

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BUREAU OF COMMERCIAL SERVICES – LICENSING DIVISION
2501 Woodlake Circle, Okemos, Michigan 48864-5955**

CARNIVAL-AMUSEMENT SAFETY BOARD

BOARD MEETING MINUTES

October 27, 2006, 10:00 a.m.

In accordance with the Open Meetings Act, 1976 PA 267, as amended, the Carnival-Amusement Safety Board met in Regular Session on October 27, 2006 at the Department of Labor & Economic Growth, Bureau of Commercial Services, Second Floor, Conference Room 1, 2501 Woodlake Circle, Okemos, Michigan 48864.

CALL TO ORDER

The meeting was called to order by Chairperson Kipling at 10:10 a.m.

Present:	Kurt G. Kipling	Chairperson
	Martin J. Heppler	Member
	Douglas S. Schmidt	Member
	David O'Neill	Member
Absent:	Douglas P. Clark	Member
	Carrie E. Jones	Member
Staff:	Archie Millben	Director of Enforcement
	Ann Millben	Licensing Administrator
	Diane Otis	Assistant Licensing Administrator
	D. Mark Doman, PE	Inspection Manager
	Tim Slattery	Inspector
	Jeannine Benedict	Administrative Rules Specialist
Visitors:	E.J. Brown	Michigan Association of Fairs & Exhibitions
	Lyle Brewster	Brewster Insurance Agency
	Adam Schmidt	Son of Board Member Schmidt

ADDITIONS TO OR DELETIONS FROM AGENDA

None.

APPROVAL OF MINUTES FROM THE MEETING HELD OCTOBER 29, 2004

MOTION: Mr. Heppler moved to approve the minutes from the board meeting held on October 29, 2004. Mr. Schmidt seconded and the motion passed unanimously.

APPROVAL OF MINUTES FROM THE MEETING HELD OCTOBER 28, 2005

MOTION: Mr. Heppler moved to approve the minutes from the board meeting held on October 28, 2005. Mr. Schmidt seconded and the motion passed unanimously.

APPROVAL OF MINUTES FROM THE MEETING HELD MARCH 31, 2006

MOTION: Mr. Heppler moved to approve the minutes from the board meeting held on March 31, 2006. Mr. Schmidt seconded and the motion passed unanimously.

PUBLIC COMMENT

Mr. Brewster noted that he had visited a park near Traverse City where the go-kart track had solid wood or concrete rails about 8-10 inches high with no cushion at all and suggested that the inspectors might want to look at it to determine if it is safe for the public. He asked if there were guidelines for barrier rails. Mr. Doman responded that the rules do not address how solid the barrier rails need to be or whether any cushioning is necessary. It only requires that if tires are used, they must be bound together. Mr. Heppler agreed that the rules do not dictate any absorption methods for guard rail systems, which was his major concern regarding rail systems, as he considered cushioning necessary for public safety.

Mr. Slattery added that Michigan's rules don't specify a design for barrier rail systems and neither do the ASTM Standards. An inspector at that park would not have the authority to insist on a change. He agreed that it is preferable to have some means of absorbing shock, but an inspector cannot site something that is not specified in the rules. He noted that the track in question was probably more than twenty years old. Mr. Heppler stated that the inspectors do a good job of pointing out areas of concern, but it is up to the operator to make changes.

STAFF REPORTS

Enforcement Division

Discussion of ASTM F24 Standards – 7th Edition

Mr. Doman noted that the 7th Edition was published in 2004, but many things have changed since then. He noted that there were 32 work tasks open, nine new standards and 23 variations, among which are some that relate to go-karts. With the opportunity to consider go-kart standards again, he stated that he would review whether some type of cushioning should be required in barrier rail systems. He added that the next edition would most likely not be published until 2009.

Mr. Doman stated that one of the work tasks was concerned with racing go-karts, which was a new category, and that there were two or three racing go-kart tracks in Michigan. He noted that there were more standards about inflatables, bumper boats, and netting used in amusement rides.

Mr. Doman summarized the changes from the ASTM Standards from the 6th Edition to the 7th Edition, which primarily involved incorporating new design standards into the existing standards. He did not consider that the changes would affect many rides in their daily operations. He stated that the Committee revised the old design standard making it apply to miscellaneous and patron-directed rides. The new design standard just created was for rides that are not patron-directed, such as dry slides. They also added a water-quality standard on interactive play equipment and a new standard for amusement railway tracks.

2006 Amusement Season

Mr. Doman stated that most of what is new are at the fixed parks. There are three large carousels now, two in malls and one in a zoo. The zoo's carousel is a huge, custom-made wooden-horse carousel from Mansfield, Ohio. One of the malls in Detroit now has a double-decker carousel. He noted that two new water parks were opening and a number of miniature trains were installed, one in a mall in Detroit.

