



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Jacquie Keller-Potvin, Ohio Department of Agriculture

FROM: Joseph Baker, Business Advocate

DATE: February 11, 2022

RE: CSI Review – Amusement Ride Safety – Statute Amendments (OAC 901:9-1-01, 901:9-1-02, 901:9-1-03, 901:9-1-04, 901:9-1-04.1, 901:9-1-04.2, 901:9-1-06, 901:9-1-06.1, 901:9-1-07, 901:9-1-08, 901:9-1-09, 901:9-1-14, 901:9-1-14.1, 901:9-1-21, 901:9-1-22, 901:9-1-23, 901:9-1-24, 901:9-1-25, 901:9-1-26, 901:9-1-27, 901:9-1-28, 901:9-1-29, 901:9-1-30, 901:9-1-31, 901:9-1-32, 901:9-1-33, 901:9-1-34, 901:9-1-35, 901:9-1-36, 901:9-1-37, 901:9-1-38, 901:9-1-39, 901:9-1-40, 901:9-1-41, 901:9-1-42, 901:9-1-43, 901:9-1-44, 901:9-1-45, 901:9-1-46, and 901:9-1-47)

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of forty amended rules proposed by the Ohio Department of Agriculture (Department). This rule package was submitted to the CSI Office on January 14, 2022, and the public comment period was held open through February 8, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on January 14, 2022.

The rules in this package outline permitting, operations and maintenance responsibilities of amusement ride operators, empower the Department to issue stop orders and levy fines for amusement rides that fail to meet safety or maintenance standards, and specify health and safety standards for aquatic devices, bungee jumping, and go karting. While no textual amendments are proposed for Ohio Administrative Code (OAC) 901:9-1-04, 901:9-1-14.1, 901:9-1-14, 901:9-1-21, 901:9-1-22, 901:9-1-24, 901:9-1-25, 901:9-1-26, 901:9-1-27, 901:9-1-28, 901:9-1-29, 901:9-1-30, 901:9-1-31, 901:9-1-32, 901:9-1-33, 901:9-1-34, 901:9-1-35, 901:9-1-36, 901:9-1-37, 901:9-1-38, 901:9-1-39, 901:9-1-40, 901:9-1-41, 901:9-1-42, 901:9-1-43, , 901:9-1-44, 901:9-1-

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45, and 901:9-1-46, these rules are also being filed as amended rules due to changes being made to the supplemental information on each rule. Unless described additionally below, amendments to all other rules involve updating statutory references due to the passage of H.B. 665 (133rd General Assembly).

OAC 901:9-1-01 requires amusement ride operators to obtain a permit from the Department prior to operation and specifies conditions that must be met to obtain the permit. The rule is amended to allow permit holders to avoid violating a requirement to report itinerary changes if certain documentation is provided to the Department. OAC 901:9-1-02 states that the Director of the Department (Director) or his designee may issue stop orders, suspend any permit, and levy fines for rule violations. OAC 901:9-1-03 prohibits individuals from interfering with inspectors while inspecting amusement rides or devices and specifies operating standards for renting or leasing such equipment. OAC 901:9-1-04 requires amusement ride owners to ensure that the device is maintained in accordance with manufacturer specifications or their equivalent, states that inspections shall be conducted by the Department, and authorizes inspectors to issue stop orders if the ride is found to be unsafe.

OAC 901:9-1-04.1 establishes requirements for rides to undergo fatigue and corrosion review and authorizes the issuance of a stop order if minimum requirements are not met. OAC 901:9-1-04.2 outlines inspection requirements and intervals for various types of amusement rides. OAC 901:9-1-06.1 specifies safety standards for inflatable amusement rides and prohibits operators from altering such rides from the manufacturer's design without written permission and reinspection by the Department. OAC 901:9-1-06 requires permitted amusement rides and devices to bear a numbered decal, be under the control of a competent attendant, include adequate fencing or barriers to protect spectators, and specifies other related requirements. OAC 901:9-1-07 specifies signage requirements for amusement rides, including directives that passengers obey warnings and directions and that signage be placed prominently and visibly.

OAC 901:9-1-08 establishes definitions relating to amusement rides and devices. OAC 901:9-1-09 outlines potential fines for violations of rules or statutes governing amusement ride operations. OAC 901:9-1-14.1 requires ultraviolet disinfection systems to be added to filtration systems to be included in newly constructed facilities regulated by the Department unless another equivalent filtration system is installed and validated. OAC 901:9-1-14 specifies water quality standards for aquatic devices (such as wave pools, water slides, lazy rivers and activity areas) including record-keeping and documentation requirements, as well as training standards for at least one employee at each facility (who must be accredited as a certified pool/spa operator, aquatic facility operator, or certified pool operator on location).

