

HOUSE BILL NO. 4527

March 16, 2021, Introduced by Rep. Albert and referred to the Committee on Regulatory Reform.

A bill to amend 1966 PA 225, entitled "Carnival-amusement safety act of 1966," by amending the title and sections 2, 10, 11, 17, and 20 (MCL 408.652, 408.660, 408.661, 408.667, and 408.670), the title and section 11 as amended by 2014 PA 163, sections 2 and 17 as amended and section 20 as added by 2000 PA 346, and section 10 as amended by 2020 PA 163, and by adding section 19a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to provide for the inspection, licensing, and regulation of carnival and amusement rides; to provide for the safety of the public using carnival and amusement rides; to provide for the powers and duties of certain state governmental officers and entities; to provide for the disposition of revenues; ~~and to~~ **require the promulgation of rules; to prescribe civil sanctions;** to prescribe penalties; **and to provide remedies.**

Sec. 2. As used in this act:

(a) "Carnival or amusement ride" means a device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. Carnival or amusement ride does not include a hobby locomotive ~~operating that~~ **operates** on narrow gauge tracks ~~less that have a width that is narrower~~ than 24 inches and **is** powered by steam, electricity, gas, or other fuel, whether or not it is operated on the owner's property.

(b) "Department" means the department of ~~consumer and industry services.~~ **licensing and regulatory affairs.**

(c) "Director" means the director of the department ~~of consumer and industry services.~~ **or his or her designee.**

(d) "Hobby" means an interest or activity that ~~a person~~ **an individual** pursues without compensation in his or her leisure time.

(e) "Operator" ~~or "owner"~~ means a person who ~~owns or controls or has the duty to control~~ the operation of a carnival or amusement ride. ~~and includes the state or any political subdivision of the state.~~

(f) "Owner" means **any person who owns or leases and controls or manages the operation of a carnival or amusement ride, and**

1 includes an individual, partnership, corporation, both profit and
 2 nonprofit, or the state and any of its political subdivisions and
 3 their departments or agencies.

4 (g) ~~(f)~~—"Rider" or "rider of a carnival or amusement ride"
 5 means ~~a person~~ **an individual who is** waiting in the immediate
 6 vicinity of a carnival or amusement ride to get on the carnival or
 7 amusement ride, getting on a carnival or amusement ride, using a
 8 carnival or amusement ride, getting off a carnival or amusement
 9 ride, or leaving a carnival or amusement ride and **is** still in the
 10 immediate vicinity of the carnival or amusement ride. Rider does
 11 not include an **individual who is an** employee or agent of the
 12 operator while engaged in the duties of his or her employment **or**
 13 **engagement.**

14 (h) "Serious injury" means a physical injury that is not
 15 necessarily permanent, but that constitutes serious bodily
 16 disfigurement or that seriously impairs the functioning of a body
 17 organ or limb. Serious injury includes, but is not limited to, 1 or
 18 more of the following:

19 (i) Loss of a limb or use of a limb.

20 (ii) Loss of a hand, foot, finger, or thumb or use of a hand,
 21 foot, finger, or thumb.

22 (iii) Loss of an eye or ear or use of an eye or ear.

23 (iv) Loss or substantial impairment of a bodily function.

24 (v) Serious visible disfigurement.

25 (vi) A comatose state that lasts for more than 3 days.

26 (vii) Measurable brain damage or mental impairment.

27 (viii) A skull fracture or other serious bone fracture.

28 (ix) Subdural hemorrhage or hematoma.

29 (i) ~~(g)~~—"Sign" means any symbol or language **that is** reasonably

1 calculated to communicate information to a rider or the rider's
2 parent or guardian, including placards, prerecorded messages, live
3 public address, stickers, pictures, pictograms, video, verbal
4 information, and visual signals.

5 (j) ~~(h)~~ "Special inspector commission" means an authorization
6 issued annually by the department that requires an ~~operator~~, owner
7 **or operator**, or **the** representative of ~~the~~ **an** owner or operator, to
8 perform daily inspections of a carnival or amusement ride, to
9 maintain a daily inspection log, and to be present on the premises
10 where the ride is located while the ride is being operated.