Safety Outreach Program

Mr. Doman stated that the Department staff has continued their Safety Outreach program with a summer press release about rider safety, which focuses on the part that rider's have in rider safety. He noted that it has been documented that roughly 80% of accidents are caused by riders' behavior on the ride. He added that nationally only 5% of incidents are caused by equipment failure, so inspecting the rides only solves a small percentage of the causes of accidents. The other 15% of incidents are caused by the operators.

Mr. Doman stated that the press release informed the public of a cable television show with the Department's Director and Mr. Doman discussing the role the public has in amusement safety. The Governor also proclaimed Amusement Ride Safety Week for the July 4th week. Mr. O'Neill asked in what areas the television show was on. Mr. Doman replied that it was a cable show and any cable station could pick it up. He suggested that board members call their local cable companies and ask to have it shown in their area.

Statistics

Mr. Doman stated that the number of injury reports received is down, but was unclear as to the reason. He noted that there were eight injuries at go-kart tracks, all from the Kokomos track, who report every incident. The worst injury was to an employee's ankle, who went between the karts when the track was not shut down. The other injuries were very minor. He added that this track was reporting more incidents than he had expected when the reporting forms were standardized.

Mr. Doman discussed the Fireball ride and the incident of the death of a boy that summer who collapsed after riding it. The ride did not have high acceleration, and the investigation results showed that the boy had a previous heart condition. It was determined that his death was not caused by the ride. Mr. Doman noted that there was one other injury on that ride, due to someone who tripped and fell getting off of the ride and injured their face. Mr. Slattery is investigating that incident.

Mr. Doman discussed two injuries on a waterslide, caused by operator error. A warning was blinking that there was no water in the slide, but the operator disregarded the warning and sent two people down anyway. They only had bruises and were not seriously injured.

Mr. Doman considered the worst injury on a ride to have happened on a new ride called the Skater. The ride looks like a skateboard and has an array of seats on a platform that revolves and spins. The car has an attached sign that travels with the car. The welding holding the sign onto the car broke and the sign fell on two people and injured them. The sign and the pedestal were substantially built and quite heavy, subjected to air currents and vibrations as the car spins. Mr. Slattery stated that he expected the manufacturer to send technicians to the meeting that resulted from this incident, but the manufacturer's attorney also came to the meeting. Mr. Slattery and the Department staff are working with the manufacturer to resolve the problems, but there is litigation involving the manufacturer.

Mr. Doman noted that the only other injury involved a kiddie jeep ride, where a pin backed out causing the sweep to come out of position. It dropped down and stuck into the platform. The jeep stopped suddenly and the next jeep ran into it and caused the boy in the first one to fall forward and injure his nose. Local officials became involved in that incident, which resulted in the Department being contacted. Mr. Doman expressed appreciation for that contact, as the ride operator might not have reported it, and it gave Mr. Doman the opportunity to discuss the incident reports with the owner.

Mr. Doman stated that there had been three mechanical failures, but they were very routine and had been reported routinely. One was a problem on a Mad Mouse ride where an electrical current sensor overheated and ceased to function, resulting in one car bumping into another one. The incident was reported to the Department staff, but in the meantime the owner found other owners who had incidents on the same ride and discussed what solutions were used. However, the Department's policy is that the owner must use the manufacturer's solution for the problem, even if they know about a better solution. It is a delicate issue and the Department staff must tread lightly. Mr. Kipling asked if the manufacturers were open to other solutions, but Mr. Doman replied that it appeared not.

Mr. Doman stated that the Department staff received a report of an unlicensed go-kart track in South Haven. It has been operating for over twenty years. About fifteen years ago there was a lawsuit initiated by the Department after an injury. The lawsuit was taken to the local county prosecutor, but it was thrown out of court, primarily because Michigan law and rules did not govern go-kart tracks at that time. They do now.

Mr. Doman and Mr. Slattery went to the go-kart track as interested members of the public and concluded that it appeared to be operated in a reasonable manner for the most part. However, there was an injury there where a mother needed to take her son to the hospital with internal chest injuries. When the mother complained to the track owner/operator, a sign was pointed out to her that stated that all persons ride the go-karts at their own risk and the owner of the go-kart track was not responsible. They had to go to the hospital on their own. The doctor at the hospital who treated her son told her that there had been another injury just weeks earlier that was far worse, but the Department staff has not been able to find any more information about that injury. The available data has been sent over to the Attorney General's Office for advice on what can be done and how the Department should handle this go-kart track.

