

TEXAS DEPARTMENT OF INSURANCE

Amusement Ride Operator Compliance

REPORT ON HOUSE BILL 1, ARTICLE VIII,
84TH LEGISLATURE, REGULAR SESSION, 2015

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Purpose

House Bill 1, Article VIII (84th Legislature, Regular Session, 2015) initiated biennial reports from the Texas Department of Insurance (TDI) to inform the Legislature on efforts to bring amusement ride operators into compliance with the Amusement Ride Safety Inspection and Insurance Act, Chapter 2151, Texas Occupations Code, and the result of those efforts.

Introduction

The Act charges TDI with administering the amusement ride program and defines an amusement ride as a “mechanical device that carries passengers along, around, or over a fixed or restricted course within a defined area for the purpose of giving the passengers amusement, pleasure, or excitement.” Some examples of amusement rides that fall under the Act include:

- mobile carnival rides;
- theme park rides and devices;
- continuous airflow inflatable devices such as bounce houses, jumping pillows, moonwalks, and slides; and
- miscellaneous items such as concession go karts, water slides, bungee jumps, mechanical bulls, trackless trains, simulators, bumper boats, and zip lines.

To operate an amusement ride in Texas, the owner or operator must submit the following to TDI:

1. a general liability insurance policy with the minimum statutory limits for bodily injury liability and property damage liability;
2. proof of an annual safety inspection of the ride performed by the insurer’s authorized representative; and
3. a filing fee of \$40 per ride or device.

Once the owner or operator submits the three requirements, TDI will issue a compliance sticker. The compliance sticker is valid for one year and renews in the month the insurer’s inspection occurred. According to 28 Texas Administrative Code Section 5.9004, the owner or operator must place the compliance sticker on the ride in an area that is visible to riders. TDI maintains a database to track owners, operators, and issued compliance stickers. A list of compliant rides is on the TDI website at

www.tdi.texas.gov/commercial/documents/lcamcurrentsticker.

Compliance Efforts

TDI strives to bring all amusement ride owners and operators into compliance and to keep owners and operators with current compliance stickers from letting their compliance lapse. TDI opens a file for each owner or operator to track and maintain the compliance documents for their rides.

When TDI finds an owner or operator who is not in compliance and does not yet have a file, TDI:

1. opens a new file;
2. educates the owner or operator about the statutory compliance requirements through phone calls, emails, and by sending an informational packet; and
3. collect the items necessary to issue a compliance sticker for each ride.

Table 1: Summary of Amusement Ride Activities

Activity	FY 2014	FY 2015	FY 2016	FY 2017
Number of Owners and Operators Who Obtained Compliance Stickers	893	945	982	1,047
Compliance Stickers Issued	9,278	9,558	9,334	10,521
New Files Opened	248	175	295	320
Renewal Reminder Postcards Sent*	1,391	1,378	1,390	1,098
First Noncompliance Notices Sent	774	778	830	960
Second Noncompliance Notices Sent	338	281	515	707
Referrals to TDI Enforcement	204	169	326	334
Referrals to the Office of the Attorney General	92	102	124	87

*TDI sends postcards throughout the year. Owners and operators often have several rides that renew on different dates. Therefore, an owner or operator may receive several reminder postcards.

TDI also sends postcard renewal notices to amusement ride owners and operators to remind them of their upcoming compliance sticker expiration dates.

