

NATB STATE STATUTES ON TICKET SELLING

As a benefit to its Membership, the National Association of Ticket Brokers ("NATB") has compiled the attached materials which provide the text of state statutes dealing with the sale of tickets.

Considering the nature of this compilation, it is impossible for the NATB to confirm the validity of the information contained herein or that these are the laws that are in effect in a particular state. The NATB does not vouch or warrant the accuracy of this information but is rather providing what it believes to be a reasonable view of the current state of law. In fact, further input from the recipients is necessary to ensure that the information in this survey is correct and kept up to date. Accordingly, each of you is urged to review this survey and ensure the accuracy of the information for the state in which you are located or for any other state which you have personal knowledge of the existing law. Please contact Gary Adler at (202) 216-8307 with any comments.

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OVERVIEW OF STATE LAWS

Alabama -

Any person selling tickets at a price greater than the original price must pay a license tax of \$100.00.

Alaska -

No statute.

Arizona -

Ticket resale is legal except sales above face value within 200 feet of the venue or the venue's contiguous parking facilities.

Arkansas -

Statutes prohibit the resale of tickets above face value to collegiate or high school sporting events or any charitable event and the resale of tickets to non-athletic events over the internet until the tickets have first been offered for sale to the public. The statutes also prohibit scalping tickets to musical events but allows resellers to impose a reasonable charge for handling or credit card use.

California -

Ticket resale is legal except on venue grounds. Ticket sellers must have a permanent business address from which all tickets must be sold. The address must be included on all advertisements and solicitations.

Colorado -

Prohibits an original seller from (1) limiting the terms or conditions of resale; (2) restricting resale in a subscription or season ticket package agreement as a condition of purchase; (3) taking away any season tickets or subscriptions based on the resale of those tickets; (4) imposing any sanction on a purchaser if it sells the ticket through a reseller not approved by the operator such as Ticketmaster or the team site; and (5) denying admission to any person based on the fact that the ticket was resold. The use of online programs to avoid ticket queues or to purchase tickets in excess of an authorized limit is prohibited.

Connecticut -

Any person selling a ticket must advertise any service charge that accounts for a portion of the price. Resellers must provide refunds in the events of cancellation, non-receipt of the tickets, or failure to conform to advertisement. Also, a reseller must provide contact information to allow the purchaser an opportunity to obtain a refund.

Delaware -

Restriction only on resale of tickets to games at the Bob Carpenter Sports/Convocation Center at the University of Delaware or at Dover Downs NASCAR races.

District of Columbia -

No statute.

Florida -

A reseller must be licensed if it sells a ticket for a price that exceeds the ticket's face value by more than \$1. Any internet website may resell if it complies with statutory requirements such as it must guarantee a full refund of the amount paid for the ticket including any additional fees when: the event is canceled, purchaser is denied entrance for reasons other than their noncompliance with regulations, the ticket is not delivered in a manner that complies with the agreement, and when the website does not disclose that they are not the original seller of the ticket and do not control original ticket pricing. Those who knowingly purchase more tickets than the specified limit from the original ticket seller with the intention to resell them is in violation of the statute. Any person that counterfeits, forges, alters or possesses any fake tickets for admission to a public event is in violation of the statute. Tickets issued by a charitable organization may not be resold for more than \$1 above face value. Prohibits the sale or use of software to circumvent secure ticket sales.

Georgia -

Persons other than ticket brokers are prohibited from reselling or offering for sale tickets to athletic contests or entertainment events for a price exceeding the face value. All ticket brokers must maintain a permanent business office, pay an annual fee of \$500.00, renew broker license annually, pay all additional applicable taxes regarding their business transactions. All ticket brokers must post the purchaser's rights including refund policy at their place of business. They must also disclose the difference between the face value of a ticket and the ticket broker's price. Ticket brokers must only sell tickets at the permanent office or through the internet. A broker is prohibited from selling in excess of 1% of the tickets to an event. A broker is required to honor the request of a purchaser if they wish to cancel their ticket order within 36 hours of the sale. A broker must refund the ticket if an event is canceled and is not rescheduled. If the broker fails to deliver a ticket on time they must provide a full refund within 15 days.

Hawaii -

No statute.

Idaho -

No statute.

Illinois -

Prohibits original seller from limiting resale. In order to resell tickets at more than face value, the ticket broker must sell the tickets from a permanent location in the state and on a regular and ongoing basis. Ticket brokering must be the principal business at this permanent location and the broker must display their ticket broker registration. The ticket broker must maintain a toll free number specifically dedicated to Illinois consumer complaints and inquires. Each broker must adopt a standard refund policy in addition to a policy for standards of professional conduct and must have at least \$100,000 bond available for immediate disbursement in order to satisfy valid consumer complaints. Each broker will pay an annual \$100.00 registration fee.

Indiana -

Resale allowed except resale above face value for boxing or sparring events.

Iowa -

No statute.

Kansas -

No statute.

Kentucky -

No resale of a ticket for a price that exceeds the ticket's face value unless authorized by the original seller.

Louisiana -

Anyone person may resell tickets on the internet for a price that exceeds the face value if the owner and operator of the event authorize tickets to be resold at a higher price. Those who resell tickets at a higher price than the face value on the internet must adopt a full refund policy in the case that the event is canceled, the person is denied entrance to the event, unless such denial is due to the action or omission of the purchaser or if the ticket is not delivered to the purchaser in the manner described on the internet.

Maine -

No statute.

Maryland -

Anti-bot legislation (passed but not yet enacted). (Effective October 1, 2014)

Massachusetts -

No person shall engage in the resale of tickets unless properly licensed. In regard to resale price, a broker cannot resell a ticket at a price that is in excess of \$2 over the face price. The ticket broker is allowed to exceed this \$2 limit when applying service charges to the ticket price. Service charges include postage, long distance phone calls, etc. Also permitted is the imposition of an annual or per order fee for customers purchasing tickets other than by immediate payment in cash, which includes a membership fee, office expenses and the cost of processing credit cards. Further these statutes do not apply when all the proceeds go to the benefit of non-profit organizations.

Michigan -

A person may not ask, demand or receive money from a ticket sale that is in excess of the general admission advertised or charged for the same privilege except if the request, demand or receipt is with the written permission of the owner, lessee, operator, or manager of the event.

Minnesota -

No statute (repeal of anti-brokering statute); prohibits use of certain automated devices.

Mississippi -

No resale above face value to any Mississippi college games.

Missouri -

No statute (repeal of anti-broking statute).

Montana -

No statute.

Nebraska -

No statute.

Nevada -

No statute (except for taxation).

New Hampshire -

No statute.

New Jersey -

Resale only by registered ticket brokers, except so that any person can sell through an internet website. To register a broker must operate a permanent office not including a post office box. All brokers must list their registration number in all advertisements. All brokers must maintain a record of all ticket sales. All brokers must maintain a refund policy. All brokers must disclose information regarding its cancellation policy in addition to disclosing information regarding its service charge. All brokers must refund the entire ticket price in the event that they fail to provide the ticket. Ticket brokers must provide a full refund to those who purchase tickets and wish to return them within three days unless it is within 72 hours of the event, in which case they must return the tickets within a 24 hour period for a full refund.

New Mexico -

Ticket resale is prohibited unless a service fee is permitted pursuant to the contract between the ticket reseller and the sponsor or promoter of the event.

New York -

No cap on resale amount. Original sellers are prohibited from (i) canceling season tickets of fans that resell them and (ii) from placing restrictions on the resale of their tickets. Brokers must be licensed. The statute mandates that if a seller chooses to sell paperless tickets those tickets must be independently transferable or the seller must offer an option to purchase paper tickets to ensure some means of transferability. New York also had anti-bot legislation.

North Carolina -

Ticket brokers may add a reasonable service fee that does not to exceed \$3.00 in addition to applicable taxes. A promoter may agree in writing with a ticket sales agency on a fee that is greater than \$3.00 for the initial sale of the tickets. Internet sales are excluded from the cap provided the venue where the event occurs has not registered to prohibit the resale by anyone. Also, there is a law that makes the use of bots an unfair trade practice.

North Dakota -

No statute.

Ohio -

Each local municipality is authorized to enact its own regulations. Tickets may not be sold above face value for events that involve boxing or wrestling matches.

Oklahoma -

No statute.

Oregon -

Prohibits certain automated devices.

Pennsylvania -

Resale allowed by licensed brokers and through the internet provided certain consumer protection measures are in place (repeal of law capping amount a ticket could be resold for); prohibits the use of certain automated devices. Pennsylvania also has anti-bot legislation.

Rhode Island -

The price charged for a ticket may not exceed the face value plus a \$3 charge or 10% of ticket value, whichever is greater.

South Carolina -

A person or entity who attempts to resell a ticket may not request or receive more than \$1 over the face value of that ticket. However, a venue can authorize resale of tickets for not more than 20% over face value. Further, the restriction does not apply to internet sales provided certain consumer protection measures are in place.

South Dakota -

Each board of county commissioners may license, tax, regulate or prohibit ticket resale.

Tennessee -

Anti-bot legislation which prohibits software designed to circumvent access control systems.

Texas -

No statute (except for taxation).

Utah -

No statute.

Vermont -

No statute.

Virginia -

While each municipality is authorized to enact its own regulations regarding ticket brokers, such ordinance cannot apply to internet sales; prohibits the use of certain automated devices.

Washington -

No statute.

West Virginia -

No statute.

Wisconsin -

Limit on resale for state fair park tickets only. Local municipalities can regulate.

Wyoming -

No statute.

ALABAMA

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Ala.Code 1975 § 40-12-167

▷

Code of Alabama Currentness

Title 40. Revenue and Taxation.

▣ Chapter 12. Licenses. (Refs & Annos)

▣ Article 2. Business, Vocation or Occupation. (Refs & Annos)

→ § 40-12-167. Ticket scalpers.

Any person offering for sale or selling tickets at a price greater than the original price and who is commonly known as a ticket scalper shall pay a license tax of \$100.

(Acts 1935, No. 194, p. 256; Code 1940, T. 51, § 602.)

LIBRARY REFERENCES

American Digest System:

Theaters and Shows ↪ 3.

Ala. Code 1975 § 40-12-167, AL ST § 40-12-167

Current through End of 2006 Regular Session.

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ARIZONA

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A.R.S. § 13-3718

C

Arizona Revised Statutes Annotated Currentness

Title 13. Criminal Code (Refs & Annos)

Chapter 37. Miscellaneous Offenses (Refs & Annos)

→ § 13-3718. Sale of ticket in excess of regular price; classification; definition

A. It is unlawful for any person to sell or offer to sell a ticket of admission to an event, which ticket was purchased for the purpose of resale, for a price in excess of the price as printed on the face of the ticket, plus lawful taxes and any other charge or assessment which is required to be paid in order to purchase the ticket from the original vendor, while being within two hundred feet of an entry to the stadium, arena, theater or other place where an event is being held, or of the entry to a contiguous parking area.

B. It is unlawful for any person to change the price printed on the face of the ticket without the written permission of the original vendor of the ticket.

C. Any person who violates this section is guilty of a petty offense.

D. For purposes of this section, "event" shall mean a theatrical production, concert, sporting event or other entertainment event.

CREDIT(S)

Added by Laws 1989, Ch. 245, § 1.

HISTORICAL AND STATUTORY NOTES

Reviser's Notes:

1989 Note. Pursuant to authority of § 41-1304.02, subsection A was relettered as subsection D and the following subsections were relettered, "; definition" was added to the section heading after "classification" and in relettered subsection A "two hundred" was substituted for "200".

LIBRARY REFERENCES

Theaters and Shows ⇐4.
Westlaw Topic No. 376.
C.J.S. Sports §§ 47 to 48, 50 to 51.

A. R. S. § 13-3718, AZ ST § 13-3718

Current through legislation effective July 2, 2007,
and also includes election results from the
November 7, 2006 general election.

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ARKANSAS

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AR ST § 5-63-201

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A.C.A. § 5-63-201



West's Arkansas Code Annotated Currentness

Title 5. Criminal Offenses

Subtitle 6. Offenses Against Public Health, Safety, or Welfare (Chapters 60 to 79)

■ Chapter 63. Business Misconduct

■ Subchapter 2. Offenses Generally

→ § 5-63-201. Tickets to school athletic events or music entertainment events—Sale in excess of regular price

(a)(1) It is unlawful for any person, corporation, firm, or partnership to sell or offer for sale any ticket to:

(A) A high school or college athletic event or to an athletic or other event held for the benefit of charity at a greater price than that printed on the ticket; or

(B) Any music entertainment event at a greater price than that printed on the ticket or the box office sale price plus any reasonable charge for handling or credit card use, whichever is the greater.

(2) This subsection shall not apply to an institution of higher education that receives funds per ticket above the face value of that ticket.

(b)(1) Any person, corporation, firm, or partnership violating any provision of this section is guilty of a violation and upon conviction shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500).

(2) Every sale or offer for sale is a separate offense.

Acts of 1955, Act 51, §§ 1, 2; Acts of 1987, Act 21, § 1; Acts of 1993, Act 565, § 1; Acts of 2005, Act 1994, § 53, eff. Aug. 12, 2005.

Formerly A.S.A. 1947, §§ 41-4151, 41-4152.

HISTORICAL AND STATUTORY NOTES

2005 Legislation

Technical changes were made to conform with the official Arkansas Code of 1987 as approved by the Arkansas Code Revision Commission.

Acts of 2005, Act 1994, § 53, amended the section by substituting "violation" for "misdemeanor" in (b).

2006

Technical changes were made to conform with the official Arkansas Code of 1987 as approved by the Arkansas Code Revision Commission.

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AR ST § 5-63-201

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A.C.A. § 5-63-201

LIBRARY REFERENCES

Theaters and Shows ↪9.

Westlaw Key Number Search: 376k9.

C.J.S. Entertainment and Amusement; Sports §§ 102 to 103.

A.C.A. § 5-63-201, AR ST § 5-63-201

Current through end of 2006 legislation, including changes made by
Arkansas Code Revision Commission as a result of 2006 1st Extra.
Sess. and Gen. Election held on November 7, 2006.

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Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

As Engrossed: S3/11/09

A Bill

SENATE BILL 966

4
5 By: Senator Teague
6
7

For An Act To Be Entitled

8
9 AN ACT TO PROHIBIT THE SPECULATIVE OFFERING OF
10 EVENT TICKET SALES VIA THE INTERNET; AND FOR
11 OTHER PURPOSES.
12

Subtitle

13
14 TO PROHIBIT THE SPECULATIVE OFFERING OF
15 EVENT TICKET SALES VIA THE INTERNET.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 5, Chapter 63, Subchapter 2 is amended
21 to add an additional section to read as follows:

22 5-63-205. Tickets sold over the Internet.

23 (a)(1) Tickets of admission to a live entertainment event, theatre,
24 musical performance, or place of public entertainment or amusement of any
25 kind shall not be offered for sale by any person over the Internet until the
26 tickets have first been offered for sale to the public via an event-
27 authorized outlet or offering.

28 (2) Internet portals or websites shall not allow any person to
29 offer for resale any ticket of admission to a admission to a live
30 entertainment event, theatre, musical performance, or place of public
31 entertainment or amusement of any kind until the tickets have first been
32 offered for sale to the public via an event-authorized outlet or offering.

33 (3) This section shall not apply to sporting or athletic events.
34

35 /s/ Teague
36



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CALIFORNIA

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West's Ann.Cal.Bus. & Prof.Code § 18703

C

Effective: [See Text Amendments]

West's Annotated California Codes Currentness

Business and Professions Code (Refs & Annos)

Division 8. Special Business Regulations (Refs & Annos)

Chapter 2. Boxing, Wrestling, and Martial Arts (Refs & Annos)

Article 7. Regulation of Contests (Refs & Annos)

→ § 18703. Admission tickets; contests; sales for more than face price prohibited

All admission tickets to any contest or exhibition shall have printed clearly upon the face thereof the purchase price of the ticket, and no ticket shall be sold for more than that price. The tickets shall have the number of the ticket printed clearly on both ends of the ticket.

CREDIT(S)

(Added by Stats.1985, c. 1092, § 2. Amended by Stats.1989, c. 757, § 11.)

HISTORICAL AND STATUTORY NOTES

1997 Main Volume

Derivation: Former § 18710, added by Stats.1941, c. 45, p. 637, § 1, amended by Stats.1945, c. 1282, p. 2409, § 6, Stats.1963, c. 1359, p. 2889, § 15.

Stats.1925, p. xci, § 7.

CODE OF REGULATIONS REFERENCES

Tickets and passes, see 4 Cal. Code of Regs. § 260 et seq.

LIBRARY REFERENCES

1997 Main Volume

Theaters and Shows ↪4.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement; Sports §§ 47 to 51.

West's Ann. Cal. Bus. & Prof. Code § 18703, CA BUS & PROF § 18703

Current through Ch. 125 of 2007 Reg.Sess. urgency legislation

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West's Ann.Cal.Bus. & Prof.Code § 18703

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West's Ann.Cal.Bus. & Prof.Code § 18824

P

Effective: January 01, 2007

West's Annotated California Codes Currentness

Business and Professions Code (Refs & Annos)

Division 8. Special Business Regulations (Refs & Annos)

Chapter 2. Boxing, Wrestling, and Martial Arts (Refs & Annos)

Article 12. Revenue and Fiscal Affairs (Refs & Annos)

→ § 18824. Report on gross receipts for contests or wrestling exhibitions; fee on admissions

(a) Except as provided in Sections 18646 and 18832, every person who conducts a contest or wrestling exhibition shall, within five working days after the determination of every contest or wrestling exhibition for which admission is charged and received, furnish to the commission the following:

(1) A written report executed under penalty of perjury by one of the officers, showing the amount of the gross receipts, not to exceed two million dollars (\$2,000,000), and the gross price for the contest or wrestling exhibition charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of the contest or wrestling exhibition, and without any deductions, except for expenses incurred for one broadcast announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross taxable base when those expenses are approved by the commission.

(2) A fee of 5 percent, exclusive of any federal taxes paid thereon, of the amount paid for admission to the contest or wrestling exhibition, except that for any one contest, the fee shall not exceed the amount of one hundred thousand dollars (\$100,000). The commission shall report to the Joint Committee on Boards, Commissions, and Consumer Protection on the fiscal impact of the one hundred thousand dollar (\$100,000) limit on fees collected by the commission for admissions revenues.

(A) The amount of the gross receipts upon which the fee provided for in paragraph (2) is calculated shall not include any assessments levied by the commission under Section 18711.

(B)(i) If the fee for any one boxing contest exceeds seventy thousand dollars (\$70,000), the amount in excess of seventy thousand dollars (\$70,000) shall be paid one-half to the commission and one-half to the Boxers' Pension Fund.

(ii) If the report required by subdivision (b) of Section 18618 recommends that the Boxers' Pension Fund shall be expanded to include all athletes licensed under this chapter, the commission, by regulation, shall require, for all contests where the fee exceeds seventy thousand dollars (\$70,000), the amount in excess of seventy thousand dollars (\$70,000) shall be paid one-half to the commission and one-half to the Boxers' Pension Fund only if all athletes licensed under this chapter are made eligible for the Boxers' Pension Fund.

(C) The fee shall apply to the amount actually paid for admission and not to the regular established price.

(D) No fee is due in the case of a person admitted free of charge. However, if the total number of persons admitted free of charge to a boxing, kickboxing, or martial arts contest, or wrestling exhibition exceeds 33 percent of the total number of spectators, then a fee of one dollar (\$1) per complimentary ticket or pass used to gain admission to

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West's Ann.Cal.Bus. & Prof.Code § 18824

the contest shall be paid to the commission for each complimentary ticket or pass that exceeds the numerical total of 33 percent of the total number of spectators.

(E) The minimum fee for an amateur contest or exhibition shall not be less than five hundred dollars (\$500).

(3) A fee of up to 5 percent, to be established by the commission through regulations to become operative on or before July 1, 2008, and updated periodically as needed, of the gross price, exclusive of any federal taxes paid thereon, for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall the fee be less than one thousand dollars (\$1,000) or more than twenty-five thousand dollars (\$25,000).

(b) As used in this section, "person" includes a promoter, club, individual, corporation, partnership, association, or other organization, and "wrestling exhibition" means a performance of wrestling skills and techniques by two or more individuals, to which admission is charged or which is broadcast or televised, in which the participating individuals are not required to use their best efforts in order to win, and for which the winner may have been selected before the performance commences.

CREDIT(S)

(Added by Stats.1985, c. 1092, § 2. Amended by Stats.1986, c. 1095, § 12; Stats.1989, c. 757, § 17.5; Stats.1993, c. 1057 (A.B.2275), § 18; Stats.1994, c. 1010 (S.B.2053), § 22; Stats.1994, c. 1275 (S.B.2101), § 53.5; Stats.2000, c. 436 (A.B.52), § 1; Stats.2001, c. 776 (A.B.286), § 2; Stats.2003, c. 515 (A.B.1458), § 2; Stats.2004, c. 183 (A.B.3082), § 18; Stats.2005, c. 104 (S.B.278), § 1; Stats.2006, c. 465 (S.B.247), § 11.)

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2004 Legislation

Subordination of legislation by Stats.2004, c. 183 (A.B.3082), to other 2004 legislation, see Historical and Statutory Notes under Business and Professions Code § 511.3.

2005 Legislation

Section 3 of Stats.2005, c. 104 (S.B.278), provides:

"SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution."

Another § 18824, added by Stats.2000, c. 436 (A.B.52), § 2, operative Jan. 1, 2006, amended by Stats.2003, c. 515 (A.B.1458), § 3, operative Jan. 1, 2006; Stats.2004, c. 183 (A.B.3082), § 19, operative Jan. 1, 2006, relating to a report on gross receipts for contests or wrestling exhibitions, and fee on admissions, was repealed by Stats.2005, c. 104 (S.B.278), § 2.

2006 Legislation

Reimbursement provision relating to Stats.2006, c. 465 (S.B.247), see Historical and Statutory Notes under Business and Professions Code § 18600.

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West's Ann.Cal.Bus. & Prof.Code § 18824

NOTES OF DECISIONS

Liability for tax 1
Satellite broadcasts 2

1. Liability for tax

A promoter licensed in California was responsible for payment of admissions tax, including tax on total amount received for radio and television rights for boxing and wrestling matches, although such licensed promoter received only part of the money realized from the contract for such radio and television rights. 30 Op.Atty.Gen. 296 (1957).

2. Satellite broadcasts

Fact that tax is imposed on tickets sold to live boxing events held in California did not automatically justify extension of that tax to satellite broadcasts of boxing events held in or out of California. U.S. Satellite Broadcasting Co., Inc. v. Lynch, E.D.Cal.1999, 41 F.Supp.2d 1113. Public Amusement And Entertainment 54

West's Ann. Cal. Bus. & Prof. Code § 18824, CA BUS & PROF § 18824

Current through Ch. 125 of 2007 Reg.Sess. urgency legislation

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West's Ann.Cal.Bus. & Prof.Code § 18884

C

Effective: [See Text Amendments]

West's Annotated California Codes Currentness

Business and Professions Code (Refs & Annos)

Division 8. Special Business Regulations (Refs & Annos)

Chapter 2. Boxing, Wrestling, and Martial Arts (Refs & Annos)

Article 16. Boxer Benefits (Refs & Annos)

→§ 18884. Additions to ticket price for amount designated for contribution to pension plan; admissions tax exemption; disposition and effect of additional contributions

(a) A promoter may, but is not required to, add to the price of each ticket sold for a professional boxing contest, an amount specifically designated on the ticket for contribution as a donation, either or both, to the pension plan established pursuant to Section 18881. The additional amount shall not be subject to the admissions tax required by Section 18824 or any other deductions. Nothing in this section shall authorize the addition of such amounts to less than all the tickets sold for the professional boxing contest involved. The promoter shall pay additional contributions collected in accordance with Section 18881.

(b) Any additional contributions received pursuant to this section shall not be considered to offset any of the contributions required by the commission under Section 18881.

CREDIT(S)

(Added by Stats.1985, c. 1092, § 2.)

HISTORICAL AND STATUTORY NOTES

1997 Main Volume

Derivation: Former § 18806, added by Stats.1972, c. 982, p. 1790, § 5.

LIBRARY REFERENCES

1997 Main Volume

Theaters and Shows ↪2, 4.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement; Sports §§ 10 to 16, 47 to 51.

West's Ann. Cal. Bus. & Prof. Code § 18884, CA BUS & PROF § 18884

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West's Ann.Cal.Bus. & Prof.Code § 22500

C

Effective: [See Text Amendments]

West's Annotated California Codes Currentness
Business and Professions Code (Refs & Annos)
Division 8. Special Business Regulations (Refs & Annos)
Chapter 21. Ticket Sellers (Refs & Annos)

→ § 22500. Permanent business address; local license; criminal and civil penalties

(a) A ticket seller shall have a permanent business address from which tickets may only be sold and that address shall be included in any advertisement or solicitation, and shall be duly licensed as may be required by any local jurisdiction.

(b) A violation of this section shall constitute a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by fine not exceeding two thousand five hundred dollars (\$2,500), or by both.

(c) Any person who engages, has engaged, or proposes to engage in a violation of this section shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which may be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, or a district attorney, or a city attorney of a city having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city, county, or city and county having a full-time prosecutor in any court of competent jurisdiction. Payment of the civil penalty shall be made pursuant to the provisions of subdivision (b) of Section 17206. For the purposes of this section, each ticket sold or offered for sale in violation of this section shall constitute a separate violation. The remedies provided by this section are cumulative to each other and to the remedies or penalties available under all other laws of this state.

CREDIT(S)

(Added by Stats.1986, c. 378, § 1. Amended by Stats.1994, c. 1132 (A.B.3083), § 1, eff. Sept. 30, 1994.)

HISTORICAL AND STATUTORY NOTES

1997 Main Volume

The 1994 amendment designated the existing provisions as subd. (a), and added subds. (b) and (c).

LAW REVIEW AND JOURNAL COMMENTARIES

Review of selected 1994 California legislation. 26 Pac.L.J. 202 (1995).

Ticket scalping: An economic analysis and proposed solution. John D. Tishler, 33 Santa Clara L.Rev. 91 (1993).

RESEARCH REFERENCES

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West's Ann.Cal.Bus. & Prof.Code § 22500

CA Jur. 3d Amusements and Exhibitions § 7, Sale of Tickets.

Treatises and Practice Aids

2 Witkin Cal. Crim. L. 3d Crimes Against Peace Welf § 341, Other Businesses and Professions.

4 Witkin, California Summary 10th Sales § 392, (S 392) Ticket Sellers.

West's Ann. Cal. Bus. & Prof. Code § 22500, CA BUS & PROF § 22500

Current through Ch. 125 of 2007 Reg.Sess. urgency legislation

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West's Annotated California Codes Currentness

Business and Professions Code (Refs & Annos)

Division 8. Special Business Regulations (Refs & Annos)

Chapter 21. Ticket Sellers (Refs & Annos)

→ § 22502.1. Seller requirements; possession of ticket; deposit

It shall be unlawful for a ticket seller to contract for the sale of tickets or accept consideration for payment in full or for a deposit for the sale of tickets unless the ticket seller meets one or more of the following requirements:

- (a) The ticket seller has the ticket in his or her possession.
- (b) The ticket seller has a written contract to obtain the offered ticket at a certain price from a person in possession of the ticket or from a person who has a contractual right to obtain the ticket from the primary contractor.
- (c) The ticket seller informs the purchaser orally at the time of the contract or receipt of consideration, whichever is earlier, and in writing within two business days, that the seller does not have possession of the tickets, has no contract to obtain the offered ticket at a certain price from a person in possession of the ticket or from a person who has a contractual right to obtain the ticket from the primary contractor, and may not be able to supply the ticket at the contracted price or range of prices.

Nothing in this section shall prohibit a ticket seller from accepting a deposit from a prospective purchaser as part of an agreement that the ticket seller will make best efforts to obtain a ticket at a specified price or price range and within a specified time, provided that the ticket seller informs the purchaser orally at the time of the contract or receipt of consideration, whichever is earlier, and in writing within two days, of the terms of the deposit agreement, and includes in the oral and written notice the disclosures otherwise required by this section.

CREDIT(S)

(Added by Stats.1994, c. 1132 (A.B.3083), § 2, eff. Sept. 30, 1994.)

LAW REVIEW AND JOURNAL COMMENTARIES

Consumer protection; ticket sellers-requirements of contracts for sale. Jonathan P. Hobbs, 26 Pac. L.J. 362


(1995).

Consumer protection for latinos: Overcoming language fraud and english-only in the marketplace. Steven W. Bender, 45 Am. U. L. Rev. 1027 (1996).

Review of Selected 1994 California Legislation. 26 Pac. L.J. 202 (1995).

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Public Amusement and Entertainment  68, 71.
Westlaw Topic No. 315T.

RESEARCH REFERENCES

Encyclopedias

CA Jur. 3d Amusements and Exhibitions § 7, Sale of Tickets.

Treatises and Practice Aids

4 Witkin, California Summary 10th Sales § 392, (S 392) Ticket Sellers.

West's Ann. Cal. Bus. & Prof. Code § 22502.1, CA BUS & PROF § 22502.1

Current with urgency legislation through Ch. 25 of 2011 Reg.Sess. and Ch. 2 of 2011-2012 1st Ex.Sess.

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West's Annotated California Codes Currentness
 Business and Professions Code (Refs & Annos)
 Division 8. Special Business Regulations (Refs & Annos)
 Chapter 21. Ticket Sellers (Refs & Annos)
 → § 22502.2. False representations; delivery and price

It shall be unlawful for a ticket seller to represent that he or she can deliver or cause to be delivered a ticket at a specific price or within a specific price range and to fail to deliver within a reasonable time or by a contracted time the tickets at or below the price stated or within the range of prices stated.

CREDIT(S)

(Added by Stats.1994, c. 1132 (A.B.3083), § 3, eff. Sept. 30, 1994.)