Mr. Slattery stated that he was very involved in the previous lawsuit against the go-kart track over a three-and-a-half year period. He had discussed it with the prosecutor in many meetings and had inspected the track numerous times, which was well-documented. There were anticipatory ride rules at that time, but they didn't specifically include go-karts. The prosecutor in that side of Van Buren county filed the lawsuit, but the head prosecutor in South Haven saw the lawsuit as a political maneuver against a prominent family and took it to a sympathetic judge. The judge ruled that go-karts were not an amusement ride. The Department staff made a valiant effort to argue the case and it eventually went to the Attorney General, but nothing more happened with it.

Ms. Millben asked Mr. Doman if there is an open case right now. She was concerned that the Board not get involved if there was an ongoing investigation. Mr. Doman replied that since it was sent to the Attorney General's Office, he had not heard anything more about it. Ms. Millben thought it appropriate for the Director of Enforcement to contact the Attorney General's Office regarding the status of it.

Incident Reporting

Mr. Doman stated that he was working on expanding incident reporting. He would like to have reliable, routine reporting of incidents. He had been involved with national groups to discuss how other jurisdictions handle incident reporting. There is an unfortunate perception that those who report more incidents are the worst operators, which he feels is untrue. He is attempting to educate operators in that regard. He had been speaking to many operators about incidents, in that he only wants to know that they have seen an incident and considered how to solve the problem that caused it so it doesn't happen again.

Mr. Doman mentioned that on the next Friday morning, November 2nd, he would be addressing people from fairs and festivals on tips about hiring a carnival. He noted that he would be speaking about many other safety items also, including festival responsibilities. The co-speakers would be Debbie Elliott and Matt McDonnagh.

Turbo Force

Mr. Doman stated that this ride had been prohibited from operation for the last two years after a failure caused a severe injury in another state. There had also been failures in Michigan and Florida. He noted that they had worked through the deficiencies and had operated successfully at two fairs this year. It had operated at the Michigan State Fair and at Berrien Springs without incidents.

New Rides

Mr. Doman stated that there are two new rides that the Department staff is studying. One is the Space Probe, where people ride up a tube in a ball under air power. He had not yet seen it, but would be observing it to determine if it is an amusement ride. He considered that it probably was.

The other ride is the X-treme Air, operated by TjohnE of Grand Rapids. They use a DC3 propeller powered by a 1600 hp motor. The rider rides the air stream from the propeller much like a parachute jumper in free fall. It is generally operated on low speed with instructors spotting and coaching. It is a Michigan company, but has national attention because other jurisdictions are looking at the same questions regarding what is a "ride" and whether such items need to be licensed. Mr. Doman asked to see the ride, but was told it will not operate in Michigan. He was also considering the possibility that it is parachute-jumping and would not be regulated by the Department, but wanted thoughts from board members.

Mr. Heppler responded that he had seen it in Las Vegas, and noted that there was also one in Florida. He wasn't sure it could be considered a parachute jump as there was not a parachute. Mr. Doman replied that the free-fall aspect of it was similar to a parachute jump. He considered that if they don't operate in Michigan, it is a moot point, but since the company is based in Michigan, he is getting questions from other states regarding it. It has been prevented from operation in New Jersey, who do consider it an amusement ride.

Mr. O'Neill suggested that it might be a MIOSHA issue for the safety of the employees, who are using it to test it. Because it is manufactured in Michigan, and their employees are using it, that might be a method of regulating it. He considered that from an engineering standpoint it is a safety issue if it is available to either employees or the public. Mr. Brewster added that he had seen this ride on television, where it was being demonstrated in Hawaii. An employee would go with a person the first time to help and instruct, then the person would go by himself. Mr. O'Neill commented that it seemed more like sky-diving than anything else.

Mr. Slattery stated that this was not the first time he had seen this device. He viewed it as a potential unlicensed activity problem. Mr. Doman noted that the first device he mentioned would most likely be considered a "ride," as there was a bubble that people entered to ride up in it. He added that Mr. Slattery was organizing the efforts to get more information about both devices and they would be looking at both in the next few weeks.

DC Drives

Mr. Doman stated that they had worked with all of the operators of equipment that contain DC drives to determine what type of motors and control systems the equipment has. They are attempting to let operators know what caused the incident where an overdrive caused a ride to get out of control. They wanted to know which other rides were affected and could have the same problem and to alert the operators of those rides to the possibilities. He mentioned that EJ Brown had hosted a meeting, and many people attended who were interested to find out exactly what had happened and why in order to prevent future incidents.

Mr. Brown stated that the fairs association now welcomed Mr. Doman and the inspectors to their meetings to discuss carnival rider safety. He noted that they had done a great job at the last convention in Grand Rapids. He considered that they had made great strides in the last two years to change the image of the Department staff from "big brother" to partners in the industry to improve safety. The next convention would be January 11-13, 2007 in Grand Rapids. He added that they now have a five-year contract to hold the conventions there each year. He extended an invitation to board members and staff to attend this convention.

