
Committee Meeting

of

ASSEMBLY REGULATORY OVERSIGHT COMMITTEE

*“Testimony on safety in New Jersey amusement parks, sports arenas, parks, nightclubs
and other entertainment venues; and review current safety regulations”*

LOCATION: Committee Room 8
State House Annex
Trenton, New Jersey

DATE: March 4, 2004
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman William D. Payne, Chair
Assemblyman Joseph Cryan, Vice Chair
Assemblyman Douglas H. Fisher
Assemblywoman Connie Myers
Assemblyman John E. Rooney



ALSO PRESENT:

James F. Vari
*Office of Legislative Services
Committee Aide*

Paul Sangillo
*Assembly Majority
Committee Aide*

Thea M. Sheridan
*Assembly Republican
Committee Aide*

***Meeting Recorded and Transcribed by
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TABLE OF CONTENTS

	<u>Page</u>
Kimberly Ricketts Assistant Commissioner New Jersey Department of Community Affairs	3
Edward R. McGlynn Lobbyist New Jersey Amusement Association	25
Larry I. Zucker, Esq. Representing New Jersey Amusement Association	28
APPENDIX:	
Testimony by Susan Bass Levin Commissioner New Jersey Department of Community Affairs submitted by Assistant Commissioner Kimberly Ricketts	1x
“Carnival and Amusement Ride Safety Program,” and “Are you Ready to Ride?” submitted by Edward R. McGlynn/Larry I. Zucker, Esq.	4x

lmb: 1-51

ASSEMBLYMAN WILLIAM D. PAYNE (Chair): Good morning. I want to welcome all of you to this hearing this morning of the Assembly Regulatory Oversight Committee.

Today we'll be taking testimony on safety in New Jersey's nightclubs, sports arenas, and other entertainment venues. You may recall that a year ago we conducted a hearing in the wake of the nightclub tragedies in Chicago and in Rhode Island, at which time there were many people that were killed; one in Chicago due to a stampede of people trying to exit a club, and that were unable to do so, and were stampeded and trampled to death. And shortly thereafter there was a terrible fire in Chicago (*sic*), in which, I think, in excess of 100 people died after pyrotechnics were used in a club there, and people lost their lives.

The reason for this hearing is for New Jersey to be proactive in our efforts to ensure the safety of the citizens of New Jersey, and particularly those who are in these venues that we are talking about today. We just simply will not sit by until a tragedy occurs and then react to that. As I say, we tend to be proactive, and it's for that reason we're calling this hearing to find out just what has transpired in the year since we've had the previous hearing, and to learn of any improvements that may have been made, that needed to be made, in order to ensure that our citizens in the State of New Jersey are safe.

We have, today, members of our Committee, whom I will introduce, and we have a number of people who will be testifying, including the Assistant Commissioner of -- in place of Commissioner Levin, who is unable to be here with us today.

Before I get into that, I just want to underscore that it is our responsibility to ensure that all proper safety measures, to keep New Jersey residents -- are safe in a crowd. City and town officials, along with State officials, must take a hard look at New Jersey's code enforcement laws and regulations. One life is too precious to allow any negligence in New Jersey's entertainment venues.

And we will get into the testimony shortly. I would like, first of all, however, to introduce the Vice Chairman of our Regulatory and Oversight Committee, and that's Assemblyman Joe Cryan.

ASSEMBLYMAN CRYAN: Thank you, Mr. Chairman.

I look forward to hearing the comments from the public and from the Assistant Commissioner. What I'm please about most is that I think, in the wake of the year from the Rhode Island fire, that we haven't experienced any tragedies in New Jersey in licensed beverage establishments. I think that is an ongoing issue for us, that we haven't seen anything in over two decades. I'd urge us, as we move forward, to keep that fact in mind as we continue to strive for the safety of all our residents.

Thank you.

ASSEMBLYMAN PAYNE: Thank you very much.

Assemblyman Fisher, who is a new member of our Committee.

ASSEMBLYMAN FISHER: Thank you, Mr. Chairman.

I'm looking forward to the testimony, and I have some concerns on this issue. I'm glad that you saw fit to have testimony on the issue, and I'm glad to be a member of this Committee.

Thank you.

ASSEMBLYMAN PAYNE: Thank you very much, Mr. Fisher.

I was going to introduce my other colleagues, however, they -- it's not a very propitious time to do so. (laughter)

However, in order to move on with our hearing, while we are--
Oh.

ASSEMBLYMAN ROONEY: Sorry.

ASSEMBLYMAN PAYNE: Yes. I would like to have -- introduce
Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Yes. I'm here.

ASSEMBLYMAN PAYNE: Very good. Thank you very much.

ASSEMBLYMAN ROONEY: No comments. I'm not feeling well,
but I'm here.

ASSEMBLYMAN PAYNE: Very good. Well, thank you very
much.

Now I'd like to call Assistant Commissioner Kim Ricketts to testify,
please. Thank you very much. Ms. Ricketts is Assistant Commissioner in the
Department of Community Affairs.

ASST. COMMISSIONER KIMBERLY RICKETTS:
Thank you, Chairman, and members of the Committee.

Commissioner Levin sent her apologies. We had worked this out
so that she could be here this morning. She has a tight schedule, and she was
unexpectedly detained beyond our control. So it's my pleasure to be here today
to present to you her remarks.

Mr. Chairman and members of the Committee, I thank you for the
opportunity to address the Committee regarding safety in New Jersey's

restaurants and nightclubs. I'm here this morning to tell the Committee that the building and fire codes in our State are very strong, that enforcement of these codes is very strict, and that the penalties for violating these codes can be appropriately severe. Through our Division of Codes and Standards, and the Division of Fire Safety, we are making sure that restaurants, nightclubs, and similar venues are safe for all occupants.

New Jersey's code system is recognized as one of the best in the nation. Our building codes ensure that buildings are constructed correctly and safely in the first place. Our fire codes ensure that buildings are inspected thoroughly so they remain up to code. And New Jersey's codes are enforced by highly trained inspectors.

Under the Uniform Construction Code, New Jersey adopts national-model building codes and standards. All new construction and rehabilitation work is subject to plan review and inspection to make sure the work complies with these codes and standards. The State also has very strict requirements regarding fire safety in all public buildings.

There are more than 2,000 licensed and trained fire inspectors at both the State and local level, and 3,000 licensed and trained building inspectors. These individuals are considered experts in fire and building safety. Furthermore, the local code enforcement officials are licensed by the Department of Community Affairs only after demonstrating they have the necessary education and experience, and pass the required examination. Once licensed, these officials are required to participate in continuing education courses to maintain their competencies.

For example, our fire inspectors and fire officials are certified for three years. During that time, they must attend ongoing sessions to recertify. The Department of Community Affairs also has the ability to take disciplinary actions against its inspectors. The Division of Codes and Standards has the ability to revoke the license of any State or local building inspector, and the Division of Fire Safety also has the ability to revoke the certification of any certified code enforcement official.

How does this translate to our restaurants and nightclubs in safety? If New Jersey's codes had been the law in Rhode Island, the tragedy that occurred last year could have been prevented. The codes we have in place require that the main entrances be capable of serving as an exit for at least half of the total occupant load of the building. Our codes also limit the occupant load of assembly spaces, including nightclubs, to five square feet per person, even if the exits might accommodate more.

New Jersey's codes would have required a sprinkler system when The Station house (*sic*) was converted from a restaurant to a nightclub. Local code enforcement requires building owners to document that product supplied to walls comply with the flame-spread requirements of the code for interior finishes. The enforcement of the Uniform Fire Code is truly a statewide effort, because every municipality in New Jersey must participate in enforcement. If any municipality does not, or cannot, conduct their own inspections, the Division of Fire Safety will step in.

Currently, the Division of Fire Safety has jurisdiction in over 100 towns as the enforcing agent. Furthermore, our fire codes call for very high penalties for offenders. Penalties can go up to \$5,000 per violation, per day.

Our routine inspections -- we have inspections of restaurants and nightclubs, and they are conducted on a routine basis to make sure they remain up to code and continue to be safe. Facilities with occupancies over 300 are inspected every three months, and facilities with occupancies under 300 are inspected annually. Under our codes, although we cannot revoke a business license to operate, our fire officials at both the State and local levels have the authority to close buildings when there is an imminent hazard, or where the owner is willfully or grossly negligent in failure to comply with these regulations.

