

AMENDED IN SENATE APRIL 4, 2013

SENATE BILL

No. 256

Introduced by Senator Lieu

February 13, 2013

An act to amend ~~Section 51 of~~ *add Part 8.2 (commencing with Section 7940) to Division 5 of the Labor Code, relating to employment.* ~~trampoline courts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 256, as amended, Lieu. ~~Director of Industrial Relations.~~ *Trampoline courts: safety inspection.*

Existing law establishes the Permanent Amusement Ride Safety Inspection Program and requires the Division of Occupational Safety and Health within the Department of Industrial Relations to propose rules and regulations for adoption by the Occupational Safety and Health Standards Board relating to permanent amusement ride safety for the protection of the general public. The program exempts certain amusements from its provisions, including trampolines and stationary spring-mounted fixtures.

This bill would establish a state program to inspect trampoline courts, as defined, for the protection of the general public using trampoline courts. The bill would require each owner of a trampoline court to annually submit to the division a certificate of compliance, and to report specified accidents. The bill would make operation of a trampoline court contingent on being insured or bonded in an amount not less than \$1,000,000, or self-insured as prescribed, in accordance with rules and regulations promulgated by the division. The bill would require the division to formulate and propose rules and regulations for adoption by the board regarding trampoline courts, and to adopt rules and

regulations necessary to administer the program. The bill would authorize the division to employ qualified safety inspectors, as defined, for purposes of the program and would require the division to certify inspectors as prescribed. The bill would authorize the division to fix and collect fees to cover the reasonable costs of administering the program, and provide for the imposition of civil penalties for violations of the program or rules and regulations adopted to implement the program. The bill would establish the Trampoline Courts Safety Fund and require fees and penalties collected pursuant to these provisions to be deposited in the fund, as specified, and made available upon appropriation by the Legislature.

~~Existing law establishes the Department of Industrial Relations for specified purposes and provides for its administration by the Director of Industrial Relations:~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 8.2 (commencing with Section 7940) is added
2 to Division 5 of the Labor Code, to read:

3

4 PART 8.2. TRAMPOLINE COURTS

5

6 7940. It is the intent of the Legislature in enacting this part to
7 create a state program for the inspection of trampoline courts.

8 7941. As used in this part:

9 (a) “Trampoline court” means a defined area comprised of one
10 or more institutional trampolines, a series of institutional
11 trampolines, a trampoline court foam pit, or a series of trampoline
12 court foam pits. The division shall determine the specific devices
13 that are trampoline courts for the purposes of this part. This
14 determination shall be made to apply equally to all operators of
15 similar or identical facilities and shall be made pursuant to a
16 procedure promulgated by the standards board.

17 (b) “Institutional trampoline” means a trampoline intended for
18 use in a commercial or institutional facility.

1 (c) “Trampoline court foam pit” means a combination style
2 dismount pit designed with a rebound device, covered with loose
3 impact absorbing blocks.

4 (d) “Operator” or “owner” means a person who owns or
5 controls or has the duty to control the operation of a trampoline
6 court. It includes the state and every state agency, and each county,
7 city, district, and all public and quasi-public corporations and
8 public agencies therein.

9 (e) “Fund” means the Trampoline Courts Safety Fund
10 established pursuant to Section 7949.

11 (f) “Qualified safety inspector” means either of the following:

12 (1) A person who holds a valid professional engineer license
13 issued by this state or issued by an equivalent licensing body in
14 another state, and who has been approved by the division as a
15 qualified safety inspector for permanent amusement rides.

16 (2) A person who documents to the satisfaction of the division
17 that he or she meets all of the following requirements:

18 (A) The person has a minimum of five years’ experience in the
19 amusement ride field, at least two years of which were involved
20 in actual amusement ride inspection with a manufacturer,
21 government agency, amusement park, carnival, or insurance
22 underwriter.

23 (B) The person completes not less than 15 hours per year of
24 continuing education at a school approved by the division, which
25 education shall include inservice industry or manufacturer updates
26 and seminars.

27 (C) The person has completed at least 80 hours of formal
28 education during the past five years from a school approved by
29 the division for amusement ride safety. Nondestructive-testing
30 training, as determined by the division, may be substituted for up
31 to one-half of the 80 hours of education.

32 7942. This part does not apply to any of the following:

33 (a) Any playground operated by a school or local government,
34 if the playground is an incidental amenity and the operating entity
35 is not primarily engaged in providing amusement, pleasure, thrills,
36 or excitement.

37 (b) Museums or other institutions principally devoted to the
38 exhibition of products of agriculture, industry, education, science,
39 religion, or the arts.

