

State of California
Division of Occupational Safety and Health
2550 Mariposa Street, Room 4000
Fresno, CA 93721
Telephone: (559) 445-5302 Fax: (559) 445-5786



Citation and Notification of Penalty

To:
Butler Amusements Inc

3003 SW 153 Dr Suite 205
Beaverton, OR 97006

Inspection Number: 316727502
Inspection Date(s): 10/14/2013 - **04-11-14**
Issuance Date: 04/11/2014
CSHO ID: H9839
Optional Report #:
Reporting ID: 0950625

Inspection Site:
1121 S Chance Ave
Fresno, CA 93072

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (hereinafter Citation) is being issued in accordance with California Labor Code Section 6317 for violations that were found during the inspection/investigation. **This Citation or a copy must be prominently posted upon receipt by the employer at or near the location of each violation until the violative condition is corrected or for three working days, whichever is longer.** Violations of Title 8 of the California Code of Regulations or of the California Labor Code may result in some instances in prosecution for a misdemeanor.

YOU HAVE A RIGHT to contest this Citation and Notification of Penalty by filing an appeal with the Occupational Safety and Health Appeals Board. To initiate your appeal, you **must** contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of this Citation. If you miss the 15 working day deadline to appeal, the Citation and Notification of Penalty becomes a final order of the Appeals Board, not subject to review by any court or agency.

Informal Conference - You may request an informal conference with the Manager of the District Office which issued the Citation within 10 working days after receipt of the Citation. However, if the citation is appealed, you may request an informal conference at any time prior to the day of the hearing. Employers are encouraged to schedule a conference at the earliest possible time to assure an expeditious resolution of any issues. At the informal conference, you may discuss the existence of the alleged violation, classification of the violation, abatement date or proposed penalty.

Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an agreement which resolves this matter without litigation or contest.

APPEAL RIGHTS

The Occupational Safety and Health Appeals Board (Appeals Board) consists of three members appointed by the Governor. The Appeals Board is a separate entity from the Division of Occupational Safety and Health (Division) and employs experienced attorneys as administrative law judges to hear appeals fairly and impartially. To initiate an appeal from a Citation and Notification of Penalty, you must contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of a Citation. After you have initiated your appeal, you must then file a completed appeal form with the Appeals Board, at the address listed below, for each contested citation. Failure to file a completed appeal form with the Appeals Board may result in dismissal of the appeal. Appeal forms are available from district offices of the Division, or from the Appeals Board:

Occupational Safety and Health Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
Telephone: (916) 274-5751 or (877) 252-1987
Fax: (916) 274-5785

If the Citation you are appealing alleges more than one item, you must specify on the appeal form which items you are appealing. You must also attach to the appeal form a legible copy of the Citation you are appealing.

Among the specific grounds for an appeal are the following: the safety order was not violated, the classification of the alleged violation (e.g., serious, repeat, willful) is incorrect, the abatement requirements are unreasonable or the proposed penalty is unreasonable.

Important: You must notify the Appeals Board, not the Division, of your intent to appeal within 15 working days from the date of receipt of the Citation. Otherwise, the Citation and Notification of Penalty becomes a final order of the Appeals Board not subject to review by any court or agency. An informal conference with the Division does not constitute an appeal and does not stay the 15 working day appeal period. If you have any questions concerning your appeal rights, call the Appeals Board, (916) 274-5751 or (877) 252-1987.

PENALTY PAYMENT OPTIONS

Penalties are due within 15 working days of receipt of this Citation and Notification of Penalty unless contested. If you are appealing any item of the citation, remittance is still due on all items that are not appealed. Enclosed for your use is a Penalty Remittance Form for payment.

If you are paying by credit card (MasterCard and Visa), please have the Penalty Remittance Form on-hand when you are ready to make your payment. The company name, index code, reporting ID, and Citation number(s) will be required in order to ensure that the payment is accurately posted to your account. Please go to www.dir.ca.gov/dosh to access the secure payment processing site.

