STATE OF TENNESSEE
ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD

QUARTERLY MEETING OF THE
STATE OF TENNESSEE
ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD

September 24, 2019

ORIGINAL

CASSANDRA M. BEILING, LCR# 371
STONE & GEORGE COURT REPORTING
2020 Fieldstone Parkway
Suite 900 - PMB 234
Franklin, Tennessee 37069
615.221.1089
APPEARANCES:
1. Robbie Fox, Chairman
   Fixed Amusement Device Representative
2. Mike McPherson
   Elevator Inspector Supervisor
3. Mike H. Hardy
   Amusement Device Manager
4. David Hale, Board Member
5. Larry R. Moore, II, Board Member
   Owner and Lessees Representative
6. Lewis Moorer, Jr., Board Member
   Public-at-Large Representative
7. Mitch H. Rader, Board Member
   Insurance Company Representative
8. Victor LaPorte, Board Member
   Manufacturer Representative
9. James Roy Pope, Board Member (not present)
10. Dan Bailey, Esq.
    Legal Counsel, State of Tennessee
11. Jennifer Murphy
    Board Secretary, State of Tennessee
12. Tom Herrod, Esq.
    Assistant Commissioner, State of Tennessee
13. Kevin York, Schindler Elevator
14. Lawrence Taylor, Schindler Elevator
15. John Tarpley, Safety Compliance Officer

A G E N D A

I. Call Meeting to Order
II. Introductions and Announcements
III. Pledge
IV. Adoption of Agenda
V. Approval of the June 4, 2019 Minutes
VI. Elevator Unit's Report
VII. Amusement Device Unit's Report
VIII. Old Business
   * Elevator Sub Committee Update
         * Amusement Device Sub Committee Update
IX. New Business
   * Don Stock to address board about inspections of ziplines
   * Fee Increase for Elevators/Permitting
X. Open Discussion Items:
   * ASTM F-24
   * Division's Update on Jurisdiction Online
   for the following programs:
      * Elevator Unit
      * Amusement Device Unit
XI. Announcement of Next Meeting- The next regularly scheduled meeting of the Elevator & Amusement Device Safety Board meeting will be held at 9:00 a.m. (CST) on Wednesday, December 4, 2019, at the State of Tennessee Department of Labor and Workforce Development building, located at 220 French Landing Drive, Nashville, Tennessee.
XII. Adjournment

CHAIRMAN FOX: Good morning. I will call the September 24, 2019 meeting of the Elevator and Amusement Device Safety board to order.

And, Mr. LaPorte, will you do the pledge for us and get us started off right, please, sir.

(Whereupon, the Pledge of Allegiance was recited.)

CHAIRMAN FOX: Thank you.

Okay. Introductions? Ms. Murphy, because you're sitting on the right, it's your turn.

MS. MURPHY: Jennifer Murphy, board secretary.

MR. HARDY: Mike Hardy, amusement device unit manager.

MR. MCPHERSON: Mike McPherson, elevator chief.

MR. LaPORTE: Vic LaPorte, board member.

MR. MOORER: Lewis Moorer, board member.

MR. HALE: David Hale, board member.

Chairman Fox: Robbie Fox, board member.

MR. RADER: Mitch Rader, board member.

MR. MOORE: Larry Moore, board member.

MS. O'CONNOR: Kelly O'Connor, board member.

MR. HERROD: Tom Herrod, assistant commissioner.

MR. BAILEY: Dan Bailey, legal counsel.

And I'm going take a moment to remind everybody this meeting is being transcribed, so make sure you don't talk over each other. Let somebody who's asking a question complete the question before you start to answer so that the record is clean. Thank you.
MR. KLUTTS: Kevin Klutts, safety compliance officer.
MR. STOCK: Don Stock, state inspector.
MR. JACKSON: Thomas Jackson, assistant chief elevator inspector.
MS. RHODES: Anita Rhodes, elevator office supervisor.
MS. ALDRIDGE: Erica Aldridge, AA1 for amusement device unit.
CHAIRMAN FOX: And the other part, to hitchhike on with Mr. Bailey, please speak loudly so that all of us can hear, because, quite frankly, I’m almost deaf. So if you could help me, I’d appreciate it.

Okay. Announcements: In the event of an emergency or a natural disaster, security personnel will take attendees to a safe place in the building or direct them to exit the building on the Rosa Parks side. And that is on that end of the building.

Item Number 4, Adoption of the Agenda. I would entertain a motion to adopt the agenda as presented.

MR. RADER: So moved.
MR. HALE: Second.
CHAIRMAN FOX: I have a motion and a second. Any discussion?

(No verbal response.)
CHAIRMAN FOX: Hearing none, all in favor of the motion let it be known by saying aye.

(Affirmative response.)
CHAIRMAN FOX: All opposed, like sign.
(No verbal response.)
CHAIRMAN FOX: You should have the minutes of the June 4th meeting in your packet. And I would entertain a motion to approve as presented.

MR. RADER: So moved.
MR. MOORE: Second.
CHAIRMAN FOX: We have a motion and second. Any discussion?

(No verbal response.)
CHAIRMAN FOX: Hearing none, all in favor of the motion, let it be known by saying aye.

(Affirmative response.)

CHAIRMAN FOX: All opposed by like sign.
(No verbal response.)
CHAIRMAN FOX: Thank you.
Item Number 6, we have the Elevator Unit's Report. Mr. McPherson?

MR. MCPHERSON: Yes, sir. Year to date, we have 18,551 inspections completed. We've done 392 new installations, 132 remodels, and 19 accidents to report.

CHAIRMAN FOX: Is that all?
MR. MCPHERSON: That's it.
CHAIRMAN FOX: Sounds like you've been busy.
MR. MCPHERSON: We are busy.
CHAIRMAN FOX: So I'll ask you the question I used to ask Mr. Farmer. Is Nashville still growing?
MR. MCPHERSON: It is.
CHAIRMAN FOX: Would we say at an unprecedented rate?
MR. MCPHERSON: I think we're not quite -- in our area, I don't think it's quite as fast as it was. As far as elevators are going, we're not permitting quite as much, but we're still growing.

CHAIRMAN FOX: Any other area of the state -- are there any other areas of the state that are growing rapidly?
MR. MCPHERSON: Not to compare to Nashville, no.

CHAIRMAN FOX: Thank you very much.
Item Number 7, Amusement Device Unit's Report. Mr. Hardy?

MR. HARDY: Okay. I would like to make an introduction, a further introduction, if I could. We lost our safety compliance officer in East Tennessee. We didn't lose him permanently, but we lost him in the unit in late April of this year. But with the help of HR and here and Mr. Fred Gaston, we were able to make an early July hire.

John stand up, if you will.
John Tarpley has joined the unit as our safety compliance officer for East Tennessee on July the 8th. And he's hit the ground running. He's doing a good job for us over there in East Tennessee, and we appreciate all that were involved in making this a quick turnaround.

Thank you, John.
MR. TARPLEY: Thank you.

MR. HARDY: If you'll refer to your handout, on the first page you'll see the number of devices per minute. And our board meeting was prior to the end of our fiscal year, so we closed the fiscal year '18-'19 -- again, it ended on June 30th with a record number of permits issued, at 456. And that surpassed the fiscal year of '17-'18 where we had issued 408 operating permits.

Right now we're approaching the end of the first quarter, and we have issued 123 operating permits. So that puts us on track with our goal of issuing 500 permits for this fiscal year. We should be right on line with those numbers as of now.

The next sheet, new permits issued, we ended the fiscal year with 113 new or first-time operating permits issued. The previous year we had 134, but we were lacking some compliance officers. We had some personnel issues there, and I think that kind of attributes to that number being lower than the fiscal year '17-'18.

We have issued 36 permits, operating permits to new companies, first-time permits, so far, in this fiscal year that we're in.

And again, with a few exceptions, I think it's our goal that we should be able to capture the majority of the companies that are doing business in the state at the end of this fiscal year that we're in. Our goal is 500 companies to permit.