1 (c) *Skating rinks, arcades, laser or paint ball war games, indoor*
2 *interactive arcade games, bowling alleys, miniature golf courses,*
3 *mechanical bulls, inflatable rides, ball crawls, exercise equipment,*
4 *jet skis, paddle boats, air boats, helicopters, airplanes, parasails,*
5 *hot air balloons, whether tethered or untethered, theaters,*
6 *amphitheaters, batting cages, stationary spring-mounted fixtures,*
7 *rider-propelled merry-go-rounds, games, slide shows, live animal*
8 *rides, or live animal shows. As used in this section, “stationary*
9 *spring-mounted fixtures” does not include trampolines.*

10 (d) *Trampoline courts operated at a private event that are not*
11 *open to the general public and not subject to a separate admission*
12 *charge.*

13 7943. (a) *The division shall formulate and propose rules and*
14 *regulations for adoption by the Occupational Safety and Health*
15 *Standards Board for the safe installation, repair, maintenance,*
16 *use, operation, and inspection of all trampoline courts as the*
17 *division finds necessary for the protection of the general public*
18 *using trampoline courts. The rules and regulations shall be in*
19 *addition to the existing applicable safety orders and shall be*
20 *concerned with engineering force stresses, safety devices, and*
21 *preventative maintenance. Nothing in this part shall limit the*
22 *authority of the division to prescribe or enforce general or special*
23 *safety orders.*

24 (b) *It is the Legislature’s intent that the rules and regulations*
25 *adopted pursuant to this part be consistent with those adopted by*
26 *the Occupational Safety and Health Standards Board for traveling*
27 *amusement rides, to the extent that those rules and regulations*
28 *are found to be appropriate.*

29 7944. (a) *On an annual basis, each owner of a trampoline*
30 *court shall submit to the division a certificate of compliance on a*
31 *form prescribed by the division, which shall include the following:*

32 (1) *The legal name and address of the owner and his or her*
33 *representative, if any, and the primary place of business of the*
34 *owner.*

35 (2) *A description of, the name of the manufacturer of, and, if*
36 *given by the manufacturer, the serial number and model number*
37 *of, the trampoline court.*

38 (3) *A written declaration, executed by a qualified safety*
39 *inspector, stating that, within the preceding 12-month period, the*
40 *trampoline court was inspected by the qualified safety inspector*

1 *and that the trampoline court is in material conformance with the*
2 *requirements of this section and all applicable rules and*
3 *regulations adopted by the division and standards board.*

4 *(b) The owner of multiple trampoline courts at a single site may*
5 *submit a single certificate of compliance that provides the*
6 *information required by subdivision (a) for each trampoline court*
7 *at that site.*

8 *(c) A certificate of compliance shall not be required until one*
9 *year following the promulgation of any rules or regulations by the*
10 *division governing the submission of the certificates.*

11 *(d) A person shall not operate a trampoline court that has been*
12 *inspected by a qualified safety inspector or division inspector and*
13 *found to be unsafe, unless all necessary repairs or modifications,*
14 *or both, to the devices at the facility have been completed and*
15 *certified as completed by a qualified safety inspector.*

16 *(e) For the purposes of satisfying this section, a qualified safety*
17 *inspector shall meet the requirements in subdivision (e) of Section*
18 *7941 and shall be certified by the division. Each qualified safety*
19 *inspector shall be recertified every two years following his or her*
20 *initial certification. A qualified safety inspector may be an*
21 *in-house, full-time safety inspector of the owner of the trampoline*
22 *court, an employee or agent of the insurance underwriter or*
23 *insurance broker of the trampoline court, an employee or agent*
24 *of the manufacturer of the trampoline court devices, or an*
25 *independent consultant or contractor.*

26 *(f) The owner of a trampoline court shall maintain all of the*
27 *records necessary to demonstrate that the requirements of this*
28 *section have been met, including, but not limited to, employee*
29 *training records, maintenance, repair, and inspection records for*
30 *each trampoline court, and records of accidents of which the*
31 *operator has knowledge, resulting from the failure, malfunction,*
32 *or operation of a device at the trampoline court, requiring medical*
33 *service other than ordinary first aid, and shall make them available*
34 *to a division inspector upon request. The owner shall make those*
35 *records available for inspection by the division during normal*
36 *business hours at the owner's permanent place of business. The*
37 *owner, or representative of the owner, may be present when the*
38 *division inspects the records. In conjunction with an inspection of*
39 *records conducted pursuant to this subdivision, the division shall*

1 *conduct an inspection of the operation of the devices at the*
2 *trampoline court.*

3 *(g) Upon receipt of a certificate of compliance, the division*
4 *shall notify the owner of the trampoline court or courts for which*
5 *a certificate is submitted whether the certificate meets all the*
6 *requirements of this section, and if not, what requirements must*
7 *still be met.*

8 *(h) The division, in addition to the annual inspection performed*
9 *by the division pursuant to subdivision (f), shall inspect the records*
10 *for a trampoline court or the devices at the trampoline court, or*
11 *both, under either of the following circumstances:*

12 *(1) The division finds that the certificate of compliance submitted*
13 *pursuant to this section for the trampoline court is fraudulent.*

14 *(2) The division determines, pursuant to regulations it has*
15 *adopted, that a trampoline court has a disproportionately high*
16 *incidence of accidents required to be reported pursuant to Section*
17 *7945.*

18 *(i) The division shall conduct its inspections with the least*
19 *disruption to the normal operation of the trampoline court.*

