

5:3-55

LEGISLATIVE HISTORY CHECKLIST
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("Amusement Park Safety
Fair Liability Act")

NJSA: 5:3-55

LAWS OF: 1992 CHAPTER: 118

BILL NO: A917

SPONSOR(S) Felice and others

DATE INTRODUCED: February 13, 1992

COMMITTEE: ASSEMBLY: Insurance

SENATE: Commerce

AMENDED DURING PASSAGE: Yes Amendments during passage
according to Governor's recommendations denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: May 28, 1992

SENATE: August 3, 1992

DATE OF APPROVAL: October 22, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

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P.L.1992, CHAPTER 118, *approved October 22, 1992*
1992 Assembly No. 917 (*Third Reprint*)

1 **AN ACT** concerning the protection of amusement park riders and
2 supplementing chapter 3 of Title 5 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the
5 State of New Jersey:

6 ³[1. This act shall be known and may be cited as the
7 "Amusement Park Safety and Fair Liability Act."]³

8 ³[2. The Legislature finds and declares:

9 a. Amusement parks, including water-based recreational
10 amusements, are attended by a large number of citizens of this
11 State and also attract to this State a large number of
12 non-residents, significantly contributing to the tourist industry of
13 this State. Therefore, the allocation of the risks and costs of
14 amusement parks is an important matter of public policy.

15 b. The overall safety of amusement park rides would be
16 greatly enhanced if riders recognize certain risks inherent in
17 these rides and behave in a manner conducive to their own
18 protection and the protection of others.

19 c. The amusement park operator is already the subject of
20 significant safety obligations and inspection requirements
21 imposed by existing statutes and regulations. The purpose of this
22 law is to make explicit a policy of this State which recognizes
23 that amusement rides include risks which must be borne by those
24 who engage in such activities and which are essentially
25 impractical or impossible for the operator to eliminate. It is,
26 therefore, the purpose of this act to state those risks a rider
27 voluntarily assumes for which there can be no recovery and to
28 establish a code of conduct for riders.

29 ²d. The Legislature also recognizes that it is important to
30 safeguard the safety of its citizens and others who patronize
31 amusement parks.²³

32 ³[3.] 1.³ As used in this act:

33 "Amusement park" means any permanent indoor or outdoor
34 facility or park where amusement rides are available for use by
35 the general public.

36 "Amusement park operator" means any person, firm or
37 corporation that owns, leases, manages or operates an amusement
38 park or amusement ride.

39 "Amusement ride" includes any device within the meaning of
40 section 2 of P.L.1975, c.105 (C.5:3-32), and any other
41 water-based recreational amusement, including all water slides,
42 wave pools and water parks.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AIN committee amendments adopted March 30, 1992.

² Assembly floor amendments adopted May 18, 1992.

³ Assembly amendments adopted in accordance with Governor's
recommendations September 14, 1992.

1 "Rider" means a person attending an amusement park or
2 utilizing an amusement ride. Rider also includes any person who
3 is an invitee, whether or not that person pays consideration.

4 ³[4. Nothing in this act shall be construed as limiting or
5 otherwise affecting the liability and responsibilities of an
6 amusement park operator under the "Carnival-Amusement Rides
7 Safety Act" P.L.1975 C.105 (C.5:3-31 et seq.) or the regulations
8 adopted thereunder, or as preventing the maintenance of an
9 action against an amusement park operator for negligent
10 construction, maintenance or operation of an amusement ride, or
11 for a violation of a statute or regulation. ¹In addition, nothing in
12 this act shall be construed as limiting or otherwise affecting the
13 responsibility and liability of an amusement park operator to
14 provide reasonable supervision for riders.¹³

15 ³[5. Every amusement park operator shall post the safety
16 responsibilities of riders as set forth in section 6 of this act and
17 the duties, obligations and liabilities of the operator as prescribed
18 in this act in at least five conspicuous locations in the amusement
19 park ²[and at] including² each entrance and exit ²[. These
20 notices shall also include the exact location of the place
21 designated for receiving reports of accidents and injuries during
22 business hours] , each place designated for receiving reports of
23 accidents and injuries during business hours, and each place
24 designated as a first aid station².¹³

25 ³[6. ¹a. Riders shall conduct themselves within the limits of
26 their individual size and ability and shall not act in a manner that
27 may cause or contribute to the injury of themselves or others;

28 ¹b.] ¹a. ¹A rider shall not board or dismount from an amusement
29 ride except at a designated area, if one is provided;

30 ¹c.] ¹b. ¹A rider shall not throw or expel any objects from any
31 amusement ride;

32 ¹d.] ¹c. ¹A rider shall not act in any manner contrary to posted
33 and stated rules while boarding, riding on or dismounting from an
34 amusement ride;

35 ¹e.] ¹d. ¹A rider shall not engage in any act or activity of
36 frolicking or horseplay which may tend to injure others;

37 ¹f.] ¹e. ¹While using amusement rides that require steering or
38 control of himself or a car or device, a rider shall maintain
39 ¹reasonable¹ control of his speed and course at all times ¹[and
40 shall stay clear of other equipment, persons or riders]¹ ². A rider
41 shall not steer the ride in such a manner as to intentionally harm
42 another²;

43 ¹g.] ¹f. ¹A rider shall not disconnect, disable, or attempt to
44 disconnect or disable, any safety device, seatbelt, harness or
45 other restraining device before, during or after the movement of
46 the ride has started except at the express instruction of the ride
47 attendant or employee of the amusement park operator;