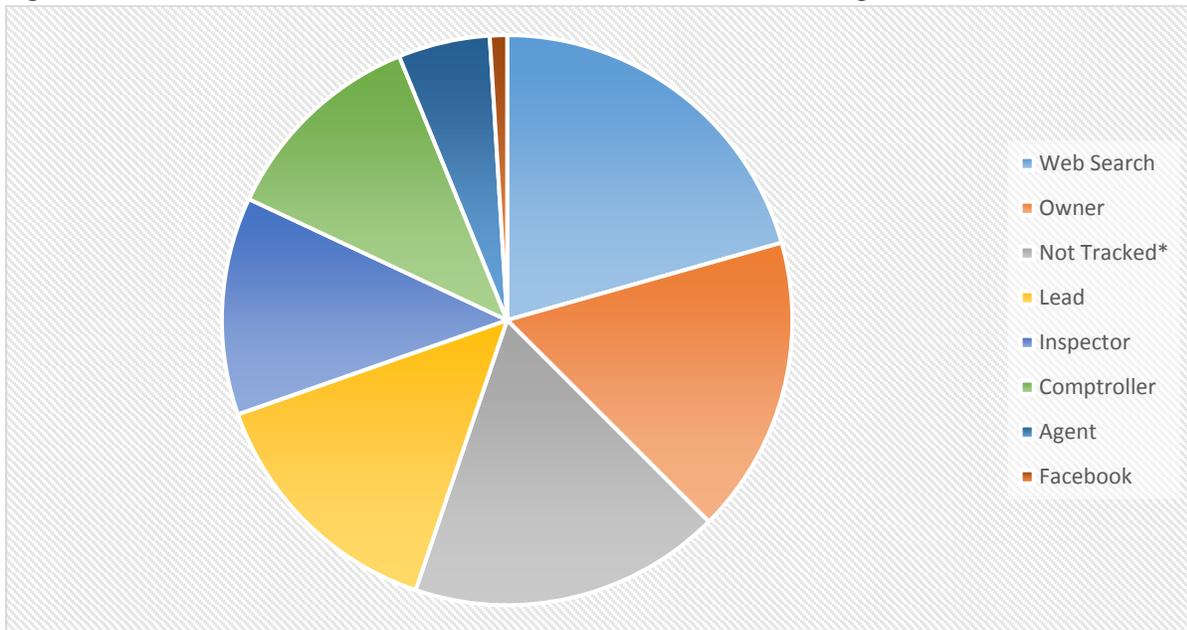
If an owner or operator does not obtain or renew their compliance sticker as required by the Act, TDI sends a noncompliance notice providing information on the applicable statutes, rules, and outstanding requirements. The owner or operator has 15 days from receipt of the first noncompliance notice to respond to TDI.

If the owner or operator continues to operate a noncompliant ride after the first noncompliance notice, TDI sends a second noncompliance notice. TDI also copies local law enforcement on this notice so that law enforcement is aware of the operation of a noncompliant amusement ride. The owner or operator has 10 days from receipt of the second noncompliance notice to respond to TDI.

If the owner or operator continues to operate a noncompliant ride after receiving the second noncompliance notice, staff will refer the file to TDI Enforcement. If on further investigation TDI confirms the owner or operator continues to operate a noncompliant amusement ride and refuses to come into compliance, TDI will refer the file to the Office of the Attorney General. The owner or operator can bring his or her rides into compliance at any point during this process.

TDI does not have authority to fine noncompliant owners or operators; however, the county district attorney or the attorney general may seek an injunction against an owner or operator. Additionally, law enforcement has authority to enter and inspect an operation and to prohibit the operation of any noncompliant amusement rides. Operating a noncompliant amusement ride is a Class B misdemeanor.

Figure 1: Sources of New Amusement Ride Files - Fiscal Year 2015 through 2017



*TDI began tracking the sources for files opened in December 2015. Files opened before December 2015, or files where a source was not tracked, are labeled as "not tracked."

Between fiscal years 2015 and 2017, TDI opened 615 files for amusement ride owners or operators who were not listed in TDI's database. TDI discovered these owners and operators from various sources. The largest source is web and Facebook searches by TDI. When TDI locates an owner or operator with rides that fall under the Act, TDI checks the database to verify whether the rides are in compliance. If the rides are not in compliance, TDI sends an informational packet and the first noncompliance notice to the owner or operator, beginning the compliance process.

The second largest source of new files is owners or operators who contact TDI to inquire about compliance. These owners or operators are often starting a new business and learn about the Act from an advisor or through personal research. In response to these inquiries, TDI discusses the statutory requirements, answers questions, and sends an informational packet. If TDI has evidence that the owner or operator is operating the amusement ride out of compliance with the Act, then TDI initiates the compliance process by sending the first noncompliance notice.

