

Proposed

KANSAS DEPARTMENT OF LABOR
NOTICE OF HEARING ON PROPOSED AMUSEMENT RIDE REGULATIONS

A public hearing will be conducted by the Kansas Department of Labor at 9:00 a.m., September 7, 2017, at the Kansas Department of Labor, 401 S.W. Topeka Blvd., Topeka, Kansas, First Floor Hearing Room 3, to consider the adoption of amusement ride regulations.

The public hearing originally scheduled for August 15, 2017, notice of which was published in the June 15, 2017 issue of the Kansas Register, has been cancelled.

The regulations subject to this hearing notice are K.A.R. 49-55-1, 49-55-2, 49-55-3, 49-55-4, 49-55-5, 49-55-6, 49-55-8, 49-55-11, 49-55-12, and 49-55-13.

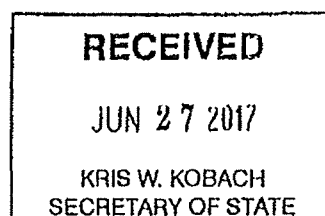
This 60-day notice constitutes a public comment period for the purposes of receiving written public comment on the proposed regulations. Any comments on the proposed regulations and requests for copies of the proposed regulations and economic impact statements should be sent to the Kansas Department of Labor, Bradley R. Burke, Deputy Secretary and Chief Attorney, 401 S.W. Topeka Blvd., Topeka, Kansas 66603, at (785) 296-5000, Option 0, ext. 2569, or to the email address brad.burke@dol.ks.gov.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation should be made at least ten working days in advance of the hearing by contacting the Kansas Department of Labor, Bradley R. Burke, Deputy Secretary and Chief Attorney, 401 S.W. Topeka Blvd., Topeka, Kansas 66603, at (785) 296-5000, Option 0, ext. 2569, or to the email address brad.burke@dol.ks.gov.

The proposed regulations apply to amusement rides within the state. Owners of amusement rides will be required to obtain annual registration, maintain amusement ride records, and obtain ride permits for each amusement ride. Owners and operators of covered amusement rides will be required to comply with any requests of inspection by the Kansas Department of Labor of these amusement ride records.

Economic Impact: H. Sub for SB 86 imposes registration fees and permit fees on owners, specifies minimum insurance coverage amounts, sets the qualifications for inspectors, and increases the retention period for records. These statutory requirements are likely to have an appreciable impact on owners of covered amusement rides and will result in an annual regulatory cost of approximately \$307,000. The department does not anticipate any appreciable economic impact due to compliance with the proposed regulations, K.A.R. 49-55-1, 49-55-2, 49-55-3, 49-55-4, 49-55-5, 49-55-6, 49-55-8, 49-55-11, 49-55-12, 49-55-13.

The Department does not foresee an increase in its expenses to administer and enforce these regulations.



Lana Gordon, Secretary
Kansas Department of Labor

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K.A.R. 49-55-1. **Applicability.** Unless exempted by the act, this article of the department's regulations shall apply to all ~~permanent~~ amusement rides, as defined in K.S.A. 2016 Supp. 44-1601 and amendments thereto, and ~~temporary amusement rides~~ within the state. (Authorized by and implementing ~~L. 2009, ch. 71, sec. 3~~ K.S.A. 2016 Supp. 44-1614, as amended by 2017 H Sub for SB 86, sec. 13; effective May 28, 2010; amended, T-_____, _____; amended P-_____.)

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K.A.R. 49-55-2. Definitions. (a) "Act" means the Kansas amusement ride act and amendments thereto.

(b) "Amusement ride records" means the following:

- (1) The current certification of an inspector's qualifications to inspect amusement rides;
- (2) the current certificate of inspection signed by a qualified inspector;
- (3) ~~the current maintenance and inspection records;~~
- (4) the current results of nondestructive testing;
- (5) ~~(4)~~ each amusement ride manufacturer's operational manual;
- (6) ~~(5)~~ each amusement ride manufacturer's nondestructive testing recommendations; and
- (7) ~~(6)~~ each amusement ride manufacturer's inspection guidelines; and
- (7) the records required to be maintained in accordance with K.S.A. 2016 Supp. 44-1603, and amendments thereto.