The third page of your handout is the number of devices. Kind of getting away from that terminology where we permit -- we permit companies and we register devices. So we registered 4,247 devices in fiscal year '18-'19. That was an 18.6 percent increase over the previous fiscal year where we registered 3,582 devices. We have registered 1,193 devices thus far. And most of you know, but there's a direct correlation between these devices that we've registered and inspections. So each one of these devices has undergone an annual inspection as the law specifies.

Accidents, the first thing I want to mention about the accident report is we've gone in there and we've converted -- the accident report I used to present was a calendar year, but it made it a little bit confusing because all of the other reports are on fiscal year. So we took the dates of these incidents and accidents and converted those to a fiscal year chart so everything would be more of an apples-to-apples kind of comparison.

Again, we've talked about before in our board meetings that the accident looked a little concerning. The fiscal year, beginning in fiscal year '16-'17 and then the next two, because we started permitting trampoline parks. So that's -- we've talked about it before. That's attributed to most of these accidents.

We ended the past fiscal year, '18-'19 with 44 accidents, but 40 of those were with trampoline parks and related. So of the four accidents not involving trampoline parks, two involve mountain coasters, one that was classified -- you'll see on the next sheet -- as "other" involved indoor skydiving, and one involved an aerial adventure-type of device, like a zipline.

And then the final chart there is the explanation and the justification for increase or these spikes in the trampoline parks. The unit, you can see, so far, in fiscal year '19 and '20, we only have two reportable accidents thus far. The unit, we're now taking more of a commonsense approach to reportable accidents -- I believe we talked about that last time -- deeming these trampoline park-type incidents and accidents as nonreportable if those incidents were not a result of being owned or the operation of the device.

So meaning that if there wasn't a defect or something wrong with the trampoline or other related device that was found in the trampoline parks, we did not deem those, just because there was a transport for turned ankle or elbow or whatever, as a reportable accident.

And we are requiring detailed explanations on these and photos, specifically, of where the incident took place so we can make a determination of whether it should be considered as reportable or nonreportable.

And also, if you -- normally, if you have a reportable accident you would have a corrective action, something that was wrong. And we've had -- I think, maybe, one comes to mind on all of these trampoline park incidents.

So we have two truly reportable incident accidents -- so far for this fiscal year -- one involving a trackless train and one involving a mountain coaster, again, in East Tennessee, that...
involved an employee and actually not a patron.

So is there any questions about the accident reports as shown?

(No verbal response.)

MR. HARDY: And finally, the last thing I have is that fair season has been fast and furious again this year. It started with the Clay County Fair June the 11th, and the last one as listed by the Tennessee Fair Association will be the Franklin County Fair that starts in early October.

It was our intent, again, to visit all the first-time players, the first time a traveling carnival company came in, letting the owners and operators know that we're available for them if needed and that we support them as they do business here in the state.

We had a few minor obstacles to overcome at the various fairs, but the safety compliance officers did a great job of being there and working through these issues with our fairs and our amusement device companies. We'll continue to spot-check county fairs. And two things that we're doing, we're making sure that the company has a valid operating permit, and the second thing is that we're insuring that the devices that they turn in that have been inspected and they turn for their permit are, in fact, the devices that they have on the ground.

And like I said, we've had a couple of incidents where a couple of devices showed up and were constructed that had not been inspected. But again, these guys have done a great job of being there, number one, and taking care of these issues, making sure they were compliant with the law before they turned the switch on.

So I think we've had -- knock on wood, I think we've had another successful and a safe fair season this year. I appreciate them and the work they've done.

Does anybody have any questions for me or amusement device?

CHAIRMAN FOX: Yes. As you-all have been traveling with the carnivals, have you run across third-party inspectors who were physically on property with these carnivals for fairs?

MR. HARDY: Oh, yes. Yes. Like, you know -- like I say, one of our biggest fairs, the Wilson County Fair, they have -- David, you might have to help me -- but they have third-party inspectors on-site.

And, as a matter of fact, this time Reithoffer did all of their inspections once they were set up in Wilson County. Now, you know, we'll allow inspections from other states if they meet the criteria, if they're fresh, within three months of their application for a permit here in Tennessee. But they had all of theirs done on the ground there.

And I think Kevin -- I think we saw some of that at the Delta Fair over in Memphis. So, you know, Florida's law says that they inspect every time that they move. But this is an example of accomplishing the same thing, is the way they did it at Wilson this year.

CHAIRMAN FOX: I know that the fairs that come in our area are now having -- now mandating, internally -- not by us or anyone else -- that they have a third-party inspector on-site, which I think is a great thing to do.

It's a great safety feature.

MR. HARDY: I think it is, too.

And, you know, too, I think it depends upon the size of the company and it depends on a case-by-case basis. But it does work very well to have them on-site, you know, should anything happen or malfunction with any of the rides.

CHAIRMAN FOX: Anything else?

MR. HARDY: Not from me, no, sir.

CHAIRMAN FOX: All right.

MR. RADER: Good report.

MR. HARDY: Thank you.

CHAIRMAN FOX: Under Old Business, Item Number 8, the Elevator Sub Committee Update.

Mr. LaPorte or Mr. Bailey, are you going to tag-team this, or --

MR. LAPORTE: Sure.

CHAIRMAN FOX: We'll hear from you first.

MR. LAPORTE: So the elevator sub committee met and went through, with Mr. Bailey, all of our changes and developed the final redline version. Highlights of what we did in those changes was there's a lot of reference in the rules to other sections, and the sub committee went through and made sure that everything that one line would point to was actually pointing to the correct reference.

The actual redline changes, just to...
· recap some of the major exchanges, is the State looking to move to A17-1 2016, which is the main elevator code, basically.

· Some of the changes in that code, though, is the State never previously adopted A17-7, the performance-based code. Decided that wasn't something we were looking to do at the time, so we removed reference to A17-7, and that was in A17-1 so that there's no conversation there.

· We removed alternative testing means for Category 5 testing, one that required an actual full-load test, not an electronic alternative. And the biggest thing was the maintenance control program. We rewrote a lot of the requirement, basically, not allowing the electronic version, but wanting a written maintenance control program per unit out there in the state. And the recordkeeping of that would all be done on-site and not through electronic meetings. However, the inspectors would not have to reach out to different companies or sources to try to receive electronic records.

· CHAIRMAN FOX: So let me understand what I think you just said, that we have to provide the written so-called manual and it be physically on property for that particular unit at all times; is that fair?

· MR. LaPORTE: Correct.

· CHAIRMAN FOX: Okay.

· MR. LaPORTE: And actually, per the code, those records need to be maintained on-site for five years.

· CHAIRMAN FOX: Okay. So if I'm an owner of an elevator, can I have that available to you on computer and hand that to you, or let you view it on the computer, as long as I have that available?

· MR. LaPORTE: No. So --

· CHAIRMAN FOX: That's why I asked the question. We need to be clear.

· MR. LaPORTE: There's one small caveat that we allowed in. So we're looking for an actually written book or a complete manual.

· Maintenance control program is made up of several different sections with instruction logbooks, things like that. However, trying to stay modern, if a manufacturer decided to put some type of tablet device mounted to that piece of equipment where they wanted to maintain this program electronically on that equipment where it was readily available to the inspectors, that would be allowed. What we did not want was for the inspectors to have to be able to obtain information electronically via email, text, however.

· So electronically, on-site, there is a provision in there for that.

· CHAIRMAN FOX: Okay.

· MR. LaPORTE: And the last major thing in A17-1 was we took out the requirement for all of the testing to be witnessed by the inspectors. We felt that the changes we made to the maintenance control program would give us enough assurance that the testing was being done properly. Some quick math, I think we figured for the State to keep up with the testing, we would have to hire about another 28 additional inspectors. That just would never happen. So we've taken it out.

· The other highlights would move into the A17-2 2017 version of the inspector's guide, which is not a code but it's a guide that the inspectors use to inspect elevators to meet code. We're moving to the A17-6 2017 code for suspension means in its entirety with no changes. That A17-2 inspectors guide is also with no changes. The A18-8 2014 version for lifts and ANSI B77-1 2017 for aerial trampolines. I believe that is also in its entirety.

· CHAIRMAN FOX: Okay.