Mr. O'Neill added that he had been on this board for many years. One of his objectives in joining the board was to work towards having a licensed engineer on staff. He complimented Mr. Doman on a very thorough, professional job. He considered that the results included increased exposure of the board to functions such as the fairs and festivals conventions, in the safety statistics, and in the better-organized inspection programs. Mr. Heppler added that he appreciated the change in the attitude of the inspectors, who now discuss problems with operators and no longer resort to heavy-handed directives unless it is absolutely necessary because of a risk to public safety.

ITEMS FOR CONSIDERATION FROM BOARD MEMBERS

Mr. Schmidt asked whether inflatables would be required to have permits. Mr. Kipling noted that some carnivals are dropping them. Mr. Schmidt stated that his operation had different inflatables than the small ones that people can rent. He purchases large inflatables and trades them in every two years. He added that his staff is very careful to limit the number of children using it at the same time, as well as making sure that only children of a similar size are using it together. He was concerned about being penalized with restrictions because of other carnivals that aren't careful with them. He specifically mentioned how differently businesses who rent them operate, with little or no supervision of the children using them. Mr. Schmidt stated that his inflatables are also inspected by insurance inspectors on a regular basis.

Mr. Doman responded that currently the Department is not regulating them as rides. He added that he is constantly speaking to people about inflatables and what is necessary to operate them safely. Several people were starting new businesses and he discussed the Department's position regarding inflatables thoroughly including their safe operation.

Mr. O'Neill stated that the process of bringing inflatables under the jurisdiction of the board would be a long process. He considered it a separate issue from whether Enforcement can inspect and enforce the rules due to staffing resources. He suggested that the board proceed with the process as step one. Ms. Millben stated that the board had a committee to determine whether inflatables fit the definition of "ride" and whether they should be licensed, but the committee was discontinued when two of the committee members were not reappointed to the board. If it is determined that they are "rides," the Department has no choice but to inspect them. But because the Department cannot hire more staff, it is possible that at some point other carnival rides would not be inspected in as timely a manner, because of the shortage of available inspectors.

Mr. O'Neill reiterated that bringing inflatables under the jurisdiction of the board was one issue and how to inspect them is a secondary issue. The second issue is administrative. The first is public safety. He considered that as a board, they should focus on the public safety aspect. Mr. Kipling wondered if they were safe enough to continue with the current procedure, rather than take inspectors away from inspecting carnival rides. Mr. O'Neill responded that the board's concern is whether an inflatable is a "ride" and comes under the jurisdiction of the Carnival-Amusement Safety Act. Mr. Kipling considered that the issues go together.

Ms. Millben asked if there were statistics for injuries on inflatables. She considered that there would have to be evidence of major public harm and a need for the inflatables to be inspected. Mr. Doman responded that it is a continuing problem and the Consumer Product Safety Commission had reported it. The amusement injury statistics remain even if the inflatables are excluded, but if you add them, the number of injuries goes up. Mr. Kipling suggested that the Department ask the local city and county officials or the fire marshal to inspect them. They could charge a fee to cover the cost of inspecting inflatables. Mr. Brown noted that in any county there are a number of jurisdictions overlapping each other and who would take that responsibility to inspect them is the question.

Mr. O'Neill quoted some statistics from the minutes from the March 2006 board meeting. At that meeting Mr. Doman had given Pennsylvania statistics as 23 injuries per thousand on devices that are being regulated. In Michigan there were 40 injuries per thousand. He considered that the statistical evidence shows that regulation improves public safety. Ms. Otis expressed concern that if a parent brings a child to a carnival ride where it is stated that it is regulated by the Department, but the Department does not have the staff or adequate resources to actually inspect that ride, it would be misleading to the public.

ELECTION OF OFFICERS

MOTION: Mr. Schmidt moved to nominate Mr. Kipling as Chairperson and that the nominations be closed and a unanimous ballot be cast. Mr. Heppler seconded and the motion passed unanimously.

MOTION: Mr. Schmidt moved to nominate Mr. Heppler as Vice-Chairperson and that the nominations be closed and a unanimous ballot be cast. Mr. Kipling seconded and the motion passed unanimously.

NEXT MEETING DATE

The next regularly scheduled meeting of the Board of Carnival-Amusement Safety Board will be on March 30, 2007 at 10:00 a.m.

ADJOURNMENT

MOTION: Mr. O'Neill moved to adjourn the meeting. Mr. Heppler seconded and the motion passed unanimously.

There being no further business at this time, the meeting was adjourned at 12:07 a.m.

_____/s/_____
Kurt G. Kipling, Chairperson

_____10-25-07_____
Date

_____/s/_____
Ann Millben, Licensing Administrator

_____10-25-07_____
Date