

House Bill 2088

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Consumer and Business Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires person engaging in occupation of inspecting amusement rides, amusement devices or rental amusement devices to possess professional qualifications as established by Department of Consumer and Business Services. Allows department to establish certification system.

Requires department to adopt rules for amusement ride, amusement device and rental amusement device quality control programs. Requires ride or device owner to establish and maintain quality control program for ride or device. Requires ride or device owner to ensure maintenance of records demonstrating compliance with quality control program. Authorizes department to require inspection of compliance records.

Makes department approval of proposed quality control program prerequisite to issuance or renewal of operating permit. Changes requirements for inspection of ride or device and filing of report by amusement ride inspector prior to application for operating permit. Makes additional changes to requirements for obtaining operating permit. Expands grounds requiring disapproval of operating permit application.

Expands grounds authorizing denial, suspension or revocation of amusement ride operating permit. Makes amusement devices and rental amusement devices subject to grounds authorizing denial, suspension or revocation of operating permit, provisions allowing disconnection due to unlawful installation or operation and provision regarding proof of operating permit.

Requires owner of amusement ride, amusement device or rental amusement device to take ride or device out of service and to arrange for inspection if ride or device causes accident resulting in immediate need for attention by medical personnel. Requires approval of inspector before ride or device is returned to service. Requires reporting of accident to department.

Changes and creates definitions.

Changes requirement that department adopt rules.

Limits purposes for which department uses moneys collected from civil penalties imposed for violations of statutes, rules and orders regarding amusement rides, amusement devices and rental amusement devices.

A BILL FOR AN ACT

1
2 Relating to the amusement industry; creating new provisions; amending ORS 455.010, 455.148,
3 455.150, 460.035, 460.310, 460.320, 460.330, 460.340, 460.345, 460.350, 460.355 and 460.370; repealing
4 ORS 460.352 and 460.360; and appropriating money.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. Sections 2 to 4 of this 2011 Act are added to and made a part of ORS 460.310**
7 **to 460.370.**

8 **SECTION 2. (1) A person may not engage in the occupation of inspecting amusement**
9 **rides, amusement devices or rental amusement devices unless the person maintains profes-**
10 **sional qualifications as an amusement ride inspector established by the Department of Con-**
11 **sumer and Business Services. The qualifications established by the department may include,**
12 **but need not be limited to, active certification of the person as an inspector by the depart-**
13 **ment or by an amusement industry organization.**

14 **(2) The department may require an amusement ride inspector to periodically prove that**
15 **the inspector meets the professional qualification requirements established by the depart-**
16 **ment.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) The department may establish a certification system for amusement ride inspectors.
 2 The department may adopt rules establishing qualifications, other requirements and fees for
 3 issuance or renewal of certification as an amusement ride inspector.

4 **SECTION 3.** (1) The Department of Consumer and Business Services shall adopt rules
 5 establishing:

6 (a) Minimum standards for amusement ride, amusement device and rental amusement
 7 device quality control programs; and

8 (b) Record keeping requirements for demonstrating compliance with amusement ride,
 9 amusement device or rental amusement device quality control programs.

10 (2) The owner of an amusement ride, amusement device or rental amusement device shall
 11 establish and maintain a quality control program. The quality control program must meet
 12 the minimum standards established by the department by rule. The quality control program
 13 must include, but need not be limited to operator training, equipment setup and equipment
 14 operation procedures and provisions for safety inspection.

15 (3) The owner shall ensure that the operator of the amusement ride, amusement device
 16 or rental amusement device keeps records demonstrating compliance with the quality control
 17 program as required by the department. If the device is a rental amusement device, the
 18 owner shall ensure that the operator keeps records showing the itinerary for the device, in-
 19 cluding but not limited to the dates for which the device is rented and the locations at which
 20 the rented device is used. The owner shall ensure that the operator updates the record each
 21 time the device is rented. The owner shall keep a copy of the record at the primary business
 22 location of the owner in this state and make the record available for inspection by the de-
 23 partment during normal business hours.

24 (4) The owner may not modify a quality control program unless the owner submits the
 25 proposed modification to the department and receives department approval of the modifica-
 26 tion.

27 **SECTION 4.** (1) An owner of an amusement ride, amusement device or rental amusement
 28 device shall ensure that the operator of the ride or device is trained to report to the owner
 29 any accident caused by the ride or device that results in an immediate need for attention by
 30 medical personnel.

31 (2) Upon learning in any manner that an accident caused by an amusement ride,
 32 amusement device or rental amusement device resulted in an immediate need for attention
 33 by medical personnel, the owner shall take the ride or device out of service and arrange for
 34 an amusement ride inspector to investigate the accident. The owner shall ensure that the
 35 ride or device remains removed from service until any necessary repairs are completed and
 36 the inspector authorizes the owner to return the ride or device to service.

37 (3) The owner shall report the accident to the Department of Consumer and Business
 38 Services within a time period established by the department by rule. The amusement ride
 39 inspector shall provide an accident investigation report to the department as provided by
 40 rule.

41 **SECTION 5.** Civil penalties for violating a provision of ORS 460.310 to 460.370 or of a rule
 42 adopted or order issued for the administration and enforcement of ORS 460.310 to 460.370 are
 43 provided for in ORS 455.895.

