

**§ 95-111.4. Powers and duties of Commissioner.**

The Commissioner of Labor is hereby empowered to do all of the following:

- (1) To delegate to the Director of the Elevator and Amusement Device Division such powers, duties and responsibilities as the Commissioner determines will best serve the public interest in the safe operation of amusement devices.
- (2) To supervise the Director of the Elevator and Amusement Device Division.
- (3) To adopt, modify, or revoke such rules and regulations as are necessary for the purpose of carrying out the provisions of this Article including, but not limited to, those governing the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration and relocation of devices subject to the provisions of this Article. The rules and regulations promulgated pursuant to this rulemaking authority shall conform with good engineering and safety standards, formulas and practices.
- (4) To enforce rules and regulations adopted under authority of this Article.
- (5) To inspect and have tested for acceptance all new and relocated devices subject to the provisions of this Article. Relocated amusement devices shall be inspected upon reassembly at each new location within this State; provided that the Commissioner may provide for less frequent inspections when he determines that the device is of such a type and its use is of such a nature that inspection less often than upon each reassembly would not expose the public to an unsafe condition likely to result in serious personal injury or property damage.
- (6) To inspect amusement devices which have been substantially rebuilt or substantially modified so as to change the original action, structure or capacity of the device.
- (7) To make maintenance and periodic inspections and tests of all devices subject to the provisions of this Article. Devices located in amusement parks shall be inspected at least once annually.
- (8) To issue certificates of operation which certify for use such devices as are found to be in compliance with this Article and the rules and regulations promulgated thereunder.
- (9) To have reasonable access, with or without notice, to the devices subject to the provisions of this Article during reasonable hours, for purposes of inspection or testing.
- (10) To obtain an Administrative Search and Inspection Warrant in accordance with the provisions of Article 4A of Chapter 15 of the General Statutes.
- (11) To investigate accidents involving devices subject to the provisions of this Article to determine the cause of the accident, and the Commissioner shall have full subpoena powers in conducting the investigation.
- (12) To institute proceedings in the civil courts of this State, when a provision of this Article or the rules and regulations promulgated thereunder has been violated.
- (13) To adopt, modify or revoke rules and regulations governing the qualifications of inspectors.
- (14) To grant exceptions from the requirements of the rules and regulations promulgated under authority of this Article and to permit the use of other devices when these exceptions and uses will not expose the public to an

unsafe condition likely to result in serious personal injury or property damage.

- (15) To require that before any device subject to the provisions of this Article is erected in this State, or before any additions or alterations which substantially change the device are made, or before the physical spacing between the devices is changed, the owner or the owner's authorized agent shall file with the Commissioner a written notice of the owner's intention to do so and the type of device involved. Should circumstances necessitate, the Commissioner may require that the owner or the owner's authorized agent furnish a copy of the plans, diagrams, specifications or stress analyses of the device before the inspection of the device. When plans, diagrams, specifications or stress analyses are requested by the Commissioner, the Commissioner shall review them within 10 days of receipt, and upon approval, shall authorize the device for use by the public.
- (16) To prohibit the use of any device subject to the provisions of this Article which is found upon inspection to expose the public to an unsafe condition likely to cause personal injury or property damage. Such a device shall be made operational only upon the Commissioner's determination that it has been made safe.
- (17) To order the payment of all civil penalties provided by this Article. The clear proceeds of funds collected pursuant to a civil penalty order shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
- (18) To coordinate enforcement and inspection activity relative to equipment, devices and operations covered by this Article in order to minimize duplication of liability or regulatory responsibility on the part of the employer or owner.
- (19) To establish fees not to exceed two hundred fifty dollars (\$250.00) for the inspection and issuance of certificates of operation for devices subject to this Article that are in use. (1985 (Reg. Sess., 1986), c. 990, s. 2; 1987, c. 635, s. 2; 1998-215, s. 110; 2001-427, s. 11(f); 2014-115, s. 5.)