48 ¹h.] ¹g. ¹A rider shall not disembark or attempt to disembark
49 from any amusement ride before, during or after movement of a
50 ride has started except upon the express ¹[written]¹ instruction
51 of the ride attendant or employee of the amusement park
52 operator;

53 ¹i.] ¹h. ¹² ³A rider shall not board or attempt to board any
54 amusement ride if he is knowingly under the influence of any

1 alcoholic beverage as defined in R.S.33:1-1 or under the influence
 2 of any ¹[over-the-counter drug,]¹ prescription, legend drug or
 3 controlled dangerous substance as this term is defined in
 4 P.L.1970, c.226 (C.24:21-1 et seq.), or any other substance which
 5 affects the rider's ability to safely use the ride and abide by the
 6 posted and stated instructions. The operator of the amusement
 7 ride ¹[shall forbid a passenger who is under the influence of drugs
 8 or alcohol to ride on that amusement ride] may prevent a rider
 9 who is perceptibly or apparently under the influence of drugs or
 10 alcohol from riding on an amusement ride. An operator who
 11 prevents a rider from boarding a ride in accordance with this
 12 subsection shall not be criminally or civilly liable in any manner
 13 or to any extent whatsoever if the operator has a reasonable basis
 14 for believing that the rider is under the influence of drugs or
 15 alcohol^{1 3};

16 ¹[j.] i.¹ A rider shall not alter or enhance the intended speed,
 17 course or direction of a ride by using any unauthorized device,
 18 instrument or method;

19 ¹[k.] j.¹ Amusement park operators shall provide posted safety
 20 instructions for each ride where required.² A rider shall not
 21 board an amusement ride unless he has sufficient knowledge and
 22 ability to use the ride. If the rider does not have such knowledge
 23 or ability, he shall ask for and receive written or oral instructions
 24 prior to using such ride or device; and

25 ¹[l.] k.¹ A person ²over the age of 13² embarking on an
 26 amusement ride without authority or failing to pay appropriate
 27 consideration for its use shall be considered to be a trespasser²;
 28 and

29 l. A rider shall not attempt to gain access to controls of an
 30 amusement ride designed solely to be operated by employees of
 31 amusement parks²]³.

32 ³[7. ¹a. A rider is deemed to have knowledge of and to
 33 assume the inherent risks of amusement rides. Each rider is
 34 assumed to know the range of his ability, and it shall be the duty
 35 of each rider to conduct himself within the limits of such ability;
 36 to maintain control of his speed and course at all times while
 37 riding; to heed all posted and stated warnings; and to refrain from
 38 acting in a manner which may cause or contribute to the injury of
 39 himself or others.

40 b. The assumption of risk set forth in subsection a. of this
 41 section shall be a complete bar of suit and shall serve as a
 42 complete defense to a suit against an operator by a rider for
 43 injuries resulting from the assumed risks, notwithstanding the
 44 provisions of P.L.1973, c.146 (C.2A:15-5.1 et seq.) relating to
 45 comparative negligence unless an operator has violated his duties
 46 or responsibilities under P.L.1975, c.105 (C.5:3-31 et seq.) A
 47 rider over the age of 13 is deemed to have knowledge of and to
 48 assume the inherent risks of amusement rides, insofar as those
 49 risks are ²open and² obvious ²to the reasonable person². It shall
 50 be the duty of each rider to heed all posted and stated warnings
 51 and to refrain from acting in a manner which may ²knowingly²
 52 cause or contribute to the injury of himself or others or in a
 53 manner contrary to ²[the conduct] prohibited acts for² riders set
 54 forth in section 6 of this act. ²Notice of these prohibited acts

1 shall be displayed as set forth in section 5 of this act.² Proof
2 that a rider sustained an injury in the course of knowingly acting
3 contrary to section 6 of this act shall be a ²[complete]² bar to
4 suit and shall serve as a ²[complete]² defense to a suit against an
5 operator by that rider, unless the operator has violated his duties
6 or responsibilities under section 4 of this act, so as to cause or
7 contribute to the rider's injuries, in which case the provisions of
8 P.L.1973, c.146 (C.2A:15-5.1, et seq.) relating to comparative
9 negligence shall apply¹.³

10 ³[8.] 3.³ a. As a precondition to bringing any suit in connection
11 with an injury against an amusement park operator, a rider shall
12 report in writing to the amusement park operator all the details
13 of any accident ³[as soon as possible, but in no event longer than]
14 within³ 90 days from the time of the incident giving rise to the
15 suit.

16 b. In order to facilitate reporting of accidents or injuries,
17 every amusement park operator shall designate an office or
18 location as a site for reporting accidents and injuries. The
19 designated office or site shall be open and staffed during regular
20 business hours and shall be clearly designated in writing. ²The
21 operator shall designate and identify more than one such office or
22 location if necessary within the amusement park so that no area
23 containing amusement park rides is further than reasonable
24 walking distance from an office or location.²

25 c. An accident report shall include at least the following:
26 name and address of the accident victim, brief description of
27 incident location, alleged cause of accident, name and address of
28 the ride operator, others involved and witnesses, if any. ³[If it is
29 not practicable to give the report because of severe physical
30 disability resulting from the accident or incident, the report shall
31 be given as soon as practicable.]³ The precondition in subsection
32 a. of this section is not applicable unless the operator
33 conspicuously posts notice of the reporting requirement ¹in
34 English and one other language deemed appropriate by the
35 amusement park operator and¹ in at least five different locations
36 on the premises ², including each entrance and exit, each place
37 designated for receiving reports of accidents and injuries during
38 business hours and each place designated as a first aid station.
39 The Department of Labor shall provide the rider or his
40 representative with a copy of the accident report as required by
41 section 17 of P.L.1975, c.105 (C.5:3-47) upon request².