· MR. BAILEY: First of all, the -- I had submitted the rules to the Governor's office after we had our sub committee meeting, and I was able to get the redline version done. And as of last Friday, I got the approval for them from the Governor's office, last Friday afternoon. And, of course, I'm getting ready -- I'm hoping that the board takes a vote today to adopt the rules. And if that happens, I will record that on the proposed rule form -- I have to record each person's name and how they voted or if they were here -- and prepare it to send to the attorney general's office.

· Now, this says, like, final redline version, but actually, as I was going through it yesterday, getting ready to send it to the attorney general's office, there are some minor changes to this. I wanted to just make you aware of that.
All of this all-cap -- like, the heading that's all caps, the titles for each rule, like scope, definition that's all caps, they won't accept it if it's all caps. So I had to go back and change all that where just the first word is capitalized -- or the first letter is capitalized. But any of those all-caps is no longer all caps.

Also --

CHAIRMAN FOX: Is there anything in the substance part versus the form?

MR. BAILEY: A little bit, very little bit. On page 3 -- and me and Vic spoke yesterday on the phone about this -- new paragraph 14 under the elevator safety code, it is struck through, all the way through to the word "engineers," comma. That has been -- currently, it's struck through all the way through July 30, 2010, but the words "prepared and published by the American Society of Mechanical Engineers" is not struck through. That should have stayed in. And so that's been un-redlined, you know. And we spoke about it yesterday. Because the statute references this ASTM, so we wanted to make sure the rules were consistent. So that was also changed.

And then again, on page 21, you know, again where all the all-caps shows up about the signs about -- you know, when you get on an amusement device, all of that had to be changed to just the first letter being capitalized. And on page 26, Rule 0800-03-04 regarding spot inspections, when it says "The commissioner," I had added the word "designee" after, or I made it the "commissioner's designee" may conduct a spot inspection," because later, about two lines down, it references "commissioner's designee," so I thought that needed to be consistent. So that's the only changes that have been made, but I just wanted to make sure you were aware that this isn't quite the final redline version.

But anyway, the process now will be to -- once this body has taken a vote, is for me to, as I said, record that vote on the proposed rule form, and then I've got to make -- get with our commissioner because I have to submit three originals plus a redline version to the A.G.'s office. And then I don't know how long it will sit there, but once -- if they will sign off on it -- and I don't know how much feedback I'll get. Sometimes they'll find stuff, and no matter how many times you go through these things, somebody else will find something.

But once they approve it, they'll send back the three originals that are signed by the attorney general and signed by our commissioner, and then I submit those three originals plus the redline version, plus I have to email them a Word-format version of it to the Secretary of State's office, division of publications. Once it's filed with them, then as long as no ten people or an organization representing ten or more people file an objection requesting a public hearing on it, those rules will go into effect 90 days from the date that it's filed with the Secretary of State's office. So depending on how long before it gets there and how long the A.G.'s office takes and things like that, will depend on how long it will be before they actually become effective.

MR. RADER: So you're saying it's going to move slow.

MR. BAILEY: Yes. It's government, so yes, it will move slowly.

CHAIRMAN FOX: Sometimes that's a good thing.

MR. BAILEY: Sometimes it is. I'm not saying it's good or bad. It's just the way it is.

CHAIRMAN FOX: That's the way it is.

So let me try to understand what I heard you say, that if we do get a motion and a second and we vote, do we need to have a roll-call vote?

MR. BAILEY: Well, I need to know for -- I need to know whether it's -- and it looks like all the board members are here, so...

CHAIRMAN FOX: With the exception of James Roy Pope.

MR. BAILEY: Okay. So I need to note that right off the bat. So he'll be recorded as absent on the form. But I guess I'll need to know if there's any, you know -- if it's all ayes, then it's all ayes, you know, everybody was a yes. If anybody abstains or votes no, I need to know that and record that.

CHAIRMAN FOX: Well, let's just do it. It's kind of like another little board that
I'm familiar. If it's an ordinance, it's a roll call. Anything else is by voice. So this is sort of an ordinance in my world, so we'll do a roll call, if that works, and it'll be voted up or down. Does that work for you? And that way you'll know exactly who votes for and/or against.

MR. BAILEY: That's all I need to know, is how each person voted.

CHAIRMAN FOX: All right.

MS. O'CONNOR: Mr. Chair, I'll make a motion.

CHAIRMAN FOX: Okay. We have a motion.

MR. LaPORTE: Second.

CHAIRMAN FOX: We have a second. Any discussion?

MR. HARDY: Can I interject something here? I don't know if I can or not, but would this be for both the elevator and the amusement device? It's not separate?

CHAIRMAN FOX: Separate and apart.

MR. BAILEY: It's elevator/amusement device safety board rules.

CHAIRMAN FOX: Then certainly, we need to --

MR. RADER: Do we need to vote on both of them together? I thought we would vote on --

MR. BAILEY: I mean, the 0800-03 --

CHAIRMAN FOX: Separate and apart.

MR. BAILEY: No. These rules are all together.

CHAIRMAN FOX: It's my fault. It's my fault. So let's go back, for the record, and we need to discuss the amusement device portion of this before we have a final vote. Are you-all good with that?

MS. O'CONNOR: Yes.

MR. HALE: Do what now?

CHAIRMAN FOX: Separate and apart.

MR. BAILEY: No. These rules are all together.

CHAIRMAN FOX: -- and then vote.

MR. BAILEY: I'm sorry I was talking over him. I told everybody not to do that.

CHAIRMAN FOX: Well, he normally talks longer.

MR. HALE: I'm usually longer...
winded. I've really tried to work hard on that.

MR. BAILEY: Now, what was the...

MR. HALE: Where we discussed in the meeting -- it's on page 26 of the redline version in the amusement device sub committee report. And we had discussed bringing, under the 03-04-23 Section 1, bringing that more in line with what the ASTM standard says.

Am I correct, Mr. Chairman?

CHAIRMAN FOX: Yes.

MR. BAILEY: I'm not sure what you're asking me.

MR. HALE: Well, when we left, you were going to look at what action would be recommended to bring that a little more in line. We felt like that the requirement for reporting was not -- was burden -- was written in a burdening manner, that if you stub your toe and you end up with a reportable accident and ride shutdown, for instance.

MR. BAILEY: I would have to say I'm totally drawing a blank on this. I don't even remember that discussion.

MR. HARDY: Well, we had discussions of what the law says about serious injuries and --

MR. BAILEY: Serious incidents.

MR. HARDY: Serious incidents, right -- and I think another thing we had that David may be alluding to, that we struck that an oral report for an accident would be acceptable. We struck that out of the rules.

MR. BAILEY: Right.

MR. HARDY: And a couple more things that might be significant, we eliminated the -- on the back sheet, we eliminated what we called the device feed, different feeds for certain heights of passengers and if it's a design for 42 inches or more in height. It was kind of complicated.

And the way that the rules read now, it matches what we're doing for $150 for an annual permit. And then through the rules, we also -- I don't like to use the term "generically," but if you cite these ASTM standards for amusement devices, specifically as they're listed under ASTM, they're going to be obsolete by the time our next board meeting comes around. So we decided to cite the base and not the suffix so it would be applicable for years to come. So to me, that's the gist of what the revisions were in the amusement device.

CHAIRMAN FOX: And the serious incident or serious injury, it had to have happened on the ride. And it must comply with the ASTM rule or standard regarding the reporting of accident.

MR. MOORE: Is that stated in these red lines, Robbie?

MR. HALE: I don't see that we changed that, and that's the reason I was asking that. Because I think part of what we talked about is that the accident had to be a result of the operation of the ride, not walking up the steps going to the ride, for instance.

CHAIRMAN FOX: Or a malfunction of the ride.

MR. HALE: Right.

MR. BAILEY: Well, that's what the rule basically says. It says known accident where maintenance, operation, or use of the amusement device results in a fatality, serious physical injury or serious incident. That's the way it reads now. So if it's not device related, it's not -- it shouldn't be a reportable accident.

Is that the way you see it?

MR. HARDY: Yes.

CHAIRMAN FOX: Specific to what page? 26?

MR. BAILEY: 26. 0800-03-04-.23, paragraph 1, reporting of accidents.