44 **SECTION 6.** ORS 460.310 is amended to read:

45 460.310. As used in ORS 460.310 to 460.370, unless the context requires otherwise:

- 1 (1) “Amusement [*devices*] **device,**” **except as provided in ORS 460.355 (2):**
- 2 (a) Means a structure, electrical or mechanical contrivance or a combination [*thereof which*]
- 3 **of structures or contrivances that** is intended to supply revenue to the owner [*or operator*] of the
- 4 device by providing or offering to provide amusement, pleasures, thrills or excitement at carnivals,
- 5 fairs or amusement parks. [*Amusement device*]
- 6 (b) Does not [*include*] **mean** games, concessions and associated structures.
- 7 (2) “Amusement ride”:
- 8 (a) **Except as provided in this subsection,** means [*any*] a vehicle, boat or other mechanical
- 9 device [*except “water slides” moving*] **used to convey one or more individuals for amusement,**
- 10 **entertainment, diversion or recreation** upon or within a flow perimeter or structure, along ca-
- 11 bles, rails or ground, through the air by centrifugal force or otherwise, or across water, [*that is used*
- 12 *to convey one or more individuals for amusement, entertainment, diversion or recreation. The term*
- 13 *“amusement ride” includes, but is not limited to*] **such as the following:**
- 14 [(a)] (A) [*Rides*] **A ride** commonly known as [*Ferris wheels, carousels, parachute towers, bungee*
- 15 *jumping, tunnels of love and roller coasters*] **a Ferris wheel, carousel, parachute tower, bungee**
- 16 **jump, tunnel of love or roller coaster.**
- 17 [(b)] (B) Equipment generally associated with winter sports activities, such as [*ski lifts, ski tows,*
- 18 *j-bars, t-bars, ski mobiles, chair lifts and aerial tramways*] **a ski lift, ski tow, j-bar, t-bar, ski mo-**
- 19 **bile, chair lift or aerial tramway.**
- 20 [(c)] (C) **A crane, lifting device or other type of** equipment not originally designed to be used
- 21 as an amusement ride, [*such as cranes or other lifting devices, when used as part of an amusement*
- 22 *ride or device.*] **if used for amusement ride purposes or in conjunction with an amusement**
- 23 **device or rental amusement device.**
- 24 (D) **Model railroad equipment.**
- 25 (b) **Does not mean:**
- 26 (A) **A water slide, go-cart, playground equipment or coin-operated ride; or**
- 27 (B) **A privately owned ride located on private property, if the ride is open only to selec-**
- 28 **tively admitted or specifically invited persons who do not pay a fee or other charge for access**
- 29 **to or use of the ride.**
- 30 (3) “Amusement ride inspector” means an employee or representative of a casualty insurance
- 31 company or companies who is qualified [*and*] **as required under section 2 of this 2011 Act and**
- 32 **is** regularly employed **by,** or otherwise authorized by, the insurance company to inspect amusement
- 33 rides, **amusement devices** and **rental amusement** devices for safety.
- 34 (4) “Department” means the Department of Consumer and Business Services.
- 35 (5) “Director” means the Director of the Department of Consumer and Business Services.
- 36 (6) **“Inflatable device or structure” means an air-supported amusement attraction that:**
- 37 (a) **Incorporates a structure and mechanical system; and**
- 38 (b) **Uses a high-strength fabric or film that achieves strength, shape and stability by**
- 39 **tensioning from internal air pressure.**
- 40 (7) **“Operator” means a person responsible for:**
- 41 (a) **Physically controlling the starting, stopping, speed or other performance of an**
- 42 **amusement ride, amusement device or rental amusement device; or**
- 43 (b) **Performing routine checks of amusement rides, amusement devices or rental**
- 44 **amusement devices to verify normal condition, settings and performance.**
- 45 (8) **“Owner” means:**

1 (a) A proprietor, managing partner, corporate officer or other person having directional
 2 control over a business, partnership, corporation or other entity engaged in the amusement
 3 ride, amusement device or rental amusement device industry;

4 (b) A lessee of an amusement ride or amusement device; or

5 (c) A lessor of a rental amusement device.

6 (9) "Rental amusement device," except as provided in ORS 460.355 (2), means an inflatable
 7 device or structure or a portable rock wall, and any equipment associated with the device
 8 or wall, that the owner makes available for rental by consumers.

9 [(6)] (10) "Water slide" means a recreational device designed to provide a descending ride on a
 10 flowing water film into a splash down pool at the base of the slide.

11 **SECTION 7.** ORS 460.320 is amended to read:

12 460.320. (1) [No person shall] **An owner of an amusement ride, amusement device or rental**
 13 **amusement device may not:**

14 (a) Operate [an amusement], or allow another to operate, the ride or device without a valid
 15 [operation] **operating** permit [therefor] **for the ride or device** issued under ORS 460.330[, or allow
 16 an amusement ride or device owned, leased, controlled or managed by the person to be so operated].

