

Regulation Of Florida Water Parks

Are You At Risk For Injury? By William Henry, PhD

Florida is the home of a large number of water parks. Given its name-- the entity that regulates water parks may seem surprising to you. How does the regulation of Florida recreational theme parks that feature water oriented rides impact safety or lack thereof and --ultimately personal injury?

The Florida Legislature has recognized in Section 616.242 of the Florida Statutes the necessity of regulating amusement rides within the State.

Exempt from the statute for inspection purposes are:

Permanent facilities that employ at least 1,000 full-time employees, and that maintain full-time, in-house safety inspectors.

However, the statute requires that such permanent facilities must file an affidavit of its annual inspection with the department, on a form prescribed by rule of the department. As a practical matter, the form adopted by the Department is for daily reports to be completed by the water park's safety personnel.

The statute requires that the owner of an amusement ride must meet at all times the requirements of the statute and any rules adopted thereunder.

An amusement ride is defined in the statute as:

Any building, structure, or mechanical device or combination thereof through which a patron moves, walks, or is carried or conveyed on, along, around, over, or through a fixed or restricted course or within a defined area for the purpose of giving its patrons amusement, pleasure, thrills, or excitement, and Amusement rides at water parks which

operate from the same deck or level are considered one amusement ride.

A water park is defined in the statute as:

A permanent facility with one or more amusement rides that totally or partially immerse a patron in water

The Legislature incorporated within the statute a statement that reads in part:

Amusement rides at water parks are amusement rides that, because of their unique nature, pose safety risks to patrons distinct from other amusement rides. Therefore, the department shall adopt rules regulating their safe use and operation and establish safety standards and inspection requirements in addition to those required by this section or other rule of the department.

The Legislature does not identify the name of the mystery Department, but it is the Florida Department of Agriculture and Consumer Services, and more specifically it's Bureau of Fair Rides Inspection. Why would the Department of Agriculture be tapped to regulate national entities that are household names? It may be that the State recognized the Department's existing regulation of various State Fairs – the amusements at these fairs are very similar to those in amusement and water parks.

The rules adopted by the Department are included in the Florida Administrative Code and regulate several aspects of water park operations. They include the following statement:

Ingress, Egress, and Walking Surfaces. The owner shall maintain the means of ingress, egress and walking surfaces of the amusement ride so that they are slip resistant with a textured surface which is

not conducive to slipping under contact of bare feet.

Why would any of this matter to you?

The concern may arise as to how much should guest safety rely on self-monitoring by large amusement park operators and overseen by what may be construed as an anachronism—an agency set up to regulate farming and other such agricultural operations in the State? This in no way is intended to disparage what may be a very competent State agency.

The issue is that it seems to be below the radar screen. This is particularly so— when an accident does occur.—who becomes liable for the deficiencies—the park operator and their insurance carriers –or the State of Florida's Department of Agriculture who oversees and reviews the safety affidavits supplied by major water park operators?

You may now think about this little known oversight procedure the next time you hear about loved ones visiting these parks-- or in fact- what your responsibilities may be if you are the parent or escort of young children and/or teenagers visiting Florida's array of water park options.

If you or someone that you are responsible for is injured at one of these water parks, then the whole procedure for safety will likely go on the radar screen of those who may be liable for the accident and the injured party's (plaintiff's) counsel.



William "Bill" Henry
RGA-Design LLC
DreamScapes LLC
(813) 226.2220 ext. 204
whenry@rga-design.com