TDI also receives leads on noncompliant owners and operators from parents, riders, schools, facilities, and other ride owners or operators. TDI researches each lead to verify whether the ride falls under the Act or is already in compliance. If TDI determines the ride is subject to the Act and is not in compliance, TDI sends an informational packet and noncompliance notice to initiate the compliance process.

TDI establishes effective working relationships with insurance agents and inspectors involved with the amusement ride compliance process. Because these agents and inspectors are familiar with the statutory requirements, they often send information to TDI about owners and operators who have a new business or are not aware of the Act's requirements. This information could include a certificate of insurance for an owner or operator who bought a policy or an inspection certificate for an owner or operator who had rides inspected. When TDI

confirms the owner or operator is not already in compliance, TDI sends an informational packet. If the owner or operator does not complete the remaining steps toward compliance, TDI sends a noncompliance notice to initiate the compliance process.

TDI also locates owners and operators through the sales tax license reconciliation process. The General Appropriations Act requires that TDI request a report from the Texas Comptroller of Public Accounts of owners and operators who applied for a sales tax license. TDI must reconcile the report to TDI’s amusement ride database and investigate the need for registering owners and operators not listed in the database.

TDI implemented sales tax reconciliation in August 2015. Each month, TDI submits a request to the comptroller for a list of companies that applied for a sales tax license with a North American Industry Classification System (NAICS) code relating to carnival and amusement park rides, machines, equipment, arcades, or devices.

Table 2: NAICS Codes Requested to Identify Amusement Ride Companies

NAICS Title	NAICS Code	Common Keywords
Other Commercial and Service Industry Machinery Manufacturing	333318	Carnival and amusement park rides manufacturing
All Other Miscellaneous Manufacturing	339999	Amusement machines, coin-operated, manufacturing
Service Establishment Equipment and Supplies Merchant Wholesalers	423850	Amusement park equipment merchant wholesalers
All Other Travel Arrangement and Reservation Services	561599	Ticket agencies (for example, amusement, sports, theatrical)
Amusement and Theme Parks	713110	Amusement parks (for example, theme, water)
Amusement Arcades	713120	Amusement arcades
All Other Amusement and Recreation Industries	713990	Amusement device (except gambling) concession operators (supplying and servicing in others' facilities), go carts

The number of companies on the comptroller’s monthly list has ranged from about 3,000 to 6,500. If TDI determines that an owner or operator is not in compliance, TDI contacts the owner or operator to initiate the compliance process.

Outreach

TDI uses available resources and opportunities to educate the public about the Act and the requirements for legally operating an amusement ride.

In January 2016, TDI was invited to speak to a group of Houston-area school risk managers to discuss amusement ride requirements. The school risk managers are responsible for school-sponsored events, as well as the events of churches and other organizations that rent school property to hold events. The risk managers discussed procedural changes and checks they would put in place after learning about the Act.

In 2017, TDI developed a printed hand-out and web page titled, “Renting Amusement Rides: 5 Tips for a Safe Event” (<http://tdi.texas.gov/takefive/amusement-rides.html>). The hand-out and web page provide a quick way to learn about TDI’s amusement ride requirements and gather safety tips. TDI Facebook and Twitter accounts include posts that link to the web page. Often the posts occur before holidays, such as Memorial Day and July 4th. In addition, TDI works continuously to educate the public about the Act through local news organizations that regularly contact TDI for information when writing or broadcasting a news story about amusement rides. Since September 1, 2014, TDI has contributed to 49 amusement ride-related stories. These stories were published or broadcast in Austin, El Paso, Temple, Houston, San Antonio, Amarillo, New York, New Braunfels, Dallas, Kansas City, Harlingen, Lubbock, and Brownsville.

TDI also communicates information about the Act on the TDI website at www.tdi.texas.gov/commercial/indexamusement. Each month, TDI updates the website listings of current compliance stickers, current insurance policies, and recent amusement ride injuries so the public has access to the data they need to make informed decisions about amusement ride usage.

Overall Compliance Results

TDI’s continued efforts to bring all owners and operators into compliance has resulted in a steady increase in the number of compliance stickers issued each year. TDI issued more compliance stickers in 2017 than in any other year.

Figure 2: Compliance Stickers Issued by Fiscal Year