LAW REVIEW AND JOURNAL COMMENTARIES

Consumer protection; ticket sellers-requirements of contracts for sale. Jonathan P. Hobbs, 26 Pac. L.J. 362 (1995).

Review of Selected 1994 California Legislation. 26 Pac. L.J. 202 (1995).

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CA Jur. 3d Amusements and Exhibitions § 7, Sale of Tickets.

Treatises and Practice Aids

4 Witkin, California Summary 10th Sales § 392, (S 392) Ticket Sellers.

West's Ann.Cal.Bus. & Prof.Code § 22502.2

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West's Ann. Cal. Bus. & Prof. Code § 22502.2, CA BUS & PROF § 22502.2

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West's Annotated California Codes Currentness

Business and Professions Code (Refs & Annos)

Division 8. Special Business Regulations (Refs & Annos)

Chapter 21. Ticket Sellers (Refs & Annos)

→ § 22502.3. Civil liability; additional remedies; attorney's fees and court costs

In addition to other remedies, a ticket seller who violates Section 22502.1 or 22502.2 and fails to supply a ticket at or below a contracted price or within a contracted price range shall be civilly liable to the ticket purchaser for two times the contracted price of the ticket, in addition to any sum expended by the purchaser in nonrefundable expenses for attending or attempting to attend the event in good faith reliance on seat or space availability, and reasonable attorney's fees and court costs.

CREDIT(S)

(Added by Stats.1994, c. 1132 (A.B.3083), § 4, eff. Sept. 30, 1994.)

LAW REVIEW AND JOURNAL COMMENTARIES

Consumer protection; ticket sellers-requirements of contracts for sale. Jonathan P. Hobbs, 26 Pac. L.J. 362 (1995).

Review of Selected 1994 California Legislation. 26 Pac. L.J. 202 (1995).

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Westlaw Topic No. 315T.

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CA Jur. 3d Amusements and Exhibitions § 7, Sale of Tickets.

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West's Ann.Cal.Bus. & Prof.Code § 22502.3

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4 Witkin, California Summary 10th Sales § 392, (S 392) Ticket Sellers.

West's Ann. Cal. Bus. & Prof. Code § 22502.3, CA BUS & PROF § 22502.3

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West's Ann.Cal.Bus. & Prof.Code § 22503

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Effective: [See Text Amendments]

West's Annotated California Codes Currentness
Business and Professions Code (Refs & Annos)
Division 8. Special Business Regulations (Refs & Annos)
Chapter 21. Ticket Sellers (Refs & Annos)

→ § 22503. Ticket seller; definition

A ticket seller, as used in this chapter, means any person who for compensation, commission, or otherwise sells admission tickets to sporting, musical, theatre, or any other entertainment event.

CREDIT(S)

(Added by Stats.1986, c. 378, § 1.)

RESEARCH REFERENCES

Encyclopedias

CA Jur. 3d Amusements and Exhibitions § 7, Sale of Tickets.

Treatises and Practice Aids

4 Witkin, California Summary 10th Sales § 392, (S 392) Ticket Sellers.

West's Ann. Cal. Bus. & Prof. Code § 22503, CA BUS & PROF § 22503

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West's Ann.Cal.Bus. & Prof.Code § 22503

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West's Annotated California Codes Currentness
 Business and Professions Code (Refs & Annos)
 Division 8. Special Business Regulations (Refs & Annos)
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CREDIT(S)

(Added by Stats.1986, c. 378, § 1.)

LAW REVIEW AND JOURNAL COMMENTARIES

Consumer protection; ticket sellers-requirements of contracts for sale. Jonathan P. Hobbs, 26 Pac. L.J. 362 (1995).

LIBRARY REFERENCES

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Public Amusement and Entertainment 69.
 Westlaw Topic No. 315T.

RESEARCH REFERENCES

Encyclopedias

CA Jur. 3d Amusements and Exhibitions § 7, Sale of Tickets.

Treatises and Practice Aids

4 Witkin, California Summary 10th Sales § 392, (S 392) Ticket Sellers.

West's Ann. Cal. Bus. & Prof. Code § 22503, CA BUS & PROF § 22503

Current with urgency legislation through Ch. 28 of 2011 Reg.Sess. and Ch. 2 of 2011-2012 1st Ex.Sess.

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West's Annotated California Codes Currentness

Business and Professions Code (Refs & Annos)

Division 8. Special Business Regulations (Refs & Annos)

Chapter 21. Ticket Sellers (Refs & Annos)

→ § 22507. Refund; bond; events canceled, postponed, or rescheduled

The ticket price of any event which is canceled, postponed, or rescheduled shall be fully refunded to the purchaser by the ticket seller upon request. Any local jurisdiction may require a ticket seller to provide a bond of not more than fifty thousand dollars (\$50,000) to provide for any refunds that may be required by this section.

CREDIT(S)

(Added by Stats.1986, c. 378, § 1.)


LAW REVIEW AND JOURNAL COMMENTARIES

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Westlaw Topic No. 315T.

RESEARCH REFERENCES

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CA Jur. 3d Amusements and Exhibitions § 7, Sale of Tickets.

Treatises and Practice Aids

4 Witkin, California Summary 10th Sales § 392, (S 392) Ticket Sellers.

West's Ann.Cal.Bus. & Prof.Code § 22507

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West's Ann. Cal. Bus. & Prof. Code § 22507, CA BUS & PROF § 22507

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West's Annotated California Codes Currentness
 Business and Professions Code (Refs & Annos)
 ⌕ Division 8. Special Business Regulations (Refs & Annos)
 ⌕ Chapter 21. Ticket Sellers (Refs & Annos)
 → **§ 22508. Service charge; disclosure**

A ticket seller shall disclose that a service charge is imposed by the ticket seller and is added to the actual ticket price by the seller in any advertisement or promotion for any event by the ticket seller.

CREDIT(S)

(Added by Stats.1986, c. 378, § 1.)

LAW REVIEW AND JOURNAL COMMENTARIES

Consumer protection; ticket sellers-requirements of contracts for sale. Jonathan P. Hobbs, 26 Pac. L.J. 362 (1995).

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RESEARCH REFERENCES

Encyclopedias

CA Jur. 3d Amusements and Exhibitions § 7, Sale of Tickets.

Treatises and Practice Aids

4 Witkin, California Summary 10th Sales § 392, (S 392) Ticket Sellers.

West's Ann. Cal. Bus. & Prof. Code § 22508, CA BUS & PROF § 22508

Current with urgency legislation through Ch. 25 of 2011 Reg.Sess. and Ch. 2 of 2011-2012 1st Ex.Sess.

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West's Annotated California Codes Currentness

Business and Professions Code (Refs & Annos)

Division 8. Special Business Regulations (Refs & Annos)

Chapter 21. Ticket Sellers (Refs & Annos)

→ § 22509. Tour or event package; disclosure of price allotted for tickets

Any ticket seller who includes tickets to an event in conjunction with the sale of a tour or event package, including, among other things, transportation, meals, lodging, or beverages, shall disclose in any advertisements or promotional materials the price charged or allotted for the tickets.

CREDIT(S)


(Added by Stats.1986, c. 378, § 1.)

LAW REVIEW AND JOURNAL COMMENTARIES

Consumer protection; ticket sellers-requirements of contracts for sale. Jonathan P. Hobbs, 26 Pac. L.J. 362 (1995).

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Westlaw Topic No. 315T.

RESEARCH REFERENCES

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CA Jur. 3d Amusements and Exhibitions § 7, Sale of Tickets.

West's Ann. Cal. Bus. & Prof. Code § 22509, CA BUS & PROF § 22509

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West's Annotated California Codes Currentness

Government Code (Refs & Annos)

Title 3. Government of Counties (Refs & Annos)

Division 2. Officers (Refs & Annos)

Part 2. Board of Supervisors (Refs & Annos)

Chapter 5. County Property (Refs & Annos)

Article 1. General (Refs & Annos)

→ **§ 25351.5. Places of public assembly; admission tax**

When a county owns, leases or operates a convention hall, an exhibition hall, an auditorium, an opera house, a music hall and center, a museum, an art gallery, or an amphitheater as a place of public assembly for the use, benefit and enjoyment of the public, the board of supervisors may by ordinance levy an admission tax on the base purchase price of tickets sold for admission to any such facility. "Base purchase price" means the amount which is actually paid, and not the regular established price, for admission to the facility, exclusive of all other taxes, federal, state, or city, which are now or may hereafter be imposed on such admission. No tax shall be due in the case of a person admitted free of charge.

The ordinance shall provide for the administration and collection of the tax. The proceeds of the tax shall be deposited in the county treasury to be expended for the maintenance and operation of the facility from which the proceeds are derived. The amount of the tax shall not exceed 10 percent of the base purchase price of admission charged and shall not in any event exceed the amount necessary to defray the annual maintenance and operation expense of the facility from which the proceeds are derived.

CREDIT(S)

(Added by Stats.1967, c. 526, p. 1877, § 1.)

CROSS REFERENCES

Budget and tax levy, generally, see Government Code § 29000 et seq.



City, defined for the purposes of this Code, see Government Code § 20.

County ordinances, generally, see Government Code § 25120 et seq.

Tax levy, see Government Code § 29100 et seq.

LIBRARY REFERENCES

2003 Main Volume

Counties  106.
Theaters and Shows  3.
Westlaw Topic Nos. 104, 376.
C.J.S. Counties § 147.
C.J.S. Entertainment and Amusement.
C.J.S. Sports §§ 18 to 19, 22, 25 to 37.

West's Ann. Cal. Gov. Code § 25351.5, CA GOVT § 25351.5

Current with urgency legislation through Ch. 25 of 2011 Reg.Sess. and Ch. 2 of 2011-2012 1st Ex.Sess.

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West's Ann.Cal.Food & Agric.Code § 4301

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West's Annotated California Codes Currentness

Food and Agricultural Code (Formerly Agricultural Code) (Refs & Annos)

Division 3. Expositions and Fairs (Refs & Annos)

Part 3. District Agricultural Associations

Chapter 8. Sale of Tickets on Association Property

→ § 4301. Scalping

It is unlawful for any person to sell or engage in the sale, upon any property of an association, of any ticket of admission or any other evidence of the right of entry to a stadium or an arena, pavilion, or other building which is for holding sports arena events, athletic contests, contests of skill, exhibition spectacles, and other public meetings, places of amusement, or entertainment, contests or performances at any premium or price which is in excess of such maximum price that is printed or indorsed upon it, plus lawful taxes, unless he has first procured a written permit which is issued by such association.

CREDIT(S)

(Stats.1967, c. 15.)

HISTORICAL AND STATUTORY NOTES

2001 Main Volume

Derivation: Agric.C.1933, § 87.1, added by Stats.1961, c. 468, p. 1556, § 1.

CROSS REFERENCES

Misdemeanor,

Definitions, see Penal Code § 17.

Punishment, see Penal Code §§ 19, 19.2.

Ticket scalping on property on which entertainment event is to be, or is being, held, see Penal Code § 346.

CODE OF REGULATIONS REFERENCES

Museum of Science and Industry, selling of admission tickets, see 2 Cal. Code of Regs. §§ 5061 and 6000 et seq.

LIBRARY REFERENCES

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Agriculture ↪5.

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West's Ann.Cal.Food & Agric.Code § 4301

Theaters and Shows ↪4.
Westlaw Topic Nos. 23, 376.
C.J.S. Agriculture §§ 131, 133 to 137.
C.J.S. Entertainment and Amusement; Sports §§ 47, 48, 50, 51.

RESEARCH REFERENCES

Encyclopedias

CA Jur. 3d Amusements and Exhibitions § 9, Resale of Tickets; Scalping.

West's Ann. Cal. Food & Agric. Code § 4301, CA FOOD & AG § 4301

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West's Ann.Cal.Penal Code § 346

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West's Annotated California Codes Currentness

Penal Code (Refs & Annos)

Part 1. Of Crimes and Punishments

§ Title 9. Of Crimes Against the Person Involving Sexual Assault, and Crimes Against Public Decency and Good Morals (Refs & Annos)

§ Chapter 12. Other Injuries to Persons (Refs & Annos)

→ § 346. Ticket scalping on property on which entertainment event is to be, or is being, held

Any person who, without the written permission of the owner or operator of the property on which an entertainment event is to be held or is being held, sells a ticket of admission to the entertainment event, which was obtained for the purpose of resale, at any price which is in excess of the price that is printed or endorsed upon the ticket, while on the grounds of or in the stadium, arena, theater, or other place where an event for which admission tickets are sold is to be held or is being held, is guilty of a misdemeanor.

CREDIT(S)

(Added by Stats.1972, c. 529, p. 912, § 1.)

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

Former § 346, enacted in 1872, relating to acts of intoxicated physicians, was repealed by Stats.1937, c. 414, p. 1377. See Business and Professions Code § 2240.

LAW REVIEW AND JOURNAL COMMENTARIES

Ticket scalping: An economic analysis and proposed solution. John D. Tishler, 33 Santa Clara L.Rev. 91 (1993).

Ticket scalping: legislative review. (1973) 4 Pac.L.J. 376.

LIBRARY REFERENCES

1999 Main Volume

Theaters and Shows ↪2.

Trade Regulation ↪875.

Westlaw Topic Nos. 376, 382.

C.J.S. Entertainment and Amusement; Sports §§ 10 to 16.

C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 239.

RESEARCH REFERENCES

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West's Ann.Cal.Penal Code § 346

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CA Jur. 3d Amusements and Exhibitions § 9, Resale of Tickets; Scalping.

Cal. Jur. 3d Criminal Law: Crimes Against Person § 753, Ticket Scalping.

Forms

30 West's Legal Forms § 34.8, University Football Ticket.

Treatises and Practice Aids

2 Witkin Cal. Crim. L. 3d Crimes Against Property § 235, Miscellaneous Frauds.

NOTES OF DECISIONS

Ordinances 1

1. Ordinances

Municipal ordinance which had the effect of absolutely prohibiting individual who had extra tickets for a sporting event and who sought to sell them at face value from doing so on stadium grounds was not preempted by this section. *People v. Shepherd* (App. 2 Dist. 1977) 141 Cal.Rptr. 379, 74 Cal.App.3d 334, certiorari denied 98 S.Ct. 2262, 436 U.S. 917, 56 L.Ed.2d 758. *Municipal Corporations* ⇨ 592(2)

West's Ann. Cal. Penal Code § 346, CA PENAL § 346

Current through Ch. 125 of 2007 Reg.Sess. urgency legislation

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COLORADO

C.R.S.A. § 6-1-718

West's Colorado Revised Statutes Annotated Currentness

Title 6. Consumer and Commercial Affairs (Refs & Annos)

Fair Trade and Restraint of Trade

Article 1. Colorado Consumer Protection Act (Refs & Annos)

Part 7. Specific Provisions (Refs & Annos)

→§ 6-1-718. **Ticket sales and resales--prohibitions--unlawful conditions--definitions**

(1) As used in this section, unless the context otherwise requires:

(a) "Operator" means a person or entity who owns, operates, or controls a place of entertainment or who promotes or produces entertainment and that sells a **ticket** to an event for original sale, including an employee of such person or entity.

(b) "Original sale" means the first sale of a **ticket** by an operator.

(c) "Place of entertainment" means a public or private entertainment facility, such as a stadium, arena, racetrack, museum, amusement park, or other place where performances, concerts, exhibits, athletic games, or contests are held, for which an entry fee is charged, to which the public is invited to observe, and for which **tickets** are sold. "Place of entertainment" does not include a ski area.

(d) "Purchaser" means a person or entity who purchases a **ticket** to a place of entertainment.

(e) "Resale" or "resold" means a sale other than the original sale of a **ticket** by a person or entity.

(f) "Reseller" means a person or entity that offers or sells **tickets** for resale after the original sale by the operator including an entity that operates a platform or exchange for the purchase and sale of **tickets** to events that also engages in the purchase and resale of the **ticket** either on behalf of the operator or on its own behalf if a reseller.

(g) "**Ticket**" means a license issued by the operator of a place of entertainment for admission to an event at the date and time specified on the **ticket**, subject to the terms and conditions as specified by the operator.

(2) Resellers shall guarantee a full refund to a purchaser if:

(a) The event for which the **ticket** was resold is canceled;

(b) The **ticket** does not or would not in fact grant the purchaser admission to the event for which the **ticket** was resold;

(c) The **ticket** is counterfeit; or

(d) The **ticket** fails to conform to its description as advertised or as represented to the purchaser by the reseller.

(3)(a) It is void as against public policy to apply a term or condition to the original sale to the purchaser to limit the terms or conditions of resale, including, but not limited to, a term or condition:

(I) That restricts resale in a subscription or season **ticket** package agreement as a condition of purchase;

(II) That a purchaser must comply with to retain a **ticket** for the duration of a subscription or season

ticket package agreement that limits the rights of the purchaser to resell the **ticket**;

(III) That a purchaser must comply with to retain any contractually agreed-upon rights to purchase future subscriptions or season **ticket** package agreements; or

(IV) That imposes a sanction on the purchaser if the sale of the **ticket** is not through a reseller approved by the operator.

(b) Nothing in this section shall be deemed to prohibit an operator from prohibiting the resale of a contractual right in a season **ticket** package agreement that gives the original purchaser a priority or other preference to enter into a subsequent season **ticket** package agreement with the operator.

(4) A person or entity, including an operator, that regulates admission to an event shall not deny access to the event to a person in possession of a valid **ticket** to the event, regardless of whether the **ticket** is subject to a subscription or season **ticket** package agreement, based solely on the ground that such **ticket** was resold through a reseller that was not approved by the operator.

(5) Nothing in this section shall be construed to prohibit an operator from maintaining and enforcing policies regarding conduct or behavior at or in connection with the operator's venue. An operator may revoke or restrict season **tickets** for reasons relating to a violation of venue policies and to the extent the operator may deem necessary for the protection of the safety of patrons or to address fraud or misconduct.

CREDIT(S)

Added by Laws 2008, Ch. 45, § 1, eff. March 19, 2008.

HISTORICAL AND STATUTORY NOTES

2011 Electronic Update

Laws 2008, Ch. 45, § 2, provides:

"Applicability. This act shall apply to acts occurring on or after the effective date of this act."

C. R. S. A. § 6-1-718, CO ST § 6-1-718

Current through laws effective May 5, 2011, see scope for further details

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West's Colorado Revised Statutes Annotated Currentness

Title 6. Consumer and Commercial Affairs (Refs & Annos)

Fair Trade and Restraint of Trade

▢ Article 1. Colorado Consumer Protection Act (Refs & Annos)

▢ Part 7. Specific Provisions (Refs & Annos)

→ § 6-1-720. **Deceptive trade practice--on-line event ticket sales**

(1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, such person:

(a) Uses or causes to be used a software application that runs automated tasks over the internet to access a computer, computer network, or computer system, or any part thereof, for the purpose of purchasing **tickets** in excess of authorized limits for an on-line event **ticket** sale with the intent to resell such **tickets**; or

(b) Uses or causes to be used a software application that runs automated tasks over the internet that circumvents or disables any electronic queues, waiting periods, or other **sales** volume limitation systems associated with an on-line event **ticket** sale.

(2) As used in this section, unless the context otherwise requires:

(a) "In excess of authorized limits", with regard to an on-line purchase of **tickets**, means exceeding a restriction on the number of individual **tickets** that can be purchased by any single person or circumventing any other terms and conditions of access to an on-line event **ticket** sale established by the event sponsor or promoter.

(b) "On-line event **ticket** sale" means an electronic system utilized by the sponsor or promoter of a sporting or entertainment event to sell **tickets** to such event to the public over the internet.

(3) This section shall not prohibit the resale of **tickets** in a secondary market by a person other than the event sponsor or promoter.

(4) Every **ticket** acquired in violation of this section shall constitute a separate violation for purposes of assessing a civil penalty under section 6-1-112(1)(a) and (1)(b).

CREDIT(S)

Added by Laws 2008, Ch. 435, § 1, eff. July 1, 2008. Amended by Laws 2009, Ch. 138, § 3, eff. Aug. 5, 2009.

HISTORICAL AND STATUTORY NOTES

2011 Electronic Update

Laws 2008, Ch. 435, § 5, provides:

“Effective date--applicability. This act shall take effect July 1, 2008, and shall apply to offenses committed on or after said date.”

Laws 2009, Ch. 138, § 3, in subsec. (4), substituted “6-1-112(1)(a) and (1)(b)” for “6-1-112(1) and (2)”.

Laws 2009, Ch. 138, § 4(2), provides:

“The provisions of this act shall apply to offenses committed under the ‘Colorado Consumer Protection Act’ or the ‘Colorado Antitrust Act of 1992’ on or after the applicable effective date of this act.”

LAW REVIEW AND JOURNAL COMMENTARIES

Ticket Sniping. Avi Loewenstein, 8 J.Telecomm. & High Tech.L. 243 (Winter 2010).

C. R. S. A. § 6-1-720, CO ST § 6-1-720

Current through laws effective May 5, 2011, see scope for further details

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C.G.S.A. § 53-289a

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C

Connecticut General Statutes Annotated Currentness

Title 53. Crimes (Refs & Annos)

Chapter 946. Offenses Against Public Policy

→ § 53-289a. Disclosure in advertisements of service charge on tickets

No person shall advertise the prices of tickets to any entertainment event, including, but not limited to, any place of amusement, arena, stadium, theater, performance, sport, exhibition or athletic contest given in this state for which a service charge is imposed for the sale of a ticket at the site of the event, without conspicuously disclosing in such advertisement, whether displayed at the site of the event or elsewhere, the total price for each ticket and what portion of each ticket price, stated in a dollar amount, represents a service charge.

CREDIT(S)

(1991, P.A. 91-152.)

LIBRARY REFERENCES

Public Amusement and Entertainment 176.

Westlaw Topic No. 315T.

C. G. S. A. § 53-289a, CT ST § 53-289a

Current through the Gen.St., Rev. to 1-1-2011

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C.G.S.A. § 53-289b

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Connecticut General Statutes Annotated Currentness

Title 53. Crimes (Refs & Annos)

Chapter 946. Offenses Against Public Policy

→ § 53-289b. Ticket resellers. Conditions. Refunds. Penalty

(a) Any person who **resells** a ticket to an entertainment event, including, but not limited to, a sporting event, a concert or a theatrical or operatic performance, shall refund to the purchaser of such ticket the full amount, including all service fees and delivery charges, paid by the purchaser for such ticket if any of the following occurs:

(1) The event for which the ticket is resold is cancelled; (2) the ticket received by the purchaser does not grant the purchaser admission to the event described on the ticket; or (3) the ticket fails to conform to its description as advertised by the ticket reseller.

(b) A person who **resells** a ticket pursuant to subsection (a) of this section shall provide the purchaser of such ticket with such ticket reseller's name, address and telephone number or other information necessary to allow such purchaser to contact such ticket reseller to obtain a refund of the ticket price, if necessary.

(c) A violation of subdivision (1) or (2) of subsection (a) of this section or of subsection (b) of this section is a class B misdemeanor.

CREDIT(S)

(2007, P.A. 07-206, § 3.)

HISTORICAL AND STATUTORY NOTES

Codification

The 2008 Supplement to the Connecticut General Statutes codified 2007, P.A. 07-206, § 3, as C.G.S.A. § 53-289b.

C. G. S. A. § 53-289b, CT ST § 53-289b

Current through the Gen.St., Rev. to 1-1-2011

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C.G.S.A. § 53-289c

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Connecticut General Statutes Annotated Currentness

Title 53. Crimes (Refs & Annos)

Chapter 946. Offenses Against Public Policy

→ § 53-289c. Unauthorized ticket resale in proximity to event prohibited. Exemptions. Penalty

(a) No person shall resell, offer to resell or solicit the resale of a ticket to an entertainment event, including, but not limited to, a sporting event, a concert or a theatrical or operatic performance, on the day of such event, within one thousand five hundred feet of the physical structure where such event is scheduled to take place, if such resale is not authorized, in writing, by the owner or operator of such structure or event or a duly authorized agent of such owner or operator.

(b) The provisions of subsection (a) of this section do not apply to a ticket reseller who: (1) **Resells** a ticket for not greater than the face value printed on the ticket; or (2) maintains a permanent office within one thousand five hundred feet of the physical structure where the entertainment event is scheduled to take place provided such reseller sells, offers to resell or solicits the resale of a ticket only within the premises of such office in person or by mail, telephone or the Internet.

(c) A violation of subsection (a) of this section is a class A misdemeanor.

CREDIT(S)

(2007, P.A. 07-206, § 4; 2010, P.A. 10-36, § 14, eff. July 1, 2010.)

HISTORICAL AND STATUTORY NOTES

Codification

The 2008 Supplement to the Connecticut General Statutes codified 2007, P.A. 07-206, § 4, as C.G.S.A. § 53-289c.

Section heading was changed to conform to Gen.St., Rev. to 2011.

Amendments

2010 Amendment. 2010, P.A. 10-36, § 14, made nonsubstantive technical revisions in subsec. (b).

C.G.S.A. § 53-289c

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Derivation:

1923, P.A. ch. 48.

1930 Rev., § 6331.

1949 Rev., § 8666.

1958 Rev., § 53-289.

1983, P.A. 83-585.

1984, P.A. 84-546, § 124.

2007, P.A. 07-206, § 5.

C. G. S. A. § 53-289c, CT ST § 53-289c

Current through the Gen.St., Rev. to 1-1-2011

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DELAWARE

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11 Del.C. § 918

C

West's Delaware Code Annotated Currentness

Title 11. Crimes and Criminal Procedure

Part I. Delaware Criminal Code

Chapter 5. Specific Offenses

■ Subchapter III. Offenses Involving Property

■ Subpart I. Other Frauds and Cheats

→§ 918. Ticket scalping

(a) No person shall sell, resell or exchange any ticket to any event or exhibit at a price higher than the original price on the day preceding or on the day of an event at the Bob Carpenter Sports/Convocation Center on the South Campus of the University of Delaware or of a NASCAR Race held at Dover Downs, or on any state or federal highway artery within this State.

(b) Any person who violates this section shall be guilty of ticket scalping. Any person convicted a first time of ticket scalping is guilty of a class B misdemeanor. Any person convicted a second or subsequent time of ticket scalping shall be guilty of a class A misdemeanor. The Superior Court shall have jurisdiction over any offense charged under this section.

(c) For purposes of this section the word "ticket" shall mean any admittance, receipt, entrance ticket or other evidence of a right to be admitted to an event or exhibit.

70 Laws 1995, ch. 233, § 1, eff. July 1, 1995; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995; 71 Laws 1997, ch. 46, § 1, eff. May 22, 1997.

Codifications: 11 Del.C. 1953, § 917

HISTORICAL AND STATUTORY NOTES

Section 2 of 71 Laws 1997, ch. 46, eff. May 22, 1997, provides:

"If any provision of this Act, or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions or application of this Act that can be given effect without the invalid provisions or application and to this end, the provisions of this Act are declared to be severable."

Section 2 of 70 Laws 1995, ch. 233, provides:

"This Act shall become effective on July 1, 1995 [approved, July 14, 1995]."

CROSS REFERENCES

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DE ST TI 11 § 918

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11 Del.C. § 918

Classification of misdemeanors, see 11 Del.C. § 4201.

Fines, costs, penalties and forfeitures upon conviction, see 11 Del.C. §§ 4101 to 4106.

Inchoate crimes, solicitation, conspiracy and attempt, see 11 Del.C. § 501 et seq.

Sentences for hate crimes, see 11 Del.C. § 1304.

Sentences for misdemeanors, see 11 Del.C. §§ 4204 and 4206.

Sentences, increase for previous convictions, see 11 Del.C. §§ 4215 and 4215A.

LIBRARY REFERENCES

Public Amusement and Entertainment 176.
Westlaw Key Number Search: 315Tk176.

11 Del.C. § 918, DE ST TI 11 § 918

Current through 76 Laws 2007, chs. 101, 103, 107, 119-122, 130, 131, 139, 140, 153, and 154. Revisions to Acts made by the Delaware Code Revisors were unavailable at the time of publication.

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FLORIDA

Effective: July 1, 2006

West's Florida Statutes Annotated Currentness

Title XLVI. Crimes (Chapters 775-899)

Chapter 817. Fraudulent Practices (Refs & Annos)

Part I. False Pretenses and Frauds, Generally

→ **817.357. Purchase of tickets**

Whoever knowingly purchases from the original ticket **seller** a quantity of **tickets** to an event which exceeds the maximum ticket limit quantity posted by or on behalf of the original ticket **seller** at the point of original sale or printed on the **tickets** themselves and intends to resell such **tickets** violates ss. 501.201-501.213, the Florida Deceptive and Unfair Trade Practices Act. A person or firm is not liable under this section with respect to **tickets** for which that person or firm is the original ticket **seller**. For purposes of this section, the term "original ticket **seller** " means the issuer of such ticket or a person or firm who provides distribution services or ticket sales services under a contract with such issuer.

CREDIT(S)

Added by Laws 2006, c. 2006-105, § 2, eff. July 1, 2006.

West's F. S. A. § 817.357, FL ST § 817.357

Current with chapters in effect from the 2011 First Regular Session of the Twenty-Second Legislature through April 27, 2011

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C

Effective: June 29, 2010

West's Florida Statutes Annotated Currentness

Title XLVI. Crimes (Chapters 775-899)

Chapter 817. Fraudulent Practices (Refs & Annos)

Part I. False Pretenses and Frauds, Generally

→ 817.36. Resale of tickets

(1) A person or entity that offers for resale or resells any ticket may charge only \$1 above the admission price charged therefor by the original ticket seller of the ticket for the following transactions:

(a) Passage or accommodations on any common carrier in this state. However, this paragraph does not apply to travel agencies that have an established place of business in this state and are required to pay state, county, and city occupational license taxes.

(b) Multiday or multievent tickets to a park or entertainment complex or to a concert, entertainment event, permanent exhibition, or recreational activity within such a park or complex, including an entertainment/resort complex as defined in s. 561.01(18).