To go even further, last year the Department of Community Affairs initiated and began conducting spot inspections of restaurants and nightclubs after the tragedies in Rhode Island and Chicago. Most of the establishments were in compliance with the fire code. In places where violations were found, citations were issued, and corrections were made immediately. During these inspections, only one establishment was forced to close while the violations found were abated.

To remain vigilant and make sure that the state's establishments remain as safe as possible, we continue to conduct these spot inspections and encourage the local municipalities to do the same. Although our current building and fire codes are stringent, we constantly review our standards. We are also constantly looking for opportunities that make sense for New Jersey so that we can better protect our citizens.

In the aftermath of the tragic deaths at Seton Hall University, the Grand Jury recommended that legislation be acted to promulgate regulations on fire-retardant, upholstered seating furniture to embody the state of California

standards. Since then, several pieces of legislation have been introduced in the Legislature that would require regulations on fire-retardant furniture in the state. The Department of Community Affairs is in the process of reviewing what has been introduced, and we are supportive of legislation that would require regulations for fire-retardant, upholstered seating furniture.

We've continued to increase our education and outreach since last year. Although our codes are strong and the enforcement is strict, we have been, and continue to make, additional outreach efforts to ensure that our regulations are not only understood but followed by business owners. DCA has worked cooperatively with organizations, such as the New Jersey Restaurant Association, with educational sessions on restaurant and nightclub safety. In fact, this April, the Department of Community Affairs will be participating in the Restaurant Association's annual conference for the second year in a row, where representatives from the Division of Fire Safety will participate.

Additionally, in an effort to keep an open dialog with restaurant and nightclub owners, the Department has held meetings with representatives to discuss potential changes to State codes. The objective has been to discuss potential changes that would ensure increased safety of patrons and get vital input from businesses and business owners, so that any necessary changes to the State code is best for everyone in New Jersey. In our continuing efforts, the Department will be holding another meeting with representatives from the Restaurant Association and the New Jersey Licensed Beverage Association, in the coming weeks, to continue this very important dialogue.

We're also looking at our potential changes to State codes. National experts have recognized the potential need for changes to code that

would better ensure protection. The Department is in the process of reviewing the new National Fire Protection Association code provisions for fire sprinklers and crowd management in nightclub-type venues. We are currently conducting a review of our existing code requirements for the use of sprinklers in restaurants and nightclubs for not only new facilities, but also rehabilitation, to see if any upgrades of the code are necessary.

In conclusion, we believe the combination of New Jersey's inspection licensing requirements, mandatory periodic inspections, strict code enforcement and fines, and our continued efforts to review our current codes and standards-- We have a strong system in place to help prevent terrible tragedies from occurring in our State and making sure that our facilities are safe for all occupants. In New Jersey, we know that we must enforce our strict building and fire codes vigorously. And fire officials across the state will continue to do so.

The tragedy that also occurred last year in a Chicago nightclub underscores the need for effective enforcement action. The situation in Chicago was not a fire, but basically a stampede to the exit, to exit the club by the occupants. The situation escalated due to the fact that there were major egress deficiencies that were not properly abated. With that in mind, we also ask that business owners take an active role in this as well, and be just as vigilant in protecting their patrons.

We can assure you that the Department of Community Affairs will continue to review our codes to make sure that we do everything possible to keep our citizens safe.

Thank you, Mr. Chairman.

ASSEMBLYMAN PAYNE: Thank you, Commissioner.

I have some questions, but I will hold them off.

I'll hear from our Committee members and Assemblyman Cryan.

ASSISTANT COMMISSIONER RICKETTS: Mr. Chairman, if I could? I will do my best to answer your questions. I just must say, ahead of time, since I was stepping in at the last moment, there may be a number of these that I will have to take back and get back to the Committee, if that's acceptable.

ASSEMBLYMAN PAYNE: I expect that you will take copious notes and that you will get back to us with this.

ASSISTANT COMMISSIONER RICKETTS: Absolutely, Mr. Chairman. I also brought someone with me to help take copious notes.

ASSEMBLYMAN PAYNE: Very good. Thank you.

Mr. Cryan.

ASSEMBLYMAN CRYAN: Thank you, and I hope so, as well.

Let me first ask about the enforcement issue and then about some of these proposed changes that are out there. I recognize that you are filling in.

ASSISTANT COMMISSIONER RICKETTS: Okay.

ASSEMBLYMAN CRYAN: On Page 2 of the testimony that's here, if I understood it -- first off, was my comment in my opening remark correct, that we have not had a fatality from any licensed beverage association in the last 20 to 25 years, if not longer?

ASSISTANT COMMISSIONER RICKETTS: I don't know the answer to that question.

ASSEMBLYMAN CRYAN: Okay. It's my understanding from attending a meeting in DCA, which is where I got that. This isn't a *gotcha*.

ASSISTANT COMMISSIONER RICKETTS: Oh, no. I know.

ASSEMBLYMAN CRYAN: That's where, from DCA, that that's-- In fact, it's been over, at least, 20 years, maybe more, at least in recent memory that we've seen any sort of incident, even one fatality, much less in a licensed premise in the State of New Jersey.

ASSISTANT COMMISSIONER RICKETTS: That's my understanding.

ASSEMBLYMAN CRYAN: Okay.

What I want to do is to go to Page 2, and I wanted to understand, from an enforcement standpoint, whether or not we're properly staffed? If I understood it correctly, we have over 2,000 fire inspectors and 3,000 building inspectors in the State of New Jersey.

ASSISTANT COMMISSIONER RICKETTS: Correct.

ASSEMBLYMAN CRYAN: Going to Paragraph 3 of what I have in front of me, DCA inspects 928 of the restaurants and nightclubs--

ASSISTANT COMMISSIONER RICKETTS: Correct.

ASSEMBLYMAN CRYAN: --which encompasses 100 towns, if I understood that correctly.

ASSISTANT COMMISSIONER RICKETTS: Correct.

ASSEMBLYMAN CRYAN: So, if I take 928 off the -- as you supplied the 11,600, or so, so it leaves us about 10,500 -- 450 or so towns in the State of New Jersey. Would you agree that that's a more than adequate amount of inspectors to nightclubs and restaurants?

ASSISTANT COMMISSIONER RICKETTS: Because I am not the expert in this area, I would have to defer that question to the Commissioner and the Director of the Division Codes and Standards.

ASSEMBLYMAN CRYAN: I'd appreciate that. I'm going to share with you my view, which is, if we have 2,000 fire inspectors -- which is the way I read this -- for 10,000 restaurant and nightclubs, that's one-to-five, that's like 5:1, that would seem to me to be adequate. When you include the building inspectors, it's one-to-two, recognizing that they have more to do in a day. But realistically, it sounds as if these highly trained, highly qualified people are, in fact -- seem to have a manageable workload in this area, especially if I recall right, that we do it annually and/or biannually. Is that correct?

ASSISTANT COMMISSIONER RICKETTS: Correct.

ASSEMBLYMAN CRYAN: So those-- What I wanted to share and get an impression from, from the Commissioner, is whether or not we're properly staffed. Because the numbers, the way I see it, is that we're more than properly staffed, which I believe has fed into the safety that New Jersey residents have seen, which leads me to the proposed changes. There are a number of changes, as I understand. And again, you are filling in, so let's not-- But in particular, one that I've heard much about, in the meeting that I attended, was this idea of providing a second exit in each facility that allows for two-thirds of the occupants to be out of the facility -- I believe it's within three minutes, if I remember correctly--

ASSISTANT COMMISSIONER RICKETTS: Correct.

ASSEMBLYMAN CRYAN: --which, of course, our current standard is two-thirds of the occupants to be out of one exit within three

minutes, if that's correct. Recognizing the fact that the people that are in this industry, the hard-working people who are in this industry -- overtaxed, and this Legislature has done a number of other things -- also, in many cases, do not own their facilities; they lease them. And therefore, would have to undergo major infrastructure improvements, whether they may or may not be able to do so via their business.

I'd certainly ask to the Commissioner, through you, to recognize the fact that these are people that are not in a high margins, irregardless of what people may think, and that these infrastructure improvements, in many cases, either don't correlate to the real world issue of lease versus ownership; and in some cases, as I've seen it, simply don't fit the configuration of particular properties. I base that on the fact that we have seen our safety standards in New Jersey be acceptable by your own testimony of the Commissioner's highly trained inspectors, highly qualified-- I believe they annually get recertified at the League of Municipalities, if I recall right.

