramway Safety Act.

EFFECTIVE DATE: G.S. 95-111.13 (i) and (j), as enacted in Section 2 of this act, become effective December 1, 2015, and apply to violations occurring on or after that date. The remainder of Section 2 of this act became effective when this act became law and applies to violations occurring on or after that date. The remainder of this act became effective when the Governor signed it into law on July 16, 2015.