(c) "Permanent amusement ride" means an amusement ride, as defined in K.S.A. 2016 Supp. 44-1601 and amendments thereto, that ~~the owner is~~ permanently affixed to the real estate where the amusement ride is operated. A permanent amusement ride is not capable of being transported from one location to another without significant physical alteration of the location and the amusement ride.

(d) ~~"Self inspection," within the act and these regulations, means that the operator or owner of an amusement ride causes the inspection of the amusement ride by a qualified inspector without using the services of a third party inspector.~~ "Reasonable period of time to comply with the provisions of K.S.A. 2016 Supp. 44-1601 et seq., and amendments thereto, and K.S.A. 40-4801 et seq., and amendments thereto" means 30 days after publication of the regulations adopted by the secretary pursuant to K.S.A. 2016 Supp. 44-1614(b), and amendments thereto.

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(e) "Temporary amusement ride" means an amusement ride, as defined in K.S.A. 2016 Supp. 44-1601 and amendments thereto, that ~~the owner can move~~ is movable from location to location without significant physical alteration of the location and the amusement ride. ~~A temporary amusement ride has wheels affixed or can be transported on a trailer or other moving apparatus.~~
(Authorized by and implementing ~~L. 2009, ch. 71, sec. 3~~ K.S.A. 2016 Supp. 44-1614, as amended by 2017 H Sub for SB 86, sec. 13; effective May 28, 2010; amended, T-
_____, _____; amended P- _____.)

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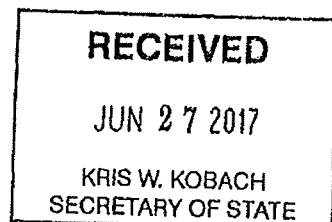
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K.A.R. 49-55-3. (Authorized by K.S.A. 2009 Supp. 44-1614; implementing K.S.A. 2009 Supp.

44-1602; effective May 28, 2010; revoked, T- _____, _____; revoked P-

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K.A.R. 49-55-4. ~~Inspection-certificate~~ Permit application; certificate of inspection. Each individual performing any inspections shall possess a NAARSO level one, or higher, ~~certification application for a permit shall include the following:~~

(a) The name of the owner and operator of the amusement ride;

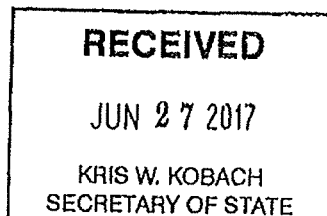
(b) the location of the amusement ride or the location where the amusement ride is stored

when not in use;

(c) proof of insurance;

(d) certification that the amusement ride meets the applicable standards of the American society for testing and materials (ASTM) international F24 committee; and

(e) a copy of a valid certificate of inspection for that amusement ride. Each certificate of inspection shall provide an expiration date. (Authorized by L. 2009, ch. 71, sec. 3 K.S.A. 2016 Supp. 44-1614, as amended by 2017 H Sub for SB 86, sec. 13; implementing K.S.A. 20082016 Supp. 44-1602, as amended by 2017 H Sub for SB 86, sec. 7, and 2017 H Sub for SB 86, sec. 1; effective May 28, 2010; amended, T-_____, _____; amended P-_____.)



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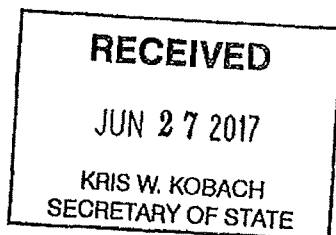
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K.A.R. 49-55-5. (Authorized by L. 2009, ch. 71, sec. 3 and K.S.A. 2008 Supp. 44-1602;