17 (b) Operate, or allow another to operate, an amusement ride, **amusement device or rental**
 18 **amusement** device without **the owner** first having obtained insurance from a company authorized
 19 to transact insurance in this state or an eligible surplus lines insurer as defined in ORS 735.405.
 20 The insurance policy shall insure the public and all persons riding or otherwise in contact with the
 21 ride or device against loss or injury, in an amount not less than \$1 million per occurrence and an
 22 aggregate total of not less than \$2 million.

23 (2) [Whenever] **If** an insurance company notifies its insured that it will no longer insure an
 24 amusement ride, **amusement device or rental amusement** device, or that insurance on a ride or
 25 device is no longer in force, the insurance company shall also notify the Department of Consumer
 26 and Business Services, in a form and manner prescribed by rule by the department.[, of] **The no-**
 27 **tification must include** the description or identification number of the ride or device for which
 28 insurance is canceled or suspended or is not to be renewed.

29 **SECTION 8.** ORS 460.330 is amended to read:

30 460.330. (1) An application for an operating permit to operate an amusement ride, **amusement**
 31 **device or rental amusement** device shall be made on an annual basis by the [person owning the
 32 ride or device or the person's agent or lessee] **owner**. The application shall be on forms provided by
 33 the Department of Consumer and Business Services.

34 (2) [An application for an annual operating permit] **The application** shall include **the name of**
 35 **the insurance carrier, the number of the insurance policy insuring the amusement ride,**
 36 **amusement device or rental amusement device and** an inspection report by an amusement ride
 37 inspector employed or otherwise authorized [to inspect] by the insurance carrier [insuring] **to in-**
 38 **spect** the ride or device. **The inspection must be performed no more than 90 days prior to the**
 39 **issuance or renewal date of the permit.** The inspector shall indorse upon the application any re-
 40 strictions and conditions that, in the inspector's judgment, should be imposed upon the operation of
 41 the [amusement] ride or device to protect human life and property. In addition, the inspector shall
 42 indicate whether the [amusement] ride or device:

43 (a) Meets the [underwriter's] **insurance carrier's** standards;

44 (b) Meets safety standards approved by the American Society [of] **for Testing and Materials;** and

45 (c) Is assembled and operated in compliance with the manual supplied by the manufacturer of

1 the ride or device.

2 **(3) The application shall include a proposed quality control program for the amusement**
 3 **ride, amusement device or rental amusement device. If required by the department, an ap-**
 4 **plication for renewal must include records demonstrating compliance with the existing**
 5 **quality control program for the ride or device. The department shall review the proposed**
 6 **quality control program and any records submitted. The department may require that a**
 7 **proposed quality control program be modified to bring the proposed program into compliance**
 8 **with department standards. The department may not issue or renew an operating permit for**
 9 **a ride or device until the department has reviewed and approved the proposed quality control**
 10 **program for the ride or device.**

11 **(4) If the operating permit application is for an amusement ride, the application must**
 12 **include an itinerary of the locations at which the applicant plans to operate the ride during**
 13 **the permit period and a list of any other rides that the applicant plans to operate at those**
 14 **locations during the amusement ride permit period.**

15 *[(3) (5) [The inspection shall be performed no more than 90 days prior to the issuance or renewal*
 16 *date of the permit.] Upon approval of an application and payment of fees as prescribed by rule,*
 17 **the department shall issue an operating permit for the amusement ride, amusement device**
 18 **or rental amusement device.** The department may issue a temporary renewal permit without the
 19 required inspection report, allowing continued operation of a previously inspected ride or device if
 20 it appears to the department that the owner *[or operator]* has attempted to obtain an inspection, but
 21 inspection services are temporarily unavailable.

22 *[(4) An application shall include the name of the insurance carrier and the number of the insurance*
 23 *policy insuring the ride or device as required by ORS 460.320 (1)(b).]*

24 *[(5) (6) The department shall disapprove and reject an application for [a] an operating permit*
 25 *if [it] the department determines that [the]:*

26 (a) *[Owner or lessee] The owner* of the amusement ride, **amusement device or rental**
 27 **amusement device** is not insured as required by ORS 460.320 (1)(b);

28 (b) *[Operation] The ride or device, as operated,* does not meet safety standards *[as guided by*
 29 *the safety standards approved by] of the American Society [of] for Testing and Materials or alter-*
 30 **native or superseding safety standards recognized by the department;**

31 (c) *[Amusement] The ride or device is not assembled and operated in compliance with the man-*
 32 *ual supplied by the manufacturer; [or]*

33 (d) Operation **of the ride or device** may endanger human life or property[.]; **or**

34 (e) **The applicant has failed to submit an adequate quality control program for the ride**
 35 **or device or submit required compliance records for the ride or device.**

36 *[(6) Upon approval of an application and payment of fees as prescribed by rule, the department*
 37 *shall issue a permit authorizing operation of the amusement ride or device.]*

38 **SECTION 9.** ORS 460.340 is amended to read:

39 460.340. (1) *[Permits] An operating permit* issued under ORS 460.330 *[are valid until] becomes*
 40 **invalid if** the amusement ride, **amusement device or rental amusement device** is materially re-
 41 built or materially modified so as to change the original action of the *[said amusement]* ride or de-
 42 vice. **The owner of a ride or device described in this subsection must obtain a new operating**
 43 **permit as provided under ORS 460.330 prior to returning the ride or device to service[, but**
 44 **in no case for longer than one year after the date of issuance as follows:]**

