

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-347
HOUSE BILL 766**

**AN ACT TO ENHANCE LAWS RELATED TO THE PASSENGER TRAMWAY
SAFETY ACT OF NORTH CAROLINA.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 95-117 reads as rewritten:

"§ 95-117. Definitions.

Each word or term defined in this Article has the meaning indicated in this section, unless a different meaning is plainly required by the context.

- (1) 'Commissioner' means the Commissioner of Labor of the State of North Carolina.
- (2) 'Industry' means activities of all those persons in the State who own, manage, or direct the operation of passenger tramways.
- (3) 'Operator' means any person, firm, corporation, or organization which owns, manages, or directs the operation of a passenger tramway. 'Operator' may apply to the State or any political subdivision or instrumentality thereof.
- (4) 'Passenger tramway' means a device used to transport passengers uphill on skis, or in cars on tracks, or suspended in the air by the use of steel cables, chains or belts, or by ropes, and usually supported by trestles or towers with one or more spans. 'Passenger tramway' shall include the following devices:
 - a. 'Chairlift,' a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain or link belt supported by trestles or towers with one or more spans, or similar devices;
 - b. 'Conveyor,' a type of transportation on which passengers are transported uphill on a flexible moving element (conveyor belt) that travels uphill on one path and generally returns underneath the uphill portion.
 - ~~b.c.~~ 'J bar, T bar or platter pull,' so-called and similar types of devices or means of transportation which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans;
 - ~~e.d.~~ 'Multicar aerial passenger tramway,' a device used to transport passengers in several open or in closed cars attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar device;
 - ~~d.e.~~ 'Rope tow,' a type of transportation which pulls the skiers, riding on skis as the skier grasps the rope manually, or similar devices;
 - ~~e.f.~~ 'Skimobile,' a device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable, or similar device;

f.g. 'Two-car aerial passenger tramway,' a device used to transport passengers in two open or enclosed cars attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope or similar device."

SECTION 2. G.S. 95-118 reads as rewritten:

"§ 95-118. Registration required, required; application procedures.

~~No passenger tramway shall be operated in this State unless it has been registered by the Commissioner of Labor. On or before November 1 in each year, every operator of a passenger tramway shall apply to the Commissioner of Labor, on forms prepared by said Commissioner, for registration of the passenger tramway which such operator owns or manages, or the operation of which he directs.~~

(a) No person shall operate or permit to be operated or use any device subject to the provisions of this Article without a valid registration certificate.

(b) Operators of devices subject to the provisions of this Article shall apply to the Commissioner of Labor, on forms provided by the Commissioner, for registration of the devices that the operator owns or manages, or the operation of which the operator directs. The application shall contain such information as that the Commissioner may reasonably require in order for him—the Commissioner to determine whether the passenger tramway sought to be registered by such—the operator ~~comply~~ complies with the intent of this Article and the rules and regulations promulgated—adopted by the Commissioner as hereinafter provided. Commissioner."

SECTION 3. G.S. 95-119 reads as rewritten:

"§ 95-119. Registration criteria and procedure. Certification criteria; procedures; display of certificate.

~~The Commissioner shall issue to the applying operator without delay a registration certificate for each passenger tramway owned, managed, or the operation of which is directed by such operator when the Commissioner is satisfied:~~

- ~~(1) That the facts stated in the application are sufficient to enable the Commissioner to fulfill his duties under this Article; and~~
- ~~(2) That each such passenger tramway sought to be registered complies with the rules and regulations of the Commissioner promulgated pursuant to the provisions of this Article.~~
- ~~(3) In order to satisfy himself that the conditions described in subdivisions (1) and (2) of this section have been fulfilled, the Commissioner may cause to be made such inspections hereinafter described as he may reasonably deem necessary.~~
- ~~(4) When an operator installs a passenger tramway subsequent to November 1, of any year, such operator shall file a supplemental application for registration of such passenger tramway. Upon the receipt of such supplemental application, the Commissioner shall proceed immediately to initiate proceedings leading to the registration or rejection of registration of such passenger tramway pursuant to the provisions of this Article.~~
- ~~(5) Each registration shall expire on October 31, next following the day of issue. Each operator shall cause the registration certificate for each passenger tramway thus registered to be displayed prominently at the place where passengers are loaded thereon.~~

(a) A registration certificate shall be issued without delay when the Commissioner is satisfied that the facts stated in the application are sufficient to enable the Commissioner to fulfill his or her duties under this Article and that the device sought to be registered complies with the rules adopted pursuant to this Article. Each registration certificate shall expire on October 31 of the year next following the date of issuance.

(b) The Commissioner may conduct any inspections necessary to determine whether the device sought to be registered complies with the intent of this Article and the rules adopted pursuant to this Article.

(c) The registration certificate for each device subject to the provisions of this Article shall be displayed prominently at the place where passengers are loaded onto the device."

SECTION 4. G.S. 95-120 reads as rewritten:

"§ 95-120. Powers and duties of the Commissioner.