ASSISTANT COMMISSIONER RICKETTS: Yes.

ASSEMBLYMAN CRYAN: So it's an annual requirement, and I would certainly caution -- and let me retire this. I guess you're getting my message.

What I don't want to see us do is, when we have a history of safety, we certainly want to move forward in positive ways. But I certainly don't want to take -- not an overreaction approach, it's been a year. But I certainly want to take a prudent approach that recognizes that businesses in this state, many of which are individually owned, deserve the respect of New Jersey's government officials in terms of the regulations that are put to them.

And my last question to you is -- on Page 3. It's about the third, fourth paragraph, the new National Fire Protection Association standards. The National Fire Protection Association, who is that? Is it made up of fire inspectors? Is it made up of-- Do you have any idea? If not, I'll--

ASSISTANT COMMISSIONER RICKETTS: I don't know the exact makeup. It is a national organization that represents fire officials.

ASSEMBLYMAN CRYAN: Okay.

Through the Chair, I'd ask whether you could provide, at least to me or to the Committee, I'd like to know who is in it? Who is -- the makeup of that organization? Is it just fire officials, or does it represent those who live in the business community, as well, and have the result of those obligations? Or is it just one particular unit?

ASSISTANT COMMISSIONER RICKETTS: We can get that.

ASSEMBLYMAN CRYAN: And by the way, if it is one, than I'd ask the Commissioner for a review of any other standards -- or any other organizations' inputs are sought before we would adopt something no matter how-- And I certainly have the greatest respect for our fire officials, but whether or not it's a balanced medium. Okay?

ASSISTANT COMMISSIONER RICKETTS: Yes.

ASSEMBLYMAN CRYAN: Thank you.

ASSEMBLYMAN PAYNE: Thank you, Mr. Cryan.

Mr. Fisher.

ASSEMBLYMAN FISHER: Thank you, Mr. Chairman.

Ms. Ricketts, I know it's difficult to fill in, in this last minute, but-- So I'm not sure you'll be able to answer the question, and I would certainly

understand that, but I want to, sort of, go on the record. I have great confidence in the changes that are being proposed, and that they'll be worked out. I hear you talk about sprinklers and exits and occupancy and fire retardant materials, and all those things have led to a great safety and track record in our nightclubs and in our restaurants. I just want to focus particularly on the one item, which is pyrotechnics.

It has troubled me from the very beginning when we heard about the -- certainly the fire in Rhode Island. As you recall, many of us recall, that when the news reports came out there was the confusion about who authorized the use of those pyrotechnics in the club. And the club was, actually, a pretty small venue, if I recall, and wasn't even actually, exactly -- in fact, a low ceiling. What I want to know is, who authorizes the use of these pyrotechnics that they're being used in these venues? Certainly in a big arena or in an area such as that, I'm sure that there are many regulations that are imposed and taken care of by municipal authorities and the like. But in the smaller clubs, I have great concern. Just as you had mentioned in the report, that it really wasn't about -- it was about a stampede. There was a frenzy in that club. People were just running with abandon. They weren't even sure, some of them, that there really was anything going on.

I guess what I'm trying to find out is, what are the criteria that they are allowed -- the pyrotechnics in some of these smaller venues? Personally, I think that there are many areas where they just shouldn't be used, and they should not be used at all. Because I suspect that they are really not set up for that. And I would ask that we could look into that, because I'm not sure that, on what basis -- had they given their permission, which, as I said, neither side

said that they had actually been authorized. How could that have been stopped, supposing that it was in a club setting such as that?

ASSISTANT COMMISSIONER RICKETTS: I don't know what the-- I can't comment to the specific criteria for approval of the use of pyrotechnics in the nightclubs, regardless of their size. I certainly can get that information back to the Committee, through the Chairman.

As far as larger venues for fireworks, permits go through the local fire code official. But again, I can't comment to the specifics of what you're asking, but will certainly gather that information and submit it, through the Chairman.

ASSEMBLYMAN FISHER: Okay. I'd appreciate that. Because I'm not sure they would have had a permit for that. That's something we have to look into. You're right, in these very large areas, that there is a whole process that they go through, but I don't know what it is. I'd be very curious to hear about it.

ASSISTANT COMMISSIONER RICKETTS: We'll gather that information.

ASSEMBLYMAN FISHER: Thank you.

Thank you, Mr. Chairman.

ASSEMBLYMAN PAYNE: Thank you, Mr. Fisher.

Mr. Rooney.

ASSEMBLYMAN ROONEY: No comment.

ASSEMBLYMAN PAYNE: Ms. Myers. (no response)

Good to have you here.

Let me make a few comments, if I may. We understand that the Commissioner had other -- a previously scheduled press conference and some other matters that she had to deal with, and was kind enough to try to accommodate us this morning. However, something else came up between yesterday and today, and as a result, she was unable to be here. We did attempt to schedule this hearing a month ago. And at that time, there was also a scheduling conflict.

We're having this hearing today to try to review those kinds of regulations and the monitoring of these establishments to make sure that the citizens of New Jersey are safe. Unfortunately, you're not prepared -- and I could understand that -- to answer some of the questions that we have here. I would recommend that in the future that if the Commissioner -- or any commissioner for that matter -- is unable to make it that, even if she can, or they can, that they be accompanied by people within their departments who are responsible for various areas of enforcement or monitoring, so that the questions that are being raised can be answered. It puts you at a great disadvantage, and also puts this Committee at a great disadvantage to conduct a hearing where questions, I think -- that some of the questions that are being raised might have been anticipated, and therefore, we might have been able to have someone from the various divisions to be able to come to provide some of the answers.

So that's not necessarily directed toward you, because you are, in fact, filling in. But that's something that I think, perhaps, you will be able to take back to the Commissioner, and the answer to questions that have been raised. For instance, the question about pyrotechnics. That was raised last year. As a matter of fact, the same group that performed in Rhode Island had

performed in New Jersey the week before that, and they used pyrotechnics there. I don't know whether this group had been given a-- They violated their contract, because I don't think that they discussed that prior to that. So this is a question -- it's a burning question, as a matter of fact, that -- who regulates this and who is responsible for this? And these are the kinds of answers that I would have expected to be able to get today. At least, some kind of information about that, you see.

So I'm slightly frustrated that we're not able to answer some of the questions. I'm sure that, as I suggested, that you're taking copious notes and that the answers will be forthcoming with us.

For instance, we mentioned there are numerous inspectors. I think, thousands of inspectors.

ASSISTANT COMMISSIONER RICKETTS: Correct.

ASSEMBLYMAN PAYNE: And there have been times-- For instance, just recently, as a matter of fact, in the City of East Orange, there was a nightclub that was closed because of various kinds of violations that were found there and apparently had been there for a while. They were not really related to a fire, necessarily, but there were health violations. But that had been going on for a while. The question I have is, how closely does the State monitor the municipal inspectors? We see that the inspectors are monitored. The question I have is, have we ever-- During the last year, has there been a single inspector who has lost his license, or has his license been revoked, for not carrying out their responsibilities? I'm curious about that. Because if, in fact, we have situations that exist in some of these establishments and we have these thousands of inspectors, the question I have is, how closely are they being

monitored and are they, in fact, doing their job? So I want to make sure that we avoid those kinds of things. We need to have the answers along those lines. I don't know whether or not DCA has responsibility for monitoring the health and sanitation. I know the municipalities have the responsibility. But the overall responsibility.

Mr. Cryan, you, having some knowledge about this industry, you may be able to provide some answers to that. But I'm curious about that. Whether or not -- who has the responsibility? Because last year, as a matter of fact, before we had this hearing, there were some spot checks that were conducted by the Commission. The Commissioner was able to come and tell us about the number of spot checks that had been conducted during that previous month or so, and was able to give us a report on that. I would have hoped that at this hearing that we might have been able to get a similar kind of report along those lines, too.

Because we're very serious about providing for the safety of our patrons. We're very, very serious about it. And I think that what we need to do is-- And I guess I'm preaching to the choir, because you're here, and you all agree with me on this thing. But I just want to make sure that we don't lapse into this. We can have -- just as they had those tragedies there-- Mr. Cryan points out that we haven't had anything like this in many, many, many years. But that doesn't mean it can't happen tomorrow. And I want to make sure that, number one, that our inspectors are, in fact, doing their job. And if, in fact, there are any out there that need to be maybe retrained, or whatever, then that needs to happen.