45 *[(1) If an amusement ride or device is altered so as to change the original action of the said*

1 *amusement ride or device, such amusement ride or device shall be subject to a new inspection and shall*
 2 *apply for a new permit under ORS 460.330.]*

3 (2) If an amusement ride, **amusement device** or **rental amusement** device is moved and in-
 4 stalled in another place, but is not altered so as to change the original action of the [*said amusement*
 5 *ride or device, no new permit shall be required; provided, however, a permit has been issued previously*
 6 *under ORS 460.330 and has not been operative for longer than a one-year period*] **ride or device, the**
 7 **movement and installation does not invalidate the operating permit for the ride or device.**

8 **SECTION 10.** ORS 460.345 is amended to read:

9 460.345. (1) Subject to ORS 460.340[, *the expiration date of the amusement ride or device operating*
 10 *permits shall be one year from the original date of issuance and thereafter on the anniversary date of*
 11 *issuance.*] **and 460.350, an operating permit for an amusement ride, amusement device or**
 12 **rental amusement device is valid for one year from the date of issuance or renewal.**

13 (2) **All proceedings relating to operating permits under ORS 460.310 to 460.370 shall be**
 14 **conducted in compliance with ORS chapter 183.**

15 (3) **Any person may demand from the owner of any amusement ride, amusement device**
 16 **or rental amusement device proof of a valid operating permit issued under ORS 460.330 and**
 17 **to inspect a copy of the operating permit application materials described in ORS 460.330.**

18 **SECTION 11.** ORS 460.350 is amended to read:

19 460.350. (1) In addition to the [*inspections*] **inspection** required under ORS 460.330, the Depart-
 20 ment of Consumer and Business Services may cause an amusement ride [*or device*], **amusement**
 21 **device, rental amusement device, quality control program or compliance records** to be in-
 22 spected at any reasonable time to [*insure*] **ensure** compliance with ORS 460.310 to 460.370.

23 (2) The department may deny, suspend or revoke [*a*] **an operating** permit at any time if[, *in its*
 24 *judgment,*] **the department reasonably believes that** the amusement ride, **amusement device** or
 25 **rental amusement** device for which the **operating** permit was issued is not installed or being op-
 26 erated in compliance with ORS 460.310 to 460.370 **or the approved quality control program for**
 27 **the ride or device.**

28 (3) The department may disconnect an unlawfully installed or operated amusement ride,
 29 **amusement device** or **rental amusement** device from its source of power at any time and prevent
 30 [*its*] **use of the ride or device** until the [*amusement*] ride or device is brought into compliance with
 31 ORS 460.310 to 460.370 **and the approved quality control program.**

32 [(4) *Any person may demand from the operator of any amusement ride or device proof of a valid*
 33 *operation permit issued pursuant to ORS 460.330.*]

34 (4) **The department shall cancel, revoke or suspend the operating permit for an**
 35 **amusement ride, amusement device or rental amusement device if the ride or device is op-**
 36 **erated in a manner that violates any applicable safety standard adopted by the department**
 37 **by rule.**

38 **SECTION 12.** ORS 460.355 is amended to read:

39 460.355. (1) **The Department of Consumer and Business Services shall adopt rules for the**
 40 **administration and enforcement of ORS 460.310 to 460.370. The rules shall include, but need**
 41 **not be limited to, rules to:**

42 (a) **Govern the issuance, renewal, suspension and revocation of operating permits under**
 43 **ORS 460.310 to 460.370.**

44 (b) **Establish policies and procedures for department administration and enforcement of**
 45 **ORS 460.310 to 460.370.**

1 (c) Establish standards for reports by department staff regarding amusement rides,
2 amusement devices or rental amusement devices inspected by the department.

3 (d) Establish reasonable operating permit fees sufficient to pay the costs of department
4 administration and enforcement of ORS 460.310 to 460.370.

5 (2) Rules adopted under subsection (1) of this section may include rules to:

6 (a) Subject a game, device or associated structure otherwise excluded under ORS 460.310
7 (1)(b), or any other item commercially used to convey persons for purposes of amusement,
8 to regulation as an amusement device;

9 (b) Exempt a structure, contrivance or combination of structures and contrivances de-
10 scribed in ORS 460.310 (1)(a) from regulation as an amusement device;

11 (c) Subject a device, structure or equipment not described in ORS 460.310 (9), or any
12 other item that is commercially rented and used to convey people for amusement purposes,
13 to regulation as a rental amusement device; or

14 (d) Exempt a device, structure or equipment described in ORS 460.310 (9) from regulation
15 as a rental amusement device.