In addition to all other powers and duties conferred and imposed upon the Commissioner by this Article, the Commissioner shall have and exercise the following powers and duties:

- (1) ~~To adopt and enforce reasonable rules and regulations relating to public safety in the construction, operation, and maintenance of passenger tramways.~~ adopt, modify, or revoke the rules necessary for carrying out the provisions of this Article, including those governing the design, construction, installation, operation, use, and maintenance of devices subject to the provisions of this Article. The rules and regulations authorized adopted under this section shall conform as nearly as possible to the standards contained for mechanical engineering aerial passenger tramways safety code as adopted and used by the U.S.A. Standards Institute, B77.1 1960, with addenda B77.1(a) 1963, and B77.1(b) 1965, and as said safety code from [for] tramways may be amended from time to time, and in the formulation of said regulations the Commissioner may use and adopt any other safety code for tramways as issued by recognized scientific and mechanical societies. The said regulations shall not be discriminatory in their application to operators of passenger tramways, and the procedures of the Commissioner shall be as provided in this Article; in the B77.1 – American National Standards Safety Requirements for Aerial Passenger Tramways and with good engineering and safety standards, formulas, and practices.
- (1a) To enforce the rules adopted under this Article.
- (1b) To grant exceptions from the requirements of the rules adopted under this Article and to permit the use of other devices when the exceptions and uses will not expose the public to an unsafe condition likely to result in serious personal injury or damage to property.
- (2) To hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the Commissioner, subpoena witnesses, administer oaths, and compel the testimony of witnesses and the production of books, papers and records relevant to any ~~inquiry;~~ inquiry.
- (3) To approve, deny, revoke, and renew the ~~registrations provided for in this Article and the procedures of the Commissioner with respect thereto shall be as provided in this Article with respect to the issuance of certificates or licenses;~~ registration certificates in accordance with the rules adopted pursuant to this Article.
- (4) ~~To cause the prosecution and the institution of actions for injunctions of all persons violating the provisions of this Article and to incur the necessary expenses thereof;~~ institute civil actions for injunctive or other relief against violators of this Article.
- (5) To cause the seal of the Commissioner of Labor to be affixed to all registrations issued by ~~him, the Commissioner,~~ him, the Commissioner, and to employ, within the funds available to ~~him, the Commissioner,~~ him, the Commissioner, and prescribe the duties of ~~all such~~ the personnel as the Commissioner may deem necessary in the administration of this Article.

- (6) To have reasonable access, with or without notice, to the devices subject to the provisions of this Article during reasonable hours, for the purposes of inspections and testing.
- (7) To investigate accidents involving devices subject to the provisions of this Article to determine the cause of the accident. The Commissioner shall have full subpoena powers in conducting the investigations.
- (8) To coordinate enforcement and inspection activity relative to equipment, devices, and operations covered by this Article in order to minimize duplication of liability or regulatory responsibility on the part of the operator, owner, or employer.
- (9) To establish fees not to exceed one hundred thirty-seven dollars (\$137.00) for the inspection and issuance of registration certificates for devices that are in use and subject to this Article."

SECTION 5. Article 15 of Chapter 95 of the General Statutes is amended by adding a new section to read:

"§ 95-120.1. Liability insurance.

(a) No person shall operate a device subject to the provisions of this Article, unless at the time of operation, there is in existence:

- (1) A contract of insurance providing coverage of not less than one million dollars (\$1,000,000) per occurrence against liability for injury to persons or property arising out of the operation or use of the device; or
- (2) A contract of insurance providing coverage of not less than five hundred thousand dollars (\$500,000) per occurrence against liability for injury to persons or property arising out of the operation or use of the devices if the annual gross volume of the devices does not exceed two hundred seventy-five thousand dollars (\$275,000).

The insurance contract to be provided must be made by an insurer or surety that is acceptable to the North Carolina Insurance Commissioner and authorized to transact business in this State.

(b) The Commissioner shall not issue a certificate of registration until the operator or the operator's authorized agent provides proof of the required contract of insurance.

(c) The Commissioner may request from the operator of a device subject to the provisions of this Article or the operator's authorized agent, proof of the required contract of insurance, and upon failure of the operator or authorized agent to provide proof of insurance, the Commissioner shall have the power to prevent the commencement of or to stop the operation of the device until such time as proof is provided."

SECTION 6. G.S. 95-107 reads as rewritten:

"§ 95-107. Assessment and collection of fees; certificates of safe operation.

The assessment of the fees adopted by the Commissioner pursuant to ~~G.S. 95-110.5 and G.S. 95-111.4~~G.S. 95-110.5, 95-111.4, and 95-120 shall be made against the owner or operator of the equipment and may be collected at the time of inspection. If the fees are not collected at the time of inspection, the Department must bill the owner or operator of the equipment for the amount of the fee assessed for the inspection of the equipment and the amount assessed is payable by the owner or operator of the equipment upon receipt of the bill. Certificates of safe operation may be withheld by the Department of Labor until such time as the assessed fees are collected."

SECTION 7. G.S. 95-108 reads as rewritten:

"§ 95-108. Disposition of fees.

All fees collected by the Department of Labor pursuant to ~~G.S. 95-110.5 and G.S. 95-111.4~~G.S. 95-110.5, 95-111.4, and 95-120 shall be deposited with the State Treasurer and shall be used exclusively for inspection and certification purposes."

SECTION 8. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 23rd day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:21 p.m. this 7th day of September, 2005