

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 766

Short Title: Enhance Passenger Tramway Safety Act.-AB (Public)

Sponsors: Representative Howard.

Referred to: Finance.

March 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO ENHANCE LAWS RELATED TO THE PASSENGER TRAMWAY
3 SAFETY ACT OF NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

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

6 "**§ 95-117. Definitions.**

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

9 (1) 'Commissioner' means the Commissioner of Labor of the State of
10 North Carolina.

11 (2) 'Industry' means activities of all those persons in the State who own,
12 manage, or direct the operation of passenger tramways.

13 (3) 'Operator' means any person, firm, corporation, or organization which
14 owns, manages, or directs the operation of a passenger tramway.
15 'Operator' may apply to the State or any political subdivision or
16 instrumentality thereof.

17 (4) 'Passenger tramway' means a device used to transport passengers
18 uphill on skis, or in cars on tracks, or suspended in the air by the use of
19 steel cables, chains or belts, or by ropes, and usually supported by
20 trestles or towers with one or more spans. 'Passenger tramway' shall
21 include the following devices:

22 a. 'Chairlift,' a type of transportation on which passengers are
23 carried on chairs suspended in the air and attached to a moving
24 cable, chain or link belt supported by trestles or towers with one
25 or more spans, or similar devices;

26 b. 'Conveyor,' a type of transportation on which passengers are
27 transported uphill on a flexible moving element (conveyor belt)
28 that travels uphill on one path and generally returns underneath
29 the uphill portion.

- 1 **b.c.** 'J bar, T bar or platter pull,' so-called and similar types of
2 devices or means of transportation which pull skiers riding on
3 skis by means of an attachment to a main overhead cable
4 supported by trestles or towers with one or more spans;
5 **e.d.** 'Multicar aerial passenger tramway,' a device used to transport
6 passengers in several open or in closed cars attached to, and
7 suspended from, a moving wire rope or attached to a moving
8 wire rope and supported on a standing wire rope, or similar
9 device;
10 **d.e.** 'Rope tow,' a type of transportation which pulls the skiers,
11 riding on skis as the skier grasps the rope manually, or similar
12 devices;
13 **e.f.** 'Skimobile,' a device in which a passenger car running on steel
14 or wooden tracks is attached to and pulled by a steel cable, or
15 similar device;
16 **f.g.** 'Two-car aerial passenger tramway,' a device used to transport
17 passengers in two open or enclosed cars attached to, and
18 suspended from, a moving wire rope or attached to a moving
19 wire rope and supported on a standing wire rope or similar
20 device."

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

22 "**§ 95-118. Registration ~~required.~~ required; application procedures.**

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

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

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

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

39 "**§ 95-119. Registration ~~criteria and procedure.~~ Certification criteria; procedures;**
40 **display of certificate.**

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

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

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

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

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

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

34 **"§ 95-120. Powers and duties of the Commissioner.**

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

- 38 (1) ~~To adopt and enforce reasonable rules and regulations relating to~~
39 ~~public safety in the construction, operation, and maintenance of~~
40 ~~passenger tramways.~~ adopt, modify, or revoke the rules necessary for
41 carrying out the provisions of this Article, including those governing
42 the design, construction, installation, operation, use, and maintenance
43 of devices subject to the provisions of this Article. The rules and
44 ~~regulations authorized~~ adopted under this section shall conform as

1 nearly as possible to the standards contained for ~~mechanical~~
2 ~~engineering aerial passenger tramways safety code as adopted and~~
3 ~~used by the U.S.A. Standards Institute, B77.1 1960, with addenda~~
4 ~~B77.1(a)- 1963, and B77.1(b)- 1965, and as said safety code from [for]~~
5 ~~tramways may be amended from time to time, and in the formulation~~
6 ~~of said regulations the Commissioner may use and adopt any other~~
7 ~~safety code for tramways as issued by recognized scientific and~~
8 ~~mechanical societies. The said regulations shall not be discriminatory~~
9 ~~in their application to operators of passenger tramways, and the~~
10 ~~procedures of the Commissioner shall be as provided in this Article;~~
11 ~~in the B77.1 – American National Standards Safety Requirements for~~
12 ~~Aerial Passenger Tramways and with good engineering and safety~~
13 ~~standards, formulas, and practices.~~

14 (1a) To enforce the rules adopted under this Article.

15 (1b) To grant exceptions from the requirements of the rules adopted under
16 this Article and to permit the use of other devices when the exceptions
17 and uses will not expose the public to an unsafe condition likely to
18 result in serious personal injury or damage to property.

19 (2) To hold hearings and take evidence in all matters relating to the
20 exercise and performance of the powers and duties vested in the
21 Commissioner, subpoena witnesses, administer oaths, and compel the
22 testimony of witnesses and the production of books, papers and
23 records relevant to any ~~inquiry;~~inquiry.

24 (3) To approve, deny, revoke, and renew the ~~registrations provided for in~~
25 ~~this Article and the procedures of the Commissioner with respect~~
26 ~~thereto shall be as provided in this Article with respect to the issuance~~
27 ~~of certificates or licenses;~~registration certificates in accordance with
28 the rules adopted pursuant to this Article.

29 (4) To ~~cause the prosecution and the institution of actions for injunctions~~
30 ~~of all persons violating the provisions of this Article and to incur the~~
31 ~~necessary expenses thereof;~~institute civil actions for injunctive or other
32 relief against violators of this Article.

33 (5) To cause the seal of the Commissioner of Labor to be affixed to all
34 registrations issued by ~~him,~~ the Commissioner, and to employ, within
35 the funds available to ~~him,~~ the Commissioner, and prescribe the duties
36 of ~~all such~~ the personnel as the Commissioner may deem necessary in
37 the administration of this Article.

38 (6) To have reasonable access, with or without notice, to the devices
39 subject to the provisions of this Article during reasonable hours, for
40 the purposes of inspections and testing.

41 (7) To investigate accidents involving devices subject to the provisions of
42 this Article to determine the cause of the accident. The Commissioner
43 shall have full subpoena powers in conducting the investigations.

1 (8) To coordinate enforcement and inspection activity relative to
2 equipment, devices, and operations covered by this Article in order to
3 minimize duplication of liability or regulatory responsibility on the
4 part of the operator, owner, or employer.

5 (9) To establish fees not to exceed one hundred thirty-seven dollars
6 (\$137.00) for the inspection and issuance of registration certificates for
7 devices that are in use and subject to this Article."

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

10 **"§ 95-120.1. Liability insurance.**

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

13 (1) A contract of insurance providing coverage of not less than one million
14 dollars (\$1,000,000) per occurrence against liability for injury to
15 persons or property arising out of the operation or use of the device; or

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

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

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

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

33 **SECTION 6.** This act is effective when it becomes law.