16 [(1)] (3) In adopting rules [pursuant to ORS 460.360 (1),] **that are** applicable to equipment
17 [mentioned] **described** in ORS 460.310 [(2)(b)] **(2)(a)(B)**, the department [of Consumer and Business
18 Services] shall be guided by the safety standards approved by the American Society [of] **for Testing**
19 **and Materials. The owner of equipment described in ORS 460.310 (2)(a)(B) is not a common**
20 **carrier. Subject to ORS 30.970 to 30.990, the owner of the equipment must exercise the**
21 **highest degree of care to ensure the safety of persons using the equipment.**

22 [(2) *The owner or operator shall be deemed not a common carrier; however, such owner or operator*
23 *shall exercise the highest degree of care for the safety of users.*]

24 [(3)] (4) If the department finds that the United States Forest Service or other agency of gov-
25 ernment has jurisdiction over, and regulates and provides inspection of, [the] equipment
26 [mentioned] **described** in ORS 460.310 [(2)(b) pursuant to promulgated] **(2)(a)(B) under** safety stan-
27 dards **adopted by the service or other agency that are** not lower than [provided by ORS 460.310
28 to 460.370, it shall by its rules exempt operators from the requirements of ORS 460.310 to 460.370] **the**
29 **standards described in subsection (3) of this section, the department may not apply the de-**
30 **partment standards to the equipment.**

31 [(4) *The department shall adopt rules to:*]

32 [(a) *Govern the issuance, renewal, suspension and revocation of permits and certificates of compe-*
33 *tency issued under ORS 460.310 to 460.370.*]

34 [(b) *Govern the internal organization and procedure of the department for administering and en-*
35 *forcing ORS 460.310 to 460.370.*]

36 [(c) *Govern reports by the department's staff of amusement ride inspectors on amusement rides or*
37 *devices inspected by them.*]

38 [(d) *Set permit fees sufficient to pay but not to exceed the department's costs of carrying out the*
39 *amusement ride program.*]

40 (5) In adopting rules under this section, the department shall consider:

41 (a) Technological advances in the amusement ride industry.

42 (b) The practicability of following the standards under consideration, if adopted.

43 (c) The probability, extent and gravity of the injury to the public or property [which] **that** would
44 result from failure to follow the standards under consideration.

45 (d) Safety standards followed, proposed or approved by responsible members of the amusement

1 ride industry and by the American Society [of] **for Testing and Materials.**

2 **SECTION 13.** ORS 460.370 is amended to read:

3 460.370. All moneys [*from fees*] collected by the Department of Consumer and Business Services
4 **from fees** under ORS 460.310 to 460.370 [*and 460.990 (2)*] **or civil penalties described in section**
5 **5 of this 2011 Act and imposed under ORS 455.895 (2)** shall be paid into the Consumer and
6 Business Services Fund created by ORS 705.145 and are continuously appropriated to the depart-
7 ment for use as provided in ORS 455.022.

8 **SECTION 14.** ORS 455.010 is amended to read:

9 455.010. As used in this chapter, unless the context requires otherwise:

10 (1)(a) "Advisory board" means the board with responsibility for assisting in the adoption,
11 amendment or administration of a specialty code, specifically:

12 (A) The Building Codes Structures Board established under ORS 455.132;

13 (B) The Electrical and Elevator Board established under ORS 455.138;

14 (C) The State Plumbing Board established under ORS 693.115;

15 (D) The Board of Boiler Rules established under ORS 480.535;

16 (E) The Residential and Manufactured Structures Board established under ORS 455.135;

17 (F) The Mechanical Board established under ORS 455.140; or

18 (G) The Construction Industry Energy Board established under ORS 455.492.

19 (b) "Appropriate advisory board" means the advisory board that has jurisdiction over a partic-
20 ular code, standard, license, certification or matter.

21 (2) "Department" means the Department of Consumer and Business Services.

22 (3) "Director" means the Director of the Department of Consumer and Business Services.

23 (4) "Low-Rise Residential Dwelling Code" means the adopted specialty code prescribing stan-
24 dards for the construction of residential dwellings that are three stories or less above grade and
25 have an exterior door for each dwelling unit, but are not facilities or homes described in ORS
26 443.400 or transient lodging.

27 (5) "Municipality" means a city, county or other unit of local government otherwise authorized
28 by law to administer a building code.

29 (6) "Prefabricated structure" means a building or subassembly that has been in whole or sub-
30 stantial part manufactured or assembled using closed construction at an off-site location to be
31 wholly or partially assembled on-site. "Prefabricated structure" does not include a manufactured
32 dwelling, recreational structure or recreational vehicle, as those terms are defined in ORS 446.003.

33 (7) "Specialty code" means a code of regulations adopted under ORS 446.062, 446.185, 447.020 (2),
34 455.020 (2), 455.496, 455.610, 455.680, 460.085, [*460.360,*] **460.355**, 479.730 (1) or 480.545, but does not
35 include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015
36 to 479.200 and 479.210 to 479.220.

37 (8) "State building code" means the combined specialty codes.

38 (9) "Structural code" means the specialty code prescribing structural standards for building
39 construction.

40 (10) "Unsafe condition" means a condition caused by earthquake which is determined by the
41 department or any representative of the department to be dangerous to life and property. "Unsafe
42 condition" includes but is not limited to:

43 (a) Any portion, member or appurtenance of a building that has become detached or dislodged
44 or appears likely to fail or collapse and thereby injure persons or damage property; or

45 (b) Any portion, of a building or structure that has been damaged by earthquake, or by fire or

1 explosion resulting from an earthquake, to the extent that the structural strength or stability of the
 2 building is substantially less than it was prior to the earthquake.