20 *7945. (a) Each operator of a trampoline court shall report or*
21 *cause to be reported to the division immediately by telephone each*
22 *known accident where maintenance, operation, or use of the*
23 *trampoline court results in a death or serious injury to any person*
24 *unless the injury does not require medical service other than*
25 *ordinary first aid. If a death or serious injury results from the*
26 *failure, malfunction, or operation of a trampoline court, the*
27 *equipment or conditions that caused the accident shall be preserved*
28 *for the purpose of an investigation by the division.*

29 *(b) A division inspector may inspect any trampoline court after*
30 *the report of an accident to the division. The division may order*
31 *a cessation of operation of a device if it is determined after*
32 *inspection to be hazardous or unsafe. Operation shall not resume*
33 *until these conditions are corrected to the satisfaction of the*
34 *division.*

35 *(c) Whenever a state, county, or local fire or police agency is*
36 *called to an accident involving a trampoline court covered by this*
37 *part where a serious injury or death occurs, the responding agency*
38 *shall immediately notify the nearest office of the division.*

39 *7946. (a) A person shall not operate a trampoline court unless,*
40 *at the time of operation, one of the following is in existence:*

1 (1) *The owner of the trampoline court provides an insurance*
2 *policy in an amount not less than one million dollars (\$1,000,000)*
3 *per occurrence insuring the owner or operator against liability*
4 *for injury or death to persons arising out of the use of the*
5 *trampoline court.*

6 (2) *The owner of the trampoline court provides a bond in an*
7 *amount not less than one million dollars (\$1,000,000), except that*
8 *the aggregate liability of the surety under that bond shall not*
9 *exceed the face amount of the bond.*

10 (3) *The owner of the trampoline court meets a financial test of*
11 *self-insurance, as prescribed by rules and regulations promulgated*
12 *by the division, to demonstrate financial responsibility covering*
13 *liability for injury suffered by patrons using the trampoline court.*

14 (b) *The insurance policy or bond shall be obtained from one or*
15 *more insurers or sureties licensed by the Department of Insurance*
16 *to do business in this state, or by a nonadmitted insurer employed*
17 *by a surplus lines broker licensed by the Department of Insurance.*

18 7947. *Each owner of a trampoline court shall provide training*
19 *for its employees in the safe operation and maintenance of*
20 *amusement rides, as required by the standards adopted by the*
21 *American Society for Testing and Materials, as amended or as*
22 *may be amended from time to time, to the extent that those*
23 *standards are consistent with the standards adopted by the division*
24 *pursuant to this part, and the injury prevention program required*
25 *under Section 6401.7.*

26 7948. *The division shall adopt rules and regulations necessary*
27 *for the administration of this part. The division may employ*
28 *qualified safety inspectors as it determines to be necessary for the*
29 *purposes of this part.*

30 7949. (a) *The division may fix and collect all fees necessary*
31 *to cover the reasonable costs of administering this part. Fees shall*
32 *be charged to a person or entity receiving the division's services*
33 *as provided by this part or by regulations adopted pursuant to this*
34 *part, including, but not limited to, approvals, determinations,*
35 *certifications and recertifications, receipt and review of*
36 *certificates, and inspections. In fixing the amount of these fees,*
37 *the division may include a reasonable percentage attributable to*
38 *the general cost of the division for administering this part.*
39 *Notwithstanding Section 6103 of the Government Code, the division*

1 may collect these fees from the state or any county, city, district,
2 or other political subdivision.

3 (b) (1) The Trampoline Courts Safety Fund is hereby established
4 within the State Treasury. All money in the fund shall be available
5 for administration of this part, upon appropriation by the
6 Legislature.

7 (2) All fees collected pursuant to this part shall be deposited
8 into the Trampoline Courts Safety Fees Account which is hereby
9 established within the fund.

10 (3) All penalties collected pursuant to this part shall be
11 deposited into the Trampoline Courts Safety Penalties Account
12 which is hereby established within the fund.

13 7949.5. (a) If the division determines that any owner or
14 operator of a trampoline court subject to this part has willfully or
15 intentionally violated this part or any rule or regulation
16 promulgated under this part, and that violation results in a death
17 or serious injury as specified in Section 7945, the division shall
18 impose on that owner or operator a civil penalty of not less than
19 twenty-five thousand dollars (\$25,000) and not more than seventy
20 thousand dollars (\$70,000).

21 (b) The division shall enforce this part by the issuance of a
22 citation and notice of civil penalty in a manner consistent with
23 Section 6317. Any owner or operator who receives a citation and
24 penalty may appeal the citation and penalty to the Occupational
25 Safety and Health Appeals Board in a manner consistent with
26 Section 6319.

27 ~~SECTION 1. Section 51 of the Labor Code is amended to read:~~

28 ~~51. The operations of the department are under the control of~~
29 ~~an executive officer known as the Director of Industrial Relations.~~
30 ~~The director shall be appointed by the Governor with the advice~~
31 ~~and consent of the Senate and hold office at the pleasure of the~~
32 ~~Governor and shall receive an annual salary pursuant to Chapter~~
33 ~~6 (commencing with Section 11550) of Part 1 of Division 3 of~~
34 ~~Title 2 of the Government Code.~~