If you are paying by check, return one copy of the Citation, along with the Notice of Proposed Penalties Sheet and the Penalty Remittance Form and mail to:

Department of Industrial Relations
Cashier, Accounting Office
P. O. Box 420603
San Francisco, CA 94142-0603

CAL/OSHA does not agree to any restrictions, conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

NOTIFICATION OF CORRECTIVE ACTION

For violations which you do not contest, you should notify the Division of Occupational Safety and Health promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation and Notification of Penalty. Please inform the District Office listed on the Citation by submitting the CAL/OSHA Form 160 and/or 161 with the abatement steps you have taken and the date the violation was abated, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc. The adjusted penalty for serious and general violations **has already been** reduced by 50% on the presumption that the employer will correct the violations by the abatement date." **If the CAL/OSHA Form 161 is not received in the District Office within 10 days following the abatement date, the abatement credit is revoked, causing the penalty to double.**

Note: Return the CAL/OSHA Form 160/161 to the District Office listed on the Citation and as shown below:

Division of Occupational Safety and Health
2550 Mariposa Street, Room 4000
Fresno, CA 93721
Telephone: (559) 445-5302

EMPLOYEE RIGHTS

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under Labor Code Section 6310 or 6311. An employee who believes that he/she has been discriminated against may file a complaint no later than six (6) months after the discrimination occurred with the Division of Labor Standards Enforcement.

Employee Appeals - An employee or authorized employee's representative may, within 15 working days of the issuance of a citation, special order, or order to take special action, appeal to the Occupational Safety and Health Appeals Board the reasonableness of the period of time fixed by the Division of Occupational Safety and Health (Division) for abatement. An employee appeal may be filed with the Appeals Board or with the Division. No particular format is necessary to initiate the appeal, but the notice of appeal must be in writing.

If an Employee Appeal is filed with the Division, the Division shall note on the face of the document the date of receipt, include any envelope or other proof of the date of mailing, and promptly transmit the document to the Appeals Board. The Division shall, no later than 10 working days from receipt of the Employee Appeal, file with the Appeals Board and serve on each party a clear and concise statement of the reasons why the abatement period prescribed by it is reasonable.

Employee Appeal Forms are available from the Appeals Board, or from a District Office of the Division.

Employees Participation in Informal Conference. Affected employees or their representatives may notify the District Manager that they wish to attend the informal conference. If the employer objects, a separate informal conference will be held.

DISABILITY ACCOMMODATION

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district office or the Statewide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The Statewide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing or conference.

State of California

Division of Occupational Safety and Health
Cal/OSHA District Office (0950625; 4025)
2550 Mariposa Street, Room 4000
Fresno, CA 93721

Inspection Number: 316727502
Inspection Dates: 10/14/2013 -
Issuance Date: 04/11/2014
CSHO ID: H9839
Optional Inspection Nbr:



Phone: (559) 445-5302 Fax: (559) 445-5786

Citation and Notification of Penalty

Company Name: Butler Amusements Inc
Inspection Site: 1121 S Chance Ave, Fresno, CA 93072

Citation 1 Item 1 Type of Violation: Serious **Willful**

T8 CCR 3328(g): Machinery and Equipment shall be maintained as recommended by the manufacturer for safe operation.

The Giant Wheel and Flying Bobs amusement rides were both being operated on October 14, 2013 without following the manufacturer's recommendations, and were operated in an unsafe condition. The Employer had removed the bolts associated with the support leg flanges on the Giant Wheel and the cross braces and "R keys" used for structural support for the Flying Bobs ride.

Date By Which Violation Must be Abated:
Proposed Penalty:

ABATED
\$ 33750.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of California

Division of Occupational Safety and Health
Cal/OSHA District Office (0950625; 4025)
2550 Mariposa Street, Room 4000
Fresno, CA 93721

Inspection Number: 316727502

Inspection Dates: 10/14/2013 -

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Citation and Notification of Penalty

Company Name: Butler Amusements Inc
Inspection Site: 1121 S Chance Ave, Fresno, CA 93072

Citation 2 Item 1 Type of Violation: **Serious Willful**

T8 CCR 3910(b): The daily inspection and operational test shall be performed prior to opening the ride to the public to determine that all of the fastenings and other equipment required is installed so the ride is operated in a safe condition.

The Giant Wheel and Flying Bobs amusement rides were both operated on October 14, 2013 in an unsafe condition. The Employer conducted daily maintenance inspections on October 14, 2013 on both rides and allowed the rides to operate when the bolts associated with the support leg flanges on the Giant Wheel and the cross braces and "R keys" used for structural support on the Flying Bobs ride were removed.

Date By Which Violation Must be Abated: ABATED
Proposed Penalty: \$ 33750.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of California

Division of Occupational Safety and Health
Cal/OSHA District Office (0950625; 4025)
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Citation and Notification of Penalty

Company Name: Butler Amusements Inc
Inspection Site: 1121 S Chance Ave, Fresno, CA 93072

Citation 3 Item 1 Type of Violation: **Serious Willful**

T8 CCR 3911(b)(3): Fastening and locking devices shall be installed where required for safe operation.