42 ³[d.] 4.³ A rider who fails to give the report ³required by
43 section 3 of this act³ within 90 days from the time of the
44 accident or incident may be permitted to give the report at any
45 time within one year after the accident or incident at the
46 discretion of a judge of the Superior Court if the operator is not
47 substantially prejudiced thereby. The inability of the amusement
48 park operator to locate and bring within the jurisdiction of the
49 court needed witnesses for his defense shall be considered by the
50 court in determining whether the operator has been substantially
51 prejudiced by the delay. Application to the court for permission
52 to give a late report shall be made upon motion based on
53 affidavits showing sufficient reason for the rider's failure to give
54 the report within 90 days from the time of the accident or
55 incident.

ASSEMBLY, No. 917

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1992

By Assemblymen FELICE, SINGER, Russo and Kelly

1 AN ACT concerning the protection of amusement park riders and
2 supplementing chapter 3 of Title 5 of the Revised Statutes.

3

4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. This act shall be known and may be cited as the
7 "Amusement Park Safety and Fair Liability Act."

8 2. The Legislature finds and declares:

9 a. Amusement parks, including water-based recreational
10 amusements, are attended by a large number of citizens of this
11 State and also attract to this State a large number of
12 non-residents, significantly contributing to the tourist industry of
13 this State. Therefore, the allocation of the risks and costs of
14 amusement parks is an important matter of public policy.

15 b. The overall safety of amusement park rides would be
16 greatly enhanced if riders recognize certain risks inherent in
17 these rides and behave in a manner conducive to their own
18 protection and the protection of others.

19 c. The amusement park operator is already the subject of
20 significant safety obligations and inspection requirements
21 imposed by existing statutes and regulations. The purpose of this
22 law is to make explicit a policy of this State which recognizes
23 that amusement rides include risks which must be borne by those
24 who engage in such activities and which are essentially
25 impractical or impossible for the operator to eliminate. It is,
26 therefore, the purpose of this act to state those risks a rider
27 voluntarily assumes for which there can be no recovery and to
28 establish a code of conduct for riders.

29 3. As used in this act:

30 "Amusement park" means any permanent indoor or outdoor
31 facility or park where amusement rides are available for use by
32 the general public.

33 "Amusement park operator" means any person, firm or
34 corporation that owns, leases, manages or operates an amusement
35 park or amusement ride.

36 "Amusement ride" includes any device within the meaning of
37 section 2 of P.L.1975, c.105 (C.5:3-32), and any other
38 water-based recreational amusement, including all water slides,
39 wave pools and water parks.

40 "Rider" means a person attending an amusement park or
41 utilizing an amusement ride. Rider also includes any person who
42 is an invitee, whether or not that person pays consideration.

43 4. Nothing in this act shall be construed as limiting or
44 otherwise affecting the liability and responsibilities of an
45 amusement park operator under the "Carnival-Amusement Rides
46 Safety Act" P.L.1975, c.105 (C.5:3-31 et seq.) or the regulations
47 adopted thereunder, or as preventing the maintenance of an

1 action against an amusement park operator for negligent
2 construction, maintenance or operation of an amusement ride, or
3 for a violation of a statute or regulation.

4 5. Every amusement park operator shall post the safety
5 responsibilities of riders as set forth in section 6 of this act and
6 the duties, obligations and liabilities of the operator as prescribed
7 in this act in at least five conspicuous locations in the amusement
8 park and at each entrance and exit. These notices shall also
9 include the exact location of the place designated for receiving
10 reports of accidents and injuries during business hours.

11 6. a. Riders shall conduct themselves within the limits of
12 their individual size and ability and shall not act in a manner that
13 may cause or contribute to the injury of themselves or others;

14 b. A rider shall not board or dismount from an amusement ride
15 except at a designated area, if one is provided;

16 c. A rider shall not throw or expel any objects from any
17 amusement ride;

18 d. A rider shall not act in any manner contrary to posted and
19 stated rules while boarding, riding on or dismounting from an
20 amusement ride;

21 e. A rider shall not engage in any act or activity of frolicking
22 or horseplay which may tend to injure others;

23 f. While using amusement rides that require steering or control
24 of himself or a car or device, a rider shall maintain control of his
25 speed and course at all times and shall stay clear of other
26 equipment, persons or riders;

27 g. A rider shall not disconnect, disable, or attempt to
28 disconnect or disable, any safety device, seatbelt, harness or
29 other restraining device before, during or after the movement of
30 the ride has started except at the express instruction of the ride
31 attendant or employee of the amusement park operator;

32 h. A rider shall not disembark or attempt to disembark from
33 any amusement ride before, during or after movement of a ride
34 has started except upon the express written instruction of the
35 ride attendant or employee of the amusement park operator;

