

Cause No. 07-19A
Name: EURO BUNGY
Administrative Law Judge: William K. Teegarden
Date: October 25, 2007
Commission Action: Affirmed

FINDINGS OF FACT

1. The Department of Homeland Security and the Commission are agencies within the meaning of IC 4-21.5.
2. IC 4-21.5, IC 22-12-1, and 685 IAC 1 apply to this proceeding.
3. The Agency is the governmental body charged with the responsibility of regulating amusement rides in Indiana.
4. The Commission is the ultimate authority over Agency actions within the meaning of IC 4-21.5.
5. At all time relevant to this decision, Indiana Beach operated an amusement park near Monticello, Indiana.
6. On June 27, 2007, a duly authorized inspector from the Agency conducted an inspection of the Company and issued an Order.
7. The Order cited a device called the Euro Bungy for operating without a certification by the Agency as required by 685 IAC 1-4-4.
8. 685 IAC 1-4-4(a) states that no person shall operate on amusement device unless it has been inspected and an operating permit has been issued by the Agency.
9. The Company filed a timely petition for review stating that the Euro Bungy does not meet the definition of a “regulated amusement device” found in IC 22-12-1-19.1.
10. The Company agrees it never sought an operating permit and the device was being used by customers, therefore the only issue presented here is whether applicable state law requires the Euro Bungy to be regulated.
11. The Euro Bungy is a cross between a trampoline and a bungee.
12. A user of the device is placed in a harness and apparently jumps onto a trampoline surface.¹
13. The Euro Bungy conveys one or more persons in one or more planes or degrees of motion for the purpose of amusement, recreation, or entertainment.
14. For a number of years, the Agency and its predecessors did not regulate any amusement device that did not have an artificial power source; that is, if there was not a mechanical or electrical motor involved in the ride, it was not a regulated amusement device.
15. Thus trampolines, swings, teeter-totters, slides, etc. were not regulated even though they convey persons.
16. Our legislature made a major change to this policy when it added “IC 22-12-1-19.1(b)(7). A Bungee Jump facility.”

¹ Photographs A through F and the Order are attached to the end of this decision.

17. It did not change, however, IC 22-12-1-19.1(c) which exempts passenger operated devices and inflatable amusement chambers from being defined as regulated amusement devices.
18. The Euro Bungy has no mechanical or electrical power source thus must be considered “passenger operated”. It only works when the customer starts jumping up and down.
19. The only way the device can fall under a regulated amusement device is to meet the definition of a “bungee jumping”.
20. IC 22-12-1-3.8 defines Bungee Jumping and it requires the cord be elastic and the base of the jump be water, ground, solid, or elastic surface.
21. The pictures attached to this decision show the harness system to use weights and pulleys rather than any elastic cords. Additionally, the landing area is a trampoline which is generally designed for jumping.
22. Accordingly, the trier of fact finds the device in question does not fall under the definition of “Regulated Amusement Device” because it is self operated and does not meet the State’s definition of a bungee jump.

NONFINAL ORDER

The Order of June 27, 2007 issued by the Indiana Department of Homeland Security to Indiana Beach, Inc. is hereby vacated.