We need to make sure that we are closely monitoring. All right? Because I don't think some conditions that do exist, would exist, if, in fact, all of our inspectors were doing a great job. I think 99.9 percent of them are doing their job.

The other point I'd like to make is that -- it's been pointed out that some of these are small business owners, and they can't afford, perhaps, to live up to some of the regulations that would positively ensure the safety. But I think we weigh this. We weigh this with the patrons or with the owners, and if, in fact, an establishment is not equipped to be in this business, then perhaps they shouldn't be in this business. I don't think we want to put anybody out of business. But I think we do not want to come back in a month or two months or a year from now saying, "If we had only done so and so," you see. That's really what I'm really after. I want to be proactive about it.

Spot checks -- I don't know how many spot checks are being conducted. I don't know whether or not any have been conducted in the last month or two, for instance. We did have that kind of report last year. So these are the kinds of things -- and if I sound like I'm frustrated, then I guess it's because I am. These are some of the answers that we need to have. Too many times we have seen instances where we become lax. That things are okay, and so therefore, we kind of look the other way or we don't pay attention to them. I just want to make sure that we don't do that in this situation.

So I want to really thank you for coming. I see -- I note in the testimony that the Commissioner says there are a number of areas in which we are looking into, that we're going to check out. And we're going to look into the future. We going to try to ensure that we refine many of our regulations, etc.

I want to keep in mind this is on the front burner. When we review procedures -- and we're going to -- we have plans to do things down the line. I think we need to do a lot of things yesterday. So, in order to make sure that we do not have the kinds of tragedies that could possibly occur-- Let me make it clear, I'm sure that this industry is doing the very, very best that it can. The very fact that we have a record that so far says that we have had a good record of safety in our industries -- and I think that speaks well for itself, but I just don't want us to be lulled into taking things for granted and thinking that everything is all right.

If we can get answers, for instance, about who controls the pyrotechnics and things of that nature, that would be great. If you can get a report for us about the number of spot checks that have been made. And I think, last year, somebody recommended that these spot checks be institutionalized, that there be regular, kind of, unannounced checks of these places. I want to know whether or not that has been institutionalized also, whether or not we are doing this on a regular basis or not?

So I don't have any other questions or comments.

Perhaps Mr. Cryan or Mr. Fisher have some other remarks? (no response)

ASSEMBLYWOMAN MYERS: Mr. Chairman?

ASSEMBLYMAN PAYNE: Oh, Ms. Myers. Very good. Yes.

Thank you.

I misunderstood. I thought you said you had no questions.

ASSEMBLYWOMAN MYERS: I didn't at that time.

ASSEMBLYMAN PAYNE: Oh, okay. Very good.

ASSEMBLYWOMAN MYERS: Can I change my mind?

ASSEMBLYMAN PAYNE: Oh, okay.

ASSEMBLYWOMAN MYERS: Thank you.

I just wanted to comment. Sorry for being late. And I missed this meeting last year. And maybe because of that, in October it was brought to my attention by some frantic constituents that these new regulations -- the new outreach by DCA to protect the public in amusement venues -- had extended to what are called *haunted houses* on farms. My district is still agricultural, and a number of the farmers run haunted houses in the fall to try to bring the public onto the farms. I got calls the last week in October from farmers saying, "DCA just shut us down." I went out and visited and met with DCA staff, talked with Assistant Commissioner Ricketts. I'm bringing this up now for a couple of reasons: to inform the rest of the Committee, because maybe you don't know what I didn't know last October; and to commend Assistant Commissioner Ricketts. Because although it was a very tough time for our farmers, because DCA decided to go in the week of Halloween and close down something that they had spent a lot of money on to prepare for, DCA did send staff out within hours to meet with us and with the farmers, and to do what we could to provide waivers -- such as bringing the fire trucks in, and make some tradeoffs where that was possible.

I think that the decisions certainly were not all applauded by my constituents. Some of the haunted houses did remain closed, because they were deemed to be fire hazards, but others were allowed to open with some of these measures. So certainly I want to assure you, Mr. Chairman, that they do seem to be on the job. I scolded them at the time, because I said, well, the

regulations were adopted in April and you had to wait until October 28 to let these people know. That's not really fair. But since they did try to make up for that, we appreciated their responsiveness.

ASSISTANT COMMISSIONER RICKETTS: Thank you.

ASSEMBLYMAN PAYNE: Thank you very much, Assemblywoman. That's excellent. I feel safe now going to a haunted house. (laughter). I think maybe I (indiscernible).

Commissioner Cryan -- I mean, Assemblyman Cryan. (laughter)

ASSEMBLYMAN CRYAN: Thanks. I appreciate that. Thanks.

ASSEMBLYMAN PAYNE: I thought you were representing the Commission very well.

ASSEMBLYMAN CRYAN: Another rumor?

Through you, Mr. Chairman, I do have a request. And that is, if you could, could you provide us with a copy of the proposed new regulations as if they are, in fact, proposed at this point?

ASSISTANT COMMISSIONER RICKETTS: At this point, nothing formal has been proposed. The only thing that has occurred--

ASSEMBLYMAN CRYAN: Is the meeting?

ASSISTANT COMMISSIONER RICKETTS: --is a discussion with the Department of Community Affairs, the New Jersey Restaurant Association, and the New Jersey Licensed Beverage Association. We have not put anything to paper, officially, for proposed changes in the rules. As I had stated before in the testimony, we're still reviewing. And just to take that a bit further, we understand, as the Chairman had said, and the Commissioner understands, and it's important -- the balance of the safety and the viability of New Jersey's

business owners. And that's why these dialogs and these meetings have been ongoing, and will occur more, before anything is officially put to paper for proposed regulations.

ASSEMBLYMAN CRYAN: I appreciate that.

And through you, Mr. Chairman, if I could ask for the courtesy of -- if you do intend to propose new regulations, that the members of this Committee (a), get a copy of it and, if you would consider it in enough point of time, that we would be able to schedule a hearing to discuss it.

ASSISTANT COMMISSIONER RICKETTS: Absolutely.

Mr. Chairman, if I might just address -- just a couple of the items that you had put forth before this Committee. I can assure you that from the time when Commissioner Levin appeared here, over a year ago, to now, that this issue of safety in our restaurants and nightclubs and other similar venues has been on the front burner. Because our fire code and construction code is so extensive and strict, and because we have to have that balance, as you said, of safety and the viability of our business owners, we're making sure that we stay on top of this. But we're also making sure that we do this in a very methodical and efficient manner, so as to make sure that we do obtain that balance.

Thank you.

ASSEMBLYMAN PAYNE: Thank you very much.

I don't know whether-- Mr. Cryan, you mentioned that there haven't been any deaths, etc., in these venues. I do believe that I have noticed that there have been shootings, for instance, in these places. I don't know whether it's just in certain areas, but there have been-- In some of these venues,

that there have been some shootings. And I don't know whether -- how closely the Department works with the police department.

For instance, in other words, we're talking about security and safety, etc., etc., for patrons. Because this society in which we live, there's a plethora of-- I mean, people can buy them anywhere, and therefore every venue seems to be a possibility of having some kind of threat of this. I know I've read from time to time about these kinds of things that are going on. I don't know whether or not there needs to be a looking down the line, where they need to have some, kind of, number one, increased-- Some of these places have special police officers, I think, that are assigned to them, I believe. And maybe that might be something that we need to look at. Because I do believe, unless I'm just imagining this, that there seems to be people reacting violently to some kinds of situations that are not only in nightclubs, etc., but other places, too. But I don't know how closely the DCA works with the local police departments to monitor or to police these establishments as well.

ASSISTANT COMMISSIONER RICKETTS: Well, it's specific to each municipality and their specific ordinances on what they require. However, I will tell you that the Department of Community Affairs works quite closely with all 566 municipalities, through our Division of Local Government Services. And rest assured, if they ever brought something to our attention, that we would do our best to coordinate DCA's resources, as well as any other State agency's resources, to assist them.

ASSEMBLYMAN PAYNE: Thank you very much, Commissioner.

Just one last note. I've been informed that it is illegal to use pyrotechnics in a nightclub, but there is a permitting process, possibly within the

Department or Labor, or Personnel, etc. But you will look into this and find out who does?

ASSISTANT COMMISSIONER RICKETTS: Absolutely, Chairman.

ASSEMBLYMAN PAYNE: Okay. All right. We appreciate that. Thank you very, very much.

ASSISTANT COMMISSIONER RICKETTS: Thank you very much.