36 i. A rider shall not board or attempt to board any amusement
37 ride if he is knowingly under the influence of any alcoholic
38 beverage as defined in R.S.33:1-1 or under the influence of any
39 over-the-counter drug, prescription, legend drug or controlled
40 dangerous substance as this term is defined in P.L.1970, c.228
41 (C.24:21-1 et seq.), or any other substance which affects the
42 rider's ability to safely use the ride and abide by the posted and
43 stated instructions. The operator of the amusement ride shall
44 forbid a passenger who is under the influence of drugs or alcohol
45 to ride on that amusement ride;

46 j. A rider shall not alter or enhance the intended speed, course
47 or direction of a ride by using any unauthorized device,
48 instrument or method;

49 k. A rider shall not board an amusement ride unless he has
50 sufficient knowledge and ability to use the ride. If the rider does
51 not have such knowledge or ability, he shall ask for and receive
52 written or oral instructions prior to using such ride or device; and

53 l. A person embarking on an amusement ride without authority
54 or failing to pay appropriate consideration for its use

1 shall be considered to be a trespasser.

2 7. a. A rider is deemed to have knowledge of and to assume
3 the inherent risks of amusement rides. Each rider is assumed to
4 know the range of his ability, and it shall be the duty of each
5 rider to conduct himself within the limits of such ability; to
6 maintain control of his speed and course at all times while riding;
7 to heed all posted and stated warnings; and to refrain from acting
8 in a manner which may cause or contribute to the injury of
9 himself or others.

10 b. The assumption of risk set forth in subsection a. of this
11 section shall be a complete bar of suit and shall serve as a
12 complete defense to a suit against an operator by a rider for
13 injuries resulting from the assumed risks, notwithstanding the
14 provisions of P.L.1973, c.146 (C.2A:15-5.1 et seq.) relating to
15 comparative negligence unless an operator has violated his duties
16 or responsibilities under P.L.1975, c.105 (C.5:3-31 et seq.).

17 8. a. As a precondition to bringing any suit in connection with
18 an injury against an amusement park operator, a rider shall report
19 in writing to the amusement park operator all the details of any
20 accident as soon as possible, but in no event longer than 90 days
21 from the time of the incident giving rise to the suit.

22 b. In order to facilitate reporting of accidents or injuries,
23 every amusement park operator shall designate an office or
24 location as a site for reporting accidents and injuries. The
25 designated office or site shall be open and staffed during regular
26 business hours and shall be clearly designated in writing.

27 c. An accident report shall include at least the following:
28 name and address of the accident victim, brief description of
29 incident location, alleged cause of accident, name and address of
30 the ride operator, others involved and witnesses, if any. If it is
31 not practicable to give the report because of severe physical
32 disability resulting from the accident or incident, the report shall
33 be given as soon as practicable. The precondition in subsection a.
34 of this section is not applicable unless the operator conspicuously
35 posts notice of the reporting requirement in at least five
36 different locations on the premises.

37 d. A rider who fails to give the report within 90 days from the
38 time of the accident or incident may be permitted to give the
39 report at any time within one year after the accident or incident
40 at the discretion of a judge of the Superior Court if the operator
41 is not substantially prejudiced thereby. The inability of the
42 amusement park operator to locate and bring within the
43 jurisdiction of the court needed witnesses for his defense shall be
44 considered by the court in determining whether the operator has
45 been substantially prejudiced by the delay. Application to the
46 court for permission to give a late report shall be made upon
47 motion based on affidavits showing sufficient reason for the
48 rider's failure to give the report within 90 days from the time of
49 the accident or incident.

50 9. a. An action for injury or death against an amusement park
51 operator, employee or owner, whether based on tort or breach of
52 contract or otherwise, shall be commenced no later than two
53 years after the occurrence of the incident or the earliest of
54 incidents giving rise to the cause of action.

1 b. If an amusement ride accident or incident, or an action
2 based upon an amusement ride accident or incident, involves a
3 minor, the time limit set forth in subsection a. of this section
4 shall not begin to run until the minor reaches the age of majority.

5 c. The provisions of this act are cumulative with the defenses
6 available to a public entity or public employee under the New
7 Jersey Tort Claims Act, N.J.S. 39:1-1 et seq.

8 10. The provisions of this act shall be deemed to be severable,
9 and if any phrase, clause, sentence or provision of this act is
10 declared to be unconstitutional, or the applicability thereof to
11 any person is held invalid, the remainder of this act shall not
12 thereby be deemed to be unconstitutional or invalid.

13 11. This act shall take effect immediately.

14
15
16 STATEMENT

17
18 This act recognizes that persons who participate in amusement
19 park rides should be expected to be aware of inherent risks in
20 these rides and shall assume a certain amount of responsibility
21 for their own safety. The bill establishes standards of behavior
22 for the protection of riders. It further asserts that riders are
23 deemed to have knowledge of and to assume the inherent risks of
24 amusement rides. The assumption of such risks by the rider
25 would protect ride operators against negligence claims in certain
26 situations. The bill also requires persons who suffer accidents in
27 amusement parks and who wish to bring suit to report these
28 accidents to park operators.

29
30
31
32
33 "Amusement Park Safety and Fair Liability Act."

ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 917

with Assembly committee amendments

STATE OF NEW JERSEY

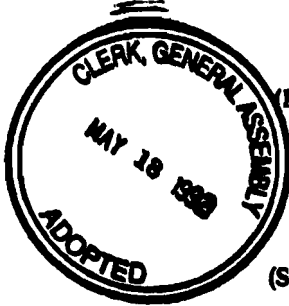
DATED: MARCH 30, 1992

The Assembly Insurance Committee favorably reports Assembly Bill No. 917 and with committee amendments.

As amended by the committee, this bill recognizes that persons who participate in amusement park rides should be expected to be aware of inherent risks in these rides and shall assume a certain amount of responsibility for their own safety. The bill establishes standards of behavior for the protection of riders. It further asserts that riders are deemed to have knowledge of and to assume the inherent risks of amusement rides. The assumption of such risks by the rider would protect ride operators against negligence claims in certain situations. The bill also requires persons who suffer accidents in amusement parks and who wish to bring suit to report these accidents to park operators.

The committee amendments provide that:

- nothing in the act should be construed as limiting or otherwise affecting the responsibility and liability of an amusement park operator to provide reasonable supervision for riders;
- a rider may not disembark or attempt to disembark from any amusement ride before, during or after movement of a ride has started without the express instruction of the ride operator;
- the operator of an amusement ride may prevent a rider who is perceptibly or apparently under the influence of drugs or alcohol from boarding an amusement ride, and that in doing so, the operator shall not be criminally or civilly liable if the operator has a reasonable basis for believing that the rider is under the influence of drugs or alcohol;
- a rider over the age of 13 is deemed to have the knowledge of and to assume the inherent risks of amusement rides, insofar as those risks are obvious. Furthermore, it is the duty of each rider to heed all posted and stated warnings and to refrain from acting in a manner prohibited by the bill. Proof that a rider sustained an injury while knowingly acting in a manner prohibited by the bill shall serve as a complete bar of suit. If, however, the operator is negligent in his duties or responsibilities so as to cause or contribute to the rider's injuries, then the provisions of P.L.1973, c.146 (C.2A:15-5.1, et seq.) relating to comparative negligence shall apply; and
- an amusement park operator is responsible for conspicuously posting notice of the reporting requirements for an accident or incident in English and one other language deemed appropriate by the amusement park operator.



ASSEMBLY Amendments
(Proposed by Assemblymen Felice and Singer)

to

Assembly, No. 917 (1R)

(Sponsored by Assemblymen Felice and Singer)

- Speaker
- Clerk (3)
- Majority Leader
- Minority Leader
- Sponsor of Aa
- Sponsor of Bill

REPLACE SECTION 2 TO READ: ✓

2. The Legislature finds and declares:

a. Amusement parks, including water-based recreational amusements, are attended by a large number of citizens of this State and also attract to this State a large number of non-residents, significantly contributing to the tourist industry of this State. Therefore, the allocation of the risks and costs of amusement parks is an important matter of public policy.

b. The overall safety of amusement park rides would be greatly enhanced if riders recognize certain risks inherent in these rides and behave in a manner conducive to their own protection and the protection of others.

c. The amusement park operator is already the subject of significant safety obligations and inspection requirements imposed by existing statutes and regulations. The purpose of this law is to make explicit a policy of this State which recognizes that amusement rides include risks which must be borne by those who engage in such activities and which are essentially impractical or impossible for the operator to eliminate. It is, therefore, the purpose of this act to state those risks a rider voluntarily assumes for which there can be no recovery and to establish a code of conduct for riders.

2d. The Legislature also recognizes that it is important to safeguard the safety of its citizens and others who patronize amusement parks.²

REPLACE SECTION 5 TO READ:

5. Every amusement park operator shall post the safety responsibilities of riders as set forth in section 6 of this act and the duties, obligations and liabilities of the operator as prescribed in this act in at least five conspicuous locations in the amusement park ²[and at] including² each entrance and exit ²[. These notices shall also include the exact location of the place designated for receiving reports of accidents and injuries during business hours] , each place designated for receiving reports of accidents and injuries during business hours, and each place designated as a first aid station².

REPLACE SECTION 6 TO READ:

6. ¹[a. Riders shall conduct themselves within the limits of their individual size and ability and shall not act in a manner that may cause or contribute to the injury of themselves or others:

b.] a.¹ A rider shall not board or dismount from an amusement ride except at a designated area, if one is provided;

1[c.] b.¹ A rider shall not throw or expel any objects from any amusement ride;

1[d.] c.¹ A rider shall not act in any manner contrary to posted and stated rules while boarding, riding on or dismounting from an amusement ride;

1[e.] d.¹ A rider shall not engage in any act or activity of frolicking or horseplay which may tend to injure others;

1[f.] e.¹ While using amusement rides that require steering or control of himself or a car or device, a rider shall maintain 1reasonable¹ control of his speed and course at all times 1[and shall stay clear of other equipment, persons or riders]¹ 2. A rider shall not steer the ride in such a manner as to intentionally harm another²;

1[g.] f.¹ A rider shall not disconnect, disable, or attempt to disconnect or disable, any safety device, seatbelt, harness or other restraining device before, during or after the movement of the ride has started except at the express instruction of the ride attendant or employee of the amusement park operator;

1[h.] g.¹ A rider shall not disembark or attempt to disembark from any amusement ride before, during or after movement of a ride has started except upon the express 1[written]¹ instruction of the ride attendant or employee of the amusement park operator;