11 Sec. 10. (1) ~~A person~~ **An owner** shall not operate a carnival-
12 amusement ride without a permit issued by the director. On or
13 before March 1 of each year, an ~~operator~~ **owner** shall apply for a
14 permit to the director on a form furnished by the director and
15 containing the information required by the department. The
16 department shall inspect a ~~carnival-amusement~~ **carnival or amusement**
17 ride before it is initially put into operation for the public's use
18 and at least once every year while in operation, unless operation
19 of the **carnival or amusement** ride is authorized on a temporary
20 permit. The department may also inspect a ~~carnival-amusement~~
21 **carnival or amusement** ride each time it is disassembled and
22 reassembled. **The department shall not issue a permit to an owner**
23 **unless the owner satisfies the requirements described in section**
24 **19a.**

25 (2) An individual may operate a ~~carnival-amusement~~ **carnival or**
26 **amusement** ride if the individual is at least 16 years of age. The
27 department shall not promulgate a rule that requires an individual
28 to be more than 16 years of age to operate a ~~carnival-amusement~~
29 **carnival or amusement** ride.

(3) An individual shall not operate a ~~carnival-amusement~~
carnival or amusement ride unless that individual has been trained
in all of the following:

(a) The operating procedures specific to the **carnival or
amusement** ride.

(b) The specific duties applicable to each of the ~~carnival-~~
~~amusement-~~**carnival or amusement** ride's assigned positions.

(c) The general procedures of the carnival or amusement park.

(d) The general and ride-specific safety procedures that the
individual must follow in the event of an unusual condition,
interruption in operation, injury, emergency, or evacuation.

Sec. 11. If, after inspection, a ~~carnival-amusement-~~**carnival
or amusement** ride ~~is~~ **and its owner are** found to ~~comply~~ **be in
compliance** with **this act and** the rules ~~of~~ **promulgated by** the
department **under this act**, the inspector shall issue a permit to
operate.

Sec. 17. (1) ~~A temporary cessation of operations of a
carnival-amusement ride may be ordered by the director when the
inspection of the ride has been impeded, obstructed or interfered
with. The order to cease operations shall remain in effect until an
inspection has been made and the ride has been found safe for
use.~~ **The department may deny, suspend for a specified period of time
under subsection (3), or revoke any permit issued under this act.**

(2) In addition to denial, suspension, or revocation under
subsection (1), the department may impose an administrative fine
not to exceed \$2,500 for each violation, for each day the violation
exists, against the owner of the carnival or amusement ride if the
department or a federal, state, or local law enforcement officer
finds that a carnival or amusement ride has operated or is

1 operating under any of the following conditions:

2 (a) With a mechanical, structural, or electrical defect that
3 affects patron safety, of which the owner or operator has
4 knowledge, or, through the exercise of reasonable diligence, should
5 have knowledge.

6 (b) In a manner or circumstance that presents a risk of
7 serious injury to a patron.

8 (c) At a speed in excess of its maximum safe operating speed.

9 (d) In violation of this act or any rule adopted under this
10 act.

11 (e) In violation of an order issued by the department or any
12 court with appropriate jurisdiction.

13 (3) If the department suspends a permit under subsection (1),
14 the department shall, in its order suspending the permit, specify
15 the period of time during which the suspension is effective. The
16 effective period of the suspension may not exceed 30 days. The
17 permit must remain suspended during the period so specified,
18 subject to any rescission or modification of the order by the
19 department, or a modification or reversal of the suspension ordered
20 by a court with appropriate jurisdiction, prior to the expiration
21 of the suspension period. Before the expiration of the suspension
22 period, the owner may apply for an inspection of the carnival or
23 amusement ride that is the subject of the suspension. If an owner
24 applies for such an inspection, the department shall inspect the
25 carnival or amusement ride not more than 5 business days after the
26 date on which the owner applies for the inspection. After an
27 inspection during a suspension period, if the carnival or amusement
28 ride is found to be in compliance, the permit must be reinstated.
29 If after the expiration of a suspension period specified under this

1 subsection, the carnival or amusement ride is found to remain in
2 noncompliance, the department shall order an additional suspension
3 with an effective period not to exceed 15 days. After a final
4 inspection following that additional suspension period, if the
5 department finds the carnival or amusement ride to remain in
6 noncompliance, the department may revoke the permit for the
7 carnival or amusement ride.

8 (4) If a permit for a carnival or amusement ride is revoked by
9 the department under this section, the owner of the carnival or
10 amusement ride may not apply for another permit or inspection
11 certificate for that ride for a period of 1 year beginning on the
12 date on which the department ordered the revocation. If judicial
13 review is sought and a stay of the revocation is obtained, the
14 owner may not apply for another permit or inspection certificate
15 for a period of 1 year beginning on the date of a final order of
16 the court sustaining the revocation.

17 (5) During a period of suspension or revocation of a permit,
18 an owner may not engage in or attempt to engage in any operation of
19 the carnival or amusement ride for which a permit or inspection
20 certificate is required under this act.

21 (6) The department shall grant additional time to be added to
22 a suspension period ordered under this section if an owner requests
23 additional time not more than 10 days after the date on which the
24 suspension was ordered.

