



# HOUSE BILL 196: Zip Lines/Challenge Courses/Sanders' Law.

2017-2018 General Assembly

<b>Committee:</b>	House Judiciary I. If favorable, re-refer to Finance	<b>Date:</b>	March 21, 2017
<b>Introduced by:</b>	Reps. Davis, Howard	<b>Prepared by:</b>	Bill Patterson
<b>Analysis of:</b>	PCS to First Edition H196-CSTG-5		Committee Co-Counsel

**OVERVIEW:** *The Proposed Committee Substitute for House Bill 196 would regulate aerial adventure parks, canopy tours, challenge courses, zip lines, and other similar devices. The PCS makes clarifying and technical corrections to the original bill.*

**CURRENT LAW:** Zip lines, aerial adventure parks, canopy tours, and challenge courses are not currently regulated under North Carolina law.

### BILL ANALYSIS:

**Section 1** of the bill would provide that the act shall be known as "Sanders' Law."

**Section 2** of the bill would enact a new Article 14C in Chapter 95, "Zip Line and Challenge Course Safety" subjecting aerial adventure parks,<sup>1</sup> canopy tours,<sup>2</sup> challenge courses,<sup>3</sup> zip lines,<sup>4</sup> and other similar devices (referred to collectively as "regulated devices") to a regulatory regime similar to that currently in place for amusement devices under the Amusement Device Safety Act (Article 14B of Chapter 95). Article 14C would not apply to devices installed at a private residence not open to the public for which no fee is charged or operated by a government solely for law enforcement or military training.

The design, construction and operation of regulated devices would be subject to rules adopted by the Commissioner of Labor and enforced by the Elevator and Amusement Device Bureau in the Department of Labor. Regulated devices would also be required to meet applicable national standards.<sup>5</sup>

<sup>1</sup> "Aerial adventure park. – A self-guided challenge course that is open to the public." Proposed G.S. 95-112.3(2).

<sup>2</sup> "Canopy tour. – A belayed aerial recreational or educational, guided or self-guided, traverse or discovery tour of the forest canopy, flora and fauna, and related ecologically significant areas most commonly by means of a series of zip lines or aerial walkways with platforms." Proposed G.S. 95-112.3(5).

<sup>3</sup> "Challenge course. - Any apparatus or facility specifically designed or constructed, or both, for the use of individuals or teams, which through high or low nonspotted, spotted, or belayed activities, under trained facilitated supervision, guided or self-guided, are utilized as elements of experiential learning programs or curriculums or as adventure/challenge recreational components or courses. Such facility or facilities usually consists of one or more elements that challenge participants and include zip line tours, canopy tours, or aerial adventure/trekking parks." Proposed G.S. 95-112.3(6).

<sup>4</sup>"Zip line. - A lifeline suspended between support structures that enables a person attached to a pulley to traverse from a starting point to a terminus propelled by the force of gravity or a passive method of controlled acceleration." Proposed G.S. 95-112.3(20).

<sup>5</sup> The standards incorporated by reference in Proposed G.S. 95-112.5 are: (1) The Association for Challenge Course Technology (ACCT) ANSI/ACCT 03 2016 Challenge Course and Canopy/Zip Line Tour Standard; (2) The Professional Ropes Course Association (PRCA) ANSI/PRCA 1.0 .3 2014 Ropes Challenge Course Installation, Operation & Training Standard.; (3) The European Ropes Course Association (ERCA) European Ropes Course Standard (EN 15567 2:2014); and

Karen Cochrane-Brown  
Director



Legislative Analysis  
Division  
919-733-2578

# House PCS 196

Page 2

Article 14C would impose the following requirements, among others:

- The owner of a regulated device would be required annually to obtain a certificate of operation, subject to revocation for regulatory non-compliance, and would be required to post a copy of the certificate near the device entrance where it is readily visible to participants.
- The design and installation of the device, and any additions or alterations to it, would have to be approved by a State-licensed professional engineer.
- Third-party inspectors designated as qualified by the Commissioner of Labor would conduct annual inspections of each regulated device to determine regulatory compliance.
- The Commissioner would have reasonable access to regulated devices for purposes of inspection or testing.
- The owner of a regulated device would have to maintain commercial general liability insurance with per-occurrence limits of at least \$1 million covering liability for personal injury or property damage arising out of operation of the regulated device.
- The owner would have to comply with specified record keeping requirements and applicable federal, State, and local safety, fire, health, or building codes or standards.
- The operator of a regulated device would have to be at least 18 years of age and not under the influence of alcohol or any other impairing substance.
- The owner would have to cease operation of a regulated device and comply with specified procedures and reporting requirements if it was involved in an accident causing serious injury or death to a participant or member of the general public.

Article 14C would authorize the Commissioner of Labor to:

- Order a regulated device not to be operated if its continued operation would expose the public to an unsafe condition likely to result in serious personal injury or property damage.
- Coordinate enforcement and inspection activity to minimize duplication of the owner's liability or regulatory responsibility.
- Charge reasonable fees for the issuance of certificates of operation, for device inspections by Bureau personnel, and to process required biennial applications to be designated as a qualified inspector.
- Investigate and determine the cause of any accident involving a regulated device.
- Assess a civil penalty of up to:
  - \$1,250 for each day a device is operated without a valid certificate of operation or in violation of Article 14C or rules adopted thereunder.
  - \$2,500 for each day a device is operated:
    - After a certificate of operation has been refused or revoked.
    - During which an accident has occurred resulting in a serious injury or fatality.
    - Without having in place the minimum required liability insurance coverage.

# House PCS 196

Page 3

- \$5,000 for each day a regulated device is operated or knowingly permitted to be operated by a person:
  - Who knows or reasonably should know that its operation will expose the public to an unsafe condition likely to result in personal injury or property damage.
  - Who is under the influence of alcohol or any other impairing substance.

In addition to the civil penalty, a willful violation of Article 14C would be punishable as a Class 2 misdemeanor, including a fine of up to \$10,000, upon a first conviction. Any subsequent conviction for willful violation of Article 14C would be punishable as a Class 1 misdemeanor, including a fine of up to \$20,000. A violation causing serious injury or death of any person would be punishable as a Class E felon.

**Section 3** of House Bill 196 would authorize the Department to adopt rules, including temporary rules, design and distribute forms, accept applications, and establish and collect fees so that any device subject to the act in existence on or before December 1, 2017, is in compliance with the act and has been issued a certificate of operation by that date.

**EFFECTIVE DATE:** Section 2 of the act becomes effective December 1, 2017, and the criminal offense provisions in G.S. 95-112.16(g) and (h), as enacted by Section 2 of the act, apply to violations occurring on or after that date. The remainder of this act is effective when it becomes law.