(c) Event tickets originally issued by a charitable organization exempt from taxation under s. 501(c)(3) of the Internal Revenue Code [FN1] for which no more than 3,000 tickets are issued per performance. The charitable organization must issue event tickets with the following statement conspicuously printed on the face or back of the ticket: "Pursuant to s. 817.36, Florida Statutes, this ticket may not be resold for more than \$1 over the original admission price." This paragraph does not apply to tickets issued or sold by a third party contractor ticketing services provider on behalf of a charitable organization otherwise included in this paragraph unless the required disclosure is printed on the ticket.

(d) Any tickets, other than the tickets in paragraph (a), paragraph (b), or paragraph (c), that are resold or offered through an Internet website, unless such website is authorized by the original ticket seller or makes and posts the following guarantees and disclosures through Internet web pages on which are visibly posted, or links to web pages on which are posted, text to which a prospective purchaser is directed before completion of the resale transaction:

1. The website operator guarantees a full refund of the amount paid for the ticket including any servicing, handling, or processing fees, if such fees are not disclosed, when:

- a. The ticketed event is canceled;
 - b. The purchaser is denied admission to the ticketed event, unless such denial is due to the action or omission of the purchaser;
 - c. The ticket is not delivered to the purchaser in the manner requested and pursuant to any delivery guarantees made by the reseller and such failure results in the purchaser's inability to attend the ticketed event.
2. The website operator discloses that it is not the issuer, original seller, or reseller of the ticket or items and does not control the pricing of the ticket or items, which may be resold for more than their original value.
- (2) This section does not authorize any individual or entity to sell or purchase tickets at any price on property where an event is being held without the prior express written consent of the owner of the property.
- (3) Any sales tax due for resales under this section shall be remitted to the Department of Revenue in accordance with s. 212.04.
- (4) A person who knowingly resells a ticket or tickets in violation of this section is liable to the state for a civil penalty equal to treble the amount of the price for which the ticket or tickets were resold.
- (5) A person who intentionally uses or sells software to circumvent on a ticket seller's Internet website a security measure, an access control system, or any other control or measure that is used to ensure an equitable ticket-buying process is liable to the state for a civil penalty equal to treble the amount for which the ticket or tickets were sold.
- (6) As used in this section, the term "software" means computer programs that are primarily designed or produced for the purpose of interfering with the operation of any person or entity that sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind.

CREDIT(S)

Laws 1945, c. 22726, §§ 1, 1a; Laws 1971, c. 71-136, § 868; Laws 1990, c. 90-231, § 7. Amended by Laws 1995, c. 95-314, § 9, eff. Oct. 1, 1995; Laws 2006, c. 2006-105, § 3, eff. July 1, 2006; Laws 2007, c. 2007-5, § 152, eff. July 3, 2007; Laws 2009, c. 2009-179, § 4, eff. July 1, 2009; Laws 2010, c. 2010-5, § 123, eff. June 29, 2010.

[FN1] 26 U.S.C.A. § 503(c)(3).

HISTORICAL AND STATUTORY NOTES

Amendment Notes:

Laws 1971, c. 71-136, § 868, made the offense defined by subsec. (1) of this section a "misdemeanor of the second degree, punishable as provided in § 775.082 or § 775.083" in lieu of provision for punishment "by a fine of not less than five hundred dollars and not more than one thousand dollars, or imprisoned for not more than six months, or by both fine and imprisonment in the discretion of the court."

Laws 1990, c. 90-231, § 7, eff. Oct. 1, 1990, subdivided subsec. (1); then, in par. (a), following "this state" deleted ", or good for admission to any sporting exhibition, athletic contest, theater, or any exhibition where an", and preceding "price" inserted "retail"; in par. (b), substituted "subsection" for "law"; and added subsec. (2).

Laws 1995, c. 95-314, § 9, eff. Oct. 1, 1995, in subsec. (2), substituted references to part XI of chapter 559 for references to § 559.927 in the first sentence of par. (b).

Laws 2006, c. 2006-105, § 3, rewrote this section, which formerly read:

"(1)(a) Whoever shall offer for sale or sell any ticket good for passage or accommodations on any common carrier in this state and request or receive a price in excess of \$1 above the retail price charged therefor by the original seller of said ticket shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

"(b) The provisions of this subsection shall not apply to travel agencies that have an established place of business in this state, which place of business is required to pay state, county, and city occupational license taxes.

"(2)(a) Whoever shall offer for sale or sell any ticket good for admission to any sporting exhibition, athletic contest, theater, or any exhibition where an admission price is charged and request or receive a price in excess of \$1 above the retail admission price charged therefor by the original seller of said ticket shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

"(b) The provisions of this subsection shall apply to travel agencies that have an established place of business in this state, which place of business is required to pay state, county, and city occupational license taxes, unless such agencies are registered sellers of travel pursuant to part XI of chapter 559 and adhere to the restriction of selling said tickets as part of the travel packages specified in that part, and such travel agencies are reselling said tickets on behalf of the original sellers of said tickets. When any original seller of tickets provides a travel agency with tickets in bulk, the travel agent shall be deemed to be reselling the tickets on behalf of the original seller."

Laws 2007, c. 2007-5, a reviser's bill, deleted obsolete and expired provisions, corrected grammatical and typographical errors, and made other similar changes.

Laws 2009, c. 2009-179, § 4, rewrote this section, which formerly read:

“Whoever shall offer for resale or resell any ticket may only charge \$1 above the admission price charged therefor by the original ticket seller of said ticket for the following transactions:

“(1) Passage or accommodations on any common carrier in this state; however, the provisions of this subsection shall not apply to travel agencies that have an established place of business in this state, which place of business is required to pay state, county, and city occupational license taxes.

“(2) Multiday or multievent tickets to a park or entertainment complex or to a concert, entertainment event, permanent exhibition, or recreational activity within such a park or complex, including an entertainment/resort complex as defined in s. 561.01(18).

“(3) Any tickets, other than the tickets in subsections (1) and (2), that are resold or offered through an Internet website, unless such website is authorized by the original ticket seller or makes and posts the following guarantees and disclosures through Internet web pages on which are visibly posted, or links to web pages on which are posted, text to which a prospective purchaser is directed before completion of the resale transaction:

“(a) The website operator guarantees a full refund of the amount paid for the ticket including any servicing, handling, or processing fees, if such fees are not disclosed, when:

“1. The ticketed event is canceled;

“2. The purchaser is denied admission to the ticketed event, unless such denial is due to the action or omission of the purchaser;

“3. The ticket is not delivered to the purchaser in the manner requested and pursuant to any delivery guarantees made by the reseller and such failure results in the purchaser's inability to attend the ticketed event.

“(b) The website operator discloses that it is not the issuer, original seller, or reseller of the ticket or items and does not control the pricing of the ticket or items, which may be resold for more than their original value.

“(4) Nothing in this section authorizes any individual or entity to sell or purchase tickets at any price on property where an event is being held without the prior express written consent of the owner of the property.

“(5) Any sales tax due for resales under this section shall be remitted to the Department of Revenue in accordance with s. 212.04.”

Laws 2010, c. 2010-5, a reviser's bill, deleted obsolete and expired provisions, corrected grammatical and typo-

graphical errors, and made other similar changes.

LAW REVIEW AND JOURNAL COMMENTARIES

Reassessing the ticket scalping dispute: Application, effects and criticisms of current anti-scalping legislation. 5 Seton Hall J.Sport L. 189 (1995).

Ticket scalping. Thomas A. Diamond, 37 U.Miami L.Rev. 71 (1982).

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Public Amusement and Entertainment ☞ 176.
Westlaw Topic Nos. 315T, 70.
C.J.S. Carriers §§ 344, 355.

RESEARCH REFERENCES

ALR Library

81 ALR 3rd 655, Validity of State or Local Regulation Dealing With Resale of Tickets to Theatrical or Sporting Events.

Encyclopedias

Admission; Tickets--Resale of Tickets, FL Jur. 2d Amusements & Exhibitions § 3.

Transferability and Redemption of Tickets, FL Jur. 2d Carriers § 71.

NOTES OF DECISIONS

Construction and application 2
Validity 1

1. Validity

Statute making it unlawful for persons except travel agents to resell tickets for sporting and other events for more than one dollar above price charged by original seller satisfied substantive due process clauses of state and federal constitutions; statute attempted to regulate areas of legitimate public concern, public events and tourism, with goal of protecting general public and event promoters from economic harm. State v. Sobieck, App. 5 Dist., 701 So.2d 96 (1997), rehearing denied, review denied 717 So.2d 538. Constitutional Law ☞ 4292; Public Amusement And Entertainment ☞ 5

Statute making it unlawful for persons except travel agents to resell tickets for sporting and other events for more than one dollar above price charged by original seller satisfied equal protection clauses of state and federal

constitutions; separate classification for sellers of travel had rational basis, since they were required to be bonded and financially answerable to travelers for fraud and other misconduct, were required to register annually with the state, and were otherwise subject to heightened duties and responsibilities not shared by members of general public. *State v. Sobieck*, App. 5 Dist., 701 So.2d 96 (1997), rehearing denied, review denied 717 So.2d 538. Constitutional Law 3698; Public Amusement And Entertainment 5

2. Construction and application

Where defendant was charged with unlawful resale of tickets and other offenses, forfeiture of property belonging to defendant and his business, including motor vehicle, office equipment, furniture, unsold tickets, cash, and bank accounts, in civil proceeding pursuant to state Contraband Forfeiture Act did not constitute criminal punishment for double jeopardy purposes; Florida courts viewed such forfeiture proceedings as independent from any factually related criminal action, proceeding was against property, not person, statute did not depend upon proof that defendant had committed crime, but only that property was used in or was product or proceeds of crime, and defendant, who defaulted in forfeiture proceeding, arguably never established his rights or ownership of the property forfeited. *State v. Sobieck*, App. 5 Dist., 701 So.2d 96 (1997), rehearing denied, review denied 717 So.2d 538. Double Jeopardy 25

Fact that this section makes it an offense to offer for sale or to sell tickets for sporting events for an amount in excess of one dollar above the price charged therefor by the original seller did not demonstrate legislative intent to exclude forged sporting event tickets from the forgery statute. *State v. La Pointe*, App. 3 Dist., 345 So.2d 362 (1977). Forgery 7(1)

West's F. S. A. § 817.36, FL ST § 817.36

Current with chapters in effect from the 2011 First Regular Session of the Twenty-Second Legislature through April 27, 2011

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C**Effective:[See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title XLVI. Crimes (Chapters 775-899)

Chapter 817. Fraudulent Practices (Refs & Annos)

Part 1. False Pretenses and Frauds, Generally

→ 817.361. Resale of multiday or multievent ticket

Whoever offers for sale, sells, or transfers in connection with a commercial transaction, with or without consideration, any nontransferable ticket or other nontransferable medium designed for admission to more than one amusement location or other facility offering entertainment to the general public, or for admission for more than 1 day thereto, after said ticket or other medium has been used at least once for admission, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A nontransferable ticket or other nontransferable medium is one on which is clearly printed the phrase: "Nontransferable; must be used by the same person on all days" or words of similar import. Upon conviction for a second or subsequent violation of this subsection, such person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

CREDIT(S)

Laws 1988, c. 88-127, § 1.

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Admission; Tickets--Resale of Tickets, FL Jur. 2d Amusements & Exhibitions § 3.

West's F. S. A. § 817.361, FL ST § 817.361

Current with chapters in effect from the 2011 First Regular Session of the Twenty-Second Legislature through April 27, 2011

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West's F.S.A. § 817.36

West's Florida Statutes Annotated Currentness

Title XLVI. Crimes (Chapters 775-899)

Chapter 817. Fraudulent Practices (Refs & Annos)

Part I. False Pretenses and Frauds, Generally

➔**817.36. Resale of tickets**

(1) A person or entity that offers for resale or resells any ticket may charge only \$1 above the admission price charged therefor by the original ticket seller of the ticket for the following transactions:

(a) Passage or accommodations on any common carrier in this state. However, this paragraph does not apply to travel agencies that have an established place of business in this state and are required to pay state, county, and city occupational license taxes.

(b) Multiday or multievent **tickets** to a park or entertainment complex or to a concert, entertainment event, permanent exhibition, or recreational activity within such a park or complex, including an entertainment/resort complex as defined in s. 561.01(18).

(c) Event **tickets** originally issued by a charitable organization exempt from taxation under s. 501(c)(3) of the Internal Revenue Code [FN1] for which no more than 3,000 **tickets** are issued per performance. The charitable organization must issue event **tickets** with the following statement conspicuously printed on the face or back of the ticket: "Pursuant to s. 817.36, Florida Statutes, this ticket may not be resold for more than \$1 over the original admission price." This paragraph does not apply to **tickets** issued or sold by a third party contractor ticketing services provider on behalf of a charitable organization otherwise included in this paragraph unless the required disclosure is printed on the ticket.

(d) Any **tickets**, other than the **tickets** in paragraph (a), paragraph (b), or paragraph (c), that are resold or offered through an Internet website, unless such website is authorized by the original ticket seller or makes and posts the following guarantees and disclosures through Internet web pages on which are visibly posted, or links to web pages on which are posted, text to which a prospective purchaser is directed before completion of the resale transaction:

1. The website operator guarantees a full refund of the amount paid for the ticket including any servicing, handling, or processing fees, if such fees are not disclosed, when:

a. The ticketed event is canceled;

b. The purchaser is denied admission to the ticketed event, unless such denial is due to the action or omission of the purchaser;

c. The ticket is not delivered to the purchaser in the manner requested and pursuant to any delivery guarantees made by the reseller and such failure results in the purchaser's inability to attend the ticketed event.

2. The website operator discloses that it is not the issuer, original seller, or reseller of the ticket or items and does not control the pricing of the ticket or items, which may be resold for more than their original value.

(2) This section does not authorize any individual or entity to sell or purchase **tickets** at any price on property where an event is being held without the prior express written consent of the owner of the property.

(3) Any sales tax due for resales under this section shall be remitted to the Department of Revenue in accordance with s. 212.04.

(4) A person who knowingly resells a ticket or **tickets** in violation of this section is liable to the state for a civil penalty equal to treble the amount of the price for which the ticket or **tickets** were resold.

(5) A person who intentionally uses or sells **software** to circumvent on a ticket seller's Internet website a security measure, an access control system, or any other control or measure that is used to ensure an equitable ticket-buying process is liable to the state for a civil penalty equal to treble the amount for which the ticket or **tickets** were sold.

(6) As used in this section, the term "**software**" means computer programs that are primarily designed or produced for the purpose of interfering with the operation of any person or entity that sells, over the Internet, **tickets** of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind.

CREDIT(S)

Laws 1945, c. 22726, §§ 1, 1a; Laws 1971, c. 71-136, § 868; Laws 1990, c. 90-231, § 7. Amended by Laws 1995, c. 95-314, § 9, eff. Oct. 1, 1995; Laws 2006, c. 2006-105, § 3, eff. July 1, 2006; Laws 2007, c. 2007-5, § 152, eff. July 3, 2007; Laws 2009, c. 2009-179, § 4, eff. July 1, 2009; Laws 2010, c. 2010-5, § 123, eff. June 29, 2010.

[FN1] 26 U.S.C.A. § 503(c)(3).

HISTORICAL AND STATUTORY NOTES

Amendment Notes:

Laws 1971, c. 71-136, § 868, made the offense defined by subsec. (1) of this section a "misdemeanor of the second degree, punishable as provided in § 775.082 or § 775.083" in lieu of provision for punishment "by a fine of not less than five hundred dollars and not more than one thousand dollars, or imprisoned for not more than six months, or by both fine and imprisonment in the discretion of the court."

Laws 1990, c. 90-231, § 7, eff. Oct. 1, 1990, subdivided subsec. (1); then, in par. (a), following "this state" deleted ", or good for admission to any sporting exhibition, athletic contest, theater, or any exhibition where an", and preceding "price" inserted "retail"; in par. (b), substituted "subsection" for "law"; and added subsec. (2).

Laws 1995, c. 95-314, § 9, eff. Oct. 1, 1995, in subsec. (2), substituted references to part XI of chapter 559 for references to § 559.927 in the first sentence of par. (b).

Laws 2006, c. 2006-105, § 3, rewrote this section, which formerly read:

"(1)(a) Whoever shall offer for sale or sell any ticket good for passage or accommodations on any common carrier in this state and request or receive a price in excess of \$1 above the retail price charged therefor by the original seller of said ticket shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

"(b) The provisions of this subsection shall not apply to travel agencies that have an established place of business in this state, which place of business is required to pay state, county, and city occupational license taxes.

"(2)(a) Whoever shall offer for sale or sell any ticket good for admission to any sporting exhibition, athletic contest, theater, or any exhibition where an admission price is charged and request or receive a price in excess of \$1 above the retail admission price charged therefor by the original seller of said ticket shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

"(b) The provisions of this subsection shall apply to travel agencies that have an established place of business in this state, which place of business is required to pay state, county, and city occupational license taxes, unless such agencies are registered sellers of travel pursuant to part XI of chapter 559 and adhere to the restriction of selling said **tickets** as part of the travel packages specified in that part, and such travel agencies are reselling said **tickets** on behalf of the original sellers of said **tickets**. When any original seller of **tickets** provides a travel agency with **tickets** in bulk, the travel agent shall be deemed to be reselling the **tickets** on behalf of the original seller."

Laws 2007, c. 2007-5, a reviser's bill, deleted obsolete and expired provisions, corrected grammatical and typographical errors, and made other similar changes.

Laws 2009, c. 2009-179, § 4, rewrote this section, which formerly read:

"Whoever shall offer for resale or resell any ticket may only charge \$1 above the admission price charged therefor by the original ticket seller of said ticket for the following transactions:

"(1) Passage or accommodations on any common carrier in this state; however, the provisions of this subsection shall not apply to travel agencies that have an established place of business in this state, which place of business is required to pay state, county, and city occupational license taxes.

"(2) Multiday or multievent **tickets** to a park or entertainment complex or to a concert, entertainment event, permanent exhibition, or recreational activity within such a park or complex, including an entertainment/resort complex as defined in s. 561.01(18).

"(3) Any **tickets**, other than the **tickets** in subsections (1) and (2), that are resold or offered through an Internet website, unless such website is authorized by the original ticket seller or makes and posts the following guarantees and disclosures through Internet web pages on which are visibly posted, or links to web pages on which are posted, text to which a prospective purchaser is directed before completion of the resale transaction:

"(a) The website operator guarantees a full refund of the amount paid for the ticket including any servicing, handling, or processing fees, if such fees are not disclosed, when:

"1. The ticketed event is canceled;

"2. The purchaser is denied admission to the ticketed event, unless such denial is due to the action or omission of the purchaser;

"3. The ticket is not delivered to the purchaser in the manner requested and pursuant to any delivery guarantees made by the reseller and such failure results in the purchaser's inability to attend the ticketed event.

"(b) The website operator discloses that it is not the issuer, original seller, or reseller of the ticket or items and does not control the pricing of the ticket or items, which may be resold for more than their original value.

"(4) Nothing in this section authorizes any individual or entity to sell or purchase **tickets** at any price on property where an event is being held without the prior express written consent of the owner of the property.

"(5) Any sales tax due for resales under this section shall be remitted to the Department of Revenue in accordance with s. 212.04."

Laws 2010, c. 2010-5, a reviser's bill, deleted obsolete and expired provisions, corrected grammatical and typographical errors, and made other similar changes.

West's F. S. A. § 817.36, FL ST § 817.36
Current through Ch. 272 (End) of the 2013
1st Reg. Sess. of the 23rd Legislature

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Ga. Code Ann., § 43-4B-25

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West's Code of Georgia Annotated Currentness

Title 43. Professions and Businesses (Refs & Annos)

■ Chapter 4B. Georgia Athletic and Entertainment Commission

■ Article 3. Ticket Brokers

→ § 43-4B-25. Persons other than ticket brokers prohibited from reselling or offering for sale tickets to athletic contest or entertainment event for price exceeding face value of ticket; service charge

(a) Except as otherwise provided in Code Section 43-4B-29, it shall be unlawful for any person other than a ticket broker to resell or offer for resale any ticket of admission or other evidence of the right of entry to any athletic contest, concert, theater performance, amusement, exhibition, or other entertainment event to which the general public is admitted for a price in excess of the face value of the ticket. Notwithstanding any other provision of this article to the contrary, a service charge not to exceed \$ 3.00 may be charged when tickets or other evidences of the right of entry are sold by an authorized ticket agent through places of established business licensed to do business by the municipality or county, where applicable, in which such places of business are located. Notwithstanding any other provision of this article to the contrary, the owner, operator, lessee, or tenant of the property on which such athletic contest or entertainment event is to be held or is being held or the sponsor of such contest or event may charge or may authorize, in writing, any person to charge a service charge for the sale of such ticket, privilege, or license of admission in addition to the face value of the ticket. Such writing granting authority to another shall specify the amount of the service charge to be charged for the sale of each ticket, privilege, or license of admission.

(b) Notwithstanding any other provision of this article to the contrary, in the case of any athletic contest or entertainment event that is described in Code Section 43-4B-30, a sponsor of such a contest or event may contractually restrict the resale of a ticket to such contest or event by giving notice of such restriction on the back of the ticket. Notwithstanding any other provision of this article to the contrary, in the case of any athletic contest or entertainment event, an owner, operator, lessee, or tenant of the property on which such contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of such restriction.

Laws 2001, p. 752, § 2.

LIBRARY REFERENCES

Theaters and Shows ↪1.

Westlaw Key Number Search: 376k1.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 8 to 9.

RESEARCH REFERENCES**Encyclopedias**

Ga. Jur. Business Torts & Trade Regulation § 1:128, Prohibited Practices.

Treatises and Practice Aids

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Ga. Code Ann., § 43-4B-25

Kurtz Criminal Offenses and Defenses in Georgia S5, Sales-Related Crimes.

Kurtz Criminal Offenses and Defenses in Georgia P71, Professions and Businesses, Crimes Involving.

Ga. Code Ann., § 43-4B-25, GA ST § 43-4B-25

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Ga. Code Ann., § 43-4B-26

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West's Code of Georgia Annotated Currentness

Title 43. Professions and Businesses (Refs & Annos)

■ Chapter 4B. Georgia Athletic and Entertainment Commission

■ Article 3. Ticket Brokers

→ § 43-4B-26. Requirements for ticket brokers

In order to engage in the practice or business of a ticket broker a person shall be required to:

- (1) Maintain a permanent office or place of business in this state, excluding a post office box, for the purpose of engaging in the business of a ticket broker;
- (2) Apply to the commission for a ticket broker's license on a form designated by the commission, pay an annual license fee of \$500.00, and renew the license annually;
- (3) Pay any local tax required by a local government; and
- (4) Register for sales and use tax purposes pursuant to Article 1 of Chapter 8 of Title 48.

Laws 2001, p. 752, § 2; Laws 2003, Act 347, § 29, eff. June 4, 2003; Laws 2005, Act 325, § 7, eff. July 1, 2005.

RESEARCH REFERENCES

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Kurtz Criminal Offenses and Defenses in Georgia S5, Sales-Related Crimes.

Ga. Code Ann., § 43-4B-26, **GA ST § 43-4B-26**

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Ga. Code Ann., § 43-4B-27

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Title 43. Professions and Businesses (Refs & Annos)

Chapter 4B. Georgia Athletic and Entertainment Commission

Article 3. Ticket Brokers

→ § 43-4B-27. Convicted felons prohibited from engaging in business of ticket broker

No person shall engage in the practice or business of a ticket broker, or be employed as general manager for a person engaged in the practice or business of a ticket broker, who has been convicted of a felony and who has not been pardoned or had his or her civil rights restored.

Laws 2001, p. 752, § 2.

LIBRARY REFERENCES

Theaters and Shows ⇨3.

Westlaw Key Number Search: 376k3.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 18 to 19, 22, 25 to 37.

Ga. Code Ann., § 43-4B-27, GA ST § 43-4B-27

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Ga. Code Ann., § 43-4B-28

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West's Code of Georgia Annotated Currentness

Title 43. Professions and Businesses (Refs & Annos)

Chapter 4B. Georgia Athletic and Entertainment Commission

Article 3. Ticket Brokers

→ § 43-4B-28. Disclosures by ticket brokers; prohibited practices

(a) The ticket broker shall be required to:

- (1) Post at its established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker;
- (2) Disclose to the purchaser the refund policy of the ticket broker should an athletic contest or entertainment event be canceled;
- (3) Disclose to the purchaser in writing the difference between the face value of the ticket and the amount which the ticket broker is charging for such ticket; and
- (4) Sell tickets only at its permanent office, place of business, or through the Internet; provided, however, that delivery of one or more tickets after the transaction is completed to a place other than the ticket broker's office or place of business shall not violate this paragraph.

(b)(1) A ticket broker shall be prohibited from employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property on which an athletic contest or entertainment event is to be held.

(2) Each ticket broker, including any affiliated group of ticket brokers, shall be prohibited from acquiring and reselling in excess of 1 percent of the total tickets allocated for any contest or event.

(3) Unless otherwise provided in a written agreement between a ticket broker and the purchaser, a ticket broker shall be required to refund any payment received for the purchase of a ticket under this article if the purchaser returns the ticket and requests a cancellation of the sale thereof within 36 hours from the time of purchase of the ticket and if such return is made more than 72 hours preceding the athletic contest or entertainment event.

(4) A ticket broker shall be required to refund any payment received for the purchase of a ticket under this article if the athletic contest or entertainment event is canceled and not rescheduled.

(5) If a ticket broker guarantees in writing delivery of a ticket or tickets to an athletic contest or entertainment event as provided under this article to a purchaser and fails to complete such delivery, the ticket broker shall be required to provide within 15 days a full refund of any amount paid by the purchaser and, in addition, shall pay the purchaser a refund fee of three times the amount paid by the purchaser for each such ticket.

(c)(1) For all venues which seat or admit less than 15,000 persons, a ticket broker and its employees, agents, and assigns are criminally prohibited from reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

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Ga. Code Ann., § 43-4B-28

(2) For all venues which seat or admit 15,000 or more persons, a ticket broker and its employees, agents, and assigns are criminally prohibited from reselling or offering for resale any ticket within 2,700 feet from the venue where an event or contest is to be held or is being held.

(d) Any ticket broker offering to resell tickets to an athletic contest or entertainment event through any printed, broadcast, or Internet advertising shall include in such advertising the license number of such ticket broker offering such tickets for resale.

Laws 2001, p. 752, § 2; Laws 2003, Act 347, § 30, eff. June 4, 2003; Laws 2005, Act 325, § 8, eff. July 1, 2005.

HISTORICAL AND STATUTORY NOTES

The 2005 amendment by Act 325 rewrote subsecs. (a) and (c), which had read:

"(a) The ticket broker shall be required to:

"(1) Disclose the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker;

"(2) Disclose to the purchaser the refund policy of the ticket broker should an athletic contest or entertainment event be canceled; and

"(3) Disclose to the purchaser in writing the difference between the face value of the ticket and the amount which the ticket broker is charging for such ticket."

"(c) A ticket broker and its employees, agents, and assigns are criminally prohibited from reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held."

LIBRARY REFERENCES

Theaters and Shows ↪3.

Westlaw Key Number Search: 376k3.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 18 to 19, 22, 25 to 37.

RESEARCH REFERENCES

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Ga. Jur. Business Torts & Trade Regulation § 1:128, Prohibited Practices.

Treatises and Practice Aids

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Ga. Code Ann., § 43-4B-28, GA ST § 43-4B-28

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Ga. Code Ann., § 43-4B-28

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Ga. Code Ann., § 43-4B-29

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West's Code of Georgia Annotated Currentness

Title 43. Professions and Businesses (Refs & Annos)

■ Chapter 4B. Georgia Athletic and Entertainment Commission

■ Article 3. Ticket Brokers

→ § 43-4B-29. Original purchaser for personal use may sell tickets at any price; charitable organizations exempted from provisions regulating ticket sales

(a) No provision of this article or any other provision of law shall criminally prohibit any person who is the original purchaser for personal use of one or more tickets to an athletic contest or entertainment event covered under this article from reselling or offering for resale any of such tickets for any price, provided that such person does not sell or offer to sell such tickets within 2,700 feet of a venue which seats or admits 15,000 or more persons for such a contest or event or a public entrance to such a contest or event.

(b) Charitable organizations and their employees and volunteers shall not be subject to the provisions of this article when offering for sale any tickets of admission in a raffle, auction, or similar fundraising activity for the benefit of the organization's charitable purposes.

Laws 2001, p. 752, § 2; Laws 2002, p. 415, § 43; Laws 2005, Act 325, § 9, eff. July 1, 2005.

LIBRARY REFERENCES

Theaters and Shows ↪ 1.

Westlaw Key Number Search: 376k1.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 8 to 9.

RESEARCH REFERENCES

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Treatises and Practice Aids

Kurtz Criminal Offenses and Defenses in Georgia §5, Sales-Related Crimes.

Ga. Code Ann., § 43-4B-29, GA ST § 43-4B-29

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Ga. Code Ann., § 43-4B-30

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Title 43. Professions and Businesses (Refs & Annos)

Chapter 4B. Georgia Athletic and Entertainment Commission

Article 3. Ticket Brokers

→ § 43-4B-30. More restrictive regulation by local government authorized in certain circumstances

(a) With regard to any single athletic contest or entertainment event which occurs no more often than once annually and with regard to any series of athletic contests which occur no more often than once annually and which occur within a time period not exceeding ten days, the municipal corporation in which such contest, event, or series of contests is to be held, or if the contest, event, or series of contests is to be held in an unincorporated area, the county of such unincorporated area, is authorized to enact by ordinance regulations governing ticket brokers for such contest, event, or series of contests which are more restrictive than the provisions of this article.