ASSEMBLYMAN PAYNE: And thank the Commissioner for allowing you to come in her stead. You did an excellent job.

ASSISTANT COMMISSIONER RICKETTS: Thank you very much. Thank you.

ASSEMBLYMAN PAYNE: Next we have Mr. Larry Zucker, the New Jersey Amusement Association, testifying.

EDWARD R. McGLYNN: Mr. Chairman, I am not Mr. Zucker. I am Mr. McGlynn, but I'm the lobbyist for the Amusement Association. Mr. Zucker will join me, if that's all right with you?

ASSEMBLYMAN PAYNE: Well, by all means, by all means.

MR. McGLYNN: Thank you.

ASSEMBLYMAN FISHER: Lobbyist for the who?

MR. McGLYNN: I'm the lobbyist for the New Jersey Amusement Association.

ASSEMBLYMAN PAYNE: Does that include the haunted houses that were referred to a little while ago. Do you represent them as well?

MR. McGLYNN: There is not a haunted house association. By the way, there is a national historic trust organization. And when a new haunted house opens up in the State of New Jersey, they come from all over the world to go through the haunted house and then rate that haunted house. So there are funny things happening in the industry all the time.

ASSEMBLYMAN PAYNE: Is that right? A funny thing is happening on the way to the haunted house-- (laughter)

MR. McGLYNN: Thank you, Mr. Chairman.

Members of the Committee, my name is Ed McGlynn. I'm the registered lobbyist for the New Jersey Amusement Association. The New Jersey Amusement Association is a trade association of some 200 members, comprising numerous entities involved in the amusement industry in New Jersey. Virtually every amusement park -- owner; and operated, located, or doing business in New Jersey -- is a member of our Association. Also included in our Association membership are virtually all owners and operators of water parks in the state; additionally the Outdoor Amusement Business Association, which represents carnival ride operators, as a member of our--

ASSEMBLYMAN PAYNE: Excuse me, Mr. McGlynn, do you have a copy of your testimony for us?

MR. McGLYNN: I don't, and I apologize. I think if you hear what I say, Mr. Chairman, as I go on, you'll understand why. We will provide you written testimony for the Committee.

ASSEMBLYMAN PAYNE: Good. Thank you.

MR. McGLYNN: Okay.

Additionally, Outdoor Amusement Business Association, which represents carnival ride operators, nationwide, are members, as are all inflatable ride operators -- members of our Association. The inflatable rides are the bounces and the things such as that.

Just for your information, the annual New Jersey Amusement Association Convention began yesterday, March 3, at Trump Marina in Atlantic City, and continues today. Hence, the reason that I don't have written testimony. We saw the scheduling of this hearing on Tuesday afternoon and decided to appear here today, and that's why we'll provide the written testimony. More than 2,000 individuals will attend, and more than 100 vendors are located throughout the ballroom convention space. Seminars are conducted both days, with particular interest in the seminars conducted by the Department of Community Affairs.

Mr. Chairman and members of the Committee, the legislative calendar indicated the Committee will take testimony on safety in New Jersey amusement parks and other areas, obviously, as we've just heard from, and will review current safety regulations that govern these parks. Let me assure the Committee, on behalf of all owners and operators of amusement parks, that the safety of our patrons -- and I repeat that, our patrons -- is the cornerstone of each and every amusement park operating in the State of New Jersey.

Over the past five years, there have been significant statutory and regulatory changes -- along with an increased awareness of our owners and operators and ride manufacturers -- to enhance the safety of amusement parks. We believe, at this time, that there are not needed any additional statutory or regulatory laws or rules. And hopefully, what is in place and on the books,

including all of the various divisions of the Department of Community Affairs that regulate our industry, are sufficient.

I'd like to introduce to you Larry Zucker, who is the counsel to the New Jersey Amusement Association, to talk about existing statutes, rules, and regulations.

Thank you.

LARRY I. ZUCKER, ESQ.: Mr. Chairman, thank you very much for this opportunity. I think it's entirely appropriate that we be given an opportunity to address this Committee on issues of ride safety and the amusement industry, because over the past five years, ever since the Department of Community Affairs took over oversight of our industry, there have been tremendous changes made to ensure the safety of riders in the State of New Jersey. By tremendous change, I mean that the Department of Community Affairs has virtually redefined the relationship between a State regulatory agency and the amusement industry.

Starting in 1998, when the Department took over from the Department of Labor, they found a system that was in place since 1975. That system was administered by the Department of Labor, and basically it reflected the state of the amusement industry back in 1975. At that time, the amusement industry was -- well, not in the infancy, because it's been around for at least 100 years in this state. At least it was in its -- just the beginning of its growing stages. Six Flags had just opened in Jackson, New Jersey, and there were other developments that were to come.

In the mid-90s, I think everybody began to realize that the industry had outgrown the regulatory system, and the Department of Community Affairs,

when they took over, basically came in and they said, “We’re going to do a complete reevaluation of the laws and the regulations affecting the amusement industry. We’re going to find out what the best practices are, and we’re going to work with the industry in coming up with a set of regulations that will make the system in New Jersey the best system in the country.” And I’m not going to sit here and tell you that the New Jersey system of ride regulation is among the best. I’m here to tell you that, on behalf of the New Jersey Amusement Association, based on what I consider to be a relatively intimate knowledge of this system, it is the best. We are so far ahead of so many other states in terms of ride regulation that I wouldn’t even know where to begin.

We are the only state to have its own ride design code that governs the design of rides, including a complete explication of a G-force limitation. No other state has that. And there is a national standard that we tend to track, but we’re the only state with its own design code. And that design code also requires ride designs to be submitted to the State of New Jersey for a thorough engineering review. And I truly believe that there’s not another state that puts their ride designs through an engineering review like we do in New Jersey. They have to produce the information, on the ride envelope, on ride accelerations. They have to produce their calculations. They have to produce records showing all the blueprints, even the construction of the ride, to make sure that the ride was constructed in conformance with the blueprints and the plans.

I could continue. There is another system that is unique to New Jersey. It’s called a system of ride-type certification. And by ride-type certification, what the DCA has done is, they’ve tracked the type of generic design certification that’s present in the airplane industry. The airplane industry

will take a 747, they'll thoroughly vet the engineering, and then every time you bring a new 747 into the industry, you don't have to go through that engineering again. That's the type of system they have in New Jersey now with rides. That's the system that New Jersey has used to take control over manufacturers.

And in rather far-sighted legislation that this Assembly passed back in 2001, you've given the control over design and over manufacturers to the Department of Community Affairs, and you've given the Department of Community Affairs the authority to withdraw the right to sell rides in New Jersey if the manufacturer is guilty of egregious and repeated violations of codes. The Department of Community Affairs increased the fines for violations from \$500 to \$5,000 per violation. The Department of Community Affairs has issued regulations for not just amusement rides, which are the fixed rides in the fixed parks, like Great Adventure, the Morey's, and Steel Pier, but also the carnival rides. They've also covered inflatables, which is becoming an important part of the amusement industry. And by inflatables, I mean moon bounces and the air-supported structures. And we are the only state, right now, to actually regulate, license, and approve inflatables coming into the State of New Jersey.

All this has been done, I might add, in coordination with the New Jersey Amusement Association and its members. We have worked diligently, over the past five years, to make sure that we have a system of ride regulation that's fair, effective, and enforceable. And we have continued -- and the actual -- the regulations went into effect on December 16 of 2002, which means that last summer was our first summer under the new regulations. We have had a system -- a series of working group meetings with the Department of Community Affairs, with Richard Osworth, with Mike Triplett, with the

inspectors, with Bill Connolly -- who is head of the entire Code and Enforcement -- to try to make sure that this system is working well for both the State and for the industry -- with one goal and one goal in mind, and that is to make sure that rides are safe for patrons in New Jersey.

Ed says that safety is a cornerstone. We recognize that, without safety, all the bright lights and the fun out there -- we wouldn't bring anybody into our parks. So safety is a tremendous concern to everyone in the industry.

And parenthetically, I just want to add one thing about the haunted parks. While haunted houses are not necessarily within the purview of our Association, I think it's fair to say that today almost every amusement park has some sort of a haunted house structure.

And, Assemblywoman, last year I also received phone calls from my clients telling me, "You know, the DCA is here. What am I going to do?" And what we found is that a lot of these structures are temporary. But even though they're temporary, the Department of Community Affairs has seen fit in terms of safety to make sure that they are safe, to make sure that they're sprinkled, to make sure that there's no fire hazards. So it all, kind of, comes about as a very rapid ramp-up of these haunted houses on farms and also in amusement parks.