OAC 901:9-1-21 sets forth the purpose and scope of the Department's rules governing bungee jumping. OAC 901:9-1-22 specifies definitions related to bungee jumping. OAC 901:9-1-23 requires individuals seeking to provide bungee jumping to apply for a permit from the Department and provide a site operation manual, site plans, proof of insurance coverage, and a registered engineer's report (if required by the Department). OAC 901:9-1-24, 901:9-1-25, 901:9-1-26, 901:9-1-27, 901:9-1-28, 901:9-1-29 and 901:9-1-30 specify minimum required safety distances for bungee jumping, as well as safety standards for platforms, lowering systems,

cranes, suspended personnel platforms, bungee cords, and jumper harnesses and hardware used in bungee jumping. OAC 901:9-1-31 requires all bungee jump providers to inspect and test jump rigging, harnesses, lowering systems, and safety gear and to record all results in the site log. The rule also requires the replacement of hardware subject to abnormal loadings, surface damage, or any frayed, damaged, or worn ropes, webbing, or bindings. OAC 901:9-1-32 and 901:9-1-33 require bungee jump operators to maintain replacement equipment for various devices used in bungee jumping on site and for each bungee cord to be identified by a specific device number.

OAC 901:9-1-34 specifies landing and recovery requirements where the bungee jump takes place over land, including the mandatory use of an airbag or net certified by a manufacturer to absorb a fall from the height of the jump point. OAC 901:9-1-35 requires bungee jumping equipment to be stored to protect from damage or unauthorized entry, as well as other site requirements for bungee jumping facilities. OAC 901:9-1-36 requires that ride manufacturers determine the minimum age and weight for jumping and prohibits jumping under the influence of drugs or alcohol, or if the operator deems a jumper to be a safety risk. OAC 901:9-1-37 specifies qualifications for becoming a jump master and requires a bungee jumping operation to include at least four individuals, including a jump master. OAC 901:9-1-38 specifies information that must be included in the bungee jumping site manual, while OAC 901:9-1-39 requires each site to maintain an emergency plan approved by the local emergency service. OAC 901:9-1-40 prohibits certain bungee jumping activities, such as bungee jumping from hot air balloons or bungee catapulting. OAC 901:9-1-41 requires nets used in bungee jumping to comply with American National Standards Institute specifications.

OAC 901:9-1-42 specifies definitions related to the operation of go karts. OAC 901:9-1-43, 901:9-1-44, and 901:9-1-45 specify operational safety requirements, track design requirements, training and inspection responsibilities for facilities that provide concession go karts (go karts used as amusement devices by the public). OAC 901:9-1-46 prohibits any individual from constructing or making major modifications to a go kart track without the plans being approved by the Department. Finally, 901:9-1-47 exempts certain rides exclusively powered by a permanent 110-volt outlet from a statutory requirement to obtain written certification that the power source has been rated for service entrance applications, installed in compliance with the electric code, and metered through a meter installed by the electric light company.

During early stakeholder outreach, the Department sent the proposed rules to the Ohio Fair Managers Association, the Greater Ohio Showman's Association, the Ohio Festivals and Events Association, the Ohio Expo Center and State Fair, and the Ohio Advisory Council on Amusement Ride Safety. The Department received one comment relating to the testing process for water quality at aquatic devices. The Department states that it is currently evaluating the suggestion in collaboration with the Advisory Council for Amusement Ride Safety. No comments were received during the CSI public comment period.

The business community impacted by the rules includes all amusement ride operators and owners (including aquatic devices, go kart businesses, and bungee jump operators) in Ohio. The adverse impacts to business include the costs of obtaining a permit prior to operating, time and costs associated with obtaining inspections, potential loss of business opportunities if shut down

due to safety issues, costs of complying with maintenance requirements, potential fines for noncompliance, expenses connected to installing cleaning systems for aquatic devices, recordkeeping and documentation costs associated with maintaining cleaning and test records for aquatic devices, costs associated with developing a bungee jump site in accordance with the rule's standards prior to operating, costs of developing an emergency plan for a bungee jump site, costs of testing and inspecting bungee jump equipment and documenting results, costs of maintaining staffing minimums and qualifications for bungee jump operators, costs of developing a go kart track in accordance with the design standards in the rule, costs of obtaining approval from the Department prior to making changes to a go kart track, costs of completing inspections required for go kart operators, and other related expenses. The Department states that the adverse impact created by the rules is justified to establish minimum safety standards for businesses that provide customers the use of amusement rides, aquatic devices, bungee jumps, or go karts and promote continued public safety for patrons.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.