(b) The municipal corporation in which an athletic contest or entertainment event is to be held, or if the contest or entertainment event is to be held in an unincorporated area, the county of such unincorporated area, is authorized to enact an ordinance prohibiting the resale or offering for resale of one or more tickets by a ticket broker or by a person who is the original purchaser for personal use of one or more tickets within 2,700 feet of a venue which seats or admits 15,000 or more persons.

Laws 2001, p. 752, § 2; Laws 2003, Act 347, § 31, eff. June 4, 2003; Laws 2005, Act 325, § 11, eff. July 1, 2005.

LIBRARY REFERENCES

Theaters and Shows ↪2.

Westlaw Key Number Search: 376k2.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 10 to 16.

Ga. Code Ann., § 43-4B-30, GA ST § 43-4B-30

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Ga. Code Ann., § 43-4B-31

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West's Code of Georgia Annotated Currentness

Title 43. Professions and Businesses (Refs & Annos)

■ Chapter 4B. Georgia Athletic and Entertainment Commission

■ Article 3. Ticket Brokers

→ § 43-4B-31. Criminal penalty for violation of this article

Any person who violates this article is guilty of a misdemeanor of a high and aggravated nature.

Laws 2001, p. 752, § 2.

CROSS REFERENCES

Punishment of high and aggravated misdemeanor when not otherwise provided for by statute, see § 17-10-4.

LIBRARY REFERENCES

Theaters and Shows ↔9.

Westlaw Key Number Search: 376k9.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 102 to 103.

RESEARCH REFERENCES

Encyclopedias

Ga. Jur. Business Torts & Trade Regulation § 1:128, Prohibited Practices.

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Kurtz Criminal Offenses and Defenses in Georgia S5, Sales-Related Crimes.

Kurtz Criminal Offenses and Defenses in Georgia P71, Professions and Businesses, Crimes Involving.

Ga. Code Ann., § 43-4B-31, GA ST § 43-4B-31

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720 ILCS 375/0.01

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Formerly cited as IL ST CH 121 1/2 ¶ 157.30

Effective: June 14, 2005

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness

Chapter 720. Criminal Offenses

Offenses Against Property

Act 375. Ticket Sale and Resale Act (Refs & Annos)

→ 375/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Ticket Sale and Resale Act.

CREDIT(S)

Laws 1923, p. 322, § 0.01, added by P.A. 86-1324, § 892, eff. Sept. 6, 1990. Amended by P.A. 94-20, § 5, eff. June 14, 2005.

FORMER REVISED STATUTES CITATION

Formerly Ill.Rev.Stat.1991, ch. 121 1/2 , ¶ 157.30.

HISTORICAL AND STATUTORY NOTES

P.A. 94-20, § 5, substituted "Sale and Resale" for "Scalping".

Title of Act:

An Act in relation to the sale of tickets to certain places of entertainment or amusement. Laws 1923, p. 322, approved June 30, 1923, eff. July 1, 1923.

LIBRARY REFERENCES

Theaters and Shows ↪4.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement; Sports §§ 47 to 48, 50 to 51.

720 I.L.C.S. 375/0.01, IL ST CH 720 § 375/0.01

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720 ILCS 375/0.01

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Formerly cited as IL ST CH 121 1/2 ¶ 157.31

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness

Chapter 720. Criminal Offenses

Offenses Against Property

Act 375. Ticket Sale and Resale Act (Refs & Annos)

→375/1. Sale of tickets other than at box office prohibited; exceptions

§ 1. Sale of tickets other than at box office prohibited; exceptions.

(a) It is unlawful for any person, firm or corporation, owner, lessee, manager, trustee, or any of their employees or agents, owning, conducting, managing or operating any theater, circus, baseball park, place of public entertainment or amusement where tickets of admission are sold for any such places of amusement or public entertainment to sell or permit the sale, barter or exchange of such admission tickets at any other place than in the box office or on the premises of such theater, circus, baseball park, place of public entertainment or amusement, but nothing herein prevents such theater, circus, baseball park, place of public entertainment or amusement from placing any of its admission tickets for sale at any other place at the same price such admission tickets are sold by such theater, circus, baseball park or other place of public entertainment or amusement at its box office or on the premises of such places, at the same advertised price or printed rate thereof.

(b) Any term or condition of the original sale of a ticket to any theater, circus, baseball park, or place of public entertainment or amusement where tickets of admission are sold that purports to limit the terms or conditions of resale of the ticket (including but not limited to the resale price of the ticket) is unenforceable, null, and void if the resale transaction is carried out by any of the means set forth in subsections (b), (c), (d), and (e) of Section 1.5 of this Act. This subsection shall not apply to a term or condition of the original sale of a ticket to any theater, circus, baseball park, or place of public entertainment or amusement where tickets of admission are sold that purports to limit the terms or conditions of resale of a ticket specifically designated as seating in a special section for a person with a physical disability.

CREDIT(S)

Laws 1923, p. 322, § 1, eff. July 1, 1923. Amended by P.A. 94-20, § 5, eff. June 14, 2005.

FORMER REVISED STATUTES CITATION

Formerly Ill.Rev.Stat.1991, ch. 121 1/2 , ¶ 157.31, transferred from Ill.Rev.Stat.1961, ch. 38, ¶ 550a.

HISTORICAL AND STATUTORY NOTES

P.A. 94-20, § 5, inserted the section heading; designated the first paragraph as subsec. "(a)"; and added subsec. (b).

LAW REVIEW AND JOURNAL COMMENTARIES

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720 ILCS 375/1

Statutory interpretation in Illinois: Abandoning the plain meaning rule for an extratextual approach. Matthew J. Hertko, 1 U.Ill.L.Rev. 377 (2005).

LIBRARY REFERENCES

Theaters and Shows ⇨ 4.
Westlaw Topic No. 376.
C.J.S. Entertainment and Amusement; Sports §§ 47 to 48, 50 to 51.

NOTES OF DECISIONS

Validity 1

1. Validity

Paragraph 157.32 of former chapter 121 1/2 declaring it unlawful to sell tickets for any amusement for a price greater than the price printed on the face of the ticket does not deny due process; overruling *People vs. Steele*, 231 Ill. 340, 83 N.E. 236. *People v. Patton*, 1974, 57 Ill.2d 43, 309 N.E.2d 572. Constitutional Law ⇨ 4292; Public Amusement And Entertainment ⇨ 5

720 I.L.C.S. 375/1, IL ST CH 720 § 375/1

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Formerly cited as IL ST CH 121 1/2 ¶ 157.32

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness

Chapter 720. Criminal Offenses

■ Offenses Against Property

■ Act 375. Ticket Sale and Resale Act (Refs & Annos)

→375/1.5. Sale of tickets at more than face value prohibited; exceptions

§ 1.5. Sale of tickets at more than face value prohibited; exceptions.

(a) Except as otherwise provided in subsections (b), (c), (d), and (e) of this Section and in Section 4, it is unlawful for any person, persons, firm or corporation to sell tickets for baseball games, football games, hockey games, theatre entertainments, or any other amusement for a price more than the price printed upon the face of said ticket, and the price of said ticket shall correspond with the same price shown at the box office or the office of original distribution.

(b) This Act does not apply to the resale of tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind for a price in excess of the printed box office ticket price by a ticket broker who meets all of the following requirements:

(1) The ticket broker is duly registered with the Office of the Secretary of State on a registration form provided by that Office. The registration must contain a certification that the ticket broker:

(A) engages in the resale of tickets on a regular and ongoing basis from one or more permanent or fixed locations located within this State;

(B) maintains as the principal business activity at those locations the resale of tickets;

(C) displays at those locations the ticket broker's registration;

(D) maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker;

(E) is in compliance with all applicable federal, State, and local laws relating to its ticket selling activities, and that neither the ticket broker nor any of its employees within the preceding 12 months have been convicted of a violation of this Act; and

(F) meets the following requirements:

(i) the ticket broker maintains a toll free number specifically dedicated for Illinois consumer complaints and inquiries concerning ticket sales;

(ii) the ticket broker has adopted a code that advocates consumer protection that includes, at a minimum:

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- (a-1) consumer protection guidelines;
- (b-1) a standard refund policy. In the event a refund is due, the ticket broker shall provide that refund without charge other than for reasonable delivery fees for the return of the tickets; and
- (c-1) standards of professional conduct;
- (iii) the ticket broker has adopted a procedure for the binding resolution of consumer complaints by an independent, disinterested third party and thereby submits to the jurisdiction of the State of Illinois; and
- (iv) the ticket broker has established and maintains a consumer protection rebate fund in Illinois in an amount in excess of \$100,000, which must be cash available for immediate disbursement for satisfaction of valid consumer complaints.

Alternatively, the ticket broker may fulfill the requirements of subparagraph (F) of this paragraph (1) if the ticket broker certifies that he or she belongs to a professional association organized under the laws of this State, or organized under the laws of any other state and authorized to conduct business in Illinois, that has been in existence for at least 3 years prior to the date of that broker's registration with the Office of the Secretary of State, and is specifically dedicated, for and on behalf of its members, to provide and maintain the consumer protection requirements of subparagraph (F) of this paragraph (1) to maintain the integrity of the ticket brokerage industry.

(2) (Blank).

(3) The ticket broker and his employees must not engage in the practice of selling, or attempting to sell, tickets for any event while sitting or standing near the facility at which the event is to be held or is being held unless the ticket broker or his or her employees are on property they own, lease, or have permission to occupy.

(4) The ticket broker must comply with all requirements of the Retailers' Occupation Tax Act [FN1] and collect and remit all other applicable federal, State and local taxes in connection with the ticket broker's ticket selling activities.

(5) Beginning January 1, 1996, no ticket broker shall advertise for resale any tickets within this State unless the advertisement contains the name of the ticket broker and the Illinois registration number issued by the Office of the Secretary of State under this Section.

(6) Each ticket broker registered under this Act shall pay an annual registration fee of \$100.

(c) This Act does not apply to the sale of tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind for a price in excess of the printed box office ticket price by a reseller engaged in interstate or intrastate commerce on an Internet auction listing service duly registered with the Department of Financial and Professional Regulation under the Auction License Act and with the Office of the Secretary of State on a registration form provided by that Office. This subsection (c) applies to both sales through an online bid submission process and sales at a fixed price on the same website or interactive computer service as an Internet auction listing service registered with the Department of Financial and Professional Regulation.

This subsection (c) applies to resales described in this subsection only if the operator of the Internet auction listing service meets the following requirements:

- (1) the operator maintains a listing of the names and addresses of its corporate officers;

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(2) the operator is in compliance with all applicable federal, State, and local laws relating to ticket selling activities, and the operator's officers and directors have not been convicted of a violation of this Act within the preceding 12 months;

(3) the operator maintains, either itself or through an affiliate, a toll free number dedicated for consumer complaints;

(4) the operator provides consumer protections that include at a minimum:

(A) consumer protection guidelines;

(B) a standard refund policy that guarantees to all purchasers that it will provide and in fact provides a full refund of the amount paid by the purchaser (including, but not limited to, all fees, regardless of how characterized) if the following occurs:

(i) the ticketed event is cancelled and the purchaser returns the tickets to the seller or Internet auction listing service; however, reasonable delivery fees need not be refunded if the previously disclosed guarantee specifies that the fees will not be refunded if the event is cancelled;

(ii) the ticket received by the purchaser does not allow the purchaser to enter the ticketed event for reasons that may include, without limitation, that the ticket is counterfeit or that the ticket has been cancelled by the issuer due to non-payment, unless the ticket is cancelled due to an act or omission by such purchaser;

(iii) the ticket fails to conform to its description on the Internet auction listing service; or

(iv) the ticket seller willfully fails to send the ticket or tickets to the purchaser, or the ticket seller attempted to deliver the ticket or tickets to the purchaser in the manner required by the Internet auction listing service and the purchaser failed to receive the ticket or tickets; and

(C) standards of professional conduct;

(5) the operator has adopted an independent and disinterested dispute resolution procedure that allows resellers or purchasers to file complaints against the other and have those complaints mediated or resolved by a third party, and requires the resellers or purchasers to submit to the jurisdiction of the State of Illinois for complaints involving a ticketed event held in Illinois;

(6) the operator either:

(A) complies with all applicable requirements of the Retailers' Occupation Tax Act and collects and remits all applicable federal, State, and local taxes; or

(B) publishes a written notice on the website after the sale of one or more tickets that automatically informs the ticket reseller of the ticket reseller's potential legal obligation to pay any applicable local amusement tax in connection with the reseller's sale of tickets, and discloses to law enforcement or other government tax officials, without subpoena, the name, city, state, telephone number, e-mail address, user ID history, fraud complaints, and bidding and listing history of any specifically identified reseller or purchaser upon the receipt of a verified request from law enforcement or other government tax officials relating to a criminal investigation or alleged illegal activity; and

(7) the operator either:

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(A) has established and maintains a consumer protection rebate fund in Illinois in an amount in excess of \$100,000, which must be cash available for immediate disbursement for satisfaction of valid consumer complaints; or

(B) has obtained and maintains in force an errors and omissions insurance policy that provides at least \$100,000 in coverage and proof that the policy has been filed with the Department of Financial and Professional Regulation.

(d) This Act does not apply to the resale of tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind for a price in excess of the printed box office ticket price conducted at an auction solely by or for a not-for-profit organization for charitable purposes under clause (a)(1) of Section 10-1 of the Auction License Act.

(e) This Act does not apply to the resale of a ticket for admission to a baseball game, football game, hockey game, theatre entertainment, or any other amusement for a price more than the price printed on the face of the ticket and for more than the price of the ticket at the box office if the resale is made through an Internet website whose operator meets the following requirements:

- (1) the operator has a business presence and physical street address in the State of Illinois and clearly and conspicuously posts that address on the website;
- (2) the operator maintains a listing of the names of the operator's directors and officers, and is duly registered with the Office of the Secretary of State on a registration form provided by that Office;
- (3) the operator is in compliance with all applicable federal, State, and local laws relating to its ticket reselling activities regulated under this Act, and the operator's officers and directors have not been convicted of a violation of this Act within the preceding 12 months;
- (4) the operator maintains a toll free number specifically dedicated for consumer complaints and inquiries regarding ticket resales made through the website;
- (5) the operator either:
 - (A) has established and maintains a consumer protection rebate fund in Illinois in an amount in excess of \$100,000, which must be cash available for immediate disbursement for satisfaction of valid consumer complaints; or
 - (B) has obtained and maintains in force an errors and omissions policy of insurance in the minimum amount of \$100,000 for the satisfaction of valid consumer complaints;
- (6) the operator has adopted an independent and disinterested dispute resolution procedure that allows resellers or purchasers to file complaints against the other and have those complaints mediated or resolved by a third party, and requires the resellers or purchasers to submit to the jurisdiction of the State of Illinois for complaints involving a ticketed event held in Illinois;
- (7) the operator either:
 - (A) complies with all applicable requirements of the Retailers' Occupation Tax Act and collects and remits all applicable federal, State, and local taxes; or
 - (B) publishes a written notice on the website after the sale of one or more tickets that automatically informs the

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ticket reseller of the ticket reseller's potential legal obligation to pay any applicable local amusement tax in connection with the reseller's sale of tickets, and discloses to law enforcement or other government tax officials, without subpoena, the name, city, state, telephone number, e-mail address, user ID history, fraud complaints, and bidding and listing history of any specifically identified reseller or purchaser upon the receipt of a verified request from law enforcement or other government tax officials relating to a criminal investigation or alleged illegal activity; and

(8) the operator guarantees to all purchasers that it will provide and in fact provides a full refund of the amount paid by the purchaser (including, but not limited to, all fees, regardless of how characterized) if any of the following occurs:

(A) the ticketed event is cancelled and the purchaser returns the tickets to the website operator; however, reasonable delivery fees need not be refunded if the previously disclosed guarantee specifies that the fees will not be refunded if the event is cancelled;

(B) the ticket received by the purchaser does not allow the purchaser to enter the ticketed event for reasons that may include, without limitation, that the ticket is counterfeit or that the ticket has been cancelled by the issuer due to non-payment, unless the ticket is cancelled due to an act or omission by the purchaser;

(C) the ticket fails to conform to its description on the website; or

(D) the ticket seller willfully fails to send the ticket or tickets to the purchaser, or the ticket seller attempted to deliver the ticket or tickets to the purchaser in the manner required by the website operator and the purchaser failed to receive the ticket or tickets.

Nothing in this subsection (e) shall be deemed to imply any limitation on ticket sales made in accordance with subsections (b), (c), and (d) of this Section or any limitation on sales made in accordance with Section 4.

(f) The provisions of subsections (b), (c), (d), and (e) of this Section apply only to the resale of a ticket after the initial sale of that ticket. No reseller of a ticket may refuse to sell tickets to another ticket reseller solely on the basis that the purchaser is a ticket reseller or ticket broker authorized to resell tickets pursuant to this Act.

(g) The provisions of Public Act 89-406 are severable under Section 1.31 of the Statute on Statutes.

(h) The provisions of this amendatory Act of the 94th General Assembly are severable under Section 1.31 of the Statute on Statutes. [FN2]

CREDIT(S)

Laws 1923, p. 322, § 1 1/2, added by Laws 1935, p. 707, § 1. Amended by P.A. 87-383, § 1, eff. Sept. 9, 1991. Renumbered § 1.5 and amended by P.A. 87-895, Art. 4, § 4-24, eff. Aug. 14, 1992. Amended by P.A. 89-406, § 5, eff. Nov. 15, 1995; P.A. 94-20, § 5, eff. June 14, 2005.

FORMER REVISED STATUTES CITATION

Formerly Ill.Rev.Stat.1991, ch. 121 1/2, ¶ 157.32, transferred from Ill.Rev.Stat.1961, ch. 38, ¶ 550a1.

[FN1] 35 ILCS 120/1 et seq.

[FN2] 5 ILCS 70/1.31.

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HISTORICAL AND STATUTORY NOTES

P.A. 87-383 inserted the exception at the beginning of subsec. (a), and added subsec. (b).

P.A. 87-895, Art. 4, of the First 1992 General Revisory Act, renumbers Sections of various Acts that have been given fractional Section numbers and changes cross-references to those Sections.

P.A. 89-406 rewrote subsec. (b), which prior thereto read:

"This Act does not apply to the sale of tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind for a price in excess of the printed box office ticket price by a ticket broker who meets all of the following requirements:

- "(1) The ticket broker must engage in the sale of tickets on a regular and ongoing basis.
- "(2) The ticket broker must operate from one or more fixed locations.
- "(3) The ticket broker and his employees must not engage in the practice of selling, or attempting to sell, tickets for any event while sitting or standing near the facility at which the event is to be held or is being held.
- "(4) The ticket broker must comply with all requirements of the Retailers' Occupation Tax Act and all other applicable federal, State and local laws in connection with his ticket selling activities.";

added the paragraph relating to severability.

P.A. 94-20, § 5, inserted the section heading; in subsec. (a), substituted "subsections (b), (c), (d), and (e)" for "subsection (b)"; in the first paragraph of subsec. (b), substituted "resale" for "sale"; in the first paragraph of subd. (b)(1)(F), deleted "that the ticket broker" preceding "meets"; rewrote subds. (b)(1)(F)(i) through (b)(1)(F)(iv), which prior thereto read:

- "(i) maintains a statewide toll free number for consumer complaints and inquiries;
- "(ii) has adopted a code that advocates consumer protection that includes, at a minimum:
 - "(a-1) consumer protection guidelines;
 - "(b-1) a standard refund policy; and
 - "(c-1) standards of professional conduct;
- "(iii) has adopted a procedure for the binding resolution of consumer complaints by an independent, disinterested third party; and
- "(iv) has established and maintains a consumer protection rebate fund in an amount in excess of \$100,000, at least 50% of which must be cash available for immediate disbursement for satisfaction of valid consumer complaints.

"Alternatively, the ticket broker may fulfill the requirements of subparagraph (F) of this subsection (b) if the ticket broker certifies that he or she belongs to a professional association organized under the laws of this State, or organized under the laws of any other state and authorized to conduct business in Illinois, that has been in existence for at least 3 years prior to the date of that broker's registration with the Office of the Secretary of State, and is specifically dedicated, for and on behalf of its members, to provide and maintain the consumer protection requirements of subparagraph (F) of subsection (b) to maintain the integrity of the ticket brokerage industry.";

in subd. (b)(3), added "unless the ticket broker or his or her employees are on property they own, lease, or have

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permission to occupy."; in subd. (b)(4), inserted "collect and remit"; substituted "taxes" for "laws" and "the ticket broker's" for "his"; added subsecs. (c), (d), (e), (f), and (h); and designated the former final paragraph as subsec. (g), and substituted "Public Act 89-406" for "this amendatory Act of 1995".

LAW REVIEW AND JOURNAL COMMENTARIES

Cavoto v. Chicago Nat'l League Ball Club, Inc.: Chicago Cubs ticket scalping scandal and the relationship between separate corporate entities owned by a common parent. Mathew Siporin, 2-SUMMER DePaul Bus. & Comm. L. 723 (2004).

Statutory interpretation in Illinois: Abandoning the plain meaning rule for an extratextual approach. Matthew J. Hertko, 1 U.Ill.L.Rev. 377 (2005).

LIBRARY REFERENCES

Theaters and Shows ⇨4.
Westlaw Topic No. 376.
C.J.S. Entertainment and Amusement; Sports §§ 47 to 48, 50 to 51.

RESEARCH REFERENCES

Encyclopedias

Illinois Law and Practice Amusements § 17, Sale, Transfer or Resale of Tickets.

NOTES OF DECISIONS

Burden of proof 2
Construction with other laws 1.5
Instructions 3
Review 4
Sales 1.7
Validity 1

1. Validity

Ticket Scalping Act does not unconstitutionally delegate legislative power to sponsors of various events insofar as it grants sponsors of sporting and entertainment events the power to determine who will be allowed to engage in the business of ticket brokering without prescribing standards to guide event sponsors in making that determination; Act merely gives legislative sanction to right that promoters of entertainment and sporting events have always enjoyed at common law. *People v. Waisvisz*, App. 4 Dist.1991, 164 Ill.Dec. 439, 221 Ill.App.3d 667, 582 N.E.2d 1383, appeal denied 169 Ill.Dec. 150, 144 Ill.2d 642, 591 N.E.2d 30. Constitutional Law ⇨ 2442; Public Amusement And Entertainment ⇨ 5

Although Ticket Scalping Act is "special law" insofar as it applies only to certain segment of State population, namely, entities which sell tickets to sporting and entertainment events at more than face amount without consent of event sponsor, it is not unconstitutional legislation; rational basis exists for not extending applicability of law to persons who resell tickets with permission of event sponsor, and Act does not run afoul of any restrictions on monopolistic control of businesses inherent in special legislation clause. *People v. Waisvisz*, App. 4 Dist.1991, 164 Ill.Dec. 439, 221 Ill.App.3d 667, 582 N.E.2d 1383, appeal denied 169 Ill.Dec. 150, 144 Ill.2d 642, 591 N.E.2d 30.

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Statutes ⚡ 77(1); Public Amusement And Entertainment ⚡ 5

This paragraph declaring it unlawful to sell tickets for any amusement for a price greater than the price printed on the face of the ticket does not deny due process; overruling *People vs. Steele*, 1907, 231 Ill. 340, 83 N.E. 236. *People v. Patton*, 1974, 57 Ill.2d 43, 309 N.E.2d 572. Constitutional Law ⚡ 4292; Public Amusement And Entertainment ⚡ 5

1.5. Construction with other laws

Baseball park operator and ticket broker, which were both subsidiaries of the same parent company, did not engage in bait and switch advertising in violation of the Deceptive Trade Practices Act in regards to operator's sale of tickets to broker, who then resold tickets at higher prices; under the Ticket Scalping Act, broker was entitled to sell tickets for more than the advertised prices, and neither broker nor operator attempted to sell customers anything other than what was advertised. *Cavoto v. Chicago Nat. League Ball Club, Inc.*, App. 1 Dist.2006, 2006 WL 2291181, Unreported, appeal denied 308 Ill.Dec. 322, 222 Ill.2d 569, 861 N.E.2d 653. Antitrust And Trade Regulation ⚡ 163

The very conduct by baseball park operator and ticket broker that was insufficient for customers to obtain relief under the Ticket Scalping Act could not be sufficient to obtain relief under the Consumer Fraud Act. *Cavoto v. Chicago Nat. League Ball Club, Inc.*, App. 1 Dist.2006, 2006 WL 2291181, Unreported, appeal denied 308 Ill.Dec. 322, 222 Ill.2d 569, 861 N.E.2d 653. Antitrust And Trade Regulation ⚡ 179

Baseball park operator and ticket broker, which were both subsidiaries of same parent company, did not engage in deceptive acts or practices in violation of the Consumer Fraud Act in regards to operator's sale of tickets to broker without first making those tickets available to the public, which tickets the broker sold at above face value prices; the record indicated that operator had a longstanding practice of reserving a set number of high demand tickets to be sold at a time after the original on-sale date for each game, brokers that were not sister subsidiary companies with the operator also benefited from the high demand and limited supply of tickets, and the broker's resale practices were consistent with the Ticket Scalping Act. *Cavoto v. Chicago Nat. League Ball Club, Inc.*, App. 1 Dist.2006, 2006 WL 2291181, Unreported, appeal denied 308 Ill.Dec. 322, 222 Ill.2d 569, 861 N.E.2d 653. Antitrust And Trade Regulation ⚡ 179

The very conduct by baseball park operator and ticket broker that was insufficient for customers to obtain relief under the Ticket Scalping Act could not be sufficient to obtain relief under the Consumer Fraud Act. *Cavoto v. Chicago Nat. League Ball Club, Inc.*, App. 1 Dist.2006, 2006 WL 2291181, Unreported, appeal denied 308 Ill.Dec. 322, 222 Ill.2d 569, 861 N.E.2d 653. Antitrust And Trade Regulation ⚡ 179

1.7. Sales

Baseball park operator's transfer of tickets to licensed ticket broker, which was a subsidiary of company that owned operator, constituted a sale, and thus, broker's resale of those tickets at prices above face value did not violate the Ticket Scalping Act; although no money was physically exchanged between the park operator and the broker, an inter-company account ledger for each subsidiary recorded the transactions in accordance with parent company's policy that transactions between subsidiaries be credited and deducted from the transacting subsidiaries' accounts. *Cavoto v. Chicago Nat. League Ball Club, Inc.*, App. 1 Dist.2006, 2006 WL 2291181, Unreported, appeal denied 308 Ill.Dec. 322, 222 Ill.2d 569, 861 N.E.2d 653. Public Amusement And Entertainment ⚡ 70

2. Burden of proof

State was not required to present evidence of second concert cosponsor's lack of consent to defendant's sale of tickets to concert at price greater than original cost in order to convict defendant of ticket scalping; that cosponsor

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had no role in the sale or distribution of tickets and cosponsor in charge of ticket sales was opposed to imposition of service charge on resale of tickets, so requiring that evidence would be a useless formality. *People v. Waisvisz*, App. 4 Dist.1991, 164 Ill.Dec. 439, 221 Ill.App.3d 667, 582 N.E.2d 1383, appeal denied 169 Ill.Dec. 150, 144 Ill.2d 642, 591 N.E.2d 30. Public Amusement And Entertainment ¶ 176

3. Instructions

In ticket scalping prosecution, failure to provide more specific instruction as to lack of consent by sponsor of concert in question, as element of charged offense, was not plain error where defendant did not have consent of sponsor in charge of ticket sales to sell tickets at price greater than their face value. *People v. Waisvisz*, App. 4 Dist.1991, 164 Ill.Dec. 439, 221 Ill.App.3d 667, 582 N.E.2d 1383, appeal denied 169 Ill.Dec. 150, 144 Ill.2d 642, 591 N.E.2d 30. Criminal Law ¶ 1038.2

4. Review

Defendant charged with ticket scalping was not entitled to declaration of mistrial on basis of prosecutor's repeated references to inadmissible newspaper advertisement defendant had purportedly placed offering concert tickets for sale; evidence in case was not closely balanced, insofar as defendant admitted commission of charged offense. *People v. Waisvisz*, App. 4 Dist.1991, 164 Ill.Dec. 439, 221 Ill.App.3d 667, 582 N.E.2d 1383, appeal denied 169 Ill.Dec. 150, 144 Ill.2d 642, 591 N.E.2d 30. Criminal Law ¶ 719(4)

720 I.L.C.S. 375/1.5, IL ST CH 720 § 375/1.5

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C

Formerly cited as IL ST CH 121 1/2 ¶ 157.34

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness

Chapter 720. Criminal Offenses

 Offenses Against Property

 Act 375. Ticket Sale and Resale Act (Refs & Annos)

→375/3. Civil remedy of person overcharged

§ 3. Whoever, upon the purchase of such admission tickets as herein provided, feels himself aggrieved or injured by paying for such tickets any sum in excess of the advertised price or printed rate, or any sum in excess of the price originally charged at the box office or place where such admission tickets usually are sold by the management of any such place of entertainment or amusement, has, irrespective of the penalties herein provided, a right of action in his name and against such person, firm, corporation, owner, lessee, manager, trustee, or any of their agents or employees owning, conducting, managing or operating any such theater, circus, baseball park or place of public entertainment or amusement, to recover for each ticket for which an overcharge was made contrary to the provisions of this Act, a sum of \$100, which may be recovered in a civil action before the circuit court in this State.

CREDIT(S)

Laws 1923, p. 322, § 3, eff. June 30, 1923. Amended by Laws 1935, p. 722, § 1, eff. June 28, 1935; P.A. 79-1366, § 48, eff. Oct. 1, 1976; P.A. 84-1103, § 1, eff. Dec. 9, 1985.

FORMER REVISED STATUTES CITATION

Formerly Ill.Rev.Stat.1991, ch. 121 1/2, ¶ 157.34, transferred from Ill.Rev.Stat.1961, ch. 38, ¶ 550c.

HISTORICAL AND STATUTORY NOTES

The amendments by P.A. 79-1366 were necessary to conform various Acts to the 1970 Constitution, to correct language used, references that had become erroneous, and to clarify meaning where ambiguous.

