

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2017

Legislative Fiscal Note

BILL NUMBER: House Bill 196 (Second Edition)

SHORT TITLE: Zip Lines/Challenge Courses/Sanders' Law.

SPONSOR(S): Representatives Davis and Howard

FISCAL IMPACT					
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> No Estimate Available		
State Impact	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
General Fund Revenues:	\$16,250	\$16,250	\$16,250	\$16,250	\$16,250
General Fund Expenditures:	\$49,640	\$49,640	\$49,640	\$49,640	\$49,640
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:	1.0	1.0	1.0	1.0	1.0
NET STATE IMPACT	(\$33,390)	(\$33,390)	(\$33,390)	(\$33,390)	(\$33,390)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Department of Labor

EFFECTIVE DATE: When it becomes law, except for Section 2, which becomes effective December 1, 2017

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

FISCAL SUMMARY:

The expenditures in the table above are for one administrative support position. Estimated revenues from this bill for a full year are estimated at \$16,250. However, the Elevator and Amusement Device Bureau of the North Carolina Department of Labor currently realizes more receipts than it expends sufficient to meet the costs of this program. Therefore the North Carolina General Assembly would not need a new appropriation to cover the estimated fiscal impact.

BILL SUMMARY:

The bill enacts new Article 14C to G.S. Chapter 95 and states the Article is to be known as the Zip Line and Challenge Course Safety Act of North Carolina (Act). The bill establishes that the Act's scope governs the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration, relocation, and investigation of accidents involving zip lines, aerial adventure parks, canopy tours, challenge courses, or other similar devices, as those terms are defined the Act's definitions statute, G.S. 95-112.3. The bill provides that the Act does not apply to any zip line, aerial adventure park, canopy tour, challenge course, or other similar devices installed at a private residence that is not open to the public and for which no fee is charge,

nor does it apply to those devices operated by a government entity solely for law enforcement or military training purposes.

The bill lists 18 powers and duties of the Commissioner of Labor (Commissioner), including:

- the power to delegate powers, duties, and responsibilities of the Commissioner to, and to supervise, the Chief of the Elevator and Amusement Device Bureau;
- the power to adopt, modify, revoke and enforce rules necessary to carry out the Act's provisions;
- the power to require inspection and testing of new, modified or relocated devices subject to the Act;
- the power to obtain an Administrative and Inspection Warrant pursuant to Article 4A of G.S. Chapter 15; and
- The power to institute civil proceedings in courts of the state or order the payment of civil penalties when a provision of the Act or the rules promulgated under the Act have been violated.

The bill sets out qualifications for qualified third-party inspectors. The bill authorizes the Commissioner to require certain safety requirements and requires an owner or operator to comply.

The bill sets out civil and criminal penalties for violations of the Act. The bill directs that it is the duty of the Attorney General of North Carolina, when requested, to represent the Department of Labor in actions or proceedings in connection with the Act or the rules and regulations promulgated under the Act. The bill authorizes the state, upon recommendation of the Commissioner of Labor, to enter into agreements or arrangements with appropriate federal agencies for the purpose of administering the enforcement of federal statutes, rules, and regulations governing devices subject to the provisions of the Act, consistent with the requirements and conditions provided in the Act and the rules promulgated under the Act.

The bill contains a severability clause and is effective when it becomes law, except for Section 2, which becomes effective December 1, 2017.

ASSUMPTIONS AND METHODOLOGY:

This bill creates a new regulatory framework for owners and operators of zip line and challenge course facilities in North Carolina. The bill empowers the Commissioner of Labor to, among other items:

- adopt and enforce rules carrying out the provisions of the legislation;
- require inspections of devices covered under the legislation;
- issue certificates of operation certifying devices covered under the legislation; and
- Charge fees for various services.

The Elevator and Amusement Device Bureau (Bureau) of the North Carolina Department of Labor (Department), which is a 100% receipt-supported division, would assume responsibility for carrying out the Department's duties under the law. The Bureau would experience an increase in revenue through the collection of fees charged for certain services and would experience an increase in expenses due to the need for additional staff.

Revenue

The bill allows the Department to charge fees for the services required to carry out its provisions. While this bill does not specify the amount of the fees, the Department estimates charging the following fees:

- Up to \$100 annually for the issuance of certificates of operation for devices covered under the bill;
- Up to \$1,000 per device for an inspection conducted by Bureau staff; and
- Up to \$50 biennially for qualified inspector certification.

At this time, the Bureau's inspection staff is not qualified to conduct physical inspections of zip lines and challenge courses. Though the bill allows for Bureau inspectors to conduct inspections after receiving appropriate training and certification, the Bureau does not anticipate having the capability of performing these inspections within the first year of implementation. Thus, at this time, the \$1,000 fee per device for an inspection conducted by Bureau staff is not applicable and is not considered in this analysis as a potential revenue source.

In the Department's February 1, 2016 report to the General Assembly on zip line operations, the Department consulted a number of sources to determine the number of zip line and challenge course facilities in the state. The Department found at least 115 that were operating at that time, but the survey, although reasonably comprehensive, does not assume that all active operations were captured. Considering this is a growing industry, the Department estimates that 150 facilities will exist at the time of implementation, December 2017. If the Department charges a fee of \$100 for each certificate of inspection, the Bureau would realize \$15,000 in annual revenue.

The Department anticipates charging \$50 for the biennial certification of qualified inspectors, pursuant to the proposed G.S. 95-112.8. The Department does not have an estimate for the number of individuals who currently meet the requirements specified in the legislation. According to the survey cited above, the Department found at least 15 different companies that currently provide inspection services to zip line and challenge course facilities in North Carolina. It is unclear whether or not these existing inspection service providers meet the qualifications required by the bill. For purposes of this analysis, the Department estimates licensing between 25 and 50 qualified inspectors, half of which would seek certification each year. Based upon that estimation, the Bureau would receive up to \$1,250 in annual revenue.

Section 3 of the bill allows the Department to begin adopting rules, including temporary rules, designing and distributing forms, beginning accepting applications, and establishing and collecting fees when the bill becomes law in order to provide certificates of operation for regulated devices by the time the remainder of the bill becomes effective on December 1, 2017. As such, this analysis assumes full annual revenue collection, totaling \$16,250, would begin in FY 2017-18.

Expenses

Because the Department's existing inspection staff is not qualified to conduct annual inspections of the devices covered under the bill, there is no immediate need to hire additional inspection staff. The Department estimates that at least one additional administrative assistant would be necessary.

The Department would hire this position on July 1, 2017 to assist with implementation of the law's requirements, receive and process all paperwork associated with certification applications, maintain a database of locations, field inquiries from owners/operators and the general public, and other administrative tasks associated with the upstart and maintenance of this new regulatory responsibility. The minimum salary and benefits of an Administrative Assistant III position are estimated at a total compensation of \$49,640 recurring.

SOURCES OF DATA: Department of Labor

TECHNICAL CONSIDERATIONS: None

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