

MEMORANDUM

TO: James Buck, Director Safety Standards & Licensing
FROM: Don A. Schooler, General Counsel
CC: Alexander Thorne, Assistant Director, SSD
DATE: April 20, 2015
RE: **ODOL Safety Concerns with “Euro Bubble/Euro Bobble” and similar devices; ODOL jurisdiction; and ODOL legal authorities¹**

JURISDICTION

The Oklahoma Department of Labor (ODOL) has jurisdiction over the Euro Bubble/Euro Bobble, and similar devices (hereinafter collectively “bubble”), as they meet the definition of an “amusement ride” found in 40 O.S. §461, which reads, in pertinent part, as follows:

“Amusement ride” means a device or combination of devices or elements that carry, convey, or direct a person or persons over or through a fixed or restricted course or within a defined area for the primary purpose of amusement or entertainment. Amusement ride includes any amusement park device that uses treated water as the means of transportation, including the structure and water quality of the device...

An individual is restricted to the bubble which is, in turn, restricted to a defined area, typically a pool of water. The water is the means of transportation for the purpose of amusement or entertainment. Therefore, the ODOL has the authority to regulate the bubbles as they clearly meet the definition of amusement rides under the statute.

SAFETY STANDARDS

The owner of a new or modified ride is required by 40 O.S. §464 to file with ODOL a: 1) notice of his/her intention to operate a ride in the state and a 2) copy of any plans or diagrams requested by ODOL. Any owner failing to file such notice and provide requested documentation may not legally operate in Oklahoma.

To determine whether bubbles meet ODOL’s safety standards, they, and they provided documentation, should be reviewed using the inspection criteria found in Oklahoma Administrative Code (OAC) 380:55-9-2:

- 1) Ride manufacturer’s specifications;
- 2) Industry consensus;
- 3) Common inspection practices;
- 4) ASTM standards; and
- 5) Oklahoma’s Amusement Ride Safety Rules.

¹ Memorandum based on research conducted by former Assistant General Counsel, Tiffany Wythe, Esq. in January 2012.

While industry consensus is unquestionably an important factor to be considered when reviewing the bubbles – former Assistant General Counsel, Tiffany Wythe found industry has raised significant safety concerns – it is not the exclusive factor. The bubbles also raise particular concerns with ASTM standards and Oklahoma’s Amusement Ride Safety Rules.

Regarding Oklahoma’s Amusement Ride Safety Rules, it is uncertain whether the bubbles meet the requirement of OAC 380:55-9-3(b)(4) that each carrier be numbered. Several examples of these types of bubbles found on YouTube do not show numbers. Without numbers, it would be difficult to keep track of how long each rider was in a bubble.

Our office does not access to the ASTM standards but other states have suggested the bubbles would fail to meet several ASTM standards, such as:

- ASTM F 2374 5.3.2 regarding entrapment points
- ASTM F 2374 5.6.1 regarding blowers impeding the ingress/egress of the device
- ASTM F 2374 6.5.7 regarding users on the inflatable device during inflation or deflation
- ASTM F 2374 5.4.2 regarding tethering of inflatable devices
- ASTM F 2374 5.4.1 regarding adequate tethering

I’m not sure whether this is mentioned in ASTM standards, but available oxygen and carbon dioxide levels may be a concern as well. According to an email received from another state, one study found a rider is only safe in a bubble for a little over 4 minutes. A previously reviewed employee operation manual warned riders should only be permitted in a bubble for 4 minutes. However, a YouTube video showed a boy left in the bubble for over 8 minutes.

In consideration of these specific ASTM standard concerns, and perhaps others, and industry consensus, it appears these bubbles do not meet the requirements to obtain a certificate of operation in Oklahoma. However, ODOL should consider each case independently, reviewing provided documentation, observing proposed set-ups and operations, and interviewing owners/operators to determine (and notate) what standards the bubbles are unable to meet and why. Should ODOL ever determine it needs additional information to make an informed determination, it may request additional documents under 40 O.S. §464. After obtaining all necessary documents and conducting a physical examination is warranted, the ODOL should draft a written notice to the owner/operator explaining the agency’s position on the safe operation of the bubbles in Oklahoma, and its determination on issuing a certificate of operation.