3 **SECTION 15.** ORS 455.148 is amended to read:

4 455.148. (1)(a) A municipality that assumes the administration and enforcement of a building in-
 5 spection program shall administer and enforce the program for all of the following:

6 (A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of
 7 this subsection.

8 (B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.

9 (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.

10 (D) Park and camp programs regulated under ORS 455.680.

11 (E) Tourist facilities regulated under ORS 446.310 to 446.350.

12 (F) Manufactured dwelling alterations regulated under ORS 446.155.

13 (G) Manufactured structure accessory buildings and structures under ORS 446.253.

14 (H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (5).

15 (b) A building inspection program of a municipality may not include:

16 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described
 17 in rules adopted under ORS 480.525 (5);

18 (B) Elevator programs under ORS 460.005 to 460.175;

19 (C) Amusement ride, **amusement device or rental amusement device** regulation under ORS
 20 460.310 to 460.370;

21 (D) Prefabricated structure regulation under ORS chapter 455;

22 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including
 23 the administration and enforcement of federal manufactured dwelling construction and safety stan-
 24 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety
 25 Standards Act of 1974;

26 (F) Licensing and certification, or the adoption of statewide codes and standards, under ORS
 27 chapter 446, 447, 455, 479 or 693; or

28 (G) Review of plans and specifications as provided in ORS 455.685.

29 (2) A municipality that administers a building inspection program as allowed under this section
 30 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt
 31 rules to adjust time periods for administration of a building inspection program to allow for vari-
 32 ations in the needs of the department and participants.

33 (3) When a municipality administers a building inspection program, the governing body of the
 34 municipality shall, unless other means are already provided, appoint a person to administer and
 35 enforce the building inspection program, who shall be known as the building official. A building of-
 36 ficial shall, in the municipality for which appointed, attend to all aspects of code enforcement, in-
 37 cluding the issuance of all building permits. Two or more municipalities may combine in the
 38 appointment of a single building official for the purpose of administering a building inspection pro-
 39 gram within their communities.

40 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in
 41 subsection (2) of this section, the governing body of the municipality shall notify the Director of the
 42 Department of Consumer and Business Services and, if the municipality is not a county, notify the
 43 county whether the municipality will continue to administer and enforce the building inspection
 44 program after expiration of the four-year period.

45 (b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director

1 and the municipality and, if the municipality is not a county, the county may by agreement extend
 2 that date to no later than March 1.

3 (5) If a city does not notify the director, or notifies the director that it will not administer the
 4 building inspection program, the county or counties in which the city is located shall administer and
 5 enforce the county program within the city in the same manner as the program is administered and
 6 enforced outside the city, except as provided by subsection (6) of this section.

7 (6) If a county does not notify the director, or notifies the director that it will not administer
 8 and enforce a building inspection program, the director shall contract with a municipality or other
 9 person or use such state employees or state agencies as are necessary to administer and enforce a
 10 building inspection program, and permit or other fees arising therefrom shall be paid into the Con-
 11 sumer and Business Services Fund created by ORS 705.145 and credited to the account responsible
 12 for paying the expenses thereof. A state employee may not be displaced as a result of using contract
 13 personnel.

14 (7) The governing body of a municipality may commence responsibility for the administration
 15 and enforcement of a building inspection program beginning July 1 of any year by notifying the di-
 16 rector no later than January 1 of the same year and obtaining the director's approval of an as-
 17 sumption plan as described in subsection (11)(c) of this section.

18 (8) The department shall adopt rules to require the governing body of each municipality assum-
 19 ing or continuing a building inspection program under this section to submit a written plan with the
 20 notice required under subsection (4) or (7) of this section. If the department is the governing body,
 21 the department shall have a plan on file. The plan must specify how cooperation with the State Fire
 22 Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will
 23 be considered in the review process of the design and construction phases of buildings or structures.

24 (9) A municipality that administers and enforces a building inspection program pursuant to this
 25 section shall recognize and accept the performances of state building code activities by businesses
 26 and persons authorized under ORS 455.457 to perform the activities as if the activities were per-
 27 formed by the municipality. A municipality is not required to accept an inspection, a plan or a plan
 28 review that does not meet the requirements of the state building code.

29 (10) The department or a municipality that accepts an inspection or plan review as required by
 30 this section by a person licensed under ORS 455.457 has no responsibility or liability for the activ-
 31 ities of the licensee.

32 (11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate
 33 building inspection programs that municipalities assume on or after January 1, 2002. Regulation
 34 under this subsection shall include but not be limited to:

35 (a) Creating building inspection program application and amendment requirements and proce-
 36 dures;

37 (b) Granting or denying applications for building inspection program authority and amendments;

38 (c) Requiring a municipality assuming a building inspection program to submit with the notice
 39 given under subsection (7) of this section an assumption plan that includes, at a minimum:

40 (A) A description of the intended availability of program services, including proposed service
 41 agreements for carrying out the program during at least the first two years;

42 (B) Demonstration of the ability and intent to provide building inspection program services for
 43 at least two years;

44 (C) An estimate of proposed permit revenue and program operating expenses;

