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HOUSE BILL DRH40179-LRf-14D

Short Title: Regulate Challenge Courses. (Public)

Sponsors: Representatives McGrady, B. Turner, Henson, and Russell (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO REGULATE THE OPERATION OF COMMERCIAL AND
NONCOMMERCIAL CHALLENGE COURSES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article
to read:

"Article 47A.
"Challenge Courses.

"§ 66-460. Definitions.

The following definitions apply in this Article:

- (1) ACCT. – Association for Challenge Course Technology.
- (2) ANSI. – American National Standards Institute.
- (3) Aerial adventure trekking park. – A self-guided challenge course at height that is supervised and open to the public and access to the course is controlled.
- (4) CWA. – Climbing Wall Association.
- (5) Canopy tour. – A guided aerial exploration or transit of the forest canopy, most commonly by means of a series of zip lines or aerial walkways with platforms.
- (6) Challenge course. – A facility or facilities consisting of one or more high elements including zip line tours, canopy tours, or aerial adventure trekking parks.
- (7) Competent person. – A person possessing the skills, knowledge, experience, training, and judgment to perform assigned tasks or activities satisfactorily as determined by the employer, industry standards, or authority having jurisdiction, provided that the competent person acts under the supervision of a qualified person.
- (8) Commercial climbing structures. – A manufactured structure that has been engineered to meet CWA standards.
- (9) Department. – North Carolina Department of Labor.
- (10) Element. – An apparatus that provides for a unit of activity on a challenge course. Elements include, but are not limited to, items designed to simulate beams, bridges, cable traverses, nets, platforms, ropes, swings, towers, zip lines, or jump systems. Elements may be installed on or in trees, poles, portable structures, buildings, or be a part of a self-supporting structure.
- (11) High/aerial element. – An element installed at a height that requires a participant to be connected to a life safety system.



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- 1 (12) Inspection. – A procedure conducted by an inspector to determine whether a
2 challenge course has been constructed, assembled, maintained, tested,
3 operated, and inspected in accordance with the standards adopted by these
4 regulations and the manufacturer's recommendations, as applicable. All
5 inspections shall be documented by a written inspection report to be filed with
6 the operator. Types of inspections required include:
7 a. Acceptance inspection. – The inspection of a course performed upon
8 completion of a new installation and/or major modifications to a
9 challenge course. Acceptance inspections may only be performed by
10 a professional inspector that is not employed by the owner.
11 b. Annual inspection. – An annual inspection of the challenge course
12 conducted by an inspector. Annual inspection reports are valid for 12
13 months from the date of inspection. Annual inspections may only be
14 performed by a professional inspector that is not employed by the
15 owner.
16 c. In-House inspection. – Periodic inspection of the physical and
17 operational components of a course performed at an interval as
18 specified by the designer, manufacturer, or other qualified person.
19 (13) Inspector. – Individual who has the skills, knowledge, and ability to identify
20 standards, deficiencies, and hazards and to communicate them to the challenge
21 course operator. Inspector qualifications include:
22 a. Professional inspector. – An inspector that is a qualified person who is
23 currently Level 1 ICE certified by ACCT or higher.
24 b. In-House inspector. – An inspector that is a competent person who
25 may be an employee of the owner and is able to perform, manage, and
26 document an ongoing system of monitoring all challenge course
27 components at an interval specified by the designer, manufacturer, or
28 other qualified person.
29 (14) ICE. – The Inspector Certification Exam (ICE) program provided by ACCT.
30 (15) Low element. – An element designed to be operated without the use of a life
31 safety system.
32 (16) Major modification. – Any change in either the structural or operational
33 characteristics of the element that will alter its performance from that specified
34 in the manufacturer's design criteria.
35 (17) Minor modification. – Any change that does not alter the structural or
36 operational characteristics of the element or device nor change its
37 performance from that specified in the manufacturer's design criteria.
38 (18) Operator. – A person or the agent of a person, corporation, or company who
39 owns, controls, or has the duty to control the operation or maintenance of a
40 challenge course.
41 (19) Operator staff. – Persons that are directly responsible for the safety of patrons
42 using the challenge course. These persons must be trained in accordance with
43 the standards adopted by these regulations and in accordance with an operator
44 training program or specifications provided by the Challenge Course designer,
45 installer, engineer, and/or manufacturer.
46 (20) Owner. – A person having ultimate responsibility for the operation and
47 maintenance of the challenge course.
48 (21) Qualified person. – An individual who, by possession of a recognized degree,
49 certificate, or professional standing; or who, by possession of extensive
50 knowledge, training, and/or experience in the subject field, has successfully
51 demonstrated ability in design, analysis, evaluation, installation, inspection,

1 specification, testing, or training in the subject work, project, or product, to
2 the extent established by this standard.

3 (22) Registration. – The filing of a properly completed application with the State
4 of North Carolina and approval of the application by the State of North
5 Carolina.

6 (23) Zip line. – A lifeline suspended between support structures that enables a
7 person attached to a pulley to traverse from one point to another propelled
8 only by the force of gravity.

9 (24) Zip line tour. – A guided aerial exploration or transit of a landscape by means
10 of a series of zip lines and platforms generally supported by man-made
11 structures.