P.A. 84-1103 substituted \$100 for \$20.

LIBRARY REFERENCES

Theaters and Shows ↪4.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement; Sports §§ 47 to 48, 50 to 51.

NOTES OF DECISIONS

Cause of action 1

1. Cause of action

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People who were interested in purchasing baseball tickets but did not, regardless of whether the tickets were priced at the printed rate or advertised price, did not qualify as purchasers, and therefore, they did not have a cause of action under the Ticket Scalping Act against baseball park operator and ticket broker. *Cavoto v. Chicago Nat. League Ball Club, Inc.*, App. 1 Dist.2006, 2006 WL 2291181, Unreported, appeal denied 308 Ill.Dec. 322, 222 Ill.2d 569, 861 N.E.2d 653. Public Amusement And Entertainment 70

720 I.L.C.S. 375/3, IL ST CH 720 § 375/3

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Formerly cited as IL ST CH 121 1/2 ¶ 157.35

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Chapter 720. Criminal Offenses

Offenses Against Property

Act 375. Ticket Sale and Resale Act (Refs & Annos)

→ 375/4. Service charges

§ 4. Nothing contained in this Act was ever intended to prohibit nor shall ever be deemed to prohibit a ticket seller, with consent of the sponsor of such baseball game, football game, hockey game, theatre entertainment or other amusement, from collecting a reasonable service charge, in addition to the printed box office ticket price, from a ticket purchaser in return for service actually rendered.

CREDIT(S)

Laws 1923, p. 322, § 4, added by P.A. 80-1245, § 1, eff. Jan. 1, 1979.

FORMER REVISED STATUTES CITATION

Formerly Ill.Rev.Stat.1991, ch. 121 1/2 , ¶ 157.35.

LIBRARY REFERENCES

Theaters and Shows ↪ 4.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement; Sports §§ 47 to 48, 50 to 51.

NOTES OF DECISIONS

Burden of proof 2

Validity 1

1. Validity

Ticket Scalping Act does not unconstitutionally delegate legislative power to sponsors of various events insofar as it grants sponsors of sporting and entertainment events the power to determine who will be allowed to engage in the business of ticket brokering without prescribing standards to guide event sponsors in making that determination; Act merely gives legislative sanction to right that promoters of entertainment and sporting events have always enjoyed at common law. People v. Waisvisz, App. 4 Dist.1991, 164 Ill.Dec. 439, 221 Ill.App.3d 667, 582 N.E.2d 1383, appeal denied 169 Ill.Dec. 150, 144 Ill.2d 642, 591 N.E.2d 30. Constitutional Law ↪ 2442; Public Amusement And Entertainment ↪ 5

Although Ticket Scalping Act is "special law" insofar as it applies only to certain segment of State population, namely, entities which sell tickets to sporting and entertainment events at more than face amount without consent of

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event sponsor, it is not unconstitutional legislation; rational basis exists for not extending applicability of law to persons who resell tickets with permission of event sponsor, and Act does not run afoul of any restrictions on monopolistic control of businesses inherent in special legislation clause. *People v. Waisvisz*, App. 4 Dist.1991, 164 Ill.Dec. 439, 221 Ill.App.3d 667, 582 N.E.2d 1383, appeal denied 169 Ill.Dec. 150, 144 Ill.2d 642, 591 N.E.2d 30. Statutes ⇨ 77(1); Public Amusement And Entertainment ⇨ 5

2. Burden of proof

State was not required to present evidence of second concert co-sponsor's lack of consent to defendant's sale of tickets to concert at price greater than original cost in order to convict defendant of ticket scalping; that co-sponsor had no role in the sale or distribution of tickets and co-sponsor in charge of ticket sales was opposed to imposition of service charge on resale of tickets, so requiring that evidence would be a useless formality. *People v. Waisvisz*, App. 4 Dist.1991, 164 Ill.Dec. 439, 221 Ill.App.3d 667, 582 N.E.2d 1383, appeal denied 169 Ill.Dec. 150, 144 Ill.2d 642, 591 N.E.2d 30. Public Amusement And Entertainment ⇨ 176

720 I.L.C.S. 375/4, IL ST CH 720 § 375/4

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IC 4-33-22-37

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West's Annotated Indiana Code Currentness

Title 4. State Offices and Administration

Article 33. Riverboat Gambling

Chapter 22. Boxing and Mixed Martial Arts

→ **4-33-22-37 Purchase price of tickets; seating capacity of building**

Sec. 37. All **tickets** of admission to any boxing, sparring, or unarmed combat match or exhibition must clearly show the purchase price. **Tickets** shall not be sold for more than the price printed on the **tickets**. It is unlawful for any person, club, corporation, or association to admit to a contest a number of people greater than the seating capacity of the place where the contest is held.

CREDIT(S)

As added by P.L.113-2010, SEC.11.

HISTORICAL AND STATUTORY NOTES

2011 Electronic Update

Formerly:

IC 25-9-1-26.

Acts 1931, c. 93, s. 27.

Acts 1981, P.L.222, SEC.101.

P.L.236-1995, SEC.44.

P.L.197-2007, SEC.57.

P.L.160-2009, SEC.46.

ADMINISTRATIVE CODE REFERENCES

Tickets, general provisions, see 808 IAC 1-4-1 et seq.


LAW REVIEW AND JOURNAL COMMENTARIES

Reassessing the ticket scalping dispute: Application, effects and criticisms of current anti-scalping legislation. 5 Seton Hall J.Sport L. 189 (1995).

Who Needs **Tickets**? Examining Problems in the Growing Online Ticket **Resale** Industry. Clark P. Kirkman. 61 Fed. Comm. L.J. 739 (2009).

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Public Amusement and Entertainment  27.

Westlaw Topic No. 315T.

C.J.S. Entertainment and Amusement; Sports §§ 12, 15 to 16, 20, 49.

I.C. 4-33-22-37, IN ST 4-33-22-37

Current through 2011 Public Laws approved and effective through 6/28/2011.

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KRS § 518.070

C

Baldwin's Kentucky Revised Statutes Annotated Currentness

Title L. Kentucky Penal Code

Chapter 518. Miscellaneous Crimes Affecting Businesses, Occupations, and Professions (Refs & Annos)

→ 518.070 Ticket scalping

(1) A person is guilty of ticket scalping when he intentionally sells or offers to sell a ticket to an event at a price greater than that charged at the place of admission or printed on the ticket, unless authorized by the issuer or by law.

(2) Ticket scalping is a violation.

HISTORY: 1974 c 406, § 162, eff. 1-1-75

KENTUCKY CRIME COMMISSION/LRC COMMENTARY

2006 Main Volume Kentucky Crime Commission/LRC Commentary

1974:

This provision bars private purchasers of tickets from reselling them to others at a markup exceeding the stated price printed on the ticket. "Event" as defined in KRS 518.010 limits the application of this section to sports contests. Pre-existing law prohibited the scalping of tickets to a sporting event; a fine of \$50 to \$100 is imposed.

LIBRARY REFERENCES

2006 Main Volume Library References

Consumer Protection ¶50.

Westlaw Topic No. 92H.

C.J.S. Credit Reporting Agencies; Consumer Protection §§ 109, 118 to 122.

RESEARCH REFERENCES

2002 Pocket Part Research References

Treatises and Practice Aids

Kentucky Practice, Abramson, Substantive Criminal Law § 7:37, Ticket Scalping.

LAW REVIEW AND JOURNAL COMMENTARIES

2006 Main Volume Law Review and Journal Commentaries

Reassessing the Ticket Scalping Dispute: Application, Effects and Criticisms of Current Anti-Scalping Legislation.

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KRS § 518.070

5 Seton Hall J Sport L 189 (1995).

KRS § 518.070, KY ST § 518.070

Current through End of 2006 Regular and First Extraordinary Sessions

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LSA-R.S. 4:1



West's Louisiana Statutes Annotated Currentness
 Louisiana Revised Statutes
 Title 4. Amusements and Sports
 Chapter 1. General Provisions (Refs & Annos)

→ § 1. Unlawful to sell tickets for more than the price; total cost of tickets to be printed on each

A. All admission tickets to any athletic contest, dance, theater, concert, circus, or other amusement shall have the price paid for the ticket, excluding order processing and delivery charges, printed on the face of the ticket, except as otherwise provided in Subsection D of this Section.

B. Except as provided in Subsection E of this Section, no person shall resell or offer to resell such admission ticket for an amount in excess of the price printed on the face of the ticket.

C. Whoever violates this Section shall be fined not less than one hundred dollars and imprisoned for thirty days, nor more than five hundred dollars and imprisoned for ninety days.

D. In connection with the sale of tickets to athletic contests of institutions of higher education, contributions or other payments in excess of the printed price requested by or made to the institution or to an alumni organization or foundation which is organized for the primary purpose of providing support to the institution and which has been recognized as an approved support organization by the board of the institution shall be allowed.

E. Nothing shall prohibit the resale or offering for resale via the Internet of an admission ticket, at any price, to an athletic contest, dance, theater, concert, circus, or other amusement, if the organizer of the event and the operator of the location where the event is occurring authorize admission tickets to such event to be resold for more than the price printed on the face of the ticket. If such resale is authorized, any admission ticket to the event may be resold or offered for resale through any web site if such web site's operator guarantees a full refund of the amount paid for the ticket under each of the following conditions:

- (1) The ticketed event is canceled.
 - (2) The purchaser is denied admission to the ticketed event, unless such denial is due to the action or omission of the purchaser.
 - (3) The ticket is not delivered to the purchaser in the manner described on such web site or pursuant to the delivery guarantee made by the reseller and such failure results in the purchaser's inability to attend the ticketed event.
- F. A web site operator's guarantee pursuant to Subsection E of this Section shall be posted on the operator's web site and a prospective purchaser shall be directed to such guaranty before completion of the resale transaction.
- G. A refund issued by a web site operator pursuant to any of the conditions provided for in Subsection E of this Section shall include any servicing, handling, or processing fees unless such fees are declared nonrefundable under the terms of the guarantee.

H. The provisions of Subsection E of this Section shall not apply to:

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LSA-R.S. 4:1

(1) University sports event tickets specially allocated to Louisiana legislators.

(2) Student tickets issued by Louisiana universities for sporting events.

I. If authorization to resell an admission ticket for more than the price printed on the face of the ticket is not granted by the organizer of the event and the operator of the location of the event pursuant to Subsection E of this Section, no person or entity shall resell an admission ticket for more than the price printed on the face of the ticket.

CREDIT(S)

Amended by Acts 1988, No. 449, § 1; Acts 1989, No. 589, § 1, eff. Jan. 1, 1990; Acts 1990, No. 466, § 1, eff. July 18, 1990; Acts 2006, No. 238, § 1.

HISTORICAL AND STATUTORY NOTES

2003 Main Volume

Source:

Acts 1946, No. 50, §§ 1 to 3.

In this section, as amended in 1990, the last word in the section heading was changed from "such" to "each" pursuant to the statutory revision authority of the Louisiana State Law Institute.

LIBRARY REFERENCES

2003 Main Volume

Theaters and Shows ↪ 4, 9.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement; Sports §§ 47 to 48, 50 to 51, 102 to 103.

LSA-R.S. 4:1, LA R.S. 4:1

Current through all 2006 First Extraordinary, Regular and Second Extraordinary Session Acts

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MARYLAND

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MD Code, Business Regulation, § 4-318

C

West's Annotated Code of Maryland Currentness

Business Regulation (Refs & Annos)

 Title 4. Athletics (Refs & Annos)

 Subtitle 3. Boxing, Kick Boxing, and Wrestling (Refs & Annos)

→ § 4-318. Regulation of ticket prices

A promoter may not allow the sale or exchange of a ticket or complimentary ticket for an amount that exceeds the box office price.

CREDIT(S)

Acts 1992, c. 4, § 2.

PRIOR COMPILATIONS

Formerly Art. 56, § 119.

LEGISLATIVE NOTES

Revisor's Note (Acts 1992, c. 4):

This section is new language derived without substantive change from former Art. 56, § 119.

The words "complimentary ticket" are substituted for the former words "invitation for seating reservation" for clarity.

The Business Regulation Article Review Committee notes, for consideration by the General Assembly, that the word "promoter" is substituted for the former words "person, club, corporation or association" because former Art. 56, § 119 as well as regulations concerning ticket scalping suggest that this provision applies only to promoters.

LIBRARY REFERENCES

Theaters and Shows ↪4.

Westlaw Key Number Search: 376k4.

C.J.S. Entertainment and Amusement; Sports §§ 47 to 48, 50 to 51.

RESEARCH REFERENCES

Encyclopedias

Maryland Law Encyclopedia Amusements § 11, Regulation by Maryland Athletic Commission.

MD Code, Business Regulation, § 4-318, MD BUS REG § 4-318

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MD Code, Business Regulation, § 4-318

Current through all Chapters of the 2007 Regular Session effective through July 1, 2007.

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Chapter 42

(Senate Bill 154)

AN ACT concerning

Commercial Law – Interference With Internet Ticket Sales – Prohibition

FOR the purpose of prohibiting a person from intentionally selling or using certain software to circumvent a security measure, an access control system, or any other control or measure on a certain Web site that is used to ensure an equitable ticket buying process; providing that a violation of this Act is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; defining certain terms; and generally relating to ticket sales on the Internet.

BY adding to

Article – Commercial Law

Section 14–4001 through 14–4003 to be under the new subtitle “Subtitle 40.
Interference With Internet Ticket Sales”

Annotated Code of Maryland

(2013 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Commercial Law

SUBTITLE 40. INTERFERENCE WITH INTERNET TICKET SALES.

14–4001.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “ENTERTAINMENT EVENT” MEANS:

(I) A PERFORMANCE;

(II) A RECREATION;

(III) AN AMUSEMENT;

(IV) A DIVERSION;

- (V) A SPECTACLE;
- (VI) A SHOW; OR
- (VII) ANY SIMILAR EVENT.

(2) “ENTERTAINMENT EVENT” INCLUDES:

- (I) A THEATRICAL OR MUSICAL PERFORMANCE;
- (II) A CONCERT;
- (III) A FILM;
- (IV) A GAME;
- (V) A RIDE; AND
- (VI) A SPORTING EVENT.

(C) “TICKET” MEANS A TICKET FOR ADMISSION TO AN ENTERTAINMENT EVENT.

14-4002.

A PERSON MAY NOT INTENTIONALLY SELL OR USE SOFTWARE TO CIRCUMVENT A SECURITY MEASURE, AN ACCESS CONTROL SYSTEM, OR ANY OTHER CONTROL OR MEASURE ON A TICKET SELLER’S WEB SITE THAT IS USED TO ENSURE AN EQUITABLE TICKET BUYING PROCESS.

14-4003.

A VIOLATION OF THIS SUBTITLE IS:

(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

Approved by the Governor, April 8, 2014.

MASSACHUSETTS

Westlaw.

Page 1

M.G.L.A. 140 § 185A



Effective: [See Text Amendments]

Massachusetts General Laws Annotated Currentness

Part I. Administration of the Government (Ch. 1-182)

Title XX. Public Safety and Good Order (Ch. 133-148A)

Chapter 140. Licenses (Refs & Annos)

Theatrical Exhibitions, Public Amusements, Etc.

→ § 185A. Resale of tickets; necessity, term and transfer of license; information in application; definition of resale; restrictions

No person shall engage in the business of reselling any ticket or tickets of admission or other evidence of right of entry to any theatrical exhibition, public show or public amusement or exhibition required to be licensed under sections one hundred and eighty-one and one hundred and eighty-two of this chapter or under chapter one hundred and twenty-eight A, whether such business is conducted on or off the premises on which such ticket or other evidence is to be used, without being licensed therefor by the commissioner of public safety, in this and the six following sections called the commissioner. A license shall be granted only upon a written application setting forth such information as the commissioner may require. Each license issued under this section shall be in force until the first day of January next after its date, unless sooner revoked. No such license may be transferred or assigned except upon written permission of the commissioner. The sale of a ticket or pass, entitling the holder thereof to admission to any such theatrical exhibition, public show or public amusement or exhibition upon payment either of nothing or a sum less than that demanded of the public generally, shall be deemed to be a resale thereof within the meaning of this section.

No person shall engage in or have any interest, as a stockholder or otherwise, in any such business in the conduct of which is or are resold any ticket or tickets of admission or other evidence or evidences of right of entry to any theatrical exhibition, public show or public amusement or exhibition of which said person is the owner or in which he has any interest, as a stockholder or otherwise.

CREDIT(S)

Amended by St.1936, c. 279; St.1941, c. 247.

HISTORICAL AND STATUTORY NOTES

2002 Main Volume

St. 1924, c. 497, § 2.

St.1936, c. 279, an emergency act, approved May 20, 1936, in the first sentence, inserted "of this chapter or under chapter one hundred and twenty-eight A" and added the last sentence.

St. 1941, c. 247, approved May 6, 1941, added the second paragraph.

LIBRARY REFERENCES

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M.G.L.A. 140 § 185A

2002 Main Volume

Licenses ↪ 4.
Westlaw Topic No. 238.
C.J.S. Licenses § 6.

RESEARCH REFERENCES

2007 Electronic Update.

ALR Library

60 ALR 1089, Refusing Admission To, or Ejecting From, Place of Amusement.

Treatises and Practice Aids

32 Mass. Prac. Series § 541, Miscellaneous Offenses Against Public Policy.

36A Mass. Prac. Series § 30:39, Ticket Scalping.

NOTES OF DECISIONS

Construction and application 1
Licensing of resales, reselling 3
Reselling 2, 3
 Reselling - In general 2
 Reselling - Licensing of resales 3
1. Construction and application

This section applies where a person having an interest as owner or otherwise in a theatrical exhibition, public show or public amusement also has an interest in the ticket agency. *Foster v. Shubert Holding Co.* (1944) 55 N.E.2d 772, 316 Mass. 470.

2. Reselling--In general

Manifestation of desire to sell and charging price above box office price constituted business of "reselling" tickets without license, notwithstanding evidence showed a single sale. *Com. v. Sovrensky* (1929) 169 N.E. 418, 269 Mass. 460. Licenses ↪ 40

Term reselling was construed as a transfer or disposal of legal or equitable right to a ticket of admission or to some other evidence of such right of entry for consideration and when one made a regular course of business of such transactions he rendered himself subject to the provisions of that act. 7 Op.Atty.Gen.1924, p. 564.

3. ---- Licensing of resales

Resale of theater tickets could be licensed. In re Opinion of the Justices (1924) 143 N.E. 808, 247 Mass. 589. Public Amusement And Entertainment ↪ 69

Dealers engaged in the resale of tickets to places of amusement could be required to be licensed and limiting of resale price was constitutional. 7 Op.Atty.Gen.1924, p. 442.

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M.G.L.A. 140 § 185A

M.G.L.A. 140 § 185A, MA ST 140 § 185A

Current through Chapter 62 of the 2007 1st Annual Sess.

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M.G.L.A. 140 § 185B

▷

Effective: [See Text Amendments]

Massachusetts General Laws Annotated Currentness

Part I. Administration of the Government (Ch. 1-182)

Title XX. Public Safety and Good Order (Ch. 133-148A)

Chapter 140. Licenses (Refs & Annos)

§ Theatrical Exhibitions, Public Amusements, Etc.

→ § 185B. Fees for, and for renewal of, licenses to resell tickets

The fee for each license granted under section one hundred and eighty-five A and for each annual renewal thereof shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven for the filing thereof.

CREDIT(S)

Amended by St.1980, c. 572, § 258.

HISTORICAL AND STATUTORY NOTES

2002 Main Volume

St.1924, c. 497, § 2.

St.1980, c. 572, § 258, substituted "determined annually by the commissioner of administration under the provision of section three B of chapter seven for the filing thereof" for "one hundred dollars".

St.1980, c. 572, was approved July 16, 1980. Emergency declaration by the Governor was filed July 23, 1980.

M.G.L.A. 140 § 185B, **MA ST 140 § 185B**

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M.G.L.A. 140 § 185D



Effective: [See Text Amendments]

Massachusetts General Laws Annotated Currentness
Part I. Administration of the Government (Ch. 1-182)
Title XX. Public Safety and Good Order (Ch. 133-148A)
 § Chapter 140. Licenses (Refs & Annos)
 § Theatrical Exhibitions, Public Amusements, Etc.

→ § 185D. Resale price

No licensee under section one hundred and eighty-five A shall resell any ticket or other evidence of right of entry to any theatrical exhibition, public show or public amusement or exhibition of any description at a price in excess of two dollars in advance of the price printed on the face of such ticket or other evidence of right of entry as the purchase price thereof; provided, however, that a price in excess of the above maximum shall not be deemed in violation of this section if the amount in excess of the above maximum is solely attributable to service charges. For the purpose of this section, service charges are defined as costs incurred by said licensee related solely to the procuring and selling of such ticket or other evidence of right of entry and not related to the general business operation of said licensee. Service charges include, but are not limited to, charges for messengers, postage, and long distance telephone calls, extensions of credit and costs attributable thereto.

The imposition of a fee, on an annual or per order basis, for customers purchasing tickets other than by immediate payment therefor in cash, which includes a membership fee, office expenses and the cost of processing credit card orders, shall not be deemed a violation of this section.

CREDIT(S)

Amended by St.1967, c. 126; St.1975, c. 213; St.1980, c. 460.

HISTORICAL AND STATUTORY NOTES

2002 Main Volume

St.1924, c. 497, § 2.

St.1967, c. 126, approved April 10, 1967, substituted "one dollar" for "fifty cents".

St.1975, c. 213, an emergency act, approved May 16, 1975, substituted "one dollar and fifty cents" for "one dollar".

St.1980, c. 460, approved July 10, 1980, in the first paragraph, in the first sentence, substituted "two dollars" for "one dollar and fifty cents" and "of right" for "or right" preceding "as the purchase price thereof" and added the proviso and added the second and third sentences; and added the second paragraph.

LIBRARY REFERENCES

2002 Main Volume

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M.G.L.A. 140 § 185D

Theaters and Shows ➡4.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement; Sports §§ 47 to 48, 50 to 51.

RESEARCH REFERENCES

2007 Electronic Update.

Treatises and Practice Aids

17B Mass. Prac. Series § 53:15, Proof of Particular Crimes -- in General.

36A Mass. Prac. Series § 30:39, Ticket Scalping.

NOTES OF DECISIONS

Service charges 2

Validity 1

1. Validity

St.1924, c. 497, § 2 limiting profit on resale of tickets was constitutional and reasonable. In re Opinion of the Justices (1924) 143 N.E. 808, 247 Mass. 589. Public Amusement And Entertainment ➡ 5

Dealers engaged in the resale of tickets to places of amusement could be required to be licensed and limiting of resale price was constitutional. 7 Op.Atty.Gen.1924, p. 442.

2. Service charges

Exception to ticket scalping prohibition for prices in excess of those printed on face of tickets if excess amount is solely attributable to service charge, would not permit licensed ticket reseller including the recouping of amount paid in excess of printed ticket price as service charge; if service charge could include gouging by vendor to person who resold ticket, public would be no more protected than if reseller himself had inflated the price. Com. v. Santangelo (1988) 520 N.E.2d 1340, 25 Mass.App.Ct. 583. Public Amusement And Entertainment ➡ 70

M.G.L.A. 140 § 185D, MA ST 140 § 185D

Current through Chapter 77 of the 2007 1st Annual Sess.

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M.G.L.A. 140 § 185E



Effective: [See Text Amendments]

Massachusetts General Laws Annotated Currentness
Part I. Administration of the Government (Ch. 1-182)
Title XX. Public Safety and Good Order (Ch. 133-148A)
Chapter 140. Licenses (Refs & Annos)
Theatrical Exhibitions, Public Amusements, Etc.

→ § 185E. Rules and regulations relative to reselling of tickets; investigations; record of licenses

The commissioner shall establish and may from time to time alter rules and regulations relative to the granting of licenses and the business carried on by persons licensed under section one hundred and eighty-five A. He shall, either personally or by such subordinates as he may designate, as often as he deems it necessary, investigate the affairs of such licensees and for that purpose shall have free access to the books and papers of such licensees and shall ascertain the condition of the business and whether it is being transacted in compliance with law and the rules and regulations made hereunder, and with the terms and conditions of the license. The commissioner shall keep a book or books in which shall be entered in alphabetical order a record of all licenses granted under section one hundred and eighty-five A, which record shall be open to public inspection.

HISTORICAL AND STATUTORY NOTES

2002 Main Volume

St.1924, c. 497, § 2.

CODE OF MASSACHUSETTS REGULATIONS

Tickets of admission, licensing for and resale of, public safety department, see 520 CMR 8.01.

M.G.L.A. 140 § 185E, MA ST 140 § 185E

Current through Chapter 77 of the 2007 1st Annual Sess.

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M.G.L.A. 140 § 185F



Effective: [See Text Amendments]

Massachusetts General Laws Annotated Currentness

Part I. Administration of the Government (Ch. 1-182)

Title XX. Public Safety and Good Order (Ch. 133-148A)

Chapter 140. Licenses (Refs & Annos)

Theatrical Exhibitions, Public Amusements, Etc.

→ § 185F. Violation of statutes and regulations relative to reselling of tickets

Whoever violates any provision of section one hundred and eight-five A to section one hundred and eighty-five G, inclusive, or any rule or regulation of the commissioner made under section one hundred and eighty-five E, shall be punished by a fine of not more than five hundred dollars; provided, however, that whoever, after being convicted of a second violation of section one hundred and eighty-five A, again violates said section shall, for such third or subsequent offense, be punished by such fine and by imprisonment in a jail or house of correction for not more than one year.

CREDIT(S)

Amended by St.1969, c. 596.

HISTORICAL AND STATUTORY NOTES

2002 Main Volume

St.1924, c. 497, § 2.

St.1969, c. 596, approved Aug. 4, 1969, added the proviso.

M.G.L.A. 140 § 185F, MA ST 140 § 185F

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M.G.L.A. 140 § 185G

C

Effective: [See Text Amendments]

Massachusetts General Laws Annotated Currentness

Part I. Administration of the Government (Ch. 1-182)

Title XX. Public Safety and Good Order (Ch. 133-148A)

Chapter 140. Licenses (Refs & Annos)

Theatrical Exhibitions, Public Amusements, Etc.

→§ 185G. Nonapplicability of statutes to tickets for entertainment of nonprofit organizations

The provisions of section one hundred and eighty-two A and the six preceding sections shall not apply to tickets or other evidences of entry to theatrical exhibitions, public shows or public amusements or exhibitions, all the proceeds of the sale or resale of which inure exclusively to the benefit of religious, educational or charitable institutions, societies or organizations or civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare or to associations of veterans of any wars of the United States, or to tickets or other evidences of entry to agricultural fairs, none of the profits of the sale or resale of which are distributed to stockholders or members of the association conducting the same.

HISTORICAL AND STATUTORY NOTES

2002 Main Volume

St. 1924, c. 497, § 2.

CROSS REFERENCES

Admission of young persons to dance halls, regulation of, see c. 140, § 198.

Entry by officers for enforcement of law permitted, see c. 140, § 201.

Posting of copies of laws at entrance of dance halls and skating rinks, see c. 140, § 199.

LAW REVIEW AND JOURNAL COMMENTARIES

Delegation of discretion in Massachusetts licensing statutes. (1929) 43 Harv.L.Rev. 302.

LIBRARY REFERENCES

2002 Main Volume

Theaters and Shows ↪8, 9.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement; Sports §§ 17, 102 to 103.

RESEARCH REFERENCES

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M.G.L.A. 140 § 185G

2007 Electronic Update.

Treatises and Practice Aids

32 Mass. Prac. Series § 541, Miscellaneous Offenses Against Public Policy.

36A Mass. Prac. Series § 30:39, Ticket Scalping.

M.G.L.A. 140 § 185G, MA ST 140 § 185G

Current through Chapter 77 of the 2007 1st Annual Sess.

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MICHIGAN

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M.C.L.A. 750.465

C

Michigan Compiled Laws Annotated Currentness

Chapter 750. Michigan Penal Code (Refs & Annos)

The Michigan Penal Code

Chapter LXVIII. Public Exhibitions and Entertainment (Refs & Annos)

→ 750.465. Sale of tickets for theatre, circus, athletic game, or place of public entertainment or amusement

Sec. 465. (1) The owner, lessee, operator, or manager of each theatre, circus, athletic grounds used for an athletic game, or place of public entertainment or amusement shall have printed on each ticket issued for admission to, or for a seat of, the theatre, circus, athletic grounds, or place of public entertainment or amusement, in conspicuous type, the price of the ticket, and the number on the seat when each seat is numbered. The owner, lessee, operator, or manager also shall print or endorse on the ticket the charge in excess of the box office price at which the ticket is sold if the ticket is purchased at a location other than the box office where the event occurs and the following statement: "This ticket may be purchased at the box office price without the surcharge by purchasing the ticket at the box office where the event is scheduled to occur."

(2) A person owning, occupying, managing, or controlling a building, room, park or enclosure for the sale of tickets for a theatre, circus, athletic game, or place of public entertainment or amusement, who asks, demands, or receives from a person for the sale of the ticket to a theatre, circus, athletic grounds, or place of public entertainment or amusement, a price in excess of the general admission advertised or charged for the same privilege, or a person, who by himself or herself or his or her agent or employee, offers for sale upon a public place or thoroughfare, a ticket to a theatre, circus, athletic grounds, or place of public entertainment or amusement, for admission to, or for a seat or other privilege in a theatre, circus, athletic grounds, or place of public entertainment or amusement, at a price in excess of that demanded or received from the general public for the same privilege, or in excess of the advertised or printed rate, shall be punished as provided in subsection (6), except if the request, demand, or receipt is with the written permission of the owner, lessee, operator, or manager of the theatre, circus, athletic grounds, or place of public entertainment or amusement where the event occurs. If the owner, lessee, operator, or manager permits, in writing, a charge in excess of the box office price, the permission shall be limited to the sales of tickets at locations other than the box office where the event occurs.