MR. HALE: Well, I think the committee's intent was to provide the unit with an improved understanding or wording that allowed them to make a more commonsense approach to what was a reportable accident.

MR. BAILEY: Well, again, I think the rules covers that, that if it's not device related, then it's not a reportable accident. It has to be because of the maintenance operation or use of the device results in a fatality, serious physical injury, or serious incident. So if it's not --

MR. STOCK: Mr. Chairman?

CHAIRMAN FOX: Wait just a second, Mr. Stock.

MR. STOCK: I'm sorry.

CHAIRMAN FOX: I'll get to you.

MR. BAILEY: So I was just going to say if it's not device related -- if the injury is
not device related, then it's not reportable.

CHAIRMAN FOX: Okay.

MR. HARDY: Yeah, I will agree with that. And in our rules committee meeting, I think, Dan, when you came in, you pointed out that the rules can't contradict the law.

MR. BAILEY: Right.

MR. HARDY: So we're still using serious incident and serious personal injury.

MR. BAILEY: Right. The serious incident language, that has to be a legislative change.

MR. HARDY: Right.

MR. BAILEY: That has to come out of the statute. Until then, we've got to live with that definition.

CHAIRMAN FOX: And that's what I thought we were changing. That's the reason I've been hesitant to jump in with both feet. So the serious incident definition, you're saying we can't change it through the rules; we have to change it through the legislature?

MR. BAILEY: Yes.

CHAIRMAN FOX: So what's the steps for that?

MR. BAILEY: You'd have to convince the commissioner to put it on his legislative package from the department to take to the Governor, and then the Governor would have to agree to put it in his legislative package to present to the legislature.

CHAIRMAN FOX: And is there a date for that?

MR. BAILEY: For this coming legislative session, it's passed. Usually, that needs to be done by, like, June, July. Because I think usually the last -- I think it has to be put together, like, by the end of August or early September.

CHAIRMAN FOX: And is there a date for this year?

MR. HERROD: Yeah, at least by September.

MR. BAILEY: If Tia was here, she would know exactly, but I know it's right around there. So those kinds of things have to start getting on the agenda or on somebody's radar around June-July.

CHAIRMAN FOX: And it's too late for this year?

MR. BAILEY: Yeah. For this coming legislative session, right.

CHAIRMAN FOX: Right. Okay.

MR. HALE: I guess I did not articulate my question to Mr. Bailey well. I believed that that's what we were working toward, was a change in -- recommending a change in the law that would make it to this term of the legislature...

MR. BAILEY: Yeah. Well, I mean, that can be done but it can't be done this legislative session. And until that time, "serious incident" is still part of the law.

CHAIRMAN FOX: Okay.

MR. BAILEY: And if serious incident never comes out of the statute, then we can go in and amend the rules to take it out of the rules.

CHAIRMAN FOX: Okay.

MR. MOORE: Dan, is there anywhere in the reference standards that give a clear definition of "serious physical injury" or "serious incident"?

MR. BAILEY: Yeah, it's in the statute.

MR. HARDY: I didn't bring my copy, and I should have.

MR. MOORE: I read through these definitions, and I may have overlooked it, but I didn't...

MR. BAILEY: It's TCA 68-121-101, paragraph 20, "Serious incident means any single incident where any person or persons are immediately transported to a licensed off-site medical care facility for treatment of an injury as a result of being on or the operation of the amusement device."

And paragraph 21 is "Serious physical injury means a patron's personal injury immediately reported to the owner or operator as occurring on an amusement device and that results in death, dismemberment, significant disfigurement, or other significant injury that requires immediate inpatient admission and 24-hour hospitalization under the care of a licensed physician for other than medical observation."
transported does not mean that it's an automatic shutdown and/or reinspection of the ride. Again, that goes back to little Sally or little Bobby who steps off and rolls their ankle and walks away, and they have no -- they're with a school group and they have to be transported by ambulance. 

So if we can use the verbiage that they have to be there overnight or the 24 hours as we're stuck with today on that law, then I think we're good until we can get it changed.

MR. BAILEY: Say that again.

Because I don't think that meets the definition of "serious incident."

CHAIRMAN FOX: Well, we're talking about changing that, where --

MR. BAILEY: Right.

CHAIRMAN FOX: -- just because you're transported by ambulance, heretofore, that was the criteria for reporting the accident. It wasn't because of the malfunction of the ride or that it happened on the ride. You could be either boarding or getting off of the specific ride. And if you fell getting off, that was a reportable accident.

MR. HARDY: We're evaluating those on a case-by-case basis. Like the law says, if it's a result of being on or the operation of the device.

MR. BAILEY: Right. And I think that could reasonably by interpreted that it has to be device related, just as I was saying earlier, that the rules pretty much say that. And I think that's a reasonable interpretation of that statute, that it's not to cover somebody twisting an ankle walking up to the ride or getting off and, you know, stumbling or something. It's got to be ride related.

MR. BAILEY: Do you see it that way?

CHAIRMAN FOX: Yes, sir. And it's actually -- the law says a transport. It doesn't specify ambulatory. So, you know, if the amusement device company is aware of a transport by Momma, Daddy, Grandma, Grandpa, then it should be reported. But then we're using a lot more common sense and discretion in determining whether that is truly a reportable accident.

CHAIRMAN FOX: Okay. So are we good with it the way it is right now until the next legislative session to take that out, take the ambiguity out of it?

MR. BAILEY: I'm good.

MR. RADER: I am.

MR. LaPORTE: Yes.

CHAIRMAN FOX: Mr. Stock?

MR. STOCK: You covered it. It was the transport issue that seemed to be the sticking point or the thing that was confusing last time.

CHAIRMAN FOX: So I would entertain -- okay. Let's ask the last question. Anything else that we need to address on both the elevator and/or the amusement?

(No verbal response.)

CHAIRMAN FOX: I would entertain a motion to send this forward.
MS. O’CONNOR: Mr. Chair, I would like to make that to send this forward.

MR. LAPORTE: Second.

CHAIRMAN FOX: So I have a motion and a second.

Any discussion?

(No verbal response.)

CHAIRMAN FOX: Okay. Mr. Bailey, are you good with a roll-call vote?

MR. BAILEY: That’s fine.

CHAIRMAN FOX: Okay.

So Ms. Jennifer, are you the recorder?

MS. MURPHY: Yes.

CHAIRMAN FOX: Okay. So Mr. LaPorte, yes or no.

MR. LAPORTE: Yes.

MR. MOORE: Yes.

MR. HALE: Yes.

MR. RADER: Yes.

MR. MOORE: Yes.

MS. O’CONNOR: Yes.

CHAIRMAN FOX: Yes. It’s unanimous. Motion carries.

Well, that was very painful but we got through it. But that’s okay, and I think it will work out fine.

Okay. Under new business, Mr. Stock, if you would, please come to the podium, give us your name, address, phone number. Speak loudly so that I can hear and this lady can hear you, and tell us what you have to say.

MR. STOCK: Don Stock from The Adventure Guild. Address is 888 High Point Drive, Dunlap, Tennessee.

I’m kind of picking up the conversation from the workday that we had related to the challenges around aerial adventure inspections within the state.

I don’t know how you want to approach this. I sent a letter in for you guys to be able to read and review. And I don’t want to insult your intelligence by reading the letter to you.

CHAIRMAN FOX: Please don’t.

MR. STOCK: What’s that?

CHAIRMAN FOX: Don’t read the letter to us.

Right. So basically, what we’ve been talking about -- Mr. Hardy and Ms. Murphy and I -- for quite a long time is the challenges that the prior administration’s interpretation of third party and all that stuff involved. And I, kind of, would talk with those guys, and I think we’re on the same page of doing some clarifications on these things. Because it’s extremely confusing for people who are in our industry, not only people who don’t necessarily even know exactly what they’re supposed to do, and there’s a little bit of inconsistency. There’s a spiraling difficulty in complying with what has historically, been -- how that’s been interpreted. And I outlined that in my letter.

And really, I’m just recommending that we kind of do some clarification -- or you guys do some clarification, the unit do some clarification kind of around the same model that Colorado uses. And it ticks all the boxes in terms of public safety. It makes it consistent with how our industry typically works, and it -- I think it just -- it covers everything. We all, kind of, need together in good regulation around aerial ventures in Tennessee. So assuming you read the letter, I just put it to you to how you want to proceed.