12 **"§ 66-461. Scope; applicable industry standard.**

13 (a) Scope. – This Article applies to the design, construction, operation, repair, and
14 maintenance of both commercial and noncommercial operators and operations of challenge
15 courses located in this State by any individual, corporation, company, firm, partnership,
16 association, or State or local government entity. This Article does not apply to challenge courses
17 that are exclusively comprised of low elements, or commercial climbing structures.

18 (b) Applicable Industry Standard. – All operators and operations of both commercial and
19 noncommercial challenge courses, which includes ropes courses, challenge courses, adventure
20 courses, adventure trekking parks, zip lines, zip line tours, canopy tours, and high element
21 challenge courses shall adhere to the most current ACCT/ANSI Challenge Course and
22 Canopy/Zip Line Tour Standards, which were developed by the Association for Challenge
23 Course Technology (ACCT) and approved by the American National Standards Institute (ANSI).

24 **"§ 66-462. Liability insurance.**

25 (a) Liability Insurance. – The insurance requirements set forth in G.S. 66-456 apply to
26 persons regulated under this Article, except as provided by subsection (b) of this section.

27 (b) This section does not apply to State agencies.

28 **"§ 66-463. New construction and major modifications of challenge courses.**

29 All new construction and major modifications of challenge courses shall be built by a
30 qualified person or a competent person supervised by a qualified person and shall meet all
31 applicable ACCT/ANSI standards.

32 **"§ 66-464. Inspection of new construction and major modifications.**

33 Prior to the commencement of operations of newly constructed challenge courses or major
34 modification of challenge courses, the challenge course operator shall provide documentation in
35 the form of an acceptance inspection verifying that the construction was performed by a
36 competent person and that the improvements meet or exceeds current ACCT/ANSI standards.
37 An acceptance inspection shall be performed by a professional inspector. The acceptance
38 inspection report shall be submitted to the Department for approval. This requirement shall not
39 apply to construction that was completed and operational prior to the date of the adoption of this
40 law. Minor modifications do not require an acceptance inspection.

41 **"§ 66-465. Annual inspection of challenge courses.**

42 An annual inspection of all challenge course physical elements shall be conducted in
43 accordance with the current version of the ACCT/ANSI standards. This shall be performed as
44 often as circumstances require, but no less than once every 12 months. Any items identified from
45 the annual inspection requiring immediate corrective measures must be resolved and verified by
46 a professional inspector prior to submittal of the application for registration to the Department.

47 **"§ 66-466. Operator staff training and documentation.**

48 All operator staff who are directly responsible for participant safety must successfully
49 complete training that meets current ACCT/ANSI standards and follows all applicable
50 manufacturer's specifications. Trainings must be performed by a qualified person or a competent

1 person supervised by a qualified person. Operators must retain documentation verifying training
2 of all applicable staff per ACCT/ANSI standards.

3 **"§ 66-467. Registration with the State.**

4 All commercial and noncommercial operators of challenge courses must register annually
5 with the Department and are subject to an annual fee that compensates the Department for the
6 cost of administering the law. No challenge course shall open to the public and operate until the
7 owner or operator of the challenge course has first registered and obtained a permit for operation
8 from the Department.

9 **"§ 66-468. Submission and processing of applications for registration.**

10 The challenge course application shall be submitted annually on the form prescribed by the
11 Department and shall include the following registration requirements:

- 12 (1) The name and address of the owner.
- 13 (2) The name of all liability insurance carriers and the insurance policy numbers.
- 14 (3) An annual inspection report for the challenge course showing the inspector's
15 name, the owner or operator's name, and other information as required by rules
16 adopted under this Article.

17 Upon receipt of an application, the Department shall review the application, and upon
18 determining that the provisions of this Article and the rules adopted hereunder have been met,
19 shall approve the application, register the challenge course, and issue a permit to operate within
20 five business days.

21 The submittal of a registration application does not guarantee the registration of any challenge
22 course. The owner or operator must obtain a permit from the Department of Labor prior to
23 opening any challenge course for use by participants.

24 **"§ 66-469. Records.**

25 All challenge course owners and operators shall maintain detailed records relating to the
26 construction, repair, and maintenance of its operation, including safety, inspection, maintenance
27 records, and training activities. Records shall be made available to the Department at reasonable
28 times, including during an inspection upon the Department's request. All records must be
29 maintained for a period of no less than three years.

30 **"§ 44-470. Advisory commission.**

31 An advisory commission composed of seven members, comprised of (i) three challenge
32 course owners or operators, (ii) two designers, engineers, or installers with expertise in the
33 design, installation, and operation of challenge courses, (iii) one trainer with expertise in the
34 training of operator staff, and (iv) one at-large member with the aforementioned qualifications.
35 The commission shall be created, and members voted on, by owners or operators that have
36 received registration from the Department, and shall meet annually to provide recommendations
37 to the Department.

38 **"§ 66-471. Rules.**

39 The Commissioner shall adopt rules to implement this Article."

40 **SECTION 2.** G.S. 95-4 is amended by adding a new subdivision to read:

41 "(7) To administer and enforce the provisions of Article 47A of Chapter 66 of the
42 General Statutes."

43 **SECTION 3.** This act becomes effective July 1, 2019, with G.S. 66-464, as enacted
44 by this act, not applying to construction that was completed and operational before that date.