

**CHAPTER 243**

**S.B. No. 1005**

An Act relating to certain recodifications and redesignations to eliminate duplications in the Insurance Code and related statutes; amending Subsection (B) and redesignating Subsection (F), Section

2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 3.70-2, Vernon's Texas Insurance Code), and redesignating Article 21.53, Insurance Code.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Subsection (B), Section 2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), as amended by Chapter 380, Acts of the 68th Legislature, Regular Session, 1983, is amended to read as follows:

"(B) No policy of accident and sickness insurance shall make benefits contingent upon treatment or examination by a particular practitioner or by particular practitioners of the healing arts hereinafter designated unless such policy contains a provision designating the practitioner or practitioners who will be recognized by the insurer and those who will not be recognized by the insurer. Such provision may be located in the 'Exceptions' or 'Exceptions and Reductions' provisions, or elsewhere in the policy, or by endorsement attached to the policy, at the insurer's option. In designating the practitioners who will and will not be recognized, such provision shall use the following terms: Doctor of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of Chiropractic, Doctor of Optometry, Doctor of Podiatry, Audiologist, ~~and~~ Speech-language Pathologist, *and Doctor in Psychology.*

"For purposes of this Act, such designations shall have the following meanings:

"Doctor of Medicine: One licensed by the Texas State Board of Medical Examiners on the basis of the degree 'Doctor of Medicine';

"Doctor of Osteopathy: One licensed by the Texas State Board of Medical Examiners on the basis of the degree of 'Doctor of Osteopathy';

"Doctor of Dentistry: One licensed by the State Board of Dental Examiners;

"Doctor of Chiropractic: One licensed by the Texas Board of Chiropractic Examiners;

"Doctor of Optometry: One licensed by the Texas State Board of Examiners in Optometry;

"Doctor of Podiatry: One licensed by the State Board of Chiropody Examiners;

"Audiologist: One with a master's or doctorate degree in audiology from an accredited college or university and who is certified by the American Speech-language and Hearing Association; ~~and~~

"Speech-language Pathologist: One with a master's or doctorate degree in speech pathology or speech-language pathology from an accredited college or university and who is certified by the American Speech-language and Hearing Association; *and*

"*Doctor in Psychology: One licensed by the Texas State Board of Examiners of Psychologists and certified as a Health Service Provider.*"

**SECTION 2.** Subsection (B), Section 2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), as amended by Chapter 492, Acts of the 68th Legislature, Regular Session, 1983, is repealed.

**SECTION 3.** Subsection (F), Section 2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), as added by Section 1, Chapter 380, Acts of the 68th Legislature, Regular Session, 1983, is recodified as Subsection (G) of Section 2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 3.70-2, Vernon's Texas Insurance Code), to read as follows:

"(G) ~~(F)~~ Insurers, nonprofit hospital and medical service plan corporations subject to Chapter 20 of this code, and health maintenance organizations transacting health insurance or providing other health coverage in this state shall offer and make available, under group policies, contracts, and plans providing hospital and medical coverage on an expense incurred, service or prepaid basis, benefits for the necessary care and treatment of loss or impairment of speech or hearing that are not less favorable than for physical illness generally, subject to the same durational limits, dollar limits, deductibles, and coinsurance factors. Such offer of benefits shall be subject to the right of the group policy or contract holder to reject the coverage or to select any alternative level of benefits if such right is offered by or negotiated with such insurer, service plan corporation, or health maintenance organization."

**SECTION 4.** Article 21.53, Insurance Code, as added by Section 1, Chapter 526, Acts of the 68th Legislature, Regular Session, 1983 is recodified as Article 21.60, Insurance Code, to read as follows:

"Article 21.60 ~~[21.53]~~. AMUSEMENT RIDE SAFETY INSPECTION AND INSURANCE ACT

"Section 1. SHORT TITLE. This article may be cited as the Amusement Ride Safety Inspection and Insurance Act.

"Section 2. DEFINITIONS. In this article:

"(1) 'Amusement ride' means any mechanical device or devices that carry or convey passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, or excitement, but such term does not include (A) any single-passenger coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator, or (B) nonmechanized playground equipment, including but not limited to swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, and physical fitness devices.

"(2) 'Board' means the State Board of Insurance.

"Section 3. ADMINISTRATION AND ENFORCEMENT. The board shall administer and enforce this article. The board shall establish reasonable and necessary fees in an amount not to exceed \$20 per year for each amusement ride covered by this Act. Funds raised through said fees shall be deposited in the State Treasury and shall be credited to the account of the board for administration of this Act.

"Section 4. AMUSEMENT RIDE OPERATION REQUIREMENTS. A person may not operate an amusement ride unless he:

"(1) has the amusement ride inspected at least once annually for safety by an insurer or a person with whom the insurer has contracted and obtains from that insurer or person a written certificate that the inspection has been made and that the amusement ride meets the standards for coverage and is covered by the insurance required by Subsection (2) of this section;

"(2) has an insurance policy currently in force written by an insurance company authorized to do business in this state, a surplus lines insurer as defined by Article 1.14-2 of this code, or an independently procured policy subject to Article 1.14-1 of this code, in an amount of not less than \$1 million per occurrence insuring the owner or operator against liability for injury to persons arising out of the use of the amusement ride;

"(3) files with the board, in the manner required by this article, the inspection certificate and the insurance policy required by this section or a photocopy of such a certificate or policy authorized by the board; and

"(4) files with each sponsor, lessor, landowner, or other person responsible for an amusement ride being offered for use by the public a certificate stating that the insurance required by Subdivision (2) of this section is in effect.

"Section 5. FILING AFFIDAVIT. The documents required by Subdivision (3) of Section 4 of this article must be filed with the board before July 1 of each year, but if the amusement ride is inspected under Subdivision (3) of Section 4 more than once a year, the inspection certificate must be filed not later than 15 days after each inspection and the insurance policy must be filed before July 1 of each year.

"Section 6. BOARD INFORMATION REQUEST. The board may request from the sponsor, lessor, landowner, or other person responsible for an amusement ride being offered for use by the public information concerning whether or not insurance in the amount required by this article is in effect on the amusement ride. The sponsor, lessor, landowner, or other person to whom the information request is made shall respond to the board within 15 days after the request is made.

"Section 7. DENIAL OF ENTRY TO AMUSEMENT RIDES. The owner or operator of an amusement ride may deny entry to the ride to any person if in the owner's or operator's opinion the entry may jeopardize the safety of the person who desires to enter or the safety of other patrons of the amusement ride.

"Section 8. INJUNCTIONS. The district attorney of each county in which an amusement ride is operated or the attorney general on request of the commissioner of insurance or one of his agents may seek an injunction against any person operating an amusement ride in violation of this article.

"Section 9. PENALTIES. (a) A person commits an offense if he fails to comply with any requirement under Section 4 or 5 of this article.

"(b) A sponsor, lessor, landowner, or other person responsible for an amusement ride being offered for use by the public commits an offense if he fails to provide the required information or provides false information under Section 6 of this article.

"(c) An offense under this section is a Class C misdemeanor.

"(d) Each day a violation of this article is committed constitutes a separate offense."

**SECTION 5.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

**CH 243**

**69th LEGIS—REGULAR SESSION**

Passed the Senate on May 6, 1985, by the following vote: Yeas 29, Nays 1; passed the House on May 14, 1985, by a non-record vote.

Approved: June 4, 1985

Effective: August 26, 1985