1[i.] h.¹ A rider shall not board or attempt to board any amusement ride if he is knowingly under the influence of any alcoholic beverage as defined in R.S.33:1-1 or under the influence of any 1[over-the-counter drug,]¹ prescription, legend drug or controlled dangerous substance as this term is defined in P.L.1970, c.226 (C.24:21-1 et seq.), or any other substance which affects the rider's ability to safely use the ride and abide by the posted and stated instructions. The operator of the amusement ride 1[shall forbid a passenger who is under the influence of drugs or alcohol to ride on that amusement ride] may prevent a rider who is perceptibly or apparently under the influence of drugs or alcohol from riding on an amusement ride. An operator who prevents a rider from boarding a ride in accordance with this subsection shall not be criminally or civilly liable in any manner or to any extent whatsoever if the operator has a reasonable basis for believing that the rider is under the influence of drugs or alcohol¹;

1[j.] i.¹ A rider shall not alter or enhance the intended speed, course or direction of a ride by using any unauthorized device, instrument or method;

1[k.] j.¹ 2Amusement park operators shall provide posted safety instructions for each ride where required.² A rider shall not board an amusement ride unless he has sufficient knowledge and ability to use the ride. If the rider does not have such knowledge or ability, he shall ask for and receive written or oral instructions prior to using such ride or device; and

✓ ¹[l.] k.¹ A person ²over the age of 13² embarking on an amusement ride without authority or failing to pay appropriate consideration for its use shall be considered to be a trespasser.² ✓ *and*

1. A rider shall not attempt to gain access to controls of an amusement ride designed solely to be operated by employees of amusement parks.² ✓

REPLACE SECTION 7 TO READ:

7. ¹[a. A rider is deemed to have knowledge of and to assume the inherent risks of amusement rides. Each rider is assumed to know the range of his ability, and it shall be the duty of each rider to conduct himself within the limits of such ability; to maintain control of his speed and course at all times while riding; to heed all posted and stated warnings; and to refrain from acting in a manner which may cause or contribute to the injury of himself or others.

b. The assumption of risk set forth in subsection a. of this section shall be a complete bar of suit and shall serve as a complete defense to a suit against an operator by a rider for injuries resulting from the assumed risks, notwithstanding the provisions of P.L.1973, c.146 (C.2A:15-5.1 et seq.) relating to comparative negligence unless an operator has violated his duties or responsibilities under P.L.1975, c.105 (C.5:3-31 et seq.)] A rider over the age of 13 is deemed to have knowledge of and to assume the inherent risks of amusement rides, insofar as those risks are ²open and ²obvious ²to the reasonable person². It shall be the duty of each rider to heed all posted and stated warnings and to refrain from acting in a manner which may ²knowingly² cause or contribute to the injury of himself or others or in a manner contrary to ²[the conduct] prohibited acts for² riders set forth in section 6 of this act. ²Notice of these prohibited acts shall be displayed as set forth in section 5⁰ of this act.² Proof that a rider sustained an injury in the course of knowingly acting contrary to section 6 of this act shall be a ²[complete]² bar to suit and shall serve as a ²[complete]² defense to a suit against an operator by that rider, unless the operator has violated his duties or responsibilities under section 4 of this act, so as to cause or contribute to the rider's injuries, in which case the provisions of P.L.1973, c.146 (C.2A:15-5.1, et seq.) relating to comparative negligence shall apply¹.

REPLACE SECTION 8 TO READ:

8. a. As a precondition to bringing any suit in connection with an injury against an amusement park operator, a rider shall report in writing to the amusement park operator all the details of any accident as soon as possible, but in no event longer than 90 days from the time of the incident giving rise to the suit.

b. In order to facilitate reporting of accidents or injuries, every amusement park operator shall designate an office or location as a site for reporting accidents and injuries. The designated office or site shall be open and staffed during regular business hours and shall be clearly designated in writing. ²The operator shall designate and identify more than one such office or location if necessary within the amusement park so that no area containing amusement park rides is further than reasonable walking distance from an office or location.²

c. An accident report shall include at least the following: name and address of the accident victim, brief description of incident location, alleged cause of accident, name and address of the ride operator, others involved and witnesses, if any. If it is not practicable to give the report because of severe physical disability resulting from the accident or incident, the report shall be given as soon as practicable. The precondition in subsection a. of this section is not applicable unless the operator conspicuously posts notice of the reporting requirement ¹in English and one other language deemed appropriate by the amusement park operator and² in at least five different locations on the premises ², including each entrance and exit, each place designated for receiving reports of accidents and injuries during business hours and each place designated as a first aid station. The Department of Labor shall provide the rider or his representative with a copy of the accident report as required of P.L.1975, c.105 (C.5:3-47) upon request².

by section 17

d. A rider who fails to give the report within 90 days from the time of the accident or incident may be permitted to give the report at any time within one year after the accident or incident at the discretion of a judge of the Superior Court if the operator is not substantially prejudiced thereby. The inability of the amusement park operator to locate and bring within the jurisdiction of the court needed witnesses for his defense shall be considered by the court in determining whether the operator has been substantially prejudiced by the delay. Application to the court for permission to give a late report shall be made upon motion based on affidavits showing sufficient reason for the rider's failure to give the report within 90 days from the time of the accident or incident.

section 17 of

²e. When an operator files a report of an accident as required by P.L.1975, c.105 (C.5:3-47) within 90 days from the time of the accident that report will serve as notice to the operator for the purpose of this section.²

shall

STATEMENT

These amendments further clarify the respective rights and responsibilities of amusement park operators and riders under the bill, the "Amusement Park Safety and Fair Liability Act."