(3) Except as provided in subsections (1) and (2), a person shall not establish an agency or suboffice for the sale of a seat ticket of admission to a theatre, circus, athletic grounds, or place of public entertainment or amusement at a price greater than the sale of a seat ticket at the box office of the theatre, circus, athletic grounds, place of public entertainment or amusement, or in excess of the advertised price of the seat ticket.

(4) Except as provided in subsections (1) and (2), the owner, lessee, operator, or occupant of a building, room, enclosure, or other place open to the public, who permits a person to sell or exhibit for sale in the building, room, enclosure, or other place open to the public, 1 or more tickets for a theatre, circus, athletic grounds, or place of public entertainment or amusement, for more than the price printed on the ticket, shall be liable and guilty equally as the person.

(5) If the owner, lessee, operator, or manager of a circus, theatre, athletic grounds, or place of public entertainment or amusement has sold a ticket or admission to a person, under restrictive conditions and at a less rate than the general admission charged, and whose name appears on the face of the ticket or is registered in the office of the

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M.C.L.A. 750.465

owner, lessee, operator, or managers [FN1] as the holder of the ticket and if it is printed on the face of the ticket that the ticket is nontransferable and sold only to the person whose name appears on the face of the ticket or is registered, the holder of the ticket shall not sell the ticket to another person, and a person selling the ticket shall be punished as provided in subsection (6).

(6) A person who violates this section is guilty of a misdemeanor.

[FN1] So in enrolled bill.

HISTORICAL AND STATUTORY NOTES

2004 Main Volume

Source:

P.A.1931, No. 328, § 465, Eff. Sept. 18.
C.L.1948, § 750.465.
C.L.1970, § 750.465.
P.A.1979, No. 33, § 1, Imd. Eff. June 19.

The 1979 amendment rewrote this section, which prior thereto read:

"TICKET SCALPING--It shall be the duty of owners, lessees and managers of every theatre, circus, athletic grounds used for athletic games, places of public entertainment or amusement to have printed on all tickets issued for admission thereto or for seats of such theatre, circus, athletic grounds, place of public entertainment or amusement, in conspicuous type, the price of such ticket, and the number on the seat, when such seats are numbered.

"Any person owning, occupying, managing or controlling any building, room, park or enclosure for the sale of tickets for theatres, circuses, athletic games or places of public entertainment or amusement, who shall ask, demand or receive from any person for the sale of such ticket or tickets to a theatre, circus, athletic grounds or place of public entertainment, or amusement, a price in excess of the general admission advertised or charged for the same privilege, or any person, who by himself or his agent or employe, offers for sale upon any public place or thoroughfare, any such ticket or tickets to a theatre, circus, athletic grounds, or place of public entertainment or amusement, for admission thereto, or for a seat or other privilege therein, at a price in excess of that demanded or received from the general public for the same privilege, or in excess of the advertised or printed rate therefor, shall be punished as herein provided.

"It shall be unlawful for any person to establish an agency or sub-office for the sale of seat tickets of admission to a theatre, circus, athletic grounds or place of public entertainment or amusement, at a price greater than the sale of seats at the box office of such theatre, circus, athletic grounds, place of public entertainment or amusement, or in excess of the advertised price therefor.

"The owner, lessee or occupant of any building, room, enclosure or other place open to the public, who permits any person to sell or exhibit for sale in said building, room or enclosure, or other place open to the public, any ticket or tickets for theatre, circuses, athletic grounds, or place of public entertainment or amusement, for more than the price printed thereon, shall be equally liable and guilty as principal.

"Where the owners, lessees or managers of any circus, theatre, athletic grounds or place of public entertainment or amusement have sold tickets or admission thereto to specific persons, under restrictive conditions and at a less rate than the general admission charged, and whose names appear on the face of such tickets or are registered in the office of such owners, lessees or managers as the holder of such tickets and where it is printed on the face of such

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M.C.L.A. 750.465

tickets that they are non-transferable and sold only to the persons whose names appear on the face of such tickets or are registered, it shall be declared unlawful for the holders of such specific tickets to sell them to other persons, and any person selling such tickets shall be punished as herein provided.

"Any person violating any of the provisions of this section shall be guilty of a misdemeanor."

Prior Laws:

P.A.1907, No. 138, §§ 1 to 6.

C.L.1915, §§ 7152 to 7157.

C.L.1929, §§ 8894 to 8899.

CROSS REFERENCES

Misdemeanors, see §§ 750.8, 750.9, 750.504.

LAW REVIEW AND JOURNAL COMMENTARIES

Regulation of resale of tickets of admission to places of entertainment. 25 Mich.L.Rev. 880 (1927).

LIBRARY REFERENCES

2004 Main Volume

Theaters and Shows ↪9.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement; Sports §§ 102 to 103.

RESEARCH REFERENCES

2007 Electronic Pocket Part Update

ALR Library

81 ALR 3rd 655, Validity of State or Local Regulation Dealing With Resale of Tickets to Theatrical or Sporting Events.

Encyclopedias

Mich. Civ. Jur. Constitutional Law § 239, Commercial Speech.

Mich. Civ. Jur. Exhibitions & Amusements § 12, Resale of Tickets.

NOTES OF DECISIONS

Validity 1

1. Validity

City's amended anti-scalping ordinance violated commercial speech guarantees, to extent it prohibited sale of tickets below face value, in that city failed to demonstrate that it enacted amended ordinance to address traffic and

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M.C.L.A. 750.465

safety problems, and, even assuming it did, ordinance, with its broad reach, did not directly advance state interest involved. *Carroll v. City of Detroit*, E.D.Mich.2006, 410 F.Supp.2d 615, motion to certify denied 2006 WL 374755. Constitutional Law ⇌ 1764; Public Amusement And Entertainment ⇌ 5; Constitutional Law ⇌ 1600

City's original anti-scalping ordinance violated commercial speech guarantees, to extent it prohibited sale of tickets below face value, in that sale of tickets below face value was legal in Michigan, ordinance contained no statement of purpose, city provided no extrinsic evidence of substantial government interest, and ordinance's exception for "civic center entertainment facilities" prevented ordinance from advancing city's alleged interests in addressing traffic and safety concerns. *Carroll v. City of Detroit*, E.D.Mich.2006, 410 F.Supp.2d 615, motion to certify denied 2006 WL 374755. Constitutional Law ⇌ 1764; Public Amusement And Entertainment ⇌ 5; Constitutional Law ⇌ 1600

This section did not unconstitutionally delegate legislative authority to private individuals; promoter did not decide whether applicant was in violation of this section, but only whether applicant would be allowed to sell tickets at price higher than box office price. *People v. Trabucchi* (1987) 408 N.W.2d 563, 160 Mich.App. 792, appeal denied. Public Amusement And Entertainment ⇌ 5

M. C. L. A. 750.465, MI ST 750.465

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M.C.L.A. 432.107a

C

Michigan Compiled Laws Annotated Currentness

Chapter 432. Gaming

Traxler-mccauley-law-bowman Bingo Act (Refs & Annos)

→432.107a. Charity games; tickets; advertising

Sec. 7a. (1) All charity game tickets used in the conduct of a charity game shall be purchased by the qualified organization from the bureau or a supplier.

(2) The bureau shall determine the number of charity game tickets that constitute a charity game.

(3) The bureau shall determine the price at which the qualified organization shall resell each charity game ticket and shall have that price printed on each charity game ticket.

(4) The bureau or a supplier shall sell charity game tickets to a qualified organization that is eligible to conduct a charity game at a percentage, to be determined by the bureau, of the gross revenues that are realized by the resale of all the charity game tickets for that game at the price established by the bureau.

(5) The qualified organization shall retain 60% and the bureau shall retain 40% of the money obtained from the sale of charity game tickets.

(6) A qualified organization that conducts a charity game shall be solely responsible for paying prizes won by purchasers of winning charity game tickets.

(7) When all charity game tickets for a single charity game are resold, prizes distributed shall have an aggregate value of, as near as practicable, not less than 60% of the resale value of all the charity game tickets for that charity game.

(8) The bureau shall determine the number of winning charity game tickets provided on a random basis for resale for any 1 charity game and shall establish the value of the prize won by each winning charity game ticket.

(9) A charity game ticket shall not have a price for resale by a qualified organization of less than 30 cents.

(10) The bureau shall have a bureau control number for identification purposes imprinted upon each charity game ticket.

(11) A value of prizes awarded for a charity game shall not be included within the prize limitations of a licensed bingo game or millionaire party in conjunction with which the charity game is held.

(12) A charity game ticket shall not be sold to a person under 18 years of age. This subsection shall not prohibit the purchase of a charity game ticket by a person 18 years of age or older for the purpose of making a gift to a person under 18 years of age, and shall not prohibit a person under 18 years of age from receiving a prize or prizes won in a charity game conducted pursuant to this act.

CREDIT(S)

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M.C.L.A. 432.107a

P.A.1972, No. 382, § 7a, added by P.A.1981, No. 229, § 1, Imd. Eff. Jan. 12, 1982. Amended by P.A.1994, No. 118, § 1, Eff. April 1, 1995; P.A.1999, No. 108, Eff. March 10, 2000.

HISTORICAL AND STATUTORY NOTES

2001 Main Volume

The 1994 amendment, in subsec. (3), in the fourth sentence substituted "65%" for "60%"; and, in subsec. (5), substituted "\$300.00" for "\$200.00".

For effective date provisions of P.A.1994, No. 118, see the Historical and Statutory Notes following § 432.103.

P.A.1999, No. 108, rewrote this section, which read:

"Sec. 7a. (1) The bureau may authorize a qualified organization licensed to conduct a bingo game or a millionaire party to conduct a charity game in conjunction with and at the time and location of the licensed bingo game or the licensed millionaire party.

"(2) All charity game tickets used in the conduct of a charity game shall be purchased by the qualified organization from the bureau or a licensed supplier. The bureau shall determine the number of charity game tickets that constitute a charity game. The bureau also shall determine the price at which the qualified organization shall resell each charity game ticket and shall have that price printed on each charity game ticket.

"(3) The bureau or a licensed supplier shall sell charity game tickets to a qualified organization, which is eligible to conduct a charity game, at a percentage to be determined by the bureau, of the gross revenues which are realized by the resale of all the charity game tickets for that game at the price established by the bureau. The percentage retained by the qualified organization shall be equal to the percentage received by the bureau for the sale of charity game tickets. A qualified organization which conducts a charity game shall be solely responsible for paying prizes won by purchasers of winning charity game tickets. When all charity game tickets are resold for that game, prizes distributed shall have an aggregate value of, as near as practicable, not less than 65% of the resale value of all the charity game tickets for that charity game.

"(4) The bureau shall determine the number of winning charity game tickets provided on a random basis for resale for any 1 charity game and shall establish the value of the prize won by each winning charity game ticket.

"(5) A charity game ticket shall not have a price for resale by a qualified organization of less than 30 cents and a charity game shall not have a single maximum prize exceeding \$300.00.

"(6) The bureau shall have a bureau control number for identification purposes imprinted upon each charity game ticket.

"(7) A value of prizes awarded for a charity game shall not be included within the prize limitations of a licensed bingo game or millionaire party in conjunction with which the charity game is held.

"(8) A charity game ticket shall not be sold to a person under 18 years of age. This subsection shall not prohibit the purchase of a charity game ticket by a person 18 years of age or older for the purpose of making a gift to a person under 18 years of age, and shall not prohibit a person under 18 years of age from receiving a prize or prizes won in a charity game conducted pursuant to this act.

"(9) A qualified organization eligible to conduct a charity game shall not advertise the event, except to the extent and in the manner permitted by rule of the commissioner."

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M.C.L.A. 432.107a

For effective date provisions of P.A.1999, No. 108, see the Historical and Statutory Notes following § 432.102.

LIBRARY REFERENCES

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Gaming ⇨ 4.
Westlaw Topic No. 188.
C.J.S. Gaming §§ 14 to 25.

RESEARCH REFERENCES

2007 Electronic Pocket Part Update

Encyclopedias

Mich. Civ. Jur. Exhibitions & Amusements § 4, Minors.

Mich. Civ. Jur. Gambling § 30, Equipment and Tickets.

NOTES OF DECISIONS

In general 1/2 Validity 1

1/2. In general

The voter approval requirement of Const. 1963, art 4, § 41, does not apply to games that the commissioner of the bureau of state lottery may authorize pursuant to this act. Op.Atty.Gen.2006, No. 7190, 2006 WL 690823.

1. Validity

Legislature was authorized under State Constitution to reenact statute which excluded political committees, including political candidate committees, from among qualified organizations which could be licensed to conduct bingo games, during pendency of referendum process challenging initial enactment of statute excluding such groups from licensure; while initial statute was rendered ineffective upon invocation of referendum, unless approved by majority vote at next election, referendum did not have a broader effect, and did not prevent its reenactment. Reynolds v. Bureau of State Lottery (2000) 610 N.W.2d 597, 240 Mich.App. 84, appeal denied 624 N.W.2d 195, 463 Mich. 983. Statutes ⇨ 341

M. C. L. A. 432.107a, MI ST 432.107a

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MINNESOTA

M.S.A. § 609.806

Minnesota Statutes Annotated Currentness

Crimes, Criminals (Ch. 609-624)

⚡ Chapter 609. Criminal Code (Refs & Annos)

⚡ Crimes Relating to Business

➔ **609.806. Interfering with internet ticket sales**

(a) A person who intentionally uses or sells software to circumvent on a **ticket** seller's Web site a security measure, an access control system, or a control or measure that is used to ensure an equitable **ticket** buying process, is guilty of a misdemeanor.

(b) For the purposes of this section, "software" means **computer** programs that are primarily designed or produced for the purpose of interfering with the operation of any person or entity that sells, over the Internet, **tickets** of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind.

CREDIT(S)

Laws 2008, c. 245, § 1, eff. Aug. 1, 2008.

RULES OF CRIMINAL PROCEDURE

<Section 480.059, subd. 7, provides in part that statutes which relate to substantive criminal law found in chapter 609, except for sections 609.115 and 609.145, remain in full force and effect notwithstanding the Rules of Criminal Procedure.>

HISTORICAL AND STATUTORY NOTES

2009 Electronic Update

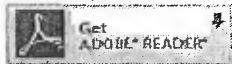
Laws 2008, c. 245, § 1, enacting this section, also provided that this section applies to offenses committed on or after August 1, 2008.

M. S. A. § 609.806, MN ST § 609.806

Current with laws of the 2009 Regular Session through Chapter 6

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MISSOURI

V.A.M.S. 67.306

Vernon's Annotated Missouri Statutes CurrentnessTitle VI. County, Township and Political Subdivision Government (Refs & Annos)*■ Chapter 67. Political Subdivisions, Miscellaneous Powers (Refs & Annos)*■ Miscellaneous Powers (Refs & Annos)**➔67.306. Sale or resale of tickets to legal events, charging of fee in connection with sale, not to be prohibited**

<Text of section effective November 28, 2007>

No regulation or ordinance of any city, county, or other political subdivision shall prohibit the sale or **resale** of an admission **ticket** to any legal event at any price or prohibit the charging of any fee in connection with such sale or **resale** except that nothing in this section shall be construed to prevent the enforcement of any regulation or ordinance relating to criminal activity, consumer fraud, false advertising, or other deceptive business practices.

CREDIT(S)

(L. 2007, 1st Ex.Sess., H.B. No. 1, § A, eff. Nov. 28, 2007.)

V. A. M. S. 67.306, MO ST 67.306

Statutes and Constitution are current through the end of the 2007 First Extraordinary Session of the 94th General Assembly. (State Revisor's corrections are not incorporated until they are received from the state.)

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West's Nevada Revised Statutes Annotated Currentness

Title 32. Revenue and Taxation

Chapter 368A. Tax on Live Entertainment

Imposition and Collection

→368A.200. Imposition and amount of tax; liability and reimbursement for payment; ticket for live entertainment must indicate whether tax is included in price of ticket; exemptions from tax

1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided. If the live entertainment is provided at a facility with a maximum occupancy of:

(a) Less than 7,500, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.

(b) At least 7,500, the rate of the tax is 5 percent of the admission charge to the facility.

2. Amounts paid for:

(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section.

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer are not taxable pursuant to this section.

3. A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.

4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If the ticket does not include such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.

5. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS.

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- (c) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.
 - (d) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.
 - (e) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than [six] 6 games, or any combination of slot machines and games within those respective limits, if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.
 - (f) Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.
 - (g) Live entertainment that is provided at a trade show.
 - (h) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.
 - (i) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.
 - (j) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.
 - (k) Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.
 - (l) Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:
 - (1) Not the predominant element of the attraction; and
 - (2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.
 - (m) Live entertainment that is provided to the public in an outdoor area, without any requirements for the payment of an admission charge or the purchase of any food, refreshments or merchandise.
 - (n) An outdoor concert, unless the concert is provided on the premises of a licensed gaming establishment.
 - (o) Beginning July 1, 2007, race events scheduled at a race track in this State as a part of the National Association for Stock Car Auto Racing Nextel Cup Series, or its successor racing series, and all races associated therewith.
 - (p) Live entertainment provided in a restaurant which is incidental to any other activities conducted in the restaurant or which only serves as ambience so long as there is no charge to the patrons for that entertainment.
6. The Commission may adopt regulations establishing a procedure whereby a taxpayer that is a licensed gaming establishment may request an exemption from the tax pursuant to paragraph (p) of subsection 5. The regulations must require the taxpayer to seek an administrative ruling from the Chairman of the Board, provide a procedure for appealing that ruling to the Commission and further describe the forms of incidental or ambient entertainment

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exempted pursuant to that paragraph.

7. As used in this section, "maximum occupancy" means, in the following order of priority:

(a) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;

(b) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or

(c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.

Added by Laws 2003 (20th ss), c. 5, § 78 [FN1]. Amended by Laws 2005, c. 484, § 10, eff. July 1, 2005; Laws 2005, (22nd ss), c. 9, § 38, eff. July 1, 2005.

[FN1] See Historical and Statutory Notes below for effective date information.

HISTORICAL AND STATUTORY NOTES

2003 Legislation

Laws 2003, c. 5 (20th ss), § 193, eff. July 22, 2003, provides:

"1. This section and sections 110, 120, 121, 122, 122.3, 122.4, 122.5, 127, 130, 141, 143, 145, 154 to 161, inclusive, 164.10 to 164.34, inclusive, 166.5, 170, 185, 185.5, 185.7, 185.9, 187 to 188.7, inclusive, and 190 to 192.5, inclusive, of this act and subsection 1 of section 186 of this act become effective upon passage and approval.

"2. Sections 189.58 and 189.64 of this act become effective upon passage and approval and apply retroactively to June 30, 2003.

"3. Sections 164.50, 164.60, 164.70, 165.2, 185.1, 185.3, 189, 189.10, 189. 14 to 189.56, inclusive, 189.60, 189.62 and 189.66 of this act become effective upon passage and approval and apply retroactively to July 1, 2003.

"4. Sections 122.1, 122.2, 169.5 and 173.5 of this act become effective on August 1, 2003.

"5. Sections 171 and 172 of this act and subsection 2 of section 186 of this act become effective:

"(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

"(b) On September 1, 2003, for all other purposes.

"6. Sections 1 to 10, inclusive, 11 to 50, inclusive, 51 to 63, inclusive, 101 to 109, inclusive, 111 to 119, inclusive, 123 to 126, inclusive, 128, 129, 131 to 140, inclusive, 147 to 153, inclusive, 163, 164, 165, 166, 167, 174, 176 to 179, inclusive, 181.30 to 181.50, inclusive, 183 and 183.3 of this act and subsection 3 of section 186 of this act become effective:

"(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

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"(b) On October 1, 2003, for all other purposes.

"7. Sections 10.5, 64 to 100, inclusive, 162, 164.38, 168, 169, 173, 173.7, 175, 180, 181 and 182 of this act and subsection 4 of section 186 of this act become effective:

"(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

"(b) On January 1, 2004, for all other purposes.

"8. Sections 183.5 and 184 of this act become effective:

"(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

"(b) On July 1, 2004, for all other purposes.

"9. Sections 165.4 and 189.12 of this act become effective on July 1, 2004.

"10. Sections 50.5, 109.5 and 119.5 of this act become effective:

"(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

"(b) On July 1, 2005, for all other purposes.

"11. Sections 142, 144 and 146 of this act become effective at 12:01 a.m. on October 1, 2029.

"12. Sections 154 to 160, inclusive, of this act expire by limitation on June 30, 2005.

"13. Sections 141, 143 and 145 of this act expire by limitation on September 30, 2029."

Laws 2003 (20th ss), c. 5, § 190, Subsec. 5, eff. July 22, 2003, provides:

"5. Sections 65 to 100, inclusive, of this act apply to any taxable receipts that are collected pursuant to the provisions of those sections on or after January 1, 2004."

2005 Legislation

Technical corrections were made to conform with Legislative Counsel Bureau revisions (2005).

N. R. S. 368A.200, NV ST 368A.200

Current through the 2005 73rd Regular Session and the 22nd Special Session of the Nevada Legislature, statutory and constitutional provisions effective as a result of approval and ratification by the voters at the November 2006 General Election, and technical corrections received from the Legislative Counsel Bureau (2006).

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NEW JERSEY

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N.J.S.A. 56:8-27

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Effective: April 08, 2002

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→56:8-27. Resale of tickets for admission to places of entertainment; place of business; licensing requirement

No ticket broker shall engage in or continue in the business of reselling tickets for admission to a place of entertainment without meeting the following requirements:

- a. Owning, operating or maintaining a permanent office, branch office, bureau, agency, or other place of business, not including a post office box, for the purpose of reselling tickets ;
- b. Obtaining a certificate of registration to resell or engage in the business of reselling tickets from the director;
- c. Listing the ticket broker's registration number in any form of advertisement or solicitation in which tickets are being sold for the purpose of purchase by the general public for events in this State;
- d. Maintaining records of ticket sales, deposits and refunds for a period of not less than two years from the time of any of these transactions;
- e. Disclosing to the purchaser, by means of verbal description or a map, the location of the seats represented by the tickets;
- f. Disclosing to the purchaser the cancellation policy of that broker;
- g. Disclosing that a service charge is added by the ticket broker to the stated price on the tickets and is included by the broker in any advertisement or promotion for an event;
- h. Disclosing to the purchaser, whenever applicable, that the ticket broker has a guarantee policy. If a ticket broker guarantees delivery of tickets to a purchaser and fails to deliver the tickets, the ticket broker shall provide a full refund for the cost of the tickets;
- i. Disclosing to the purchaser of tickets when he is utilizing a tentative order policy, popularly known as a "try and get." When a ticket broker fails to obtain tickets on a "try and get" basis, the broker shall refund any deposit made by a purchaser of those tickets within a reasonable time, as shall be determined by the director;
- j. When guaranteeing tickets in conjunction with providing a tour package, a ticket broker who fails to provide a purchaser with those tickets shall refund fully the price of the tour package and tickets; and
- k. Providing to a purchaser of tickets who cancels an order a full refund for the cost of the tickets less shipping charges, if those tickets are returned to the broker within three days after receipt; provided, that when tickets are purchased within seven days of an event, a refund shall be given only if the tickets are returned within one day of

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N.J.S.A. 56:8-27

receipt; and further provided, that no refund shall be given on any tickets purchased within six days of an event unless the ticket broker is able to resell the tickets.

CREDIT(S)

L.1983, c. 135, § 2. Amended by L.1983, c. 220, § 2; L.2001, c. 394, § 2, eff. April 8, 2002..

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2001 Legislation

L.2001, c. 394, § 13, approved Jan. 8, 2002, provides:

"This act shall take effect on the 90th day following enactment."

2001 Main Volume

Effective dates of L.1983, c. 135, and L.1983, c. 220, see note under § 56:8- 26.

ADMINISTRATIVE CODE REFERENCES

Resale of tickets of admission to places of entertainment, see N.J.A.C. 13:45A-20.1 et seq.

NOTES OF DECISIONS

Validity 1

1. Validity

This act did not place unconstitutional burden on interstate commerce, notwithstanding contention that the act "putatively" prohibited "foreign" ticket brokers from selling tickets to state events, even if permitted by foreign states; even if tickets were normally sold in foreign states, resulting burden on interstate commerce was not so excessive as to constitute invalidating restriction, and the act was in fact limited in application to reselling of tickets within state. *New Jersey Ass'n of Ticket Brokers v. Ticketron*, 226 N.J.Super. 155, 543 A.2d 997 (A.D.1988), certification denied 113 N.J. 364, 550 A.2d 471, certification denied 113 N.J. 365, 550 A.2d 472. Commerce ⇨ 62.7; Public Amusement And Entertainment ⇨ 5

N. J. S. A. 56:8-27, NJ ST 56:8-27

Current through L.2007, c. 116 and J.R. No. 7

N.J.S.A. 56:8-27

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N.J.S.A. 56:8-28

Effective: April 08, 2002

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→56:8-28. Application for license

a. The division shall prepare and furnish to applicants for registration application forms and requirements prescribed by the director pertaining to the applications for and the issuance of certificates of registration to ticket brokers.

b. Every applicant for a certificate of registration to engage in the business of reselling tickets as a ticket broker shall file a written application with the division on the form furnished by, and consistent with, the regulations prescribed by the director.

c. Each application shall be accompanied by a fee which shall be determined by the director and shall not exceed \$500, and a description of the location where the applicant proposes to conduct his business.

CREDIT(S)

L.1983, c. 135, § 3. Amended by L.2001, c. 394, § 3, eff. April 8, 2002.

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2001 Legislation

L.2001, c. 394, § 13, approved Jan. 8, 2002, provides:

"This act shall take effect on the 90th day following enactment."

2001 Main Volume

Effective date, see note under § 56:8-26.

LIBRARY REFERENCES

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Theaters and Shows ⇐ 3.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement; Sports §§ 18, 19, 22, 25 to 37.

N. J. S. A. 56:8-28, NJ ST 56:8-28

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N.J.S.A. 56:8-29

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

➔56:8-29. Issuance of license; renewal; transfer or assignment; change in location; term of license

- a. Within 120 days after receipt of the completed application, fee and bond, if any, and when the director is satisfied that the applicant has complied with all of the requirements of this act, the director shall grant and issue a certificate of registration to the applicant.
- b. The certificate of registration granted may be renewed for a period of two years upon the payment of a renewal fee which shall be determined by the director and shall not exceed \$500.
- c. No certificate of registration shall be transferred or assigned without the approval of the director. Any request for a change in the location of the premises operated by any registrant situated in and operating in this State shall be submitted to the director in writing no less than 30 days prior to that relocation. The certificate of registration shall run to January 1 in the second year next ensuing the date thereof unless sooner revoked by the director.

CREDIT(S)

L.1983, c. 135, § 4. Amended by L.2001, c. 394, § 4, eff. April 8, 2002.

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2001 Legislation

L.2001, c. 394, § 13, approved Jan. 8, 2002, provides:

"This act shall take effect on the 90th day following enactment."

2001 Main Volume

Effective date, see note under § 56:8-26.

N. J. S. A. 56:8-29, NJ ST 56:8-29

Current through L.2007, c. 157 and J.R. No. 10

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N.J.S.A. 56:8-30

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

➔56:8-30. Bond

The director shall require the applicant for a certificate of registration to engage in the business of reselling tickets as a ticket broker to file with the application a bond in the amount of \$10,000.00 with two or more sufficient sureties or an authorized surety company, which bond shall be approved by the director.

Each bond shall be conditioned on the promise that the applicant, his agents or employees will not be guilty of fraud or extortion, will not violate any of the provisions of this act, will comply with the rules and regulations promulgated by the director, and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud or deceit or any unlawful act or omission in connection with the provisions of this act and the business conducted under this act.

CREDIT(S)

L.1983 c. 135, § 5. Amended by L.2001, c. 394, § 5, eff. April 8, 2002.

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2001 Legislation

L.2001, c. 394, § 13, approved Jan. 8, 2002, provides:

"This act shall take effect on the 90th day following enactment."

2001 Main Volume

Effective date, see note under § 56:8-26.

N. J. S. A. 56:8-30, NJ ST 56:8-30

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N.J.S.A. 56:8-31

Effective: [See Text Amendments]

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→ 56:8-31. Revocation or suspension of license

The director, after notice to the licensee and reasonable opportunity for the licensee to be heard, may revoke his license or may suspend his license for any period which the director deems proper, upon satisfactory proof that the licensee has violated this act, any condition of his license or any rule or regulation of the division promulgated pursuant to this act.

CREDIT(S)

L.1983, c. 135, § 6.

HISTORICAL AND STATUTORY NOTES

2001 Main Volume

Effective date, see note under § 56:8-26.

N. J. S. A. 56:8-31, NJ ST 56:8-31

Current through L.2007, c. 157 and J.R. No. 10

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N.J.S.A. 56:8-32

Effective: [See Text Amendments]

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→ 56:8-32. Display of license; copies

Immediately upon the receipt of the license issued pursuant to this act, the licensee shall display and maintain his license in a conspicuous place in his principal office for reselling tickets. He shall request copies of the license from the director for the purpose of displaying a copy of the license in each branch office, bureau or agency and the director may charge a fee for the copies.

CREDIT(S)

L.1983, c. 135, § 7.

HISTORICAL AND STATUTORY NOTES

2001 Main Volume

Effective date, see note under § 56:8-26.

N. J. S. A. 56:8-32, NJ ST 56:8-32

Current through L.2007, c. 157 and J.R. No. 10

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Effective: August 5, 2008

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→ **56:8-33. Price charged printed on tickets and included in advertisements; maximum premium**

a. Each place of entertainment shall print on the face of each ticket and include in any advertising for any event the price charged therefor.

b. No person other than a registered ticket broker shall resell or purchase with the intent to resell a ticket for admission to a place of entertainment at a maximum premium in excess of 20% of the ticket price or \$3.00, whichever is greater, plus lawful taxes. No registered ticket broker shall resell or purchase with the intent to resell a ticket for admission to a place of entertainment at a premium in excess of 50% of the price paid to acquire the ticket, plus lawful taxes.

c. Notwithstanding the provisions of subsection a. or b. of this section, nothing shall limit the price for the resale or purchase of a ticket for admission to a place of entertainment sold by any person other than a registered ticket broker, provided such resale or purchase is made through an Internet web site.

