

5:14-1.15 Insurance, bond or other security

(a) No person shall operate a ride unless at all times there is in existence:

1. A policy of insurance in an amount of not less than \$100,000 insuring the owner or operator against liability for injury suffered by persons riding the amusement ride; or
2. A bond in a like amount; provided, however, that the appropriate liability of the surety under such bond shall not exceed the face amount thereof; or
3. Cash or other security acceptable to the Commissioner.

(b) The policy shall be procured from one or more insurers acceptable to the Commissioner of Banking and Insurance, and either:

1. Licensed to transact insurance in the State of New Jersey; or
2. Approved as surplus lines insurers pursuant to N.J.S.A. 17:22-6.45, the Surplus Lines Law.

(c) The bond as required by (a)2 above shall provide at least \$100,000 for each ride.

(d) The bond of (a)2 above shall be in such form and content as to be acceptable to the Department of Banking and Insurance.

(e) The cash or other security shall be assigned to meet carnival-amusement ride liability judgments only.

Amended by R.1986 d.222, effective June 16, 1986.

See: 18 N.J.R. 609(a), 18 N.J.R. 1303(a).

Added (c)-(e).

Recodified from N.J.A.C. 5:14-1.14 and amended by R.1998 d.305, effective June 15, 1998.

See: 30 N.J.R. 782(a), 30 N.J.R. 2230(a).

Former N.J.A.C. 5:14-1.15, Violations, recodified to N.J.A.C. 5:14-1.16.

Amended by R.2000 d.88, effective March 6, 2000.

See: 31 N.J.R. 1172(a), 32 N.J.R. 826(a).

In (a)3, substituted a reference to the Commissioner for a reference to the Board.

5:14-1.16 Violations

A violation of the Act shall occur when an owner, officer, agent or employee interferes in any manner with the implementation of, or otherwise fails to comply with, the provisions of the Act or regulations promulgated pursuant to the Act.

New Rule, R.1996 d.515, effective November 4, 1996.

See: 28 N.J.R. 3705(a), 28 N.J.R. 4792(a).

Recodified from N.J.A.C. 5:14-1.15 by R.1998 d.305, effective June 15, 1998.

See: 30 N.J.R. 782(a), 30 N.J.R. 2230(a).

Former N.J.A.C. 5:14-1.16, Administrative penalties and hearings, recodified to N.J.A.C. 5:14-1.17.

5:14-1.17 Administrative penalties and hearings

(a) The Commissioner of Community Affairs or the Commissioner's designee is authorized to assess and collect an administrative penalty in the amount of up to \$5,000 for each violation.

(b) In determining whether an administrative penalty should be assessed and the amount of the penalty pursuant to this chapter, the following factors shall be considered where applicable:

1. Whether a cease violation order has been issued and the violation has been corrected;
2. The seriousness of the violation;
3. The past history of violations by the owner;
4. Whether the violation was willful;
5. Whether the violation did cause or could have caused injury or bodily harm;
6. Whether the violation poses an imminent hazard to public health and safety; and
7. Any other appropriate factors.

(c) Each day in which the operator operates a ride in violation of the Act or this chapter shall be considered a separate violation.

(d) No administrative penalty shall be levied pursuant to this subchapter unless the alleged violator is provided with notification of the violation and the amount of the penalty and an opportunity to request a formal hearing. A request for a formal hearing must be in writing and submitted within 10 calendar days following the receipt of the notice. All hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) If a hearing is not requested, the notice shall become the Final Order upon the expiration of the 10 day period following receipt of the notice.

(f) Recipients of an administrative penalty assessment may request the initiation of a settlement conference at the time that a hearing request is made. If a party requests a settlement conference, or the Department determines that a settlement conference would be useful, a settlement conference shall be scheduled and conducted by the Department within 30 days of the receipt of the hearing request.

(g) If a settlement is not agreed upon or no settlement conference is scheduled and a hearing has been requested, the matter shall be transmitted to the Office of Administrative Law (OAL) for hearing.