25 (7) In addition to the remedies provided in this section, and
26 notwithstanding the existence of any other adequate remedy at law,
27 the department may bring an action to enjoin the violation of any
28 provision of this act, or any rule promulgated by the department
29 under this act, in the circuit court of the county in which the

1 violation occurs or is about to occur. On competent and substantial
2 evidence of the violation or threatened violation presented by the
3 department to the court, the court shall immediately issue the
4 temporary or permanent injunction sought by the department. The
5 court shall issue the injunction without bond.

6 (8) Before imposing a fine or seeking any remedies or
7 penalties under this section for a violation of this act, or any
8 rule promulgated by the department under this act, the department
9 may issue a letter of warning to the owner of the carnival or
10 amusement ride specifying the violation and directing the owner to
11 immediately correct the violation.

12 (9) ~~(2)~~ Except for the late payment of fees as provided in
13 section 8(2) and except as provided in subsection ~~(3)~~, ~~(10)~~, a
14 person who violates this act is guilty of a misdemeanor. Each day a
15 violation occurs is a separate offense.

16 (10) ~~(3)~~ The penalty provided in subsection ~~(2)~~ ~~(9)~~ does not
17 apply to the violation of this act by a rider or the rider's parent
18 or guardian.

19 Sec. 19a. (1) On request, an owner shall, at no cost to the
20 department, provide the department a copy of the manufacturer's
21 current recommended operating instructions in the possession of the
22 owner for a carnival or amusement ride owned by the owner and any
23 written bulletins in the possession of the owner concerning the
24 safety, operation, or maintenance of the carnival or amusement
25 ride.

26 (2) The owner or operator of a carnival or amusement ride
27 shall maintain, on a form prescribed by rule of the department, a
28 record of training for each employee authorized to operate,
29 assemble, disassemble, or conduct maintenance on a carnival or

1 amusement ride. In place of the form prescribed by the department,
2 an owner may request approval of an alternative form if the
3 alternative form includes, at a minimum, the information required
4 on the form prescribed by the department. A record of training
5 required under this subsection must be accessible by the owner and
6 made available to the department on request.

7 (3) The owner of a carnival or amusement ride shall maintain,
8 on a form prescribed by rule of the department, a record of
9 employee training on emergency response procedures. In place of the
10 form prescribed by the department, the owner may request approval
11 of an alternative form if the alternative form includes, at a
12 minimum, the information required on the form prescribed by the
13 department. A record of the training required under this subsection
14 must be accessible by the owner and made available to the
15 department on request.

16 Sec. 20. (1) Before leaving the operator's premises, a rider
17 of a carnival or amusement ride, or his or her parent or guardian,
18 shall report in writing to the operator or an employee or agent of
19 the operator, on a form provided by the operator or the employee or
20 agent of the operator, any injury sustained on a carnival or
21 amusement ride. The report ~~shall~~**must** include all of the following
22 information:

23 (a) The name, address, and telephone number of the injured
24 person.

25 (b) A brief description of the incident, the injury claimed,
26 and the location, date, and time of the injury.

27 (c) The cause of the injury, if known.

28 (d) The name, address, and telephone number of any witness to
29 the incident.

1 (2) If the rider of a carnival or amusement ride, or his or
2 her parent or guardian, is unable to file a report under subsection
3 (1) because of the severity of the rider's injuries, the rider, or
4 his or her parent or guardian, shall file the report as soon as
5 reasonably possible. The failure of a rider, or his or her parent
6 or guardian, to report an injury under this section does not affect
7 the rider's right to bring a civil action related to the incident.

8 **(3) An owner or operator of a carnival or amusement ride shall**
9 **report within 12 hours to the department by email any accident in**
10 **which a fatality occurs or an individual suffers a serious injury**
11 **resulting from the structural or mechanical failure of a carnival**
12 **or amusement ride, or in which it appears that the construction,**
13 **design, or function of the carnival or amusement ride may have**
14 **directly contributed to the fatality or serious injury. The**
15 **department, after consultation with the owner of a carnival or**
16 **amusement ride involved in a fatality or an injury described in**
17 **this subsection, may require that the scene of the accident where**
18 **the fatality or injury occurred be secured and not disturbed to any**
19 **greater extent than necessary for the removal of a deceased or**
20 **injured individual. If a carnival or amusement ride is removed from**
21 **service due to an accident, and the department requires that the**
22 **scene of the accident be secured, the department shall order an**
23 **immediate investigation of the secured site and the carnival or**
24 **amusement ride must not be released for repair or operation until**
25 **after the investigation is completed.**

26 Enacting section 1. This amendatory act takes effect September
27 30, 2022.