CREDIT(S)

L.1983, c. 135, § 8. Amended by L.1983, c. 220, § 3; L.2001, c. 394, § 6, eff. April 8, 2002; L.2008, c. 55, § 2, eff. Aug. 5, 2008.

HISTORICAL AND STATUTORY NOTES

2001 Main Volume

Effective dates of L.1983, c. 135, and L.1983, c. 220, see note under § 56:8-26.

2011 Electronic Update

2001 Legislation



L.2001, c. 394, § 13, approved Jan. 8, 2002, provides:



“This act shall take effect on the 90th day following enactment.”


NOTES OF DECISIONS

Validity I

1. Validity

Claim by parties challenging constitutionality of antiticket-scalping provisions, that restrictions imposed upon resale of tickets was inappropriate and unnecessary legislative response to abuses which existed, was insufficient to overcome statute's presumption of validity. *New Jersey Ass'n of Ticket Brokers v. Ticketron*, 226 N.J.Super. 155, 543 A.2d 997 (A.D.1988), certification denied 113 N.J. 364, 550 A.2d 471, certification denied 113 N.J. 365, 550 A.2d 472. Constitutional Law  1007; Public Amusement And Entertainment  5

State antiticket-scalping act satisfied due process under both State and Federal Constitutions; act addressed abuses found to exist in reselling of tickets, was reasonably related to proper legislative purpose, and promoted public welfare without discrimination or arbitrariness. *New Jersey Ass'n of Ticket Brokers v. Ticketron*, 226 N.J.Super. 155, 543 A.2d 997 (A.D.1988), certification denied 113 N.J. 364, 550 A.2d 471, certification denied 113 N.J. 365, 550 A.2d 472. Constitutional Law  4509(1); Public Amusement And Entertainment  5

Ticket brokers could not prevail on claim that this act was discriminatory in not permitting them fair rate of return, in absence of any facts or figures to show that business of ticket brokerage could not operate within price restrictions. *New Jersey Ass'n of Ticket Brokers v. Ticketron*, 226 N.J.Super. 155, 543 A.2d 997 (A.D.1988), certification denied 113 N.J. 364, 550 A.2d 471, certification denied 113 N.J. 365, 550 A.2d 472. Public Amusement And Entertainment  5

N. J. S. A. 56:8-33, NJ ST 56:8-33

Current with laws effective through L.2011, c. 67 and J.R. No. 5.

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N.J.S.A. 56:8-34

C

Effective: April 08, 2002

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→56:8-34. Ticket sales in vicinity of place of entertainment

a. No person shall resell or purchase with the intent to resell any ticket, in or on any street, highway, driveway, sidewalk, parking area, or common area owned by a place of entertainment in this State, or any other area adjacent to or in the vicinity of any place of entertainment in this State as determined by the director; except that a person may resell, in an area which may be designated by a place of entertainment in this State, any ticket or tickets originally purchased for his own personal or family use at no greater than the lawful price permitted under this act.

CREDIT(S)

L.1983, c. 135, § 9. Amended by L.1983, c. 220, § 4; L.2001, c. 394, § 7, eff. April 8, 2002.

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2001 Legislation

L.2001, c. 394, § 13, approved Jan. 8, 2002, provides:

"This act shall take effect on the 90th day following enactment."

2001 Main Volume

Effective dates of L.1983, c. 135, and L.1983, c. 220, see note under § 56:8- 26.

NOTES OF DECISIONS

Validity 1

I. Validity

Claim by parties challenging constitutionality of antiticket-scalping provisions, that restrictions imposed upon resale of tickets was inappropriate and unnecessary legislative response to abuses which existed, was insufficient to overcome statute's presumption of validity. *New Jersey Ass'n of Ticket Brokers v. Ticketron*, 226 N.J.Super. 155, 543 A.2d 997 (A.D.1988), certification denied 113 N.J. 364, 550 A.2d 471, certification denied 113 N.J. 365, 550 A.2d 472. Constitutional Law ⇨ 48(4.1); Public Amusement And Entertainment ⇨ 5

N. J. S. A. 56:8-34, NJ ST 56:8-34

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N.J.S.A. 56:8-34

Current through L.2007, c. 157 and J.R. No. 10

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N.J.S.A. 56:8-35

Effective: [See Text Amendments]

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→ 56:8-35. Special treatment in obtaining tickets; prohibition

Any person who gives or offers anything of value to an employee of a place of entertainment in exchange for, or as an inducement to, special treatment with respect to obtaining tickets, or any employee of a place of entertainment who receives or solicits anything of value in exchange for special treatment with respect to issuing tickets, shall be in violation of this act.

CREDIT(S)

L.1983, c. 135, § 10. Amended by L.1983, c. 220, § 5.

HISTORICAL AND STATUTORY NOTES

2001 Main Volume

Effective dates of L.1983, c. 135, and L.1983, c. 220, see note under § 56:8- 26.

N. J. S. A. 56:8-35, NJ ST 56:8-35

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N.J.S.A. 56:8-35.1

Effective: April 08, 2002

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→56:8-35.1. Unlawful withholding of event tickets under certain circumstances

It shall be an unlawful practice for a person, who has access to tickets to an event prior to the tickets' release for sale to the general public, to withhold those tickets from sale to the general public in an amount exceeding 5% of all available seating for the event.

CREDIT(S)

L.2001, c. 394, § 8, eff. April 8, 2002.

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2001 Legislation

L.2001, c. 394, § 13, approved Jan. 8, 2002, provides:

"This act shall take effect on the 90th day following enactment."

N. J. S. A. 56:8-35.1, NJ ST 56:8-35.1

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N.J.S.A. 56:8-35.2

Effective: April 08, 2002

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→ 56:8-35.2. Special event ticket purchase; refund

A purchaser of tickets who places a special order with a ticket broker for tickets that are not in stock or are obtained for a purchaser's specific need and are paid for in advance by the ticket broker, shall not be eligible to receive a refund for that purchase unless the ticket broker is able to find someone else to purchase the tickets and as long as the purchaser is notified in advance of this policy.

CREDIT(S)

L.2001, c. 394, § 9, eff. April 8, 2002.

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2001 Legislation

L.2001, c. 394, § 13, approved Jan. 8, 2002, provides:

"This act shall take effect on the 90th day following enactment."

N. J. S. A. 56:8-35.2, NJ ST 56:8-35.2

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N.J.S.A. 56:8-35.3

C

Effective: April 08, 2002

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

■ Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→ 56:8-35.3. Method for lawful sell back of tickets under certain circumstances

The director and places of entertainment shall create a method for season ticket holders and other ticket holders to lawfully sell back tickets to the venue for events they will not be able to attend.

CREDIT(S)

L.2001, c. 394, § 11, eff. April 8, 2002.

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2001 Legislation

L.2001, c. 394, § 13, approved Jan. 8, 2002, provides:

"This act shall take effect on the 90th day following enactment."

N. J. S. A. 56:8-35.3, NJ ST 56:8-35.3

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N.J.S.A. 56:8-35.4

Effective: April 08, 2002

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→ 56:8-35.4. Digger usage for ticket acquisition unlawful

It shall be an unlawful practice for a person to use a digger to acquire any ticket.

CREDIT(S)

L.2001, c. 394, § 12, eff. April 8, 2002.

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2001 Legislation

L.2001, c. 394, § 13, approved Jan. 8, 2002, provides:

"This act shall take effect on the 90th day following enactment."

N. J. S. A. 56:8-35.4, NJ ST 56:8-35.4

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N.J.S.A. 48:3-36

Effective: [See Text Amendments]

New Jersey Statutes Annotated Currentness

Title 48. Public Utilities (Refs & Annos)

Chapter 3. Public Utilities in General (Refs & Annos)

Article 6. General Provisions

→48:3-36. Ticket agents; certificate of authority; selling without certificate; penalty

Every agent authorized to sell tickets or other evidence entitling the holder to travel on any railroad, steamboat or other public conveyance, shall have a certificate from the owner or persons operating the public conveyance setting forth the authority of the agent to make such sale, signed by the officer whose name is signed upon the tickets or coupons which such agent may sell.

The agent shall exhibit the certificate to any person desiring to purchase a ticket, or to any officer of the law who may so request and shall keep the certificate conspicuously posted in his office.

Any person not possessed of such certificate of authority, who shall sell or transfer any coupon or part of any ticket or other evidence entitling the holder to travel on any such public conveyance, whether the same be situated, operated or owned within or without this state, shall be guilty of a misdemeanor and punished by a fine not exceeding five hundred dollars or imprisonment not exceeding one year, or both.

HISTORICAL AND STATUTORY NOTES

1998 Main Volume

Source: L.1904, c. 177, § 2, p. 322 [C.S. p. 368, § 2].**CROSS REFERENCES**

Autobusses, see N.J.S.A. § 48:4-1 et seq.

Ferries and steamboats, see N.J.S.A. § 48:8-1 et seq.

Horse drawn vehicles operated for hire, see N.J.S.A. § 48:16A-1 et seq.

Railroads, see N.J.S.A. § 48:12-1 et seq.

Steamboats, see N.J.S.A. § 48:8-10 et seq.


Street railways, see N.J.S.A. § 48:15-1 et seq.

LIBRARY REFERENCES

1998 Main Volume

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N.J.S.A. 48:3-36

Licenses  11(3), 41.
Westlaw Topic No. 238.
C.J.S. Licenses §§ 34, 78 to 81.

N. J. S. A. 48:3-36, NJ ST 48:3-36

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N.J.S.A. 56:8-38

C

Effective: [See Text Amendments]

New Jersey Statutes Annotated Currentness

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, Etc., in Sales or Advertisements of Merchandise (Refs & Annos)

→56:8-38. Nonprofit or political organizations; application of act

The provisions of this act shall not apply to any person who sells, raffles or otherwise disposes of the ticket for a bona fide nonprofit or political organization when the premium proceeds are devoted to the lawful purposes of the organization.

CREDIT(S)

L.1983, c. 135, § 13.

HISTORICAL AND STATUTORY NOTES

2001 Main Volume

Effective date, see note under § 56:8-26.

NOTES OF DECISIONS

Validity 1

I. Validity

Exclusion of one ticket agent and various nonprofit and political organizations from coverage of antiticket-scalping provisions did not violate ticket brokers' rights under equal protection clause of State and Federal Constitutions; agent's position was based upon contractual agreement between it and state rather than on any discriminatory classification made in this act, and there was no impermissible classification in exemption of organizations from the act provided that proceeds of any ticket resales were used for lawful purposes. *New Jersey Ass'n of Ticket Brokers v. Ticketron*, 226 N.J.Super. 155, 543 A.2d 997 (A.D.1988), certification denied 113 N.J. 364, 550 A.2d 471, certification denied 113 N.J. 365, 550 A.2d 472. Constitutional Law ⇨ 230.3(6); Public Amusement And Entertainment ⇨ 5

N. J. S. A. 56:8-38, NJ ST 56:8-38

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New Mexico

NM ST § 30-46-1

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N. M. S. A. 1978, § 30-46-1

▷

West's New Mexico Statutes Annotated Currentness

■ Chapter 30. Criminal Offenses

■ Article 46. Ticket Scalping

→ § 30-46-1. Ticket scalping

A. Ticket scalping consists of selling, offering for sale or attempting to sell any ticket, privilege, license, admission or pass to any college athletic event at a price greater than the price charged at the place of admission or printed on the ticket.

B. The sale of each ticket, privilege, license, admission or pass in violation of this section shall constitute a separate offense.

C. Nothing in this section shall prohibit charging a fee for services rendered in connection with the sale of a ticket privilege, license, admission or pass to an event if the fee is permitted pursuant to a contract between the ticket seller and the sponsor or promoter of the event.

D. Whoever commits ticket scalping is guilty of a misdemeanor and upon conviction shall be punished by a fine up to five hundred dollars (\$500) or by imprisonment for a definite term of less than one year, or both.

L. 1989, Ch. 142, § 1.

CROSS REFERENCES

Accessories, aiding or abetting a crime, see § 30-1-13.

Indigent Defense Act, see § 31-16-1 et seq.

Sentences for misdemeanors and petty misdemeanors, see § 31-19-1.

LIBRARY REFERENCES

Theaters and Shows ↔4.

Westlaw Key Number Search: 376k4.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 47 to 48, 50 to 51.

RESEARCH REFERENCES

Forms

30 West's Legal Forms § 34.8.

NMSA 1978, § 30-46-1, NM ST § 30-46-1

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NM ST § 30-46-1

Page 2

N. M. S. A. 1978, § 30-46-1

Current through laws effective June 15, 2007 of the First Regular Session and
June 28, 2007 of the First Special Session of the 48th Legislature (2007)

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NEW YORK

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McKinney's Arts and Cultural Affairs Law Ch. 11-C, T. G, Refs & Annos

McKinney's Consolidated Laws of New York Annotated [Currentness](#)

Arts and Cultural Affairs Law

Chapter 11-C. Of the Consolidated Laws

[Title G. Regulation of Sale of Theatre Tickets](#)

SUPPLEMENTARY PRACTICE COMMENTARIES

2007 Electronic Update

by Elizabeth Block

2007

Elizabeth Block is an Assistant Attorney General of the State of New York. The opinions and observations expressed in the commentary are the opinions and observations of the author and are not to be construed in any fashion as the formal or informal opinions of the New York State Department of Law or the New York Attorney General.

2007 Legislation

Introduction

This was a banner year for the **ticket resale** industry in New York. The headline is: "New York Repeals Anti-ticket Scalping Law." This long-sought repeal legitimizes the *de facto* practices of the huge underground economy in the **ticket resale** market. Legalization affirms what every New York ticket buyer already knows--that tickets to sought after events will be distributed to those consumers and businesses that can afford to pay the highest prices outside the normal distribution channels, such as box offices, ticket outlets and subscription lists, and not to the fans and members of the public who wait on lines or accept poor tickets months in advance or camp outside sports arenas at play-off time.

Repeal of Anti-scalping Provisions

The most significant change to Article 25 of the Arts and Cultural Affairs Law ("ACAL" or the **Ticket Resale** Law), enacted in 2007 (L. 2007, c.61) is the repeal of the maximum premium price provision which was in ACAL § 25.03 (4) and the provision which made it a misdemeanor to **resell tickets** above that price (ACAL, § 25.05). References to the maximum premium price have been deleted in other provisions. (See, e.g., ACAL, §§ 25.07 and 25.08 (2) repealing the requirement of printing the maximum premium price on the ticket). The maximum premium price provision had existed since the first law governing ticket sales practices in New York was enacted in 1922 as Article 10-B of the General Business Law ("GBL") (L.1922, c.590), though the dollar amount of the permitted mark-up had increased over the years from 50 cents to 20 percent over the established price of the ticket for venues with a seating capacity of 6000 or fewer or 45 percent over the established price for venues seating over 6000. Indeed, the initial justification for a law that arguably infringed upon a private contract of sale was to safeguard the public against "fraud, extortion, exorbitant rates and similar abuses" (GBL, § 167) and to eliminate "gross profiteering" by "ticket scalpers" (Memorandum of Governor Miller). These early objectives remained the consistent rationale for the continuation of the **Ticket Resale** Law in its several iterations over the years (in 1983, the General Business Law covering ticket sales was repealed and reenacted, substantively unchanged, as ACAL) until 2007.

Numerous lobbyists and commentators have argued against the anti-scalping or minimum premium price provision of ACAL over the years. No matter how they have stated them, the gist of their arguments always rested on two premises: 1) That the law was only intermittently enforced and that it was generally unenforceable; and 2) That allowing the resale price of tickets to float freely and to be regulated by the mechanism of the so-called "free market" would actually bring ticket prices down.

The problem with the second of the arguments, above, is that the resale market in tickets can never simulate the supply and demand model of a genuine free market because the supply cannot increase to meet demand. It is, of course, limited by the number of seats available in any given venue (minus the number of seats held back for, among others, producers, promoters, sponsors, business affiliates and associates, performers, other insiders, fan clubs and resellers who pay bribes or "ice" for access to good seats). (See, Andrew Kandel and Elizabeth Block, "De-Icing of Ticket Prices: A proposal Addressing the problem of Commercial Bribery in the New York Ticket Industry" 5 J. L. & Pol'y, 489-509 (1997)). The "free market" theory, nevertheless, has cache. It has been consistently argued by its proponents that the elimination of anti-scalping laws would actually bring down the price of tickets. Data purporting to show this result by contrasting ticket prices in free markets as compared to those in "restricted" markets generally fall into the error of averaging the price of all seats in a venue, from the best seats in the house to the "nosebleed" section; and by combining the most sought-after events (e.g. games between two competitive teams) with the least popular (See, Comparison of Ticket Prices, presented by East Coast Ticket Brokers Association at *Hearing Before Assembly Comm. On Tourism, Arts & Sports Development*, October 5, 1995). In 1995, The State of New Jersey, responding to the lobbying efforts of the ticket broker industry, enacted an eighteen month experiment regarding the effect of the removal of its statutory price "caps" on the price of tickets on the resale market. (N.J. Stat. Ann. § 56:8-27 to 39) (West 1989). The results of this study were published by the New Jersey Attorney General in May, 1998. The study determined that "there is no persuasive evidence that suggests that the so-called free market approach to **ticket resales** has lowered prices or made more tickets available to consumers."

In recent years, commentators have pointed to the advent of internet providers of tickets to argue that the greater competitiveness and transparency that they bring to the marketplace would also serve to bring the price of tickets down. (See, New York State Memorandum in Support of A7526A, which states, "It is ... expected that with greater participation and competition in the secondary **resale** marketplace, **ticket resale** prices may even drop.") Moreover, blending the arguments that ticket prices will drop with the argument that old model anti-scalping laws are more difficult to enforce against internet ticket providers, the Assembly sponsors of the 2007 ACAL revisions, submit the vague rationale that: "As new business models for electronic **ticket resale** continue to emerge, any enforcement ... become[s] more elusive." (New York State Assembly, Memorandum in Support of A7526A).

As the Memorandum in Support further states, ACAL includes long-arm jurisdiction over transactions by any means, including by *internet*, for resales emanating from outside New York for all New York events. (See, definition of resale, ACAL, § 25.03 (8). New York's jurisdiction over out-of-state ticket resellers has not been at issue since the 1995 *Concert Connection* case ended any doubts about the clear statutory language of ACAL (at that time resale was defined as a transaction in which either the buyer or the seller were located in New York) and its legislative intent. *People v. Concert Connection* (2d Dept. 1995) 211 A.D.2d 310, 629 N.Y.S.2d 254, 658 N.E.2d 223.

Thus, while jurisdiction over internet providers is not in and of itself an issue, whether law enforcement officials should divert scarce resources from arguably more urgent and compelling problems has certainly been a factor in such officials' exercise of discretion. The Attorney General's office has undertaken several criminal investigations and subsequent court actions involving fraudulent ticket distribution schemes in the past ten years. Among these was *People v. Joseph Nekola*, Nassau Co. Sup. Ct., Indictment number 98-908, involving the diversion to resellers (scalpers) of large blocks of tickets from the box office of

the Jones Beach Marine Theatre in exchange for bribes ("ice") of \$20 to \$25 per ticket. (See, Elizabeth Block, Practice Commentary, N.Y. Arts & Cult. Aff. Law tit. G, Art. 25 (McKinney Supp. 1998)). In cases such as this one, the bribery and the subsequent reselling of the tickets so obtained by the payers of the bribe are so intrinsically entwined, that the investigation would not have been possible without the leverage of being able to charge the resellers with violations of the anti-scalping law. It is agreed by commentators--even those, most strenuously opposed to anti-scalping laws--that insiders and the payment of "ice" irreparably damage and distort the ticket distribution system. James J. Atkinson, University of Notre Dame, states:

[T]here will always be ticket scalping, illegal or not. Of course, practices such as "ice" should certainly be outlawed and severely punished, as this is akin to illegal and unfair insider trading within the stock market.¹

What comments, such as the above cited, fail to acknowledge, and perhaps fail to recognize, is that the repeal of anti-scalping provisions, in New York and other states, greatly diminishes the ability of prosecutors to pursue the acknowledged market-distorting practice of "ice." This may be the greater damage done by this amendment. Ticket scalping, as some have said, may indeed be a way of life, but, law makers in New York, and elsewhere, have simply not adequately dealt with restricting the availability of tickets in the resale market at their source. In the end, the ticket scalper, whether operating from a physical location or in cyberspace, is an individual who obtained a scarce ticket that ordinary ticket consumers were not able to access on their own and could not obtain without paying an exorbitant price. This is not about a homeless person who was willing to wait on line, although this is one way large resale businesses obtain tickets. See, "Why Can't I Get Tickets?" Report on Ticket Distribution Practices (1999). It is about individuals who profit from their unique access to the original source of tickets and the huge amount of money that changes hands in these hidden transactions.

Businesses and individuals that already pay the prices that the secondary market for scarce tickets command will not be affected by the repeal of the anti-scalping law. Ordinary consumers appear to be so inured to high prices and being excluded from desirable seats that this change will not cause a ripple in their lives. However, the economics of the industry are beginning to change. There is some evidence that primary market ticket sellers (original ticket distributors), who were always free to set their own price on their tickets, are beginning to raise their prices and are, in fact, accessing the excess profits in the market directly, thereby squeezing out the middlemen or profiteers. Broadway theatres, particularly, are beginning to differentiate their seating, creating premium sections with seats that are selling for hundreds of dollars more than the less desirable seats in the house. These changing conditions, while not necessarily good for consumers, may change the face of the secondary market in tickets to a greater extent than the recent revisions in ACAL.

Licensing with Secretary of State

The centralization of the licensing and bonding provisions of ACAL with the Secretary of State is a long overdue correction of a serious defect in the prior law. Previously, ticket resellers were required to obtain a license to conduct business from *the commissioner of licenses of the political subdivision in which such person intended to conduct business*. (ACAL, § 25.13) and to post a bond with the application for such license (ACAL, § 25.15). This provision became unworkable when ticket resellers no longer conducted their business from storefronts in the theatre district, but began to conduct their business without regard to county, or even state, borders, by mail, over the telephone, and ultimately over the Internet. Adding to the folly of this requirement was the fact that most counties in New York do not have Commissioners of Licenses or anyone who performs the function of licensing. The supervision and regulation of licensees will also be vested in the of the Secretary of State's office. (See, ACAL, §§ 25.17, 25.21, 25.25). These changes can only be welcome to all the frustrated applicants for a ticket broker's license who wanted to legally conduct business, but didn't know where to turn.

Prohibition on Restricting Resale by Season Ticket Holders

Recently, professional sports teams in New York have placed restrictions on how their subscribers and season ticket holders may **resell** their **tickets**. The teams have attempted to control **resale** of **tickets** to their events by cancelling or threatening to cancel the season tickets of fans who resell them except on a website operated by the team. The Yankees, for example, have attempted to control the secondary market for their tickets by prohibiting their resale, except on their authorized ticket exchange website. Pursuant to a new section of ACAL (ACAL, § 25.30) such restrictions on resales are prohibited.

Conclusion

New York has now joined the ranks of states that do not regulate the price at which tickets can be resold. (Illinois, 720 ILCS 375 *et seq.* and Florida, s. 817.36 *et seq.* have recently taken similar steps). Whatever the basis on which this action was taken, New Yorkers await the results of the much touted new economic model for distributing the scarce resource tickets represent and the promised advantage of lower ticket prices.

¹ Atkinson, James J., The Economics of Ticket Scalping (2004), <http://www.jimmyatkinson.com/papers/ticketscalping.html>

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Elizabeth Block is an Assistant Attorney General of the State of New York. The opinions and observations expressed in the commentary are the opinions and observations of the author and are not to be construed in any fashion as the formal or informal opinions of the New York State Department of Law or the New York Attorney General.

2005 Legislation

Introduction

Major changes to the law regulating the sale of tickets, Article 25 of the Arts and Cultural Affairs Law (ACAL), otherwise referred to as the **Ticket Resale Law**, were afoot in 2005. However, certain proposed changes did not make it into a series of three bills signed by Governor Pataki on June 14, 2005 (L.2005, c.106; L.2005, c.107) and June 30, 2005 (L.2005, c.134). While there were significant changes, such as, the addition of some consumer protection measures and an apparent effort to undercut, to some extent, the corrupt segment of the **ticket resale** business (as well as the sale of counterfeit tickets) by permitting places of entertainment (original ticket distributors) or their authorized agents to sell tickets at any price up to 45 percent above the established price through an Internet website, the end product is flawed by a compromise with respect to regulating venues with 6000 seats or less and those with a seating capacity of over 6000 seats. This unfortunate compromise between different segments of the entertainment business (Broadway versus larger sports and concert venues) resulted in a final product that falls entirely to address the issue of creating a more equitable, corruption-free distribution system for all tickets. Moreover, even the increase of the maximum premium price to 45 percent for venues with a seating capacity of over 6000, is not sufficient to deter resellers who are willing to pay far more than this to obtain tickets from insiders and will then cover those costs by charging prices hundreds of percent over the face price on the secondary market (See, further discussion under "maximum premium price," below). Other provisions or "carve outs" were inserted in the final law clearly at the behest of certain large business organizations to exempt them from particular requirements (See, discussion of §§ 25.07(3), 25.07(4) and 23.13 (1), *infra*). These provisions, however, did not decrease the efficacy of the final product and in one instance (permitting resales on an Internet website by the original issuer) enhanced the law by assuring the validity of the tickets thus sold.

McKinney's Arts and Cultural Affairs Law § 25.03

McKinney's Consolidated Laws of New York Annotated CurrentnessArts and Cultural Affairs Law (Refs & Annos)Chapter 11-C. Of the Consolidated Laws (Refs & Annos)Title G. Regulation of Sale of Theatre Tickets (Refs & Annos)Article 25. Theatre Tickets (Refs & Annos)**➔§ 25.03. Reselling of tickets of admission; licenses; fees**

<[Eff. June 1, 2009, pursuant to L.1991, c. 704, § 4. See also, § 25.03 in Art. 25 Tickets to Places of Entertainment, post.]>

1. No person, firm or corporation shall resell or engage in the business of reselling any tickets of admission or any other evidence of the right of entry to a theatre, place of amusement or entertainment, or other places where public exhibitions, games, contests or performances are held, or own, conduct or maintain any office, branch office, bureau, agency or sub-agency for such business without having first procured a license or certificate therefor from the commissioner of licenses of the political subdivision in which such person intends to conduct such business and if there be no such commissioner, then the chief executive officer thereof shall be deemed to be the commissioner for the purposes of this article. A license for the principal office shall be granted upon the payment by or on behalf of the applicant of a fee of two hundred dollars and shall be renewed upon the payment of a like fee annually; and a certificate shall be granted for each branch office, bureau, agency or sub-agency, upon payment by or on behalf of an applicant of a fee of fifty dollars and shall be renewed upon the payment of a like fee annually. Such license or certificate shall not be transferred or assigned, except by permission of such commissioner. No change in the location of the premises covered by such license or certificate shall be made, except by permission of such commissioner, and upon the payment of a fee of ten dollars. Such license or certificate shall run to the first day of January next ensuing the date thereof, unless sooner revoked by such commissioner. Such license or certificate shall be granted upon a written application setting forth such information as such commissioner may require in order to enable him to carry into effect the provisions of this article and shall be accompanied by proof satisfactory to such commissioner of the moral character of the applicant. No license or certificate shall be issued for any office or branch office, bureau, agency or sub-agency unless such office or branch office, bureau, agency or sub-agency shall be a suitable place for the conduct of said business and shall meet with the approval of such commissioner.

2. This section shall not apply to any person, firm or corporation which purchases any tickets as defined in this section with the intent of using the tickets solely for their own use or the use of their invitees, employees and agents and resells them at a price not in excess of that permitted by section 25.13 of this article should they no longer be able to use them.

CREDIT(S)

(L.1983, c. 876, § 1.)

<[Eff. June 1, 2009, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Tickets to Places of Entertainment, post.]>

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

L.2007, c. 61 legislation

L.2007, c. 61, § 19, as amended by L.2007, c. 374, § 12, eff. July 18, 2007, provides:

McKinney's Arts and Cultural Affairs Law § 25.01

McKinney's Consolidated Laws of New York Annotated CurrentnessArts and Cultural Affairs Law (Refs & Annos)Chapter 11-C. Of the Consolidated Laws (Refs & Annos)■ Title G. Regulation of Sale of Theatre Tickets (Refs & Annos)■ Article 25. Tickets to Places of Entertainment (Refs & Annos)

➔§ 25.01. Legislative findings

<[Eff. until June 1, 2009, pursuant to L.1991, c. 704, § 4. See also, § 25.01 in Art. 25 Theatre Tickets, ante.]>

The legislature finds and declares that transactions involving tickets for admission to places of entertainment are a matter of public interest and subject to the supervision of New York and the appropriate political subdivisions of the state for the purpose of safeguarding the public against fraud, extortion, and similar abuses.

The legislature further finds that many ticket resellers advertise and sell tickets to places of entertainment within the boundaries of New York state often from locations outside the state, without adhering to the provisions of this article. The legislature objects to any claim that businesses domiciled outside New York state are exempted from this statute when selling tickets to events occurring in New York state, regardless of the territories of origin of both the buyer and seller. It is the legislature's intent that all governmental bodies charged with enforcement of this article, including the attorney general of New York state have the authority to regulate the activities of all persons reselling tickets to venues located within this state to the full extent of the state's powers under the federal and state constitutions and that this article be construed in light of this purpose.

CREDIT(S)

(Added L.1991, c. 704, § 1; amended L.2005, c. 106, § 1, eff. June 14, 2005; L.2007, c. 61, § 1, eff. May 31, 2007.)

