

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Fiscal Note

BILL NUMBER: House Bill 1043 (First Edition)

SHORT TITLE: Zip Line and Challenge Course Safety Act.

SPONSOR(S): Davis and Howard

FISCAL IMPACT					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Estimate Available					
State Impact	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
General Fund Revenues:		\$10,208	\$17,500	\$17,500	\$17,500
General Fund Expenditures:		\$49,000	\$49,000	\$49,000	\$49,000
State Positions:		1.0	1.0	1.0	1.0
NET STATE IMPACT	\$0	(\$38,792)	(\$31,500)	(\$31,500)	(\$31,500)
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
Department of Labor					
EFFECTIVE DATE: December 1, 2017					
TECHNICAL CONSIDERATIONS:					
None					

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 \$17,500. 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 24 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. 95-282. 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.

The bill lists 20 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 establishes limits on fees that may be charged for regulatory purposes, along with an annual application for a certificate of operation. 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 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 following services:

- 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 annually 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 are currently operating, 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 is also permitted to charge up to \$50 for the annual certification of qualified inspectors, pursuant to the proposed G.S. 95-287. 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. Based upon that estimation, the Bureau would receive up to \$2,500 in annual revenue.

Because the bill is effective on December 1, 2017, it is assumed that revenues in FY 2017-18 would be for seven months of operations at \$10,208.¹ In the following years, the maximum of \$17,500 is assumed.

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 cost of a mid-range administrative assistant position is estimated at \$49,000 recurring.

¹ \$15,000 plus \$2,500 equals \$17,500 times 7/12 equals \$10,208.

SOURCES OF DATA: The Department of Labor

TECHNICAL CONSIDERATIONS: None

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