

OPINION NO. 92-020**Syllabus:**

A bungee jump is an amusement ride as defined in R.C. 1711.50.

To: Fred L. Dailey, Director, Ohio Department of Agriculture, Columbus, Ohio

By: Lee Fisher, Attorney General, May 18, 1992

You have requested an opinion as to whether bungee jumps fall under the definition of an amusement ride in R.C. 1711.50. The owner of an amusement ride must obtain an annual permit from the Department of Agriculture in order to operate the ride in Ohio. R.C. 1711.53. In order to obtain a permit, the owner must provide evidence of liability insurance coverage and allow the ride to be inspected for compliance with applicable safety regulations. *See generally* R.C. 1711.53-.55; 2 Ohio Admin. Code Chapter 901:9-1. Thus, if bungee jumps are amusement rides, they are subject to both statutory and regulatory provisions governing the safety of such rides.

Definition of Amusement Ride

An "amusement ride" is defined as "any mechanical device, aquatic device, or combination of devices which carries or conveys passengers on, along, around, over, or through a fixed or restricted course or within a defined area for the purpose of giving its passengers amusement, pleasure, or excitement." R.C. 1711.50(A). It is clear that a purpose of bungee jumps is to give the jumpers amusement, pleasure or excitement. The applicability of this definition to bungee jumps thus depends on (i) whether such jumps are mechanical devices or a combination of devices, and (ii) whether the jumps carry the jumpers on a fixed or restricted course or within a defined area.

A Bungee Jump is a Mechanical Device

While there is no applicable definition of "mechanical device" in the Ohio Revised Code, in ordinary usage, "mechanical" means, *inter alia*, "having to do with...machinery." *See Webster's New World Dictionary* 880 (2d college ed. 1982). The term "machinery" includes "any combination of things or persons by which something is kept in action or a desired result is obtained." *Id.* at 848. The term machinery is, thus, not limited to motorized devices or to devices with interacting parts such as gears or cams. Levers, pulleys and yo-yo's are examples of very basic, simple mechanical devices. A bungee cord attached to a person on one end and a crane, platform or other device on the other end can thus be viewed as a simple mechanical device or combination of devices which modifies the downward motion of the jumper and creates the bouncing movements. Thus, a bungee jump reasonably fits within the definition of a "mechanical device" or "combination of devices" in ordinary usage.

A Bungee Jump Operates on a Fixed or Restricted Course

With respect to the question of whether a bungee jump carries a jumper on a fixed or restricted course or within a defined area, although the parameters of the jumper's course are not strictly fixed, the bungee cord clearly functions to keep the motion of the jumper within a defined area. The length and elasticity of the cord restrict the course of the jumper, causing the jumper to rebound and bounce within a defined area. Thus, a bungee jump reasonably fits under the definition of an "amusement ride" in R.C. 1711.50.

Differences Between Bungee Jumps and More Traditional Rides do not Justify Exclusion from Statutory Definition

In your initial letter you noted that a bungee jump differs in some ways from many commonly recognized amusement rides, such as roller coasters or ferris wheels. A bungee jump is not motorized and does not involve the interaction of gears, cams, or levers. It is, rather, simply an elastic cord attached to a platform.

Furthermore, the jumper is not enclosed in some kind of conveyance in a traditional passenger-like fashion. Nor is there a clearly defined course or track along which the jumper travels. Members of your staff have suggested that under such an analysis the bungee jump could be viewed as more like a sport activity, such as parachuting or rappelling, rather than as an amusement ride subject to regulation by the Department of Agriculture. This argument is not persuasive, however. As the preceding discussion illustrates, the terms used in the definition of amusement ride are broad enough to encompass more than traditional amusement rides. It is reasonable to assume that the legislature chose such broad, generic terms to define amusement ride in order to insure that new rides would fall within the coverage of the statute. Statutes enacted to protect the public safety should be interpreted liberally in order to accomplish that purpose. See generally *Mason v. Roberts*, 35 Ohio App. 2d 20, 39, 300 N.E.2d 211, 218 (1971), *aff'd.*, 33 Ohio St. 2d, 29, 294 N.E.2d 884 (1973).

A review of the kinds of "amusement rides" that are not subject to regulation reinforces this conclusion that the General Assembly intended to include simple mechanical devices and combinations of devices within the definition of amusement rides. R.C. 1711.57 states:

Sections 1711.51 to 1711.57 of the Revised Code do not apply to ... any nonmechanized¹ playground equipment, including swings, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, swinging gates, and physical fitness devices except where an admission fee is charged for usage or an admission fee is charged to areas where such equipment is located. (Footnote added.)

If the General Assembly did not consider devices such as swings, stationary spring-mounted animal features, or trampolines to be "mechanical devices" or "combinations of devices" within the meaning of R.C. 1711.50(A) in the first instance, there would have been no need to create an express exception for these devices. Like a swing or trampoline, a bungee jump is a non-mechanized, simple mechanical device. Like the user of a trampoline, a bungee jumper is neither enclosed in a conveyance nor kept on a totally fixed course. Since R.C. 1711.57 provides that even such basic playground equipment be regulated as amusement rides when admission is charged, a bungee jump also must fall within the definition of amusement ride, particularly when it is made available to the general public and a fee is charged. In this regard, it should be noted that the Florida Department of Agriculture & Consumer Services has interpreted a statute identical to R.C. 1711.50 in this manner so as to regulate bungee jumps as amusement rides.

It is therefore my opinion and you are hereby advised that a bungee jump is an amusement ride as defined in R.C. 1711.50.

¹ "Nonmechanized," in this context, appears to mean lacking a motor or self-propelling mechanism, rather than "not mechanical."