45 (D) Proposed staffing levels; and

- 1 (E) Proposed service levels;
- 2 (d) Reviewing procedures and program operations of municipalities;
- 3 (e) Creating standards for efficient, effective, timely and acceptable building inspection pro-
- 4 grams;
- 5 (f) Creating standards for justifying increases in building inspection program fees adopted by a
- 6 municipality;
- 7 (g) Creating standards for determining whether a county or department building inspection
- 8 program is economically impaired in its ability to reasonably continue providing the program
- 9 throughout a county, if another municipality is allowed to provide a building inspection program
- 10 within the same county; and
- 11 (h) Enforcing the requirements of this section.
- 12 (12) The department may assume administration of a building inspection program:
- 13 (a) During the pendency of activities under ORS 455.770;
- 14 (b) If a municipality abandons or is no longer able to administer the building inspection program;
- 15 and
- 16 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
- 17 455.465, 455.467 and 455.469.
- 18 (13) A municipality that abandons or otherwise ceases to administer a building inspection pro-
- 19 gram that the municipality assumed under this section may not resume the administration or
- 20 enforcement of the program for at least two years. The municipality may resume the administration
- 21 and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to re-
- 22 suming the administration and enforcement of the program, the municipality must follow the notifi-
- 23 cation procedure set forth in subsection (7) of this section.
- 24 **SECTION 16.** ORS 455.150 is amended to read:
- 25 455.150. (1) Except as provided in subsection (14) of this section, a municipality that assumes the
- 26 administration and enforcement of a building inspection program prior to January 1, 2002, may ad-
- 27 minister and enforce all or part of a building inspection program. A building inspection program:
- 28 (a) Is a program that includes the following:
- 29 (A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of
- 30 this subsection.
- 31 (B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.
- 32 (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.
- 33 (D) Park and camp programs regulated under ORS 455.680.
- 34 (E) Tourist facilities regulated under ORS 446.310 to 446.350.
- 35 (F) Manufactured dwelling alterations regulated under ORS 446.155.
- 36 (G) Manufactured structure accessory buildings and structures under ORS 446.253.
- 37 (H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (5).
- 38 (b) Is not a program that includes:
- 39 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described
- 40 in rules adopted under ORS 480.525 (5);
- 41 (B) Elevator programs under ORS 460.005 to 460.175;
- 42 (C) Amusement ride, **amusement device or rental amusement device** regulation under ORS
- 43 460.310 to 460.370;
- 44 (D) Prefabricated structure regulation under ORS chapter 455;
- 45 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including

1 the administration and enforcement of federal manufactured dwelling construction and safety stan-
2 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety
3 Standards Act of 1974;

4 (F) Licensing and certification, or the adoption of statewide codes and standards, under ORS
5 chapter 446, 447, 455, 479 or 693; and

6 (G) Review of plans and specifications as provided in ORS 455.685.

7 (2) A municipality that administers a building inspection program as allowed under this section
8 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt
9 rules to adjust time periods for administration of a building inspection program to allow for vari-
10 ations in the needs of the department and participants.

11 (3) When a municipality administers a building inspection program, the governing body of the
12 municipality shall, unless other means are already provided, appoint a person to administer and
13 enforce the building inspection program or parts thereof, who shall be known as the building official.
14 A building official shall, in the municipality for which appointed, attend to all aspects of code
15 enforcement, including the issuance of all building permits. Two or more municipalities may combine
16 in the appointment of a single building official for the purpose of administering a building inspection
17 program within their communities.

18 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in
19 subsection (2) of this section, the governing body of the municipality shall notify the Director of the
20 Department of Consumer and Business Services and, if not a county, notify the county whether the
21 municipality will continue to administer the building inspection program, or parts thereof, after ex-
22 piration of the four-year period. If parts of a building inspection program are to be administered and
23 enforced by a municipality, the parts shall correspond to a classification designated by the director
24 as reasonable divisions of work.

25 (b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director
26 and the municipality and, if the municipality is not a county, the county may by agreement extend
27 that date to no later than March 1.

28 (5) If a city does not notify the director, or notifies the director that it will not administer cer-
29 tain specialty codes or parts thereof under the building inspection program, the county or counties
30 in which the city is located shall administer and enforce those codes or parts thereof within the city
31 in the same manner as it administers and enforces them outside the city, except as provided by
32 subsection (6) of this section.

33 (6) If a county does not notify the director, or notifies the director that it will not administer
34 and enforce certain specialty codes or parts thereof under the building inspection program, the di-
35 rector shall contract with a municipality or other person or use such state employees or state
36 agencies as are necessary to administer and enforce those codes or parts thereof, and permit or
37 other fees arising therefrom shall be paid into the Consumer and Business Services Fund created
38 by ORS 705.145 and credited to the account responsible for paying such expenses. A state employee
39 may not be displaced as a result of using contract personnel.

40 (7) If a municipality administering a building inspection program under this section seeks to
41 administer additional parts of a program, the municipality must comply with ORS 455.148, including
42 the requirement that the municipality administer and enforce all aspects of the building inspection
43 program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this
44 section.

45 (8) The department shall adopt rules to require the governing body of each municipality to

1 submit a written plan with the notice required under subsection (4) of this section. If the department
2 is the governing body, the department shall have a plan on file. The plan shall specify how coop-
3 eration with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and
4 how a uniform fire code will be considered in the review process of the design and construction
5 phases of buildings or structures.