The Giant Wheel and Flying Bobs amusement rides were both being operated on October 14, 2013 in an unsafe condition. The employer had removed the bolts associated with the support leg flanges on the Giant wheel and the cross braces and "R keys" used for structural support for the Flying Bobs ride.

Date By Which Violation Must be Abated:

ABATED

Proposed Penalty:

\$ 33750.00



Compliance Officer/District Manager

ADL

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of California
Division of Occupational Safety and Health
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Fresno, CA 93721
Telephone: (559) 445-5302 Fax: (559) 445-5786

NOTICE OF PROPOSED PENALTIES

Company Name: Butler Amusements Inc
Inspection Site: 1121 S Chance Ave, Fresno, CA 93072
Mailing Address: 3003 SW 153 Dr Suite 205, Beaverton, OR 97006
Issuance Date: 04/11/2014
Reporting ID: 0950625
Index Code: 4025

Summary of Penalties for Inspection Number 316727502

Citation 1, Serious Willful	= \$ 33750.00
Citation 2, Serious Willful	= \$ 33750.00
Citation 3, Serious Willful	= \$ 33750.00
TOTAL PROPOSED PENALTIES	= \$ 101250.00

Penalties are due within 15 working days of receipt of this notification unless contested. If you are appealing any item of this citation, remittance is still due on all items that are not appealed. Enclosed for your use is a Penalty Remittance Form.

If you are paying by credit card (MasterCard and Visa): Please have this form on-hand when you are ready to make your payment. The company name, index code, reporting ID, and Citation number(s) will be required to ensure that the payment is accurately posted to your account. Please go to www.dir.ca.gov/dosh to access the secure payment processing site.

If you are paying by check: Mail this Notice of Proposed Penalties, the Penalty Remittance Form, along with a copy of the Citation and Notification of Penalty to:

**DEPARTMENT OF INDUSTRIAL RELATIONS
CASHIER, ACCOUNTING OFFICE
P. O. BOX 420603
SAN FRANCISCO, CA 94142-0603**

CAL/OSHA does not agree to any restrictions, conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions or endorsements do not exist.

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH - CAL/OSHA
Cashier, Accounting Office
P.O. Box 420603
San Francisco, CA 94142-0603
Phone (415) 703-4291 or (415) 703-4295 FAX (415) 703-3037

PENALTY REMITTANCE FORM

CIVIL PENALTY INFORMATION	INSPECTION NUMBER <u>316727502</u>	REPORTING ID <u>0950625</u>	INDEX CODE <u>4025</u>
ESTABLISHMENT NAME	<u>Butler Amusements Inc</u>		
CONTACT PERSON	_____		
PHONE NO.	_____	FAX NO.	_____
SITE ADDRESS	<u>1121 S Chance Ave, Fresno</u>		
MAILING ADDRESS	<u>3003 SW 153 Dr Suite 205, Beaverton, OR, 97006</u>		

CITATION INFORMATION (Penalties are due within 15 working days of receipt of this notification unless contested. If you are appealing any item of this citation, remittance is still due on all items that are not appealed.)

Payment is for the following Citation Items: (e.g. Citation 1, Items 1-5; Citation 3)

TYPE OF PAYMENT ENCLOSED

CHECK OR MONEY ORDER INFORMATION	
CHECK ENCLOSED IN THE AMOUNT OF	\$ _____
MONEY ORDER ENCLOSED IN THE AMOUNT OF	\$ _____

(Please make check or money order payable to CAL/OSHA and mail to the Cashier, Accounting Office, at the above address. Reference the Inspection Number on the "memo" portion of your check or money order.)

Go to [www/dir.ca.gov/dosh](http://www.dir.ca.gov/dosh) to access the on-line third party secure payment processing site
OR Complete this section and fax to (415) 703-3037

CREDIT CARD INFORMATION

VISA OR MASTERCARD CREDIT CARD NO. _____ EXPIRATION DATE _____

CREDIT CARD SECURITY CODE (last 3 digits on back of card) _____

NAME OF CARDHOLDER _____ SIGNATURE _____

CARDHOLDER PHONE NO. _____ FAX NO. _____

AMOUNT OF PAYMENT \$ _____

----- FOR OFFICE USE ONLY -----

AUTHORIZATION NO. _____ DATE PROCESSED _____

PROCESSED BY _____

(Please call (415) 703-4291 or 703-4295 or complete the information above and fax to (415) 703-3037)