implementing K.S.A. 2008 Supp. 44-1604; effective May 28, 2010; revoked, T-

_____, _____; revoked P- _____.)



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K.A.R. 49-55-6. Record retention. The owner of each amusement ride shall retain all amusement ride records as specified in ~~K.A.R. 49-55-2(b)~~ for a period of ~~one year~~ three years, which shall be grouped according to amusement ride. The owner shall retain all amusement ride records at the location of the amusement ride's operation. The records shall be accessible upon request by the department and in accordance with K.S.A. 2016 Supp. 44-1603 and amendments thereto, each person who contracts with the owner for the amusement ride's operation, and each operator. (Authorized by ~~L. 2009, ch. 71, sec. 3~~ K.S.A. 2016 Supp. 44-1614, as amended by 2017 H Sub for SB 86, sec. 13; implementing ~~K.S.A. 2008 Supp. 44-1602~~, K.S.A. 2008 2016 Supp. 44-1603, as amended by 2017 H Sub for SB 86, sec. 8, and K.S.A. 2008 2016 Supp. 44-1605; effective May 28, 2010; amended, T- _____, _____; amended P- _____.)

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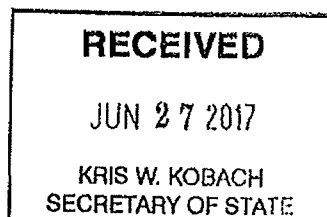
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K.A.R. 49-55-8. Procedure for selection of an amusement ride for records compliance

audit. (a) Amusement rides shall be randomly selected each quarter by the department for records compliance audit by location. ~~A permanent amusement ride shall not be subject to more than two records audits during the six month period from the date of the last records audit. A temporary amusement ride shall not be subject to more than one records audit at the same location.~~ Random selection for compliance audit shall include selecting amusement rides from a list of amusement rides that have been issued a valid permit by the department and amusement rides that are identified on location reports submitted to the department in accordance with

K.A.R. 49-55-10.

(b) A compliance audit may also be conducted for amusement rides that are determined to be in need of a compliance audit by the secretary or the secretary's designee. (Authorized by L. 2009, ch. 71, sec. 3; K.S.A. 2016 Supp. 44-1614, as amended by 2017 H Sub for SB 86, sec. 13; implementing K.S.A. 2008 2016 Supp. 44-1602, as amended by 2017 H Sub for SB 86, sec. 7; effective May 28, 2010; amended, T- _____, _____; amended P- _____.)



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K.A.R. 49-55-11. Submitting reports and other documents; notification of death. (a)

Except as provided in subsection (b), each report and any other document required by these regulations or the act shall be submitted to the department's director of industrial safety and health by mail, facsimile, hand delivery, or electronic mail.

(b) For each serious injury that results in the death of a patron, notification by the owner shall be made initially by telephone, with a written notification sent within 24 hours after the initial notification. (Authorized by and implementing ~~L. 2009, ch. 71, sec. 3~~ K.S.A. 2016 Supp. 44-1614, as amended by 2017 H Sub for SB 86, sec. 13; effective May 28, 2010; amended, T-
_____, _____; amended P-_____.)

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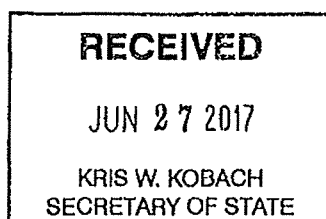
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K.A.R. 49-55-12. Violations; reporting violations to the attorney general, county attorney, or district attorney. (a) For the first violation by an owner of any provision of the act or these regulations, ~~a written warning citation shall be issued by the department to the owner.~~ Each citation notice of violation issued by the department for a violation of the act or these regulations shall specify the following:

- (1) The nature of the violation;
- (2) the facts supporting the determination that a violation took place; and
- (3) specification of the action that the owner shall take to comply with the act or these regulations.

(b) ~~If the owner fails to take the corrective action specified in the citation, the owner's~~ Each notice of violation shall be reported by the department to the ~~applicable authority for criminal prosecution~~ attorney general, county attorney, or district attorney. (Authorized by ~~L. 2009, ch. 71, sec. 3~~ K.S.A. 2016 Supp. 44-1614, as amended by 2017 H Sub for SB 86, sec. 13; implementing ~~K.S.A. 2008 Supp. 44-1602~~ 2016 Supp. 44-1610, as amended by 2017 H Sub for SB 86, sec. 11, and K.S.A. 2016 Supp. 44-1611; effective May 28, 2010; amended, T-_____, _____; amended P-_____.)