6 (9) A municipality that administers a code for which persons or businesses are authorized under
7 ORS 455.457 to perform activities shall recognize and accept those activities as if performed by the
8 municipality. A municipality is not required to accept an inspection, a plan or a plan review that
9 does not meet the requirements of the state building code.

10 (10) The department or a municipality that accepts an inspection or plan review as required by
11 this section by a person licensed under ORS 455.457 has no responsibility or liability for the activ-
12 ities of the licensee.

13 (11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate
14 building inspection programs of municipalities assumed prior to January 1, 2002. Regulation under
15 this subsection shall include but not be limited to:

16 (a) Creating building inspection program application and amendment requirements and proce-
17 dures;

18 (b) Granting or denying applications for building inspection program authority and amendments;

19 (c) Reviewing procedures and program operations of municipalities;

20 (d) Creating standards for efficient, effective, timely and acceptable building inspection pro-
21 grams;

22 (e) Creating standards for justifying increases in building inspection program fees adopted by a
23 municipality;

24 (f) Creating standards for determining whether a county or department building inspection pro-
25 gram is economically impaired in its ability to reasonably continue providing the program or part
26 of the program throughout a county, if another municipality is allowed to provide a building in-
27 spection program or part of a program within the same county; and

28 (g) Enforcing the requirements of this section.

29 (12) The department may assume administration of a building inspection program:

30 (a) During the pendency of activities under ORS 455.770;

31 (b) If a municipality abandons any part of the building inspection program or is no longer able
32 to administer the building inspection program; and

33 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
34 455.465, 455.467 and 455.469.

35 (13) If a municipality abandons or otherwise ceases to administer all or part of a building in-
36 spection program described in this section, the municipality may not resume the administration and
37 enforcement of the abandoned program or part of a program for at least two years. The municipality
38 may resume the administration and enforcement of the abandoned program or part of a program only
39 on July 1 of an odd-numbered year. To resume the administration and enforcement of the abandoned
40 program or part of a program, the municipality must comply with ORS 455.148, including the re-
41 quirement that the municipality administer and enforce all aspects of the building inspection pro-
42 gram. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this
43 section.

44 (14) A municipality that administers and enforces a building inspection program under this sec-
45 tion shall include in the program the inspection of boilers and pressure vessels described in sub-

1 section (1)(a)(H) of this section.

2 **SECTION 17.** ORS 460.035 is amended to read:

3 460.035. (1) Fees are not required under ORS 460.005 to 460.175 to install, alter, repair, operate
4 or maintain an elevator:

5 (a) Under the supervision of the United States Government.

6 (b) That is a nonpower-driven lifting device.

7 (c) Located in a private residence, except for initial installation.

8 (2) The owner or user of an elevator described in subsection (1) of this section may request that
9 the Department of Consumer and Business Services inspect the elevator. If the department performs
10 the inspection, the department, notwithstanding subsection (1) of this section, may collect the ap-
11 propriate fee for performing the inspection.

12 (3) Pipes installed in an elevator hoistway prior to July 1, 1961, that do not convey gases or
13 liquids that would endanger life if discharged into the hoistway need not be removed.

14 (4) ORS 460.005 to 460.175 do not apply to:

15 (a) Belt, bucket, scoop, roller or similar type material conveyors.

16 (b) Hoists for raising or lowering materials and that are provided with unguided hooks, slings
17 and similar means for attachment to the materials.

18 (c) Material hoists used only to raise and lower building material in buildings under con-
19 struction.

20 (d) Stackers that serve one floor only.

21 (e) Window-washing scaffolds.

22 (f) Nonpower-driven lifting devices.

23 (g) Amusement rides, **amusement devices or rental amusement devices.**

24 (h) Mine elevators.

25 (i) Elevators under the supervision of the United States Government.

26 (j) Elevators located in private residences, except for initial installation permits and installation
27 inspections.

28 (k) Other elevators and equipment as provided by the department by rule.

29 **SECTION 18.** ORS 460.352 and 460.360 are repealed.

30 **SECTION 19.** (1) **The Department of Consumer and Business Services shall adopt initial**
31 **rules establishing professional qualification requirements for amusement ride inspectors**
32 **under section 2 of this 2011 Act no later than July 1, 2012.**

33 (2) **Notwithstanding section 2 of this 2011 Act, an amusement ride inspector may engage**
34 **in the occupation of inspecting amusement rides, amusement devices and rental amusement**
35 **devices prior to January 1, 2013, without meeting the professional qualification requirements**
36 **for amusement ride inspectors established by the Department of Consumer and Business**
37 **Services.**

38 **SECTION 20.** (1) **Section 4 of this 2011 Act applies to accidents occurring on or after the**
39 **effective date of this 2011 Act.**

40 **SECTION 21.** **The amendments to ORS 460.310, 460.320 and 460.355 by sections 6, 7 and**
41 **12 of this 2011 Act become operative January 1, 2013.**

42 **SECTION 22.** **The amendments to ORS 460.330 and 460.340 by sections 8 and 9 of this 2011**
43 **Act apply to operating permit applications received by the Department of Consumer and**
44 **Business Services on or after January 1, 2013.**