



HOUSE BILL 39: Labor/Up Amusement Device Penalties

2015-2016 General Assembly

Committee:	Senate Judiciary II	Date:	June 29, 2015
Introduced by:	Reps. Davis, Howard	Prepared by:	Janice Paul
Analysis of:	PCS to Second Edition H39-CSTJ-46		Committee Counsel

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 39 would increase the civil and criminal penalties for the violation of safety laws pertaining to amusement devices. The PCS creates a definition of "annual gross volume," requires the imposition of a fine following a conviction for a willful violation of the Amusement Device Safety Act, directs the Department of Labor to study the need for regulation of zip-line, and makes technical and conforming changes.*

[As introduced, this bill was identical to S75, which is currently in Senate Agriculture/Environment/Natural Resources.]

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 governs the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration, relocation and investigation of accidents involving amusement devices.

BILL ANALYSIS: The PCS for House Bill 39 would amend the Amusement Device Safety Act to increase the penalties for violations of certain provisions of the Act. Specifically, the PCS would do the following:

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

Section 2 would amend 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*).
- 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)*].

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).

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House Bill 39

Page 2

Section 3 of the PCS would direct 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 would be directed to submit a report containing its findings, recommendations, and any proposed legislation as specified by February 1, 2016.

Section 4 would make a conforming change in the Passenger Tramway Safety Act.

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