CHAIRMAN FOX: I think the question here, or to me -- and you and I have discussed this -- what essentially it means is that you could inspect your own facility.

MR. STOCK: No.

CHAIRMAN FOX: Fair statement?

MR. STOCK: No. That’s an inaccurate statement.

CHAIRMAN FOX: Okay.

MR. STOCK: What the -- so there’s -- so basically, what has historically been done if a -- and I kind of expressed it in the letter -- is if we as a company -- because I kind of wear a couple of hats when I’m in this room -- but as a company owner, because I’m a company owner whose company builds these structures all over the eastern United States. I’m also a certified inspector. I also happen to own a facility. But what we are discussing is not the ownership of the facility. Like, we have our place in Chattanooga at Camp Jordan. It’s our challenge course where we do our team building.

I’m not advocating for -- not just me, but our industry -- but me being able to field an inspector to inspect a course I own. That’s not the model. That’s not what I’m talking about.
That's not consistent with what I'm putting forth. What has happened, historically, how it's been interpreted, is if -- I had a camp client "Aw Shucks I'm Poor" down in Chattanooga, and I design and build a course for them as a company, how it's been interpreted before is my company could not field an inspector for that course, even if they're a certified inspector who had never seen that facility before. That is the piece that is extremely difficult and extremely inconsistent, not only with kind of inspections that are typically done, but also, like, other industries.

I kind of make the comparison to, like, if you own a Chevrolet vehicle or Dodge vehicle or whatever, and there's a state inspection for -- that thing has to be inspected for a safety inspection. That's like saying that you can't take it back to the Ford dealership just simply because they manufactured the car.

I mean, the reality is, and especially in our industry, the people who know those structures the best are the people who designed and built them. Because in challenge courses, there's an interplay between design, training, equipment, operations that no one knows as intimately and as well as the company who designed and built and trains on that structure.

What we currently have is a mandate for people who don't have as much knowledge inspecting those structures, looking at those documents and those kinds of things. The other -- the thing that makes this a little different than, like, the traditional amusement world like the Tilt-a-Whirls and the roller coasters, you have manufacturers who build these things. They come and install them, and they have a gigantic manual that is -- it covers every single bolt, the type, the torque specifications, all the things that go into maintaining that thing. And I'm sure you guys probably have them, and most carnivals -- anybody who owns an amusement device, a mechanical amusement device, typically have in-house employees, the mechanics, who take care of maintaining those devices based on the manufacturers' instructions/guidelines, all those things.

A. In our industry, the camp owners, the -- commercial applications, they have in-house people who can take care of those things, but the vast majority of camp owners and things like that that we permit in the state don't have people who have those skills, have those tools, have that knowledge in house, so -- and it's kind of -- and part of how we have worked as an industry, our end users, our clients, have always historically relied on their vendor, their challenge course installer, their trainer to do their inspections, to do their maintenance, and to make sure they're staying up to date with standards.

So the "third party," how it has been historically interpreted, that used to be in the statute and it's not anymore. The term "third party" got relaced with "qualified," then, the same time that the ACCT standard and the ACCT inspector certification was adopted.

So there's not a statute limitation that impinges upon the interpretation like there was, historically, prior to that. But even after that change, this very rigid concept of third-party inspection for the device's permit continued to kind of be perpetuated.

And so what I'm asking, kind of, for you to consider, for us to consider, kind of, all of us who have to work in this milieu, is that there kind of be a breakdown. If it's a new -- and this is how Colorado reads, because they have gone through the same situation. Washington has gone through the same situation. Alaska has wrestled with these same questions.

And I work pretty closely -- I'm the chair of the government relations panel for the ACCT, so I get a lot of cross-talk and traffic conversation from these different regulatory areas. And these are the people who have wrestled with this same question and have dealt with these problems. And Colorado has come up with what I feel is the most consistent universally applicable and really good -- it takes care of all of the different aspects.

So how the inspections are broken down for Colorado is if it is a new installation -- like, as The Adventure Guild, we go and we build a project here in Crossville for a camp. To get the first year inspection, I would need one of my colleagues, not a part of my company, to come in and do an outright third-party inspection, verify standards compliance, all those sorts of things,
for that first year to make sure there's a third-party set of eyes on it. I'm absolutely behind that. I think it makes a lot of sense. But subsequently, we would be able -- once it had a set of third-party eyes on it, as long as there were no major modifications -- and "major modifications," as it's described in the ACCT standard, is anything that changes the operation of the device. So if there was a rusty belay cable, then the inspector came in and it needs to be replaced, it could be replaced, in kind, changes nothing. That's not a major modification; that's just a simple repair.

That would allow us to continue to maintain -- or us as venders, continue to maintain client relationships, take care of what they need to have, and also making sure that we're maintaining them in industry compliance with the ACCT standard. But it wouldn't require us to have another vender come in and inspect our client's course that's exactly what it was last year when it was looked at.

Because currently, what we have is -- and I think maybe you'll understand the problem. How this has been interpreted in the past, is if we built the course, we couldn't field an inspector for it. So we had to call somebody else or they had to call them. Well, so Company A built it; Company B comes and inspects it. Well, Company B, if there's a repair that needs to be done, even if it's switching out a rusty rapid link or a rusty wire rope clip that needs to be done, that inspector couldn't do it. Or if they did do it, they couldn't submit the inspection. So then they either have to go -- to put the inspection report in, if they happen to file it, then it has a deficiency that has to be addressed, then either we, who built the course, or Vendor C has to come in and make the repairs, and then they've got to communicate back to the inspector or send a picture, or they've got to go back and inspect it again, and it becomes an unnecessary confusing thing that doesn't really advance the issue of public safety. It just makes it confusing and expensive.

So I think that's the -- the way that Colorado works really makes a lot of sense. It does -- and I think I summarized at the end -- that it would ensure that all new construction or additions have an outside set of eyes before it gets permitted. It would ensure that the operators, the camp owners, do not employ someone who is doing the inspection for their course. Because that's where it creates that conflict of interest piece.

So if you're a course owner, even if you're a builder like me, it still would require someone from the outside to inspect the course that you own. So that kind of eliminates that piece.

And it would also allow manufacturers, designers, and builders of courses to continue to serve their clients by inspecting and maintaining their courses without the complications of having to arrange a third-party inspection annually and arranging for necessary repairs required for the inspection.

CHAIRMAN FOX: Comments?

MR. HALE: So this requires a change in the rule; is that right?

MR. BAILEY: No. As I understand it, this is more of a policy issue.

MR. STOCK: It is.

MR. RADER: What's your take on this, Mr. Hardy?

MR. HARDY: Don, to simplify it, you designed and built a zipline course on Lookout Mountain, right?

MR. STOCK: Correct.

MR. HARDY: You're asking the State to be able to accept your certified ACCT or whoever --

MR. STOCK: Correct.

MR. HARDY: You're asking the State to accept that as a qualified -- used to be third-party --

MR. STOCK: Sure.

MR. HARDY: -- inspection for -- Lookout Mountain's zipline course.
MR. STOCK: Yes. Go ahead.

MR. HARDY: Where before, it was deemed that that would have been a conflict of interest, is the issue that we're basically talking about, I think here.

MR. STOCK: Correct. So basically, it's, again, three categories. If we go out and we build a course and it's a new course or we make a major modification to a course, like, we add a new element that requires new training and new gear, then we are advocating and I am advocating that we do have a third party, another qualified vender who is not an employee of our company do the initial -- what we call the acceptance inspection -- do the acceptance inspection or the preliminary or, at least, the first permitted inspection for the first permit of that course. Okay? Does that make sense? So that's kind of one category which is called, basically, the initial inspection of a new device or a major modification.

Once that has been done, then we --

MR. RADER: Can I stop you?

MR. STOCK: Yes.

MR. RADER: So that hasn't changed, I mean, what you're asking there. You build the course and then you get a third-party inspection.

MR. STOCK: We have to do -- under how it's been interpreted, every inspection has to be an outside --

MR. RADER: I get it, but, I mean, that particular scenario --

MR. STOCK: Correct.