So the DCA has a limited period of time to inspect and to make changes. They have been very cooperative. They always get what they want, and they achieve the goals that the regulations are out there to achieve, but they are cooperating. So I want to tell you that my experience is the same as yours, and we will continue to work with the DCA, and I'm sure they will continue to work with the industry to achieve safety.

If anybody has any questions about this, I'd be happy to answer them, because I was involved in the drafting of these, along with the Department of Community Affairs. And I think that your Committee should have an interest in ride safety and in the regulations that are bringing that about.

ASSEMBLYMAN PAYNE: Thank you very much, Mr. Zucker.

MR. McGLYNN: Mr. Chairman?

MR. ZUCKER: You're welcome.

ASSEMBLYMAN PAYNE: Yes, Mr. McGlynn.

MR. McGLYNN: May I add one other item, and that is that the New Jersey Amusement Association has entered into a partnership with the Department of Community Affairs, and I have in front of me a brochure, that was prepared and is available at every amusement park in the State of New Jersey, entitled, *Are You Ready to Ride?* I will leave one for each of the members of the Committee and all the aides. It is a brochure which says, what is the right thing to do, what is the wrong thing to do while you are on a ride; the dos and don'ts of ride safety; what child safety is involved, what parents should be aware of. And this is, as I say -- each amusement park throughout the State of New Jersey and each carnival that is operating in the State of New Jersey has been given thousands of these to hand out to their patrons as they enter the facilities.

ASSEMBLYMAN PAYNE: Thank you very much.

It's rather propitious, I suppose, now that the season is beginning to -- this time of year is when the season starts, in addition to your convention, I believe you said, that is going on in Atlantic City--

MR. ZUCKER: Right now.

MR. McGLYNN: That's correct, yes.

ASSEMBLYMAN PAYNE: --right now, certainly the fact that we're at the beginning of the season. One of the observations I'd like to make, and maybe you could respond to it, is that you did mention these -- I was going to put, though -- visiting fairs, circuses, carnivals, etc. Do they come under your organization's purview and how closely are they monitored? For instance, if you go to some of these places that are in some of the local parks and things like that, sometimes it appears, to me anyway, that we're not as strict with our regulations as we are at some of the more fixed places. DCA is not here right now. Who regulates those traveling carnivals?

MR. McGLYNN: DCA regulates those traveling carnival shows, and they regulate, obviously, the fixed park rides also. So DCA has inspectors that go out, and my understanding is that before a ride can open at a carnival, it must be inspected by the ride safety inspector from the Department of Community Affairs.

ASSEMBLYMAN PAYNE: That's one of the questions I have for DCA now, because--

MR. ZUCKER: And that's true. May I also add this: There is now a member of the carnival industry on the Advisory Board for Ride Safety, and they -- the Outdoor Business Association and the Carnival Association are fully involved in cooperating with the Department of Community Affairs. The Department of Community Affairs sends their ride inspectors out to every carnival, and they watch the rides being set up. They inspected the rides. When a person or a patron goes to a carnival in New Jersey, they should rest assured that these carnival rides have been inspected by the State and that they've been

maintained and constructed in accordance with the best industry standards that are available.

MR. McGLYNN: Mr. Chairman, there is also a requirement in the regulation that if there is an injury on a ride, whether it be at a fixed park or carnival ride, and the injury is deemed to be substantial, that they must notify DCA immediately and shut down the ride until such time as an inspector from DCA comes out and looks at the ride, and then authorizes the ride to be opened.

ASSEMBLYMAN PAYNE: For DCA, I suppose for the record, I really would like to see a report, a record of the number of times that these carnivals in the past several years have been inspected and, in fact, shut down. I feel assured that you're obviously speaking from your perspective as a representative of the industry, and say ours is the very best in the whole country, and I'm sure that that's an unbiased opinion. But I would really like to know from DCA just the record of some of these traveling carnivals and circuses, etc. -- whether or not there have been any that have been shut down.

I'm going to call Mr. Cryan, right now, to have some questions.

ASSEMBLYMAN CRYAN: Thank you, Chairman.

How many members in your Association?

MR. McGLYNN: Approximately 200, Mr. Cryan.

ASSEMBLYMAN CRYAN: And who would -- give us some of the more prominent members?

MR. McGLYNN: Let me start with North Jersey and say Land of Make Believe, in Hope; Great Adventure; the Jenkinson's, Point Pleasant Beach;

Casino Beach Pier, in Seaside Heights. I don't want to -- the amusement park in Keansburg, which--

ASSEMBLYMAN CRYAN: I don't want to get you in trouble either, or get somebody--

MR. McGLYNN: No, no. That's okay.

ASSEMBLYMAN CRYAN: You're on the payroll. You'll be there.
(laughter)

MR. McGLYNN: And by the way, I would make this available to any member who desires. We have a brand new one coming out in May, which is a directory of the membership of the New Jersey Amusement Association.

ASSEMBLYMAN CRYAN: Through the Chair, I'd like to ask for a copy of that for the members, if that's okay?

MR. McGLYNN: Fine. I'd be happy to.

ASSEMBLYMAN PAYNE: Yes, that would be fine.

ASSEMBLYMAN CRYAN: And do you have any idea of how much revenue or how much do amusement parks generate to New Jersey's economy? Do you have any idea of that?

MR. McGLYNN: I do not, but it's not only the revenue generated to the State. It's also the employment that is generated as a result of that revenue.

ASSEMBLYMAN CRYAN: I'm going to ask about workers in a minute.

MR. McGLYNN: It is huge from the standpoint that tourism is the second largest industry in the State of New Jersey. So to give you -- I think the Treasurer could give you a better revenue figure than I could without-- I'd have

to poll each one of my members, and I don't think they want to tell me what their gross revenue is -- and then I'd want an increase, and they won't give it. I'm sorry.

ASSEMBLYMAN CRYAN: Well, I want to ask -- first off, do you know -- either one of you -- can you report, were there any incidents in the past year, or do you know how many, where there were injuries that caused the ride to shut down; or whether there were incidents where rides either caused a delay of people exiting, getting off a ride within 15 minutes of being on?

MR. McGLYNN: I can answer that I know there were. I can't give you numbers. I know DCA tracks those numbers; and specifically, Mr. Connolly and Mr. Osworth's organization within DCA has that information.

ASSEMBLYMAN PAYNE: We'll request that from DCA.

ASSEMBLYMAN CRYAN: What is the definition, Mr. Zucker, of substantial, when you mention that the injury had to be substantial?

MR. ZUCKER: The injury does not -- in order to -- the current regulations require rides to be shut down when an injury is-- It doesn't usually use -- it doesn't use the word substantial. But when an injury requires something more than initial first aid, a ride has to be shut down.

ASSEMBLYMAN CRYAN: Okay.

MR. ZUCKER: And it cannot be reopened until the ride has been inspected--

ASSEMBLYMAN CRYAN: And checked.

MR. ZUCKER: --until they get clearance from the Department.

ASSEMBLYMAN CRYAN: Okay. Tell me about worker training and ride training, and how those standards are developed. I'm going to ask you, because you mentioned best practices.

MR. ZUCKER: Sure.

ASSEMBLYMAN CRYAN: And if you could answer for me in two ways -- one would be the Great Adventures of New Jersey, as opposed to the Elks' carnival type of situation where they bring rides in. And could you -- you mentioned that you were on the Commission, so could you enlighten me in terms of what that is?

MR. ZUCKER: I'm not on any commission. I'm the counsel to the New Jersey Amusement Association. But I can enlighten you to this extent -- there are regulations, regardless of whether it's Great Adventure or a two-ride carnival coming into the State of New Jersey. There is a requirement that the operators be trained according to manufacturers' recommendations, and a certification be made available to the State inspector proving that they were trained accordingly. Now, the training may vary from the larger parks to the smaller parks, but at a minimum, they are trained to manufacturer recommendations.

ASSEMBLYMAN CRYAN: So is it the process then? And what I'm really interested in is these traveling--

MR. ZUCKER: Right. I understand.

ASSEMBLYMAN CRYAN: --for lack of a better way put it. When they come into a particular facility, and they're sponsored generally by a civic organization of some type, they produce-- Is it your understanding that they produce certifications of training for each employee that's on their payroll?