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K.A.R. 49-55-13. Nationally recognized organizations that issue certificates or other evidence of qualification to inspect amusement rides. The nationally recognized organizations that issue certifications or other evidence of qualification to inspect amusement rides and that require education, experience, and training at least equivalent to that required for a level II certification from NAARSO as of July 1, 2017, shall include the following:

(a) The national association of amusement ride safety officials (NAARSO), for level II certification;

(b) the amusement industry manufacturers and suppliers international (AIMS), for level II certification;

(c) the association for challenge course technology (ACCT), for qualified inspector certification; and

(d) Pennsylvania department of agriculture, for general qualified inspector status.

(Authorized by and implementing K.S.A. 2016 Supp. 44-1614, as amended by 2017 H Sub for

SB 86, sec. 13; effective, T-_____, _____; effective P-

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KANSAS DEPARTMENT OF LABOR
ECONOMIC IMPACT STATEMENT
K.A.R. 49, Article 55

I. Summary of Proposed Regulations, Including Their Purpose:

The proposed regulations K.A.R. 49-55-1, K.A.R. 49-55-2, K.A.R. 49-55-3, K.A.R. 49-55-4, K.A.R. 49-55-5, K.A.R. 49-55-6, K.A.R. 49-55-8, K.A.R. 49-55-11, K.A.R. 49-55-12, and 49-55-13 implement the provisions of the Kansas amusement ride act, K.S.A. Supp. 44-1601 through 44-1612 as amended by H. Sub for SB 86.

Owners and operators of covered amusement rides must maintain amusement ride inspection related records and operator training certificates, and will be required to comply with any requests of inspection by the Kansas Department of Labor of these amusement ride records. Each amusement ride will be required to have a permit, issued by the department.

II. Federal Mandate:

There is no related Federal law or regulation associated with the inspection of amusement rides under the Kansas amusement ride act.

III. Description of anticipated costs to the department for administering and enforcing the proposed regulations:

Because H Sub for SB 86 imposes new requirements under the Amusement Ride Act, the department can only estimate the cost to administer and enforce the program due to statutory requirement. The estimated **annual** costs to the department follows.

Labor Costs:

- 2 Full-Time Safety Specialists	\$113,387.04
- Special Investigator	\$62,225.28
- 1 Full-Time Administrative Assistant	\$37,908.00
- 1 Half-Time Administrative Assistant	\$23,629.32

Office Supplies/Publications

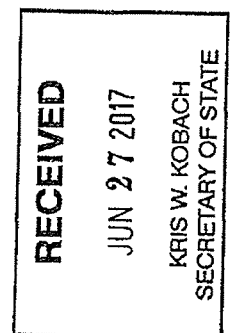
- ASTM Standards on-line subscription renewal	\$280.00
- Overhead/Supplies	\$20,000.00

Vehicle/Travel	\$25,000.00
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Contractual Services

- Office of Administrative Hearings	\$20,000.00
- KanPay	\$5,000.00

The administration and enforcement of the proposed regulations will not have an impact on existing industrial safety and health programs the division administers and enforces. Funding



the administration and enforcement of the proposed regulations will be prorated amongst the other industrial safety and health programs administered and enforced by the department. Administrative costs and staff are already in place, and proper recordkeeping procedures have already been developed and tested.

IV. Description of costs to owners and operators of covered amusement rides:

H. Sub for SB 86 imposes registration fees and permit fees on owners, specifies minimum insurance coverage amounts, sets the qualifications for inspectors, and increases the retention period for records. These statutory requirements are likely to have an appreciable impact on owners of covered amusement rides. The department does not anticipate any appreciable economic impact due to compliance with the regulations.

V. Other methods considered:

No other methods were considered.

Lana Gordon, Secretary
Kansas Department of Labor

