CHAPTER 53-03
CARNIVALS

53-03-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Carnival" means an aggregation of attractions including any show, circus, act, game, vending device, or amusement device, whether conducted under one management or more, or independently, temporarily set up or conducted in a public place or upon any private premises accessible to the public with or without admission fee, which, from the nature of the aggregation, attracts attendance and causes promiscuous commingling of persons in the spirit of merrymaking and revelry.
2. "Fair board" means the officers of any state or county fair association, or the agents of any such board, duly authorized to make any contract or issue any permit as provided in this chapter.
3. "Governing body" means a city council, or a board of city commissioners, as the case may be, or the agents of any such governing body duly authorized to make any contract or to issue any permit as provided in this chapter.
4. "Person" means any natural person, firm, corporation, or limited liability company or the clerk, agent, or abettor of any such person, firm, corporation, or limited liability company.

53-03-02. Carnivals - When permitted - Prohibitions.

No person may set up, run, operate, or conduct within this state any itinerant carnival except within the limits of an incorporated municipality, or within the limits or upon the grounds of a state or county fair association, and then only when such person shall have procured and shall have in the person's possession a written contract and permit from the governing body of the municipality or the fair board of the fair association where such carnival is set up and operated, setting forth the conditions under which such carnival must be operated.

53-03-03. Permit required - Terms upon which granted.

A permit to conduct a carnival must be granted upon the condition, and the contract must state, that there may not be:

1. Set up or operated any gambling device, lottery, number or paddlewheel, number board, punchboard, or other game of chance or skin game of any kind, except as otherwise permitted by law; or
2. Any lewd, lascivious, or indecent show, indecent exposure of the person, suggested lewdness or immorality, any indecent dance where persons perform, or any other lewd, immoral, or indecent show or attraction.

53-03-04. Powers and duties of governing body or fair board.

No governing body or fair board may grant a permit to operate a carnival until it shall have investigated the same and shall have become satisfied that, if a permit is granted, it will be operated according to law, and that none of the illicit or unlawful acts mentioned in the contract will be permitted.

53-03-05. Authority of governing body and fair board.

If a governing body or fair board determines that an application for a permit should be granted, it shall:

1. Enter into a contract such as is prescribed by section 53-03-02;
2. Issue a permit to operate a carnival;
3. Collect such permit fees as are necessary to pay the expenses of the investigation required by this chapter;
4. Aid in policing the carnival grounds and in otherwise compensating the municipality or association interested in such amount as may be determined; and

5. Require the permittee to execute and deliver to such municipality or association a bond in a penal sum not exceeding five hundred dollars, to be approved by the governing body or fair board, conditioned for the faithful conduct of such carnival in accordance with the governing laws and ordinances, and that the same must be forfeited upon the violation of the provisions thereof.

53-03-06. Board to enforce provisions - Free access of officers.

The governing body or fair board shall enforce the provisions of the carnival contract, of this chapter, and of any ordinances of the municipality regulating carnivals. Each permit must contain a provision that sheriffs and police officers shall have free access to the grounds and all booths, shows, and concessions thereon at all times, and all officers present at such carnival shall enforce all the provisions of this chapter and other governing statutes of this state.

53-03-07. Permit in possession of board - To be shown.

The contract and permit authorized by this chapter must be made in duplicate. One must be in the possession of the governing body or fair board and the other in the possession of the manager of such carnival, and in either case, upon request of an officer or citizen, must be produced and shown. Refusal to show the same to one asking to see it is presumptive evidence that such carnival is being operated without such contract or permit.

53-03-08. Penalty.

Any person who violates any of the provisions of this chapter is guilty of a class B misdemeanor.