

DEPARTMENT OF COMMERCE

**EMERGENCY RULE RELATING TO
AMUSEMENT RIDES**

Finding of Emergency

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. An amusement ride fatality occurred in Wisconsin on July 14, 2007. The ride involved the field attachment of passengers who don harnesses and then are elevated off the ground.

2. Although no mechanical or equipment failure contributed to the incident, attachment and connection practices of the operators did not incorporate safety practices used on some similar rides in the industry.

3. The department recognizes that without promulgating this emergency rule, there could be confusion in what constitutes a recognized safe practice for the field attachment or connection of harnessed passengers on similar amusement rides. The department believes clarifying the code will promote safety.

Pursuant to section 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and the Revisor of Statutes.

Dated at Madison this _____
day of _____, 2007,
by the Department of Commerce.

Mary P. Burke, Secretary

The Wisconsin Department of Commerce adopts an order to create s. Comm 34.22 (5m), relating to amusement rides.

Analysis of Rule

1. Statutes Interpreted

Statutes Interpreted: s. 101.17, Stats.

2. Statutory Authority

Statutory Authority: ss. 101.02 (1) and 101.17, Stats.

3. Related Statute or Rule

Statutes: ss. 101.19 and 101.12 (1), Stats.,
Administrative Rules: Chapter Comm 34, Amusement Rides

4. Explanation of Agency Authority

Under the authority of s. 101.17, Stats., the Department of Commerce has oversight of various mechanical devices and equipment, which includes amusement rides, in order to protect public safety. The Department fulfills this responsibility by promulgating the Amusement Ride Code, under chapter Comm 34.

5. Summary of Proposed Rules

The emergency rules create safety field attachment or connection redundancy provisions for amusement rides where passengers donning harnesses are elevated.

6. Summary of, and Comparison with, Existing or Proposed Federal Regulations

The US Consumer Product Safety Commission under the Consumer Product Safety Act has jurisdiction over portable amusement rides. The commission has not developed any specific standard for portable amusement rides. At times the commission has issued various safety bulletins regarding operation, repair, maintenance or set-up for specific rides.

There are no existing or proposed federal regulations that address the specific issue of this rule.

7. Comparison with Rules in Adjacent States

An Internet-based search of the amusement ride regulatory programs for the states of Illinois, Iowa, Michigan and Minnesota found that none of the states have specific rules or standards regarding the field attachment or connection of passengers as addressed by the emergency rules.

8. Summary of Factual Data and Analytical Methodologies

The emergency rules were developed utilizing information gathered during the department’s investigation of the recent accident. The department also evaluated the current provisions of the Amusement Ride Code, chapter Comm 34, with respect to industry safety practices that were identified during the department’s periodic inspection of rides.

9. Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of Economic Impact Report

Based on a review of the list of 1400 amusement rides registered to operate in Wisconsin for 2007, the department estimates that fewer than 10 rides may fall within the scope of these emergency rules. The emergency would not include such amusement rides as bungee jumps, bungee trampolines, and rock walls with mechanical take-up systems.

An economic impact report has not been required to be prepared.

SECTION . Comm 34.22 (5m) is created to read:

Comm 34.22 (5m) ATTACHMENT. (a) Except as provided in par (b), the field attachment or connection of a passenger by an operator for a ride that elevates passengers off the ground, and necessitates passengers to don harnesses, shall utilize redundant means of attachment or connection or department approved equivalency on the primary attachment point between the passenger and the ride. Where carabiners are used to accomplish the primary attachment or connection, at least two locking hardened steel carabiners with a minimum breaking strength of at least 6,000 pounds each shall be utilized.

(b) The provisions of par. (a) do not apply to bungee jumping operations, bungee trampolines, or rock climbing operations.

(END)

EFFECTIVE DATE

Pursuant to s. 227.24, Stats., this rule shall take effect as an emergency rule upon publication in the official state newspaper and filing with the Revisor of Statutes.

(Note: Publication Date, August 13, 2007)