

STATE OF NEW YORK  
DEPARTMENT OF LABOR  
STATE OFFICE BUILDING CAMPUS  
ALBANY, NEW YORK 12240-0100

In the Matter of

Part 45 of Title 12 of the Official Compilation of Codes,  
Rules and Regulations of The State of New York  
(Cited as 12 NYCRR Part 45)

and Article 27 of the Labor Law

Cases: 12 NYCRR sections 45-1.7, 45-1.8, 45-1.9, 45-  
1.10, 45-1.11 and 45-1.12 and Labor Law Sections 30,  
870-a, 870-d, 870-e, 870-f and 870-g

COMMISSIONER'S  
DECISION

APPLICABLE  
VARIANCE  
AV-123

Amusement Devices

Children's Summer Camps

DATED:

Pursuant to section 30 of the Labor Law, the Commissioner of Labor has reviewed the provisions of Article 27 of the Labor Law and Industrial Code Rule 45, 12 NYCRR Part 45 ("ICR 45"), as they relate to the inspection and certification of amusement devices, commonly referred to as zip lines, high rope courses, climbing walls with mechanical belays, canopy tours, euro bungees, water slides 20 feet tall and higher, and similar non-motorized amusement devices (collectively, "covered devices"), that are owned and operated by children's overnight, summer day and traveling summer camps (collectively, "children's camps") that are regulated by the New York State Department of Health, or its local counterparts, or both (individually and collectively referred to as "Health Department"), pursuant to Public Health Law Article 13-B (Regulation of Overnight, Summer Day, and Traveling Summer Day Camps for Children) and 10 NYCRR Subpart 7-2 ("State Sanitary Code").

The Commissioner of Labor finds that the issuance of a variance from the provisions of Article 27 and ICR 45 would satisfy Department of Labor's safety

inspection requirements under Article 27 of the Labor Law, would maintain the spirit and purpose of the law and regulations and would secure public safety.

### **APPLICABLE VARIANCE**

A variance from the cited provisions of Labor Law Article 27 and Industrial Code Rule 45 is hereby GRANTED subject to the following conditions:

### **THE CONDITIONS**

1. This Applicable Variance applies only to covered devices at children's camps that are operated during the camp season under a permit issued by the Health Department.
2. The covered devices shall be used as part of an approved children's camp as defined in 10 NYCRR Part 7 (State Sanitary Code).
3. Responsibility for the adequacy of structural elements involved in the installation and inspection of the covered devices prior to the first use shall be the responsibility of the children's camp. Installations and inspections may be conducted by a professional vendor member accredited by the Association of Challenge Course Technology, a person certified by the National Association of Amusement Ride Safety Officials, a professional engineer, or other qualified third party inspectors.
4. At least once each year the installation shall be inspected for compliance with the New York State Sanitary Code by an individual acceptable to the Health Department. The person(s) making the inspection shall provide a report of their inspection to the children's camp. A copy of the report shall be provided to the Health Department and available for review by the Department of Labor. Any deficiency shall be reported to the Health Department prior to the covered devices being put into operation or a permit being issued.
5. All deficiencies reported to the children's camp shall be corrected in a manner acceptable to the Health Department.
6. Any design changes to the covered devices shall be done in a manner acceptable to the Health Department.
7. The children's camp shall furnish the Health Department proof that they have purchased insurance or posted cash or other security in an amount not less than one million dollars per occurrence or a bond in an amount not less than two

million five hundred thousand dollars in the aggregate against liability for injury to persons arising out of the use of the covered devices.

8. Serious injuries, resulting from the use of the covered devices shall be reported immediately to the Health Department and the Department of Labor.

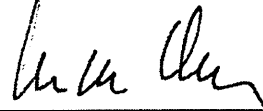
"Serious injury" means a personal injury which results in death; dismemberment; significant disfigurement; a compound or comminuted fracture; or permanent loss of a body organ, member, function or system; or loss of consciousness resulting in hospitalization.

9. Proof that the covered devices are in compliance with Health Department requirements and/or the conditions of this Applicable Variance shall be provided to the Department of Labor upon request.
10. The covered devices shall be in compliance with all Health Department requirements.

This APPLICABLE VARIANCE shall apply to all children's camps and in all places to which the aforementioned provisions of Article 27 and Industrial Code Rule 45 apply with the same force and effect as if this APPLICABLE VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the cited provisions of Article 27 and Industrial Code Rule 45.

Date: 6/17/13

PETER M. RIVERA  
COMMISSIONER OF LABOR



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