SENATE COMMERCE COMMITTEE

STATEMENT TO

[SECOND REPRINT]

ASSEMBLY, No. 917

STATE OF NEW JERSEY

DATED: JUNE 18, 1992

The Senate Commerce Committee reports favorably Assembly Bill No. 917 (2R).

This bill recognizes that persons who participate in amusement park rides should be expected to be aware of inherent risks in these rides and shall assume a certain amount of responsibility for their own safety.

Section 6 of the bill establishes standards of behavior for the protection of riders which every amusement park operator must post in at least five conspicuous locations in the amusement park, including each entrance and exit, each place designated for receiving reports of accidents and injuries and each first aid station.

Under the bill, a rider over the age of 13 is deemed to have knowledge of and to assume the inherent risks of amusement rides, insofar as those risks are open and obvious to the reasonable person. Every rider has the duty to heed all posted and stated warnings and to refrain from acting in a manner which may knowingly cause or contribute to injury of himself or others or in a manner contrary to the standards of behavior established for the protection of riders pursuant to section 6 of the bill. Proof that a rider sustained an injury in the course of knowingly acting contrary to the standards of behavior established for the protection of riders pursuant to section 6 of the bill would be a bar to suit and serve as a defense to a suit against an amusement park operator by that rider, unless the operator has violated his duties or responsibilities under section 4 of the bill, so as to cause or contribute to the rider's injuries, in which case comparative negligence would apply. Section 4 of the bill provides that an amusement park operator is subject to the liabilities and responsibilities of an amusement park operator under the "Carnival-Amusement Rides Safety Act" and to liabilities arising from: the negligent construction, maintenance or operation of an amusement ride; the violation of a statute or regulation; or the lack of reasonable supervision of riders.

As a precondition to bringing a suit in connection with an injury against an amusement park operator, a rider must report in writing to the amusement park operator all details of any accident within 90 days of the accident. This precondition is not applicable unless the amusement park operator conspicuously posts notice of the reporting requirement in English and one other language deemed appropriate by the amusement park operator and in at least five different locations in the amusement park, including each entrance and exit, each place designated for receiving reports of accidents and injuries and each first aid station. A rider who fails to give the report within 90 days of the accident or injury may be permitted to give the report at any time within one year after the accident or

injury at the discretion of a judge of the Superior Court if the amusement park operator is not substantially prejudiced thereby. However, if an amusement ride operator files a report of an accident, as required under the "Carnival-Amusement Rides Safety Act," within 90 days of the accident, that report would serve as notice of the accident to the amusement park operator. An amusement park operator must establish one or more offices or locations for reporting accidents or injuries within walking distance from any area within the amusement park.

Finally, the bill provides that an amusement ride operator may prevent a rider who is perceptibly or apparently under the influence of drugs or alcohol from riding on an amusement ride without being criminally or civilly liable.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

September 10, 1992

ASSEMBLY BILL NO. 917

(Second Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14, of the New Jersey Constitution, I herewith return Assembly Bill No. 917 (Second Reprint) with my objections for reconsideration.

This bill, known as the "Amusement Park Safety and Fair Liability Act," provides that persons over the age of 13 who participate in amusement park rides should be expected to be aware of the inherent risks involved with these rides and assume a certain amount of responsibility for their own safety for which there could be no recovery. In addition, this bill sets forth the responsibilities and liabilities imposed upon amusement park operators under the "Carnival/Amusement Ride Safety Act," and the regulations promulgated thereunder.

This session, a series of bills have been introduced by various groups similarly seeking immunity from civil liability. These groups include: employers who terminate employees hired during a strike; individuals who speak out on public issues; professional engineers who volunteer their services at a declared national State or local emergency; emergency medical technicians who, without compensation, train or instruct persons in basic life support services; and emergency services or medical transport persons who take custody of, detain or transport an individual for medical health assessment or treatment, to name a few. The number of groups that might apply for this immunity are infinite. More importantly, there is no clear line of demarcation between industries presently seeking immunity and others that could employ the same rationale to argue that they too should have immunity from civil lawsuits for personal injuries.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Upon careful analysis, these pieces of legislation may have merit. Indeed, Assembly Bill No. 917 (Second Reprint) contains two provisions which should be preserved. First, Assembly Bill No. 917 (Second Reprint) would enable operators, acting under a reasonable basis, to prevent patrons who are under the influence of drugs or alcohol from boarding a ride without subjecting the operator to criminal or civil liability. This provision directly addresses an apparent threat to public safety and should be retained in order to protect the safety, health and welfare of our citizens.

In addition, Assembly Bill No. 917 (Second Reprint) requires the accident victim to file a report within 90 days of the incident, as a predicate to commencing suit. If the report is not filed within that prescribed time period, the report may be filed at any time within one year after the accident, in the discretion of a judge of the Superior Court, provided that the operator is not substantially prejudiced by the late filing. Due to the short duration of the amusement park season and the difficulty in securing statements from seasonal employees, the 90-day notification requirement would allow the park operators sufficient opportunity to adequately address any claims which may be asserted by the accident victim. Thus, this provision should also be retained.