MR. ZUCKER: It's my understanding that they must have available, and for the inspector to review, certifications of training. Sure. You can't just say he or she has been trained. They have to have been trained and they have to have been certified with regard to that training. And the training has to be in accordance with manufacturers' recommendations.

ASSEMBLYMAN CRYAN: Is there anything in those requirements that you know of that talks about incidents within that-- And I'm just going to use a theoretical.

MR. ZUCKER: Go ahead.

ASSEMBLYMAN CRYAN: If the Elks in my home town want to sponsor a carnival, or whatever the right term is, is there anything that, when they get someone to come in and provide these rides, that they have to show a history of either incidents, worker-related training problems, anything of that sort? Is that a documentation requirement of these traveling type of situations, to your knowledge?

MR. ZUCKER: No, it's not.

ASSEMBLYMAN CRYAN: Okay.

MR. ZUCKER: However, that information would be available through the Department of Community Affairs, and especially-- But the answer to your specific question is, no, there is no requirement to produce that.

ASSEMBLYMAN CRYAN: And if I was to use, again using my Elks example, that we hire a specific operator, it is easily available through-- Is it your experience, because I know you're not DCA, but is it easily available information, to call and get the safety history and any worker training incidents?

By the way, are they all covered under DCA? It's not the Department of Labor, I assume, in any way, shape, or form?

MR. ZUCKER: That's not Department of Labor any more.

ASSEMBLYMAN CRYAN: Is it easily accessible information that a community could call and get, or is it something that is either -- you know, drawn out?

MR. ZUCKER: I think, under the Open Public Record Act, under OPRA, it is currently more easily available now than it was before enactment of that legislation. But I have never had an opportunity to go request that information, so I couldn't tell you how easily available it is. I know the Department is in the process of computerizing a lot of the information that they have. But at this point, I can't answer that question specifically.

ASSEMBLYMAN CRYAN: Would it seem, in your mind, would that be something that you or Mr. McGlynn, through the organization, would have any sort of objection to -- if this Committee was to take an aggressive approach of highlighting -- actually, to me, via the Internet, but that would be-- But certainly making it easily accessible -- worker-related training issues and incident requirements for a particular owner/operator?

MR. ZUCKER: No. We would be happy to work with the Committee and coming up with a system that the Committee would feel would be useful to its constituents.

MR. McGLYNN: Assemblyman, if I may just respond by indicating that I think, for example, the Elks Club in Union wants to bring a carnival in. I think that there is the ability for the Elks Club to call DCA, although I'm not positive of this, and say, "We're considering bringing in Ed

McGlynn's carnival, can you tell me what kind of record they have in operating their rides?" But, sir, we would welcome working with you, if that's your desire, to make sure that that information is available to anyone who wants to sponsor one of these.

ASSEMBLYMAN PAYNE: Mr. Cryan, let me just interject this, if I may. DCA obviously has the answer, or these are questions that should be directed to them.

ASSEMBLYMAN CRYAN: Oh, no. No question. I just wanted their view.

ASSEMBLYMAN PAYNE: Right.

ASSEMBLYMAN CRYAN: But would your organization have an objection if there was a piece of legislation that said, "Look, before you go in and certify these carnivals, that you show a safety document that shows a related incident history?"

MR. McGLYNN: It's difficult, because I'd have to meet with the membership of the organization, and I don't want to avoid your question. We'd love to work with you to craft legislation, because we've had an excellent working relationship, even with the former Assemblyman who was the one that got this all started and transferred it all to DCA. If we could be of assistance to you in drafting that, we would love to do that.

ASSEMBLYMAN CRYAN: And, because I know my time's up, my last question is -- I'm getting the hint that my time is up -- my question is, you were there for the development of best practices. Is that correct to some extent?

MR. ZUCKER: Yes, to some extent, I was.

ASSEMBLYMAN CRYAN: And best practices was developed through -- how? Other states? Could you just give some idea in terms of things-

MR. ZUCKER: Sure. There are voluntary standard-setting organizations, such as the American Society of Testing and Materials, otherwise known as ASTM, which has committees dedicated to the design of regulations and standards for the amusement industry. I think there are probably 12 right now. Recently, they enacted a new world standard, which contains similar types of regulations and standards to the one that New Jersey has. New Jersey was there first, though.

ASSEMBLYMAN CRYAN: But are they applicable to these -- and again I'm off the Great Adventures--

MR. ZUCKER: Right.

ASSEMBLYMAN CRYAN: --are they applicable to these traveling carnivals?

MR. ZUCKER: Absolutely.

ASSEMBLYMAN CRYAN: Okay.

MR. ZUCKER: Absolutely. And if I may, also, just say one other thing. During the process of developing these regulations, the New Jersey Amusement Association and the Department of Community Affairs brought in panels of experts -- ride manufacturers from Switzerland, from other countries in Europe -- and sat down with them and said, "What would be reasonable? What would be safe?" And the resulting product is, again, unique to the industry. It was developed and crafted over many, many months of work, and given the best experts available.

ASSEMBLYMAN CRYAN: Thank you.

ASSEMBLYMAN PAYNE: Thank you, Mr. Cryan.

Mr. Fisher.

ASSEMBLYMAN FISHER: These traveling amusement companies, they're also members of your Association?

MR. McGLYNN: Some of them--

ASSEMBLYMAN FISHER: Many?

MR. McGLYNN: Well, two are actually -- two of the traveling shows are based in New Jersey, Assemblyman. But the Outdoor Amusement Business Association, which is the trade organization for the traveling carnival shows, is a member of our Association. And they have their own executive director, who is based in Winter Haven, Florida. But they are members of our Association.

ASSEMBLYMAN FISHER: Thank you.

The reason I asked that question is, I understand, and I'm fully aware, that you have a training program, and that the amusement ride operators have to go through training. And they're not just going to turn it over to someone. On the other hand, as an observation, I've noticed that in many of these traveling shows there is not that-- They may have the training that says, "This is the lever you pull. And this is the thing that you do. And here's how the ride works." But I sense a growing sort of conduct where they, sort of, don't pay attention to what's going on, on those rides. I've seen it in many of these small traveling shows at county fairs and the like; also, parking lots and some of those others. I understand that you don't -- while the Association is a

member of your group, it may or may not -- you may not have that, sort of, oversight on some of these traveling companies.

MR. McGLYNN: We are happy to convey to the Outdoor Amusement Business Association your concerns. But just let me say that DCA is as interested, from our discussions with DCA, to make sure that the carnival ride operators are operating as proficiently as the fixed park operators. And I know they are paying a great amount of attention to what's happening with the carnival shows in New Jersey. But we're happy to work with you to make sure that that's conveyed to the Outdoor Amusement Business Association.

ASSEMBLYMAN FISHER: Thank you.

The reason I'm asking that -- is there, in fact, a sort of code of conduct as to what's expected of ride operators? For instance, that you have to stay with the ride, you need to keep your eyes totally on the operation of that facility. Because I have seen it personally where an operator, frankly, even not in a fixed setting, sets it in motion, goes about his business talking to somebody, and really isn't -- you don't sense that full responsibility that he should have.

MR. McGLYNN: All operators are trained to do what you want them to do. There are foibles that, I guess, everyone of us that deals with employees has to deal with. I mean, they're trained how to start the ride. Most rides have switches on them that their foot must stay on. I'm talking about the smaller rides now, not the gigantic roller coasters, because they're all run by computer. Most rides have switches that -- where an operator must keep his or her foot on that switch. If they remove their foot, then the ride automatically stops and comes down to its bottom position. But are they supposed to watch

the ride during the entire time it is operating? The answer is yes, and watch all the people on the ride.

ASSEMBLYMAN FISHER: So there is a code of conduct?

MR. McGLYNN: There is. In fact, you will find at many fixed park operations a checklist every morning as to what-- "I know what I'm supposed to do. This is how I operate the ride." They go over it with them again every morning. During the day, a manager will come about and say, "You need to make sure that you're following this procedure. Now, sign off on here. I've watched you. You've been doing it. Continue to do it." That type of thing.

ASSEMBLYMAN FISHER: Thank you.

ASSEMBLYMAN PAYNE: Thank you, Mr. Fisher.