MR. RADER: -- hasn't changed.

MR. STOCK: That's exactly right.

MR. RADER: That's the way it is now.

MR. STOCK: Correct. What we're asking -- advocating for is a loosening of the interpretation or the approach to these -- because that's already been looked at by a third party. Right? That's already been looked at by an outside set of eyes that said it's compliant with standard; it meets all the requirements necessary to permit this device.

MR. HARDY: Initially.

MR. STOCK: Initially. So unless there's any major changes to this, and there's any changes to that structure, there's no major modifications made, then any certified inspector should be able to look at that course and give the up -- like, the next year's permit inspection.

MS. O'CONNOR: So long as they don't work for that particular --

MR. STOCK: As long as they don't work for that camp or the owner of that course.

Okay? Because 99 percent of what we built, we don't own. We build for other people. Because what I'm not advocating for is for Camp Awe Shucks I'm Poor to send someone to ACCT to get certified so they can do their own in-house inspection and send in a report to get their annual permit. That is not -- that's the furthest from what I'm advocating.

It's us as venders who are qualified, who field-qualified, certified inspectors to be able to continue to work with our clients for their annual inspections, their repairs, their things. And then if we build something new for them, we get a third-party set of eyes on it. We do that anyway.

MR. BAILEY: As I remember this discussion back when we had our sub committee meetings, as part of the, like, ASTM and ACCT standards, there's, like, certain ethical standards involved.

MR. STOCK: Correct.

MR. BAILEY: And like inspecting a park that you built, as I understand it, violated one of the ethical principles of those standards.

MR. STOCK: No, not -- I mean, historically, our industry, for almost 30 years now, has operated on we build, inspect, train for our own clients, because it grew out of a culture that was kind of invisible to the rest of the world. I mean, we operated for 20-plus years absolutely under the radar of almost everyone. I mean, no states regulated challenge courses. You would go in to do -- you know, go into a local office and say, "Hey, do I need a permit?" And they would say, "What are you talking about? Does it have stairs?" I mean, they just didn't understand.

So historically no. I mean, historically, we have, as venders -- the ACCT accredits companies, which our company is an accredited vender. We have a very rigid process where we are reviewed by peers to make sure, theoretically, that we do everything we're supposed to do and that we're compliant with the
1. standards.
2. The ACCT standards -- and I'll have
to go back and look at ASTM. I don't think
there's a requirement for a third-party
inspection. There's a requirement for a
commissioning inspection, which means a qualified
person has to do -- if there's any -- it's a new
build or a major modification, a qualified
inspector -- and who's qualified is defined in the
standards -- has to do a commissioning inspection
for that device.

Historically, what we do is we have
someone within our company, especially if it's a
major installation, someone who works for the
company who was not an integral part of designing,
building, the whole thing. We kind of have them
come in at the end.

If we don't have a requirement for --
a legal requirement for a third-party inspection,
we still sort of do that with ourselves internally
anyway, because we have one of our team who comes
in and, kind of, looks it all over just to make
sure that someone doesn't have tunnel vision
because they're the one that built it.

CHAIRMAN FOX: So if Mr. LaPorte,
who works for the ACME Elevator company -- ACME is
a great company -- and so he designs and builds an
elevator, and he sells it to the gentleman sitting
right back there and --

MR. STOCK: Sure.

CHAIRMAN FOX: -- he puts that in
his building, can Mr. LaPorte, then, under your
scenario, go and inspect that elevator and sign
off on it next time?

MR. STOCK: If it has an initial
inspection by a third party, yeah. So he could
circle back around after the commissioning and
after the first year's operation of that device.
That's a parallel scenario, yes, though those
industries are radically different.

CHAIRMAN FOX: They are. But I
think -- well, what I think is not important.

MR. STOCK: Because you're talking
about -- when things were confusing is a company
and the qualified -- and the qualifications of the
person looking at the device. Do you understand
what I mean?

CHAIRMAN FOX: Oh, I understand.
In the elevator business, you have to have an
engineer.

MR. STOCK: Correct.

CHAIRMAN FOX: In my world, if
there's a modification, a major modification, some
engineer has to sign off on that.

MR. STOCK: Correct.

CHAIRMAN FOX: Is there an engineer
that would sign off on your modifications?

MR. STOCK: Most everything that we
do has an engineer support. It may not
necessarily be stamped for that location. It gets
stamped for that location if the AHJ requires it.

CHAIRMAN FOX: Okay. In my world,
someone has to stamp that.

MR. STOCK: Right.

CHAIRMAN FOX: And I'm sure that's
the same way in the elevator business, someone has
to stamp that. I'm just trying to figure out how
we can modify the system to make it work for you.

MR. STOCK: Sure. Well, I mean,
the wording -- and I put it in there -- the
Colorado inspector certification, the general
requirements, that language, that accomplishes
exactly what it is we're discussing.

For the annual certificate, the
inspector shall not be affiliated by employment or

by a subsidiary relationship to the operator of
the amusement device. For a new modification, the
inspector shall not be affiliated by employment by
the relationship of the operator or the
manufacturer.

So a brand-new construction has to be
third party, has to be completely without any bias
or whatever. Subsequent inspections for the
annual inspection, that inspector cannot be the
employee of the owner of the course.

CHAIRMAN FOX: Here's another
question.

MR. STOCK: Yes, sir.

CHAIRMAN FOX: So when you build
this adventure park, whatever it may be, zipline
or whatever --

MR. STOCK: Right.

CHAIRMAN FOX: -- do you give the
owner a manual stating that this is the type wire,
these are the type of fasteners, these are the
type of devices you must use in conjunction with
and coordination with this particular ride or
attraction?

MR. STOCK: They don't -- they do
not get a maintenance manual like you would see in
There's a lot of skill sets related to working height, working with the tools that we use, the tensiometer and all those sorts of things that camps especially -- they just don't maintain those kind of people. They keep a guy around that mows the grass, but he's not a guy that can throw on a harness and go up and reset a zip cable or make sure tensions are right on anchors and that sort of thing.

So we don't supply those -- that documentation because we historically do that work for them and do that maintenance for them and making sure that everything is as they're supposed to be for them on an annual basis. That's historically how our industry has worked.

CHAIRMAN FOX: Okay. Questions, comments?

MS. O'CONNOR: I have a comment. I'm struggling with this because I really want to be supportive of this. And I can see, on one hand, how if you designed it, it's in your best interest for it to be safe.

MR. HARDY: That's true.

MR. STOCK: Correct.

MS. O'CONNOR: So I don't see that as a conflict of interest at all. I see that as like your analogy about the Ford dealership and taking your Ford to the Ford dealership.

Where I struggle with it -- and this is a really poor analogy, but I'm a writer, and there's a reason why I don't edit myself and I hire an editor, because I see what I meant to say rather than what's actually there. And that's my hesitation with this. I understand that, initially, somebody else -- there will be a third-party inspector, initially. But going back after that, you see what you expect to see rather than what's necessarily there.

So help me through that, Don.

MR. STOCK: I understand what you're describing, and that is the -- that, to me, is the function of the third-party inspection. They're the one that goes through and does the edits and catches all the things, and then -- if you mean, you don't, every single year, go back and reedit your book.

MS. O'CONNOR: No. But I normally have three or four processes of it before it goes to the publisher. So because of that --

MR. STOCK: Sure.

MS. O'CONNOR: -- you have that first initial with your third-party inspector.

Where is that, subsequently?

MR. STOCK: "Subsequently," in what sense?

MS. O'CONNOR: If you're not doing it annually.

MR. STOCK: Well, also, keep in mind that there continues to be a blurring of the company, which is -- a company that builds the thing is not necessarily the same person who is doing the inspection.

One of the things that -- that happens very, very often, is that the company is equated with the person showing up. And what it's historically been, is that people have looked at the company. What all the AHJs are concerned about now is the qualifications of the person on the ground doing the inspecting. It's part of why you guys adopted the ACCT inspector certification process, to verify that the people who are on the ground, you know, were going -- and were qualified to make these determinations and look at these things.