However, the remaining provisions of this bill not only jeopardize public safety, but also create the public perception that the law does not apply equally to all. Public safety is of the highest priority for all of us. However, immunity from civil liability removes the social incentive for businesses and individuals to undertake precautions to protect the safety of our State citizenry.

The civil immunity provisions contained in this bill would create a patchwork of different legal principles which would require our courts to apply different standards to different parties. The hallmark of our legal system is its fairness to all. It is that legal system which sets clear, fair standards of conduct for

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STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

business and individuals that are equally applicable to all citizens. Assembly Bill No. 917 (Second Reprint) would unfairly exempt each group seeking civil immunity from liability from the obligation to exercise reasonable care for the safety of others, which is the legal requirement for all other citizens.

Given the flurry of legislative interest in this area, perhaps this is the time for the Legislature to carefully re-examine the rules of liability where recreational activities are concerned, incorporating into that analysis the effectiveness of our comparative negligence statute, and businesses' continuing obligation to undertake precautions to protect the safety, health and welfare of our citizens.

Therefore, I herewith return Assembly Bill No. 917 (Second Reprint) and recommend that it be amended as follows:

<u>Page 1, Sections 1-2, Lines 1-31:</u>	Delete in entirety
<u>Page 1, Section 3, Line 32:</u>	Delete "3." insert "1."
<u>Page 2, Sections 4-5, Lines 4-24:</u>	Delete in entirety
<u>Page 2, Section 6, Lines 25-52:</u>	Delete in entirety
<u>Page 2, Section 6, Line 53:</u>	Delete "h." insert "2."
<u>Page 3, Section 6, Line 15:</u>	Delete ";" insert "."
<u>Page 3, Section 6, Lines 16-31:</u>	Delete in entirety
<u>Pages 3, Section 7, Lines 46-54:</u>	Delete in entirety
<u>Page 4, Section 7, Lines 1-9:</u>	Delete in entirety
<u>Page 4, Section 8, Line 10:</u>	Delete "8.a." insert "3."
<u>Page 4, Section 8, Line 13:</u>	After "accident" delete "as soon as possible, but in no event longer than" insert "within"
<u>Page 4, Section 8, Lines 27-30:</u>	After "if any." delete "If it is not practicable to give this report because of severe physical disability resulting from the accident or incident, the report shall be given as soon as practicable."
<u>Page 4, Section 8, Line 41:</u>	Delete "d." insert "4." AFTER REPRINT
4 8 Line 54	Delete "e." insert "5." INSERT "REQUIRE" IN SECTIONS OF THE ACT
<u>Page 5, Sections 9 and 10, Lines 4-22:</u>	Delete in entirety
PAGE 5 SECTION 8 LINE 3	DELETE "SECTION 8" INSERT "SECTION 2 OF THE ACT"

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EXECUTIVE DEPARTMENT

Page 5, Section 11, Line 21:

Delete "11." insert "5."

Respectfully,

/s/ James J. Florio

GOVERNOR

[seal]

Attest:

/s/ M. Robert DeCotiis

Chief Counsel to the Governor



A 917

OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001
Contact:**

**TRENTON, N.J. 08625
Release:**

**Jon Shure
609-777-2600**

**Thursday,
Sept. 10, 1992**

GOVERNOR FLORIO, IN CONDITIONAL VETO, CALLS FOR UNIFORM APPROACH TO LIABILITY CONCERNS

Gov. Jim Florio today said that amusement park operators have valid concerns about insurance liability issues, but called for a concerted, uniform approach to the problem in other areas as well, in conditionally vetoing legislation that would have exempted amusement parks from many lawsuits. In addition, the Governor called on the Legislature to create a commission to study the liability issue and recommend revisions to current law.

Gov. Florio suggested that the Legislative leadership authorize a commission to come up with a broad-based approach within 120 days, so the legitimate concerns inherent in the liability issue can be addressed.

He noted that the amusement park legislation contained such worthwhile provisions as the right of operators to ban from a ride persons under the influence of alcohol or drugs, without being subject to liability; and a requirement that an accident victim file a report within 90 days of being injured.

The Governor returned A-917/S-554 to the Legislature. "Much of what this bill would do is good," Gov. Florio said. "And owners of amusement parks have a right to feel concerned. But we need a uniform approach to this issue."

The bill, as passed, would have provided that anyone over the age of 13 who participates in an amusement park ride should be expected to be aware of the risks involved, and assume a degree of

responsibility that would preclude them from recovering damages in an accident.

In his Conditional Veto, Gov. Florio notes that a series of bills have been introduced in recent months by various groups seeking immunity from civil liability. They include: employees who terminate workers during a strike; people speaking out on public issues; volunteer emergency medical technicians, and others. "Upon careful consideration, these bills may have merit. But the number of groups that might apply for this immunity is infinite," Gov. Florio said. "We shouldn't have a patchwork of different legal principles that would require courts to apply different standards to different parties." Last month he vetoed a measure that would have exempted from liability owners of equine facilities.

#



A917

OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001
Contact:

Jon Shure
Jo Astrid Glading
609-777-2600

TRENTON, N.J. 08625

Release:

Thursday,
Oct. 22, 1992

Gov. Florio today signed legislation calling for a uniform approach to the problems regarding liability insurance for amusement park operators and other businesses. He signed A-917, which was the Legislature's concurrence with his conditional veto of the bill last month.

For more information, see the attached release from Sept. 10