Let me point out, obviously there's a lot of interest. And as I mentioned before, this is the season it's starting for these, particularly these traveling circuses and carnivals that Mr. Cryan talked about -- is the local Lions Club, or what have you. And I, too, have observed some of the kinds of haphazard manner in which some of these operators function. Some of them seem like they're just picked up off the street anyway. A lot of these people that work in some of these places seem like it was a pick-up job, that they may have come to work there. I would really be interested from DCA, and I think, hopefully, DCA -- someone here from DCA taking notes? We will convey to DCA the concern about these matters, because now is the time that this is beginning, as we said. This is the season that these programs or these entertainments start up.

There's obviously a lot of interest in this. And many folks cannot afford to go out to Great Adventure and these others places and, in fact, rely upon the church fairs and those kinds of things. And it seems to me that those are the ones, sometimes, where there may be some lax kind of monitoring of them. And I think maybe in a lot of instances a municipality is responsible for doing these. You can't answer all these questions -- you will convey to that association. But it really is the responsibility of DCA to report back to us, I suppose, on the kinds of questions that are raised. And I do hope that they will be able to do that.

I don't know whether we'll need to have another hearing in the next six months or so, but the questions about whether or not there's been any serious kinds of incidents at any of these places -- we haven't been able to get that answer. Whether or not there's a regular monitoring of these things -- we haven't been able to get that answer. And I hope that we'll be able to get them.

Let me ask you a question that may be germane to your organization. Frequently, and I receive mailings from -- I think it's PETA -- the prevention of, the organization that looks out for the care of animals, etc.

MR. McGLYNN: People for the Ethical Treatment of Animals.

ASSEMBLYMAN PAYNE: Yes. Yes. Yes. Sometimes I see rather horrific kinds of photographs, or even videos, of the treatment of many of these animals that are in some of these traveling circuses, or even in the circus. I don't know whether or not your Association -- probably does include some of these circuses that have them. But what about zoos and things like that, petting zoos and things of that nature? Are they in your--

MR. McGLYNN: Our Association does not include any of the circuses or any of the zoos. There is -- let me categorize, or let me just say that, I don't remember seeing them on the membership list. I have dealt with this issue on behalf of the Outdoor Amusement Business Association, once with a traveling circus. They are not members of our Association, so I don't know that I'm going to be able to answer any question about the treatment of animals throughout the state.

ASSEMBLYMAN PAYNE: I don't know if anyone else has even seen these, but the conditions under which many of these animals -- these wild animals that are trained and abused, etc. I'm just wondering whether or not -- and I would imagine DCA would probably be responsible for that area also. They have petting zoos, because somebody has to make sure that the animals that are brought there are, in fact, healthy, etc., etc., etc. I don't know whether the Agriculture Department does that, or whatever? But it would seem to me that these might be able to come under DCA. So we're going to have to look at that.

MR. McGLYNN: Mr. Chairman?

ASSEMBLYMAN PAYNE: Yes.

MR. McGLYNN: I remember the last time I dealt with this, it was actually a DEP regulation. So you may want to look there.

ASSEMBLYMAN PAYNE: Thank you very much.

ASSEMBLYMAN CRYAN: Just one quick question.

ASSEMBLYMAN PAYNE: Yes.

ASSEMBLYMAN CRYAN: Actually, two. Great Adventure has a safari, though, right?

MR. McGLYNN: Yes, they do.

ASSEMBLYMAN CRYAN: So is that with you fellows, or is that--

MR. McGLYNN: Yes. Great Adventure is a member of our organization. I think they're also members of the American Zoological Association.

ASSEMBLYMAN CRYAN: The AZA.

MR. McGLYNN: I know the Bridgeton Zoo is a member of the American Zoological. Jenkinson's has an aquarium, which is a member of that organization, also, which is a national organization.

ASSEMBLYMAN CRYAN: Is there ever a time, to your knowledge, when an operator is permitted to run two rides at a simultaneous time -- in anywhere, whether it's in the street carnival or whether it's in the larger established place? Is that ever permitted?

MR. ZUCKER: Not to my knowledge.

MR. McGLYNN: I didn't mean to be smart--

MR. ZUCKER: One at a time.

MR. McGLYNN: --but the way I understand the kiddie rides, in particular, your foot must be on the pedal in order for it to turn.

ASSEMBLYMAN CRYAN: I caught that when you said it, but having witnessed it, I just had to ask.

MR. McGLYNN: So you'd have to have either rides very close to one another, or--

ASSEMBLYMAN CRYAN: Well, they're not all foot peddled, true? They're not all foot pedal?

MR. ZUCKER: No. There is a requirement, that went into effect approximately three years ago, that the safety foot pedal device, which would be basically a kill switch if the person removes their foot, go into effect for these kiddie rides.

ASSEMBLYMAN CRYAN: Is it in effect now or is it a phased-in situation?

MR. ZUCKER: No, it's in effect now.

ASSEMBLYMAN CRYAN: It's in effect now?

MR. ZUCKER: Yes. And if you see a ride that doesn't have that, I would say that that ride would not have gotten approved.

MR. McGLYNN: And DCA should, when they inspect that ride, would normally not permit that to open. I mean, you need-- DCA has been very aggressive in this area, and we commend them for that. Because, as I said, safety is the cornerstone. And if there are rides operating, there is a 24-hour hotline that anyone can call at DCA and say this is happening, and they'll come out and shut that ride down. They're working weekends during the summertime. They're working late at night. So they've been very good in doing that.

ASSEMBLYMAN CRYAN: And you've been really helpful.

Thank you.

MR. ZUCKER: Can I just add one thing to an answer -- something to an answer that I gave to a specific question?

ASSEMBLYMAN PAYNE: Yes, Mr. Zucker.

MR. ZUCKER: Thank you.

The regulations that went into effect in December of 2002, which really impose some new regulations and requirements for training of operators--

ASSEMBLYMAN PAYNE: Those are ride regulations?

MR. ZUCKER: Yes. And I understand Assemblyman Fisher's concern about what he may have observed. But I'm hoping that, going forward, that that will not occur, because there are now specific regulations that take into account--

For example, really briefly, "The operator and operator assistant shall be trained to be aware of the motions and sounds attributable to the normal operation of the ride. The operator shall be familiar with how the ride looks when it's functioning normally, and be alert to any unusual conditions. If there are any changes to the normal operating conditions, operators shall cease, and the owner shall be called immediately."

There are more comprehensive standards now in effect for ride operator behavior and conduct than there were prior to December of 2002. So I'm hoping that, going forward, these will have an impact and eliminate any of the type of anecdotal situations that you were able to observe.

ASSEMBLYMAN FISHER: Thank you.

ASSEMBLYMAN PAYNE: Thank you very much.

Assemblyman Rooney, you have something that you would like to raise here?

ASSEMBLYMAN ROONEY: No.

ASSEMBLYMAN PAYNE: Oh, I thought that you were--

MR. ZUCKER: I also have a summary of the program requirements of the Carnival and Amusement Ride Safety Program, that was

published by the Department of Community Affairs, that I'd like to leave with the Committee, too.

ASSEMBLYMAN PAYNE: All right.

Let me just conclude this hearing, Mr. McGlynn, by saying that we appreciate your appearance here, the two of you. Some questions have been raised, one of which has to do with, as I mentioned, the animals, the safari, etc. That organization is not a member of -- the animals, petting zoo, is not a member -- But, as was pointed out by Mr. Cryan, the Great Adventure and the other ones do have the safaris, and therefore it would seem to me that there might be some organization there that regulates them. I'm hoping that DCA will be able to give us some of the answers that have been raised here today.

MR. McGLYNN: That's fine.

ASSEMBLYMAN PAYNE: And the fact that this is the propitious time to have this hearing, because the season is beginning now; and also, you want to get back to Atlantic City, I'm sure, and you might raise--

MR. McGLYNN: No, I really don't want to, but-- (laughter)

ASSEMBLYMAN PAYNE: --some of these points with some of the members that you will be with today.

MR. McGLYNN: We have a board meeting at 4:00, and we will raise those.

ASSEMBLYMAN PAYNE: And I'm very glad to know that New Jersey is -- and based upon public records -- New Jersey seems to be at the top, if not at the very top, of ensuring that this industry is regulated with the interest of providing safety for the patrons.

MR. McGLYNN: And Mr. Chairman, if you'd like, at any time, we're willing to come back. We'll bring our owners and operators, also, who are the actual people who are on the ground every day, to answer questions, if you desire.

ASSEMBLYMAN PAYNE: Thank you very much.

MR. McGLYNN: Thank you.

MR. ZUCKER: Thank you.

ASSEMBLYMAN PAYNE: This hearing is concluded.

Thank you.

(MEETING CONCLUDED)