Just because the company built it, sometimes we don't even -- sometimes people go and inspect and they haven't seen this site. I mean, we have four or five certified inspectors. I inspect stuff all the time in the Northeast. We built it and I've never literally ever even seen it. So even though it still is within my company, it's still stuff, as a certified inspector, I can look at objectively and go this is right, this is not right. I don't know. It's --

MR. RADER: How many courses does your company build a year?

MR. STOCK: Oh, boy. 30 to 40, probably. We have about several hundred clients throughout the eastern U.S.

MR. LaPORTE: So after the commissioning, you're talking about inspections later on. And you said that most of the owners, their employees are qualified to cut the grass.
They really don't get into the maintenance and small repair, so --

MR. STOCK: As far as -- yeah.

Can't --

MR. LaPORTE: -- this is where I'm struggling. Because I know in my business -- and it's greatly different -- you're basically asking to inspect your own work, right?

MR. STOCK: (No verbal response.)

MR. LaPORTE: You may be the most honorable, scrupulous person out there. That doesn't mean that other inspectors or other companies are. And other companies may employ these qualified inspectors going to look at a park that they designed and maybe they never saw, but there could still be that pressure to, if not give a positive inspection result, that may be a way for the company that uses that inspection with their own people to generate additional work, and it becomes a revenue-driving thing.

I think there's a lot of --

MR. STOCK: You can say that about anything.

MR. LaPORTE: -- a lot of what ifs that can happen.

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MR. STOCK: Sure. Absolutely.

MR. LaPORTE: And I'm not saying that you'd do that, but I don't know that I would be comfortable with letting that possibility happen out there, that people would take this and twist it to an advantage for business reasons or even their own liability. If there's something out there that needs to be fixed, maybe the company is responsible for it because they did maintenance on it, and they say, well, that should last another year.

I mean, a lot of elevators and escalators are inside and a lot are outdoors. There's metal fatigue over time. So the initial commissioning is a no-brainer. That's got to be third party. But even if there's no major modification, mechanical devices can change over time just through normal use and wear and tear and conditions and things like that. That's my --

MR. STOCK: Agreed.

MR. LaPORTE: Does that make sense?

MR. STOCK: Yeah. Though, keep in mind we're not talking about mechanical devices.

But I understand your point.

MR. LaPORTE: Well, you're talking about a metal cable, right?

MR. STOCK: True.

MR. LaPORTE: And it's outside?

MR. STOCK: Uh-huh. The vast majority of them are.

MR. LaPORTE: Yeah. So, I mean, to me, that's mechanical devices, metal cable --

MR. STOCK: Sure understood.

MR. LaPORTE: -- being subject to wind, rain, snow --

MR. STOCK: Conditions, sure.

MR. LaPORTE: -- metal fatigue. You've got a roller rolling across.

MR. STOCK: Uh-huh.

MR. LaPORTE: You know, it may be not -- again, different than an elevator --

MR. STOCK: Right.

MR. LaPORTE: -- different than an escalator.

MR. STOCK: Sure.

MR. LaPORTE: But I'm trying to put my knowledge of my industry to this and --

MR. STOCK: Understood.

MR. LaPORTE: Yeah. We would never -- that's why the state has inspectors for elevators. And that's understood, but it's a different-size business.

MR. STOCK: Yes.

MR. LaPORTE: I understand that.

MR. STOCK: I completely understand everything that you're saying. I completely understand the mindset. What I'm trying to express is that even though in theory it is a wonderful, very lofty idea of always having a third party, it is creating an escalating difficulty of keeping up with making sure inspections happen, making sure proper repair happens, making sure that we -- because there's only -- I mean, there's a very limited number of inspectors who do what we do.

And so if I have an -- what happens, if someone does a repair, then they can't ever inspect that course ever again. If you have someone who does an inspection, they can't do any work on it or they can never inspect again. If you build it, you a -- if you have someone who does an inspection, they can't do any work on it or they can never inspect again. If you build it, I can, for now and forever until Jesus comes, never send anybody to inspect that course.
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<td>1 That's the scenario we currently have 1 CHAIRMAN FOX: Everyone in the 2 world does not know how to inspect a B&amp;M Wing 3 Coaster. 4 MR. STOCK: Correct. 5 CHAIRMAN FOX: And I want to have 6 the best in the country to come and look at that. 7 I do. And again, our whole entire goal here, our 8 world, resolves around safety. 9 MR. STOCK: Of course. 10 CHAIRMAN FOX: And any time that I 11 can have another set of eyes, somebody who is 12 impartial and unbiased and has no skin in the 13 game, when I can have them come look at my ride -- 14 or furthermore, we have elevators, too. 15 MR. STOCK: Sure. 16 CHAIRMAN FOX: If I can get them to 17 come look at them, I'm much better off and I 18 provide a much better experience for my guests and 19 the people who actually work on them. And 20 that's -- and again, our goal is the ultimate 21 safety of every person who either gets on an 22 amusement ride or gets on an adventure ride. 23 And, Mr. Stock, I'm struggling to be 24 able to figure out how to help you go around the 25 third party. And I know there are fewer -- well,</td>
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<td>1 someone could make some really serious money if 1 trainer, as a builder. 2 they became an ACCT inspector out there and simply 3 go from attraction to attraction to attraction. 4 MR. STOCK: Except that the revenue 5 doesn't warrant it. It's why people haven't done 6 it. There's a whole aspect of our world that's 7 kind of hard to translate to folks that aren't 8 immersed in it and don't have the history in it. 9 I really, actually, don't even like inspecting 10 behind other people's stuff, honestly. Because I 11 spend -- whatever amount put on it, I inspect 12 that, and I'm forever in the line of liability for 13 that activity. 14 One of the other issues that is 15 important to understand in this is that it goes 16 back to the design piece. A traditional amusement 17 ride inspector has the big manual that they can go 18 by, and the other piece is the operations of a 19 traditional amusement device is pushing a button. 20 All of the safety mechanisms are engineered into 21 that from centers and relays and gates and lights 22 and all those kinds of things. A huge piece of 23 the safety side -- and to your point, 24 Mr. Chairman, safety is absolutely everything that 25 I'm about as an operator, as a designer, as a</td>
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different. And if the inspector who's coming in looking at that doesn't understand, he can look at the structure and say, okay, those bolts are there and that back-up is there, but may not recognize that this particular thing, this design, this piece or whatever is a potential hazard because he understands the design because he's never seen it before. So there are aspects of this that are hard to express, being outside of the -- or hard to help someone outside of the industry understand the nuances of how our inspections and things vary and different...

We can -- I guess I'm asking to consider it just simply because I don't think that it is increasing public safety. I think it's just making it harder for the camps, harder for the inspectors, harder for the builders than it necessarily needs to be. I really truly feel like what we've presented on what Colorado has adopted, because they've been on top of this for a really long time with incorporating the zipline piece, they're one of the first states to do it. I feel like they have a well-rounded sharp approach to it that ticks all the boxes that are the primary concerns.

permitted, because we permitted 456 companies last year.

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We've been doing how this has been interpreted for the last three or four years. We'll keep doing it if we have to. It's just really burdensome, and I don't think it accomplishes anything more in terms of advanced safety. As a professional in the industry, I just don't. But all I can say is we're going to continue on and we'll just keep doing what we've been doing.

MR. LaPORTE: Do you have an idea of how many of these devices or parks are out there needing annual inspection in the state?

MR. STOCK: Tennessee? Mr. Hardy?

MR. HARDY: 30 to 40 maybe.

MR. STOCK: Oh, no. It's hundreds. It has to be.

CHAIRMAN FOX: I've got that many in Sevier County.

MR. STOCK: Yeah. It has to be hundreds. I mean, at one time I did a call out to vendors and said I don't want a list; just tell me how many you have in Tennessee. And it was several hundred, 200 to 300, probably.

MR. HARDY: If it's several hundred, we need to get an awful lot more of them permitted, because we permitted 456 companies last year.

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MR. STOCK: Right.

MR. HARDY: Now, we'll have the capability to get that number once we go through --

MR. STOCK: Right.

MS. O'CONNOR: -- our first year of JO. In our data base, we can pull that up at our fingertips. But that's just an estimated guess right now.