(h) Payment of the penalty shall be due when a final agency determination is issued or when a notification becomes a final decision because no appeal has been filed.

(i) All payments shall be made payable to the Treasurer, State of New Jersey in the form of a certified check or money order, or such other form suitable to the Department.

(j) Upon final order, the penalty imposed may be recovered with cost in a summary proceeding commenced by the Department pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

New Rule, R.1996 d.515, effective November 4, 1996.

See: 28 N.J.R. 3705(a), 28 N.J.R. 4792(a).

Recodified from N.J.A.C. 5:14-1.16 and amended by R.1998 d.305, effective June 15, 1998.

See: 30 N.J.R. 782(a), 30 N.J.R. 2230(a).

Amended by R.2000 d.88, effective March 6, 2000.

See: 31 N.J.R. 1172(a), 32 N.J.R. 826(a).

In (a), increased the maximum penalty from \$500.00 to \$5000; in (d), substituted "submitted within 10" for "received within 21" in the second sentence; in (e), substituted a reference to the 10 day period for a reference to the 21 day period; deleted a former (i); recodified former (j) and (k), as (i) and (j); and in the new (i), substituted a reference to the Treasurer, State of New Jersey for a reference to the Department of Community Affairs.

5:14-1.18 Compliance with manufacturers' recommendations for modifications

(a) An owner shall comply with any manufacturer's recommendation or requirement including, but not limited to, the replacement or modification of a component of the amusement device, a change or addition to the maintenance schedule for an amusement device or the performance of a test on an amusement device.

1. A copy of all manufacturers' bulletins or recommendations received by the owner shall be forwarded to the Office of Safety Compliance within 14 days of receipt by the owner.

2. The Office of Safety Compliance may waive the requirement to implement a manufacturer's recommendation, at the owner's request, if failure to implement the recommendation does not jeopardize public safety.

New Rule, R.1998 d.305, effective June 15, 1998.

See: 30 N.J.R. 782(a), 30 N.J.R. 2230(a).

Amended by R.2000 d.88, effective March 6, 2000.

See: 31 N.J.R. 1172(a), 32 N.J.R. 826(a).

Rewrote the section.

SUBCHAPTER 2. DEFINITIONS

5:14-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Accepted engineering practice" means that which conforms to accepted principles, tests, or standards of accredited authorized agencies, and to standards or generic principles and practices of safety engineering.

"Act" means the Carnival-Amusement Rides Safety Act, N.J.S.A. 5:3-31 et seq.

"Air bag" means a device which cradles the body using a multi-cell release breather system to dissipate the energy due to a fall, thereby allowing the jumper to land without an abrupt stop or bounce.

"Amusement ride" means any mechanical device or devices, including water slides exceeding 15 feet in height, which carry or convey passengers along, around, or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills or excitement, and any passenger or gravity propelled ride when located in an amusement area or park in which there are other rides covered by the Act; provided, however, that this shall not include locomotives weighing more than seven tons, operating on track the length of which is one-half mile or greater, the gauge of which is three feet or greater, and the weight of which is at least 60 pounds per yard. (See "Water amusement ride.")

"ANSI" means the American National Standards Institute.

"Approved" means acceptable to the Commissioner. Any product certified, or classified, or labeled, or listed by a nationally recognized testing agency may be deemed to be acceptable, unless specifically banned by order of the Commissioner.

"Approved operating site" means the area including the preparation area, the jump space, the landing area and the recovery area as reflected on the site plan drawings submitted by the operator pursuant to this chapter in conjunction with the registration of a bungee jumping operation and as approved by the Commissioner.

"Approving authority" means the Commissioner of Community Affairs.

"Binding" means material used to wrap and hold together the jumper's ankles which is tied together and attached to the bungee cord.

"Board" means the Advisory Board on Carnival-Amusement Ride Safety.

"BOCA" means Building Officials and Code Administrators International.

"Bungee cord" means the elastic rope attached to the jumper which lengthens and shortens to produce a bouncing action.