MR. STOCK: And I'm thinking -- now, I'm guessing -- I'm including, like, every camp that has, you know, a challenge course of any structure, whether it's just a single zip or -- but I'm including that in because that's the people that we deal with. There are not 200 commercial operations that I'm aware of. I know there's -- but I would be surprised if --

MR. LaPORTE: So the amusement device unit has inspectors, right?

MR. HARDY: No. The state -- no.

MR. LaPORTE: Okay. So that's something maybe the state should do as we do elevators and escalators. I mean, we can --

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CHAIRMAN FOX: I think that would take a lot of work and a serious transition from where we are today. It's not something we haven't talked about. It's just simply -- in one sense, it's cost prohibitive.

MR. LaPORTE: Which is his complaint also.

MR. STOCK: Right. Well, I mean, somebody mentioned Florida. I actually sit on the equivalent of this board for the state of Florida.

And they have 16, I think, full-time ride inspectors. I mean, they literally -- they inspect every single -- the place we were in in St. Augustine had a biannual inspection because it was a fixed course. But the carnival rides that move around get inspected every single time, and they have a fee associated with every single time, which is the only way that the program can afford to field 16 full-time people.

MR. LaPORTE: That's got to be self-sustaining, of course.

MR. STOCK: Yeah.

CHAIRMAN FOX: There are other states that do. But right now, I don't know that we're ready to do that.
MR. BAILEY: Mr. Chairman, I mean, as I said at the beginning, this is more of a policy issue, as far as what, I guess, the department accepts as an acceptable annual inspection by a qualified inspector.

It seems like we all agree if you build the course, you get a third party to inspect it. It's what happens after that as to whether or not the inspection is by a qualified and, what the department considers, an unconflicted inspector.

Now, like some of the examples he gave, like, if somebody did some repair work and the course had been built, third-party inspectors approved it, then subsequently somebody does some repair work on it, for that person to never be able to inspect it, you know, I think that's kind of questionable, those kinds of scenarios.

I think that either you need to address that with the Amusement Device Unit and maybe the unit take each of those scenarios and decide, well, okay, is this something we can accept as an annual inspection by a qualified inspector; just because they did some repair work on it a year ago, does that disqualify them? And come up with maybe kind of a policy that you go by. And if you want to bring it back to the board and see if the board agrees with that. But this is more of a question of what the department will accept as an annual inspection by a qualified inspector and whether that qualified inspector is conflicted or not.

And I think some of the examples he gave do seem a little, you know, out in left field kind of thing. But some of them may not be. But I don't think you can resolve that right here today. I think that's got to be sat down and thought out by the unit.

MR. RADER: I agree.

CHAIRMAN FOX: I do not disagree.

Going back to the part about the repair work, if someone comes in and does a repair on one of the rides, as long as it meets what the bulletin said should be done, it does not have to be reinspected before it's put back in process.

MR. STOCK: Correct.

MR. BAILEY: Right. But what's saying is that if I did that repair work and it's A-Okay the next time, that you've got to get that annual inspection -- I can't do that annual inspection ever again because I did some repair work.

MR. STOCK: That's correct.

MR. BAILEY: Right. But what he's saying is that if I did that repair work and it's A-Okay the next time, I can't get that annual inspection -- I can't do that annual inspection ever again because I did some repair work.

MS. O'CONNOR: That's extreme.

CHAIRMAN FOX: That does to me, too.

MR. BAILEY: But I think that's something that has got to be kind of hammered out in the unit as far as, okay, this is not a disqualifying event; this is a disqualifying event, you know, that kind of thing.

And then, you know, if there's any question about it or if you want to bring it back before the board, just say, hey, this is how we're treating these situations. I mean, that's fine, but I don't see that that can be really addressed here right now.

CHAIRMAN FOX: Okay.

MR. RADER: And so why don't we ask Mr. Hardy to get with Mr. Stock and work through those issues and bring it back to the next board meeting.

CHAIRMAN FOX: Bring a recommendation to us.

MR. STOCK: Cool. Sounds great.

Thank all of you very much. I appreciate it.

CHAIRMAN FOX: Thank you.

All right. Open discussion on ASTM F-24 items.

Thank you, Mr. Stock.

MR. STOCK: Thank you.

CHAIRMAN FOX: Is there anything that we need to discuss at this time?

MR. LAPORTE: Was there something about the fees for the elevator unit?

CHAIRMAN FOX: I think -- Mr. Herrod, are we going to skip the fee on the --

MR. HERROD: That's in the Governor's office for review and approval.

CHAIRMAN FOX: Okay. All right.

So we'll hold that over until December.

Again, Item Number 10, Open Discussion, ASTM F-24. Is there anything that needs to be brought forth on that?

MR. HARDY: Chairman, I think that was placed on the agenda -- Don is still here.

You had a gentleman come in last time that was going to assist us with some of the ASTM
MR. STOCK: I recall seeing an email from Mr. Andrews to the Amusement Device Unit. I was copied on it. It was a thing with a couple of bullet points. That's as far as I -- because I was under the impression, when we left the rule meeting special thing that we were a part of, that that was going to be picked up in a further conversation. And then all of a sudden, the rules got shot to whoever they went to, and I was, like, okay, I guess that conversation is over.

So I think Mr. Andrews just sent that to you guys as information. I can certainly have him circle back and communicate, you know, again in front of the board.

MR. HARDY: Actually, at this point, I think it's after the fact. I mean, Dan, you and I talked about that we never got any feedback and we had to move the revision process along.

MR. BAILEY: What are you talking about?

MR. HARDY: On the gentleman who was going to give us a breakdown on the ASTM standards. But, I mean, to me it's a moot point right now because the rules have already been submitted, the revision.

MR. BAILEY: Well, yeah. They've been approved by the Governor's office --

MR. HARDY: Right.

MR. BAILEY: -- but they haven't actually been submitted to the attorney general's office.

MR. HARDY: So, to my knowledge, I don't think we had --

MR. BAILEY: But they have been approved by this board right now, so...

MR. HARDY: Right. But, you know, ASTM F-24 is a committee that governs and writes and revises all of the amusement device-related standards. And there again, in our rule proposals, we did shorten those so they would be applicable, you know, six months, three to five years down the road.

CHAIRMAN FOX: Anybody have any other comment on that?

(No verbal response.)

CHAIRMAN FOX: Okay. Moving along to Division Update on Jurisdiction Online. Who is going to update us on that?

MR. HERROD: Well, we've had a change in personnel recently, so he's not really prepared to talk about that other than JO is in operation in our elevators, and it's working fine.

MR. HARDY: It's working fine for us in amusement devices as well. It's working like it should. And we still have some things that we would like to make improvements upon with that in the future.

You know, we've mentioned online payment capability, I think, at every board meeting we've had, so that's still on our radar, to get there eventually. I know that we haven't dropped that.

CHAIRMAN FOX: I know that there are a lot of able-bodied people working diligently to make that happen, so thank you.

Well, that brings up probably the most exciting thing in the day is the announcement of the next meeting. The next regularly scheduled meeting of the Elevator and Amusement Device Safety Board meeting will be held at 9:00 a.m. Central Daylight Time on Wednesday, December 4th, 2019, at this same building, located at 220 French Landing, Nashville, Tennessee.

Do I have a motion for adjournment?

MR. HALE: So moved.

MS. O'CONNOR: I second.

CHAIRMAN FOX: We've got our motion and a second. Thank you-all very much. That concludes the meeting. Thank you-all for being here.

END OF THE PROCEEDINGS.
CERTIFICATE

STATE OF TENNESSEE |
COUNTY OF WILLIAMSON |
I, Cassandra M. Beiling, a Notary Public in the State of Tennessee, do hereby certify:
That the within is a true and accurate transcript of the proceedings taken before the Elevator and Amusement Device Safety Board and the Chief Inspector or the Chief Inspector's Designee, Tennessee Department of Labor and Workforce Development, Division of Workplace Regulations and Compliance, Elevator and Amusement Device Unit, on the 24th day of September, 2019.

I further certify that I am not related to any of the parties to this action, by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of October, 2019.

Cassandra M. Beiling, LCR# 371
Notary Public State at Large
My commission expires: 3/15/2020
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