<[Eff. until June 1, 2009, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Theatre Tickets, ante.]>

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

L.2007, c. 61 legislation

L.2007, c. 61, § 19, as amended by L.2007, c. 374, § 12, eff. July 18, 2007, provides:

"This act shall take effect immediately, provided this chapter shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and provided further, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through fifteen of this act shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section seventeen of this act shall take effect upon the reversion of article 25 of title G of the arts and cultural affairs law pursuant to section 4 of chapter 704 of the laws of 1991, as amended."

L.2005, c. 106 legislation

McKinney's Arts and Cultural Affairs Law § 25.03

McKinney's Consolidated Laws of New York Annotated CurrentnessArts and Cultural Affairs Law (Refs & Annos)Chapter 11-C. Of the Consolidated Laws (Refs & Annos)*■ Title G. Regulation of Sale of Theatre Tickets (Refs & Annos)*■ Article 25. Tickets to Places of Entertainment (Refs & Annos)

⇒§ 25.03. Definitions

<[Eff. until June 2, 2009, pursuant to L.1991, c. 704, § 4. See also, § 25.03 In Art. 25 Theatre Tickets, ante.]>

As used in this article the term: 1. "Entertainment" means all forms of entertainment including, but not limited to, theatrical or operatic performances, concerts, motion pictures, all forms of entertainment at fair grounds, amusement parks and all types of athletic competitions including football, basketball, baseball, boxing, tennis, hockey, and any other sport, and all other forms of diversion, recreation or show.

2. "Established price" means the price fixed at the time of sale by the operator of any place of entertainment for admission thereto, which must be printed or endorsed on each ticket of admission.

3. "Final auction price" shall mean the price paid for a single ticket by a winning bidder. In the case of a single action price for a ticket package, including packages containing tickets to multiple events, the final auction price per ticket shall be established by evenly dividing a prorated share of the winning bid, which shall be determined by the seller, by the number of tickets to such event.

4. "Not-for-profit organization" means a domestic corporation incorporated pursuant to or otherwise subject to the not-for-profit corporation law, a charitable organization registered with the department of law, a religious corporation as defined in section sixty-six of the general construction law, a trustee as defined in section 8-1.4 of the estates, powers and trusts law, an institution or corporation formed pursuant to the education law, a special act corporation created pursuant to chapter four hundred sixty-eight of the laws of eighteen hundred ninety-nine, as amended, a special act corporation formed pursuant to chapter two hundred fifty-six of the laws of nineteen hundred seventeen, as amended, a corporation authorized pursuant to an act of congress approved January fifth, nineteen hundred five, (33 stat. 599), as amended, a corporation established by merger of charitable organizations pursuant to an order of the supreme court, New York county dated July twenty-first, nineteen hundred eighty-six and filed in the department of state on July twenty-ninth, nineteen hundred eighty-six, or a corporation having tax exempt status under section 501(c)(3) of the United States Internal Revenue Code, and shall further be deemed to mean and include any federation of charitable organizations.

5. "Operator" means any person who owns, operates, or controls a place of entertainment or who promotes or produces an entertainment.

6. "Place of entertainment" means any privately or publicly owned and operated entertainment facility such as a theatre, stadium, arena, racetrack, museum, amusement park, or other place where performances, concerts, exhibits, athletic games or contests are held for which an entry fee is charged.

7. "Physical structure" means the place of entertainment, or in the case where a structure either partially or wholly surrounds the place of entertainment, such surrounding structure.

8. "Resale" means any sale of a ticket for entrance to a place of entertainment located within the boundaries of the state of New York other than a sale by the operator or the operator's agent who is expressly authorized to make first sales of such **tickets**. **Resale** shall include sales by any means, including in person, or by means of telephone, mail, delivery service, facsimile, internet, email or

other electronic means, where the venue for which the ticket grants admission is located in New York state. Except as provided in sections 25.11 and 25.27 of this article, the term "resale" shall not apply to any person, firm or corporation which purchases any tickets solely for their own use or the use of their invitees, employees and agents or which purchases tickets on behalf of others and **resells** such **tickets** to such invitees, employees and agents or others at or less than the established price. Similarly, the term "resale" shall not apply to any not-for-profit organization, or person acting on behalf of such not-for-profit organization, as long as any profit realized from ticket reselling is wholly dedicated to the purposes of such not-for-profit organization.

9. "Ticket" means any evidence of the right of entry to any place of entertainment.

CREDIT(S)

(Added L.1991, c. 704, § 1; amended L.2001, c. 56, § 2, eff. June 8, 2001; L.2005, c. 106, §§ 1-a, 2, eff. June 14, 2005; L.2005, c. 134, § 1, eff. June 30, 2005; L.2007, c. 61, § 2, eff. May 31, 2007; L.2007, c. 374, §§ 1, 2, eff. July 18, 2007.)

<[Eff. until June 1, 2009, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Theatre Tickets, ante.]
>

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

L.2007, c. 374 legislation

L.2007, c. 374, § 13, provides:

"This act shall take effect immediately; provided, however, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through ten of this act shall not affect the repeal of such article and shall be deemed repealed therewith."

L.2007, c. 61 legislation

L.2007, c. 61, § 19, as amended by L.2007, c. 374, § 12, eff. July 18, 2007, provides:

"This act shall take effect immediately, provided this chapter shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and provided further, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through fifteen of this act shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section seventeen of this act shall take effect upon the reversion of article 25 of title G of the arts and cultural affairs law pursuant to section 4 of chapter 704 of the laws of 1991, as amended."

L.2005, c. 134 legislation

L.2005, c. 134, § 7, provides:

"This act shall take effect immediately, provided, however, that section six of this act [setting out an unclassified provision] shall be deemed to have been in full force and effect on the same date as chapter 106 of the laws of 2005 took effect [June 14, 2005]; and provided further that the amendments to the arts and cultural affairs law made by sections one, two, three, and four of this act shall not affect the repeal of article 25 of title G of such law pursuant to chapter 704 of the laws of 1991, as amended, and shall expire and be deemed repealed therewith."

McKinney's Arts and Cultural Affairs Law § 25.07

McKinney's Consolidated Laws of New York Annotated Currentness

Arts and Cultural Affairs Law (Refs & Annos)

Chapter 11-C. Of the Consolidated Laws (Refs & Annos)

*■ Title G. Regulation of Sale of Theatre Tickets (Refs & Annos)

*■ Article 25. Tickets to Places of Entertainment (Refs & Annos)

→§ 25.07. Ticket prices

<[Eff. until June 2, 2009, pursuant to L.1991, c. 704, § 4. See also, § 25.07 in Art. 25 Theatre Tickets, ante.]>

1. Every operator of a place of entertainment shall, if a price be charged for admission thereto, print or endorse on the face of each such ticket the established price, or the final auction price if such ticket was sold or resold by auction through the operator or its agent.

2. Notwithstanding any other provision of law, any person, firm or corporation, regardless of whether or not licensed under this article, that **resells tickets** or facilitates the resale or resale auction of tickets between independent parties by any means, must guarantee to each purchaser of such resold tickets that the person, firm or corporation will provide a full refund of the amount paid by the purchaser (including, but not limited to, all fees, regardless of how characterized) if any of the following occurs: (a) the event for which such ticket has been resold is cancelled, provided that if the event is cancelled then actual handling and delivery fees need not be refunded as long as such previously disclosed guarantee specifies that such fees will not be refunded; (b) the ticket received by the purchaser does not grant the purchaser admission to the event described on the ticket, for reasons that may include, without limitation, that the ticket is counterfeit or that the ticket has been cancelled by the issuer due to non-payment, or that the event described on the ticket was cancelled for any reason prior to purchase of the resold ticket, unless the ticket is cancelled due to an act or omission by such purchaser; or (c) the ticket fails to conform to its description as advertised unless the buyer has pre-approved a substitution of tickets.

3. Prior to the payment of a refund it shall be the obligation of the seller and purchaser to first make a good faith effort to remedy any disputes where the seller and purchaser have agreed to terms established by the licensee or website manager for the disposition of disputes as a condition to facilitate the transaction.

[4, 5. Repealed by L.2007, c. 374, § 3, eff. July 18, 2007.]

CREDIT(S)

(Added L.1991, c. 704, § 1; amended L.2005, c. 106, § 3, eff. June 14, 2005; L.2005, c. 107, § 1, eff. June 14, 2005; L.2005, c. 134, § 2, eff. June 30, 2005; L.2007, c. 61, § 3, eff. May 31, 2007; L.2007, c. 374, § 3, eff. July 18, 2007.)

<[Eff. until June 1, 2009, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Theatre Tickets, ante.]>

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

L.2007, c. 374 legislation

L.2007, c. 374, § 13, provides:



Effective: July 2, 2010

McKinney's Consolidated Laws of New York Annotated Currentness
Arts and Cultural Affairs Law (Refs & Annos)

Chapter 11-C. Of the Consolidated Laws (Refs & Annos)

↳ Title G. Regulation of Sale of Theatre Tickets (Refs & Annos)

↳ Article 25. Tickets to Places of Entertainment (Refs & Annos)

→ **§ 25.11. Resales of tickets within buffer zone**

<[See also, § 25.11 in Art. 25 Theatre Tickets, ante.]>

1. No person, firm, corporation or not-for-profit organization, whether or not domiciled, licensed or registered within the state, shall resell, offer to resell or solicit the resale of any ticket to any place of entertainment having a permanent seating capacity in excess of five thousand persons within one thousand five hundred feet from the physical structure of such place of entertainment, or a ticket office.
2. No person, firm, corporation or not-for-profit organization, whether or not domiciled, licensed or registered within the state, shall resell, offer to resell or solicit the resale of any ticket to any place of entertainment having a permanent seating capacity of five thousand or fewer persons within five hundred feet from the physical structure or ticket office of such place of entertainment, provided however that current licensees and those seeking a license under this article are exempt from such buffer zone when operating out of a permanent physical structure.
3. Notwithstanding subdivisions one and two of this section, an operator may designate an area within the property line of such place of entertainment for the lawful resale of tickets only to events at such place of entertainment by any person, firm, corporation or not-for-profit organization, whether or not domiciled, licensed or registered within the state.
4. For purposes of this section, "ticket office" means a building or other structure located other than at the place of entertainment, at which the operator or the operator's agent offers tickets for first sale to the public.

CREDIT(S)

(Added L.1991, c. 704, § 1. Amended L.2001, c. 56, § 4, eff. June 8, 2001; L.2005, c. 134, § 4, eff. June 30, 2005; L.2007, c. 61, § 6, eff. May 31, 2007; L.2007, c. 374, § 4, eff. July 18, 2007; L.2010, c. 151, §§ 2, 3, eff. July 2, 2010.)

<[Eff. until May 16, 2011, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Theatre Tickets, ante.]>

HISTORICAL AND STATUTORY NOTES

2011 Electronic Update

L.2010, c. 151 legislation

L.2010, c. 151, § 11, provides:

“Notwithstanding the provisions of article 5 of the general construction law, if this act shall take effect after May 15, 2010, the provisions of article 25 of the arts and cultural affairs law, except section 25.11 are hereby revived and shall continue in full force and effect as they existed on May 15, 2010 through May 15, 2011, when upon such date such provisions shall expire and be deemed repealed.”

L.2007, c. 374 legislation

L.2007, c. 374, § 13, provides:

“This act shall take effect immediately; provided, however, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through ten of this act shall not affect the repeal of such article and shall be deemed repealed therewith.”

L.2007, c. 61 legislation

L.2007, c. 61, § 19, as amended by L.2007, c. 374, § 12, eff. July 18, 2007, provides:

“This act shall take effect immediately, provided this chapter shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and provided further, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through fifteen of this act shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section seventeen of this act shall take effect upon the reversion of article 25 of title G of the arts and cultural affairs law pursuant to section 4 of chapter 704 of the laws of 1991, as amended.”

L.2005, c. 106 legislation

L.2005, c. 106, § 11-a, added by L.2005, c. 134, § 6, eff. June 30, 2005, deemed eff. June 14, 2005, provides:

“Notwithstanding the provisions of article 5 of the general construction law, the provisions of article 25 of title G of the arts and cultural affairs law are hereby revived and shall continue in full force and effect as they existed on May 31, 2005 and shall be subject to the repeal and reversion of such article pursuant to chapter 704 of the laws of 1991, as amended.”

L.2001, c. 56 legislation

L.2001, c. 56, §§ 1, 8, provide:

“§ 1. This act shall be known and may be cited as the “ticket consumer protection act”.”

“§ 8. This act shall take effect immediately; provided that section three of this act shall take effect 90 days after it shall have become a law; and provided further that the amendments to article 25 of title G of the arts and cultural affairs law, made by sections two, three, four, five and six of this act shall not affect the repeal of such article, as provided in section 4 of chapter 704 of the laws of 1991 and as amended by section seven of this act, and shall be deemed repealed therewith.”

L.1991, c. 704 legislation


L.1991, c. 704, § 4; amended L.1994, c. 319, § 1; L.1995, c. 114, § 1; L.1996, c. 28, § 1; L.1997, c. 632, § 1, deemed eff. June 1, 1997; L.1998, c. 73, § 1, eff. June 1, 1998; L.1999, c. 60, § 1, eff. June 1, 1999; L.2000, c. 42, § 1, eff. June 1, 2000; L.2001, c. 48, § 1, eff. May 31, 2001, deemed eff. June 1, 2001; L.2001, c. 56, § 7, eff. June 8, 2001; L.2003, c. 68, § 1, eff. June 10, 2003; L.2005, c. 106, § 10, eff. June 14, 2005; L.2007, c. 61, § 1, eff. May 31, 2007; L.2007, c. 374, § 11, eff. July 18, 2007; L.2009, c. 68, § 2, eff. June 9, 2009, deemed eff. June 1, 2009; L.2010, c. 151, § 5, eff. July 2, 2010, provides:

“This act [adding Arts and Cultural Affairs Law article 25, set out second, repealing Arts and Cultural Affairs Law article 25, set out first, and amending McK. Unconsol. Laws § 8919] shall take effect on the sixtieth day after it shall have become a law [became law Aug. 2, 1991, eff. Oct. 1, 1991], provided, chapter 61 of the laws of 2007 shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and shall remain in full force and effect only until and including May 15, 2011 when such act shall be repealed and when, notwithstanding any other provision of law, the provisions of article 25 of title G of the arts and cultural affairs law, repealed by such act, shall be reinstituted; provided further that section 25.11 of the arts and cultural affairs law, as added by section one of this act, shall survive such repeal date. Provided, however, the printing on tickets required pursuant to sections 25.07 and 25.08 of article 25 of the arts and cultural affairs law, as added by this act, shall not apply to tickets printed prior to enactment of such article so long as notice of the higher maximum premium price and prohibition of sales within one thousand five hundred feet from the physical structure of the place of entertainment, where applicable, is prominently displayed at the point of sale and at such place of entertainment.”


NOTES OF DECISIONS

Indictment and information 1
 Probable cause 2

1. Indictment and information

Indictment under “anti-scalping law” was facially sufficient in alleging that defendant offered concert tickets for resale and specifying the other conditions that brought him within purview of statute, even though there was no allegation that defendant actually possessed tickets to sell. *People v. Osborne*, 1999, 180 Misc.2d 152, 688 N.Y.S.2d 874. Public Amusement And Entertainment  177

2. Probable cause

Police officer had probable cause to believe that defendant violated law prohibiting an individual to resell or offer to resell at any price tickets to an entertainment venue seating over 5000 persons, within 1500 feet of the building, as required for arrest; officer observed defendant saying to passersby that he had tickets to a concert approximately 200 feet from the entrance to entertainment venue. *People v. Lewis* (1 Dept. 2008) 50 A.D.3d 595, 857 N.Y.S.2d 88, leave to appeal denied 11 N.Y.3d 790, 866 N.Y.S.2d 616, 896 N.E.2d 102. Arrest  63.4(13)

McKinney's Arts and Cultural Affairs Law § 25.11, NY ART & CULT AFF § 25.11

Current through L.2011, chapters 1 to 18 and 50 to 54.

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END OF DOCUMENT



Effective: June 9, 2009

McKinney's Consolidated Laws of New York Annotated Currentness

Arts and Cultural Affairs Law (Refs & Annos)

Chapter 11-C. Of the Consolidated Laws (Refs & Annos)

▢ Title G. Regulation of Sale of Theatre Tickets (Refs & Annos)

▢ Article 25. Tickets to Places of Entertainment (Refs & Annos)

→ **§ 25.13. Licensing of ticket resellers**

<[Eff. until May 16, 2011, pursuant to L.1991, c. 704, § 4. See also, § 25.13 in Art. 25 Theatre Tickets, ante.]>

1. No person, firm or corporation shall resell or engage in the business of reselling any tickets to a place of entertainment or operate an internet website or any other electronic service that provides a mechanism for two or more parties to participate in a resale transaction or that facilitates resale transactions by the means of an auction, or own, conduct or maintain any office, branch office, bureau, agency or sub-agency for such business without having first procured a license or certificate for each location at which business will be conducted from the secretary of state. Any operator or manager of a website that serves as a platform to facilitate resale, or resale by way of a competitive bidding process, solely between third parties and does not in any other manner engage in resales of tickets to places of entertainment shall be exempt from the licensing requirements of this section. The department of state shall issue and deliver to such applicant a certificate or license to conduct such business and to own, conduct or maintain a bureau, agency, sub-agency, office or branch office for the conduct of such business on the premises stated in such application upon the payment by or on behalf of the applicant of a fee of five thousand dollars and shall be renewed upon the payment of a like fee annually. Such license or certificate shall not be transferred or assigned, except by permission of the secretary of state. Such license or certificate shall run to the first day of January next ensuing the date thereof, unless sooner revoked by the secretary of state. Such license or certificate shall be granted upon a written application setting forth such information as the secretary of state may require in order to enable him or her to carry into effect the provisions of this article and shall be accompanied by proof satisfactory to the secretary of state of the moral character of the applicant.

2. No operator's agent shall sell or convey tickets to any secondary ticket reseller owned or controlled by the operator's agent.

3. The operator or the promoter shall determine whether a seat for which a ticket is for sale has an obstructed view, and shall disclose such obstruction. Every sale or resale of such ticket shall include a disclosure of such obstructed view.

4. If any licensee under this section demonstrates that their business provides a service to facilitate ticket trans-

actions without charging any fees, surcharges or service charges above the established price, on every transaction, except a reasonable and actual charge for the delivery of tickets, then the fees for licensing under this section shall be waived.

CREDIT(S)

(Added L.1991, c. 704, § 1. Amended L.2005, c. 106, § 5, eff. June 14, 2005; L.2005, c. 107, § 2, eff. June 14, 2005; L.2007, c. 61, § 7, eff. May 31, 2007; L.2007, c. 374, § 5, eff. July 18, 2007; L.2009, c. 68, § 1, eff. June 9, 2009.)

<[Eff. until May 16, 2011, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Theatre Tickets, ante.]>

HISTORICAL AND STATUTORY NOTES

2011 Electronic Update

L.2010, c. 151 legislation

L.2010, c. 151, § 11, provides:

“Notwithstanding the provisions of article 5 of the general construction law, if this act shall take effect after May 15, 2010, the provisions of article 25 of the arts and cultural affairs law, except section 25.11 are hereby revived and shall continue in full force and effect as they existed on May 15, 2010 through May 15, 2011, when upon such date such provisions shall expire and be deemed repealed.”

L.2009, c. 68 legislation

L.2009, c. 68, § 4, provides:

“This act shall take effect immediately; provided, however, that if this act shall not have become a law on or before June 1, 2009 section two of this act shall be deemed to have been in full force and effect on and after June 1, 2009; provided, further, that the amendments to article 25 of the arts and cultural affairs law, made by section one of this act, shall not affect the expiration and repeal of such article, and shall expire and be deemed repealed therewith.”

L.2007, c. 374 legislation

L.2007, c. 374, § 13, provides:

“This act shall take effect immediately; provided, however, that the amendments to article 25 of title G of the

arts and cultural affairs law made by sections one through ten of this act shall not affect the repeal of such article and shall be deemed repealed therewith.”

L.2007, c. 61 legislation

L.2007, c. 61, § 19, as amended by L.2007, c. 374, § 12, eff. July 18, 2007, provides:

“This act shall take effect immediately, provided this chapter shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and provided further, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through fifteen of this act shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section seventeen of this act shall take effect upon the reversion of article 25 of title G of the arts and cultural affairs law pursuant to section 4 of chapter 704 of the laws of 1991, as amended.”

L.2005, c. 107 legislation

L.2005, c. 107, § 3, provides:

“This act shall take effect on the same date and in the same manner as a chapter of the laws of 2005 amending the arts and cultural affairs law and other laws relating to the resale pricing of certain entertainment tickets, as proposed in legislative bills numbers S.5110-A and A.5454-C [L.2005, c. 106, eff. June 14, 2005], takes effect.”

L.2005, c. 106 legislation

L.2005, c. 106, § 11-a, added by L.2005, c. 134, § 6, eff. June 30, 2005, deemed eff. June 14, 2005, provides:

“Notwithstanding the provisions of article 5 of the general construction law, the provisions of article 25 of title G of the arts and cultural affairs law are hereby revived and shall continue in full force and effect as they existed on May 31, 2005 and shall be subject to the repeal and reversion of such article pursuant to chapter 704 of the laws of 1991, as amended.”

L.2005, c. 106, § 12, provides:

“This act shall take effect immediately, provided, however, that the amendments to the arts and cultural affairs law made by this act shall not affect the repeal of article 25 of title G of such law and shall be deemed repealed therewith.”

L.1991, c. 704 legislation

L.1991, c. 704, § 4; amended L.1994, c. 319, § 1; L.1995, c. 114, § 1; L.1996, c. 28, § 1; L.1997, c. 632, § 1, deemed eff. June 1, 1997; L.1998, c. 73, § 1, eff. June 1, 1998; L.1999, c. 60, § 1, eff. June 1, 1999; L.2000, c. 42, § 1, eff. June 1, 2000; L.2001, c. 48, § 1, eff. May 31, 2001, deemed eff. June 1, 2001; L.2001, c. 56, § 7, eff. June 8, 2001; L.2003, c. 68, § 1, eff. June 10, 2003; L.2005, c. 106, § 10, eff. June 14, 2005; L.2007, c. 61, § 1, eff. May 31, 2007; L.2007, c. 374, § 11, eff. July 18, 2007; L.2009, c. 68, § 2, eff. June 9, 2009, deemed eff. June 1, 2009; L.2010, c. 151, § 5, eff. July 2, 2010, provides:

“This act [adding Arts and Cultural Affairs Law article 25, set out second, repealing Arts and Cultural Affairs Law article 25, set out first, and amending McK. Unconsol. Laws § 8919] shall take effect on the sixtieth day after it shall have become a law [became law Aug. 2, 1991, eff. Oct. 1, 1991], provided, chapter 61 of the laws of 2007 shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and shall remain in full force and effect only until and including May 15, 2011 when such act shall be repealed and when, notwithstanding any other provision of law, the provisions of article 25 of title G of the arts and cultural affairs law, repealed by such act, shall be reinstituted; provided further that section 25.11 of the arts and cultural affairs law, as added by section one of this act, shall survive such repeal date. Provided, however, the printing on tickets required pursuant to sections 25.07 and 25.08 of article 25 of the arts and cultural affairs law, as added by this act, shall not apply to tickets printed prior to enactment of such article so long as notice of the higher maximum premium price and prohibition of sales within one thousand five hundred feet from the physical structure of the place of entertainment, where applicable, is prominently displayed at the point of sale and at such place of entertainment.”

NOTES OF DECISIONS

Constitutionality 1
Construction 2
Declaratory judgment actions 4
Delivery charges 3

1. Constitutionality

Former § 172 of the General Business Law [now this section] forbidding the resale of any ticket or other evidence of the right of entry to any theater “at a price in excess of 50 cents [now two dollars] in advance of the price printed on the face of such ticket or other evidence of the right of entry,” was an unconstitutional interference with ticket owner's property rights, in violation of U.S.C.A.Const. Amend. 14; the price or charge for admissions to theaters or places of amusement or entertainment not being a matter “affected with a public interest,” notwithstanding former § 167 of said chapter [now § 25.01], so declaring. *Tyson & Bro.-United Theatre Ticket Offices v. Banton*, U.S.N.Y.1927, 47 S.Ct. 426, 273 U.S. 418, 71 L.Ed. 718.

Former Article X-B of the General Business Law [now this Article], particularly former § 172 thereof [now this section] regulating price at which theater tickets may be resold, was not sustainable as an appropriate method of

preventing fraud, extortion, or collusive arrangement between theater's management and those engaged in reselling tickets. *Tyson & Bro.-United Theatre Ticket Offices v. Banton*, U.S.N.Y.1927, 47 S.Ct. 426, 273 U.S. 418, 71 L.Ed. 718.

Former § 169-c of the General Business Law [now this section], making it unlawful to resell ticket for public amusement event at price more than \$1.50 [now two dollars] plus lawful taxes in excess of maximum price printed on ticket, does not violate due process and equal protection clauses of U.S.C.A.Const. Amend. 14. *Gold v. DiCarlo*, 1964, 235 F.Supp. 817, affirmed 85 S.Ct. 1332, 380 U.S. 520, 14 L.Ed.2d 266. Constitutional Law ⚙️ 3698; Constitutional Law ⚙️ 4292; Public Amusement And Entertainment ⚙️ 5

Former § 169-c of the General Business Law [now this section] does not deny "equal protection of the law" on the ground that the premium fixed is "unreasonable", "confiscatory" and "discriminatory", since the Constitution does not guarantee the unrestricted privilege to engage in a business or to conduct it as one pleases. *Kelly-Sullivan, Inc. v. Moss*, 1943, 180 Misc. 3, 39 N.Y.S.2d 797. Constitutional Law ⚙️ 3698; Public Amusement And Entertainment ⚙️ 5

Former § 169-c of the General Business Law [now this section] did not deny "equal protection of the law" because of failure to distinguish between high price and low price tickets, or to differentiate between theater tickets and tickets of admission to sporting and other amusement events. *Kelly-Sullivan, Inc. v. Moss*, 1943, 180 Misc. 3, 39 N.Y.S.2d 797. Constitutional Law ⚙️ 3698; Public Amusement And Entertainment ⚙️ 5

Ticket brokers, seeking to have former § 169-c of the General Business Law [now this section] declared unconstitutional on "due process" grounds, could succeed only if they satisfactorily established that no evils existed in connection with sale of tickets, which called for "safeguarding the public against fraud, extortion, exorbitant rates and similar abuses," or, if the evils existed, that the remedy adopted by the Legislature was arbitrary, discriminatory, or confiscatory. *Kelly-Sullivan, Inc., v. Moss*, 1940, 174 Misc. 1098, 22 N.Y.S.2d 491, affirmed 260 A.D. 921, 24 N.Y.S.2d 984. Constitutional Law ⚙️ 4292; Public Amusement And Entertainment ⚙️ 5

2. Construction

In construing this section on motion to dismiss complaint for declaratory relief, this section should be read in a natural way so as to obtain exact meaning without forcing it in any direction in order to meet needs of either litigant. *McBride's Theatre Ticket Offices v. Moss*, 1944, 183 Misc. 14, 52 N.Y.S.2d 418. Statutes ⚙️ 188

3. Delivery charges

The words "ultimate price" as used in former § 169-c of the General Business Law [now this section] do not necessarily include delivery charges when delivery is made at request of consumer and delivery is a service which ticket broker is not obligated to perform. *McBride's Theatre Ticket Offices v. Moss*, 1944, 183 Misc. 14, 52 N.Y.S.2d 418. Public Amusement And Entertainment ⚙️ 70

4. Declaratory judgment actions

Class action in three-judge federal district court by licensed ticket broker to enjoin enforcement of former § 169-c of the General Business Law [now this section] making it unlawful to re-sell ticket for public amusement event at price more than \$1.50 [now two dollars] plus lawful taxes in excess of maximum price printed on ticket and for declaratory judgment that this section is unconstitutional, presented justiciable controversy sufficient for declaratory judgment, where ticket brokers were under cloud of imminent investigation and perhaps prosecution. *Gold v. DiCarlo*, 1964, 235 F.Supp. 817, affirmed 85 S.Ct. 1332, 380 U.S. 520, 14 L.Ed.2d 266. Declaratory Judgment 124.1; Federal Courts 993.1

Where Supreme Court determined that findings of city commissioner of Department of Licenses sufficiently established that delivery charges made by licensed ticket broker in addition to the 75 cents plus lawful taxes allowed by former § 169-c of the General Business Law [now this section] for each ticket were unreasonable and were devices fraudulently designed to circumvent purposes of this section, Supreme Court could not by declaratory judgment direct commissioner to make additional rules and regulations or place in broker's hands a scheme of charges for which it would have immunity from future rules and regulations the commissioner might thereafter legally establish. *McBride's Theatre Ticket Office v. Moss*, 1945, 54 N.Y.S.2d 883. Declaratory Judgment 95

Evidence established that licensed ticket broker did not come into equity with clean hands, so as to be entitled to declaratory judgment that delivery charges made by it in addition to 75 cents plus lawful taxes allowed by this section for each ticket did not constitute a violation of former § 169-c of the General Business Law [now this section]. *McBride's Theatre Ticket Office v. Moss*, 1945, 54 N.Y.S.2d 883. Equity 65(1)

Where complaint alleged irreparable injury from order of licensing authority directing plaintiff, a ticket broker, to cease making delivery charges, and it appeared that by violation of order plaintiff would face suspension of license or criminal prosecution, court would not exercise discretion to deny declaratory relief while complaint remained undenied. *McBride's Theatre Ticket Offices v. Moss*, 1944, 183 Misc. 14, 52 N.Y.S.2d 418. Declaratory Judgment 382

McKinney's Arts and Cultural Affairs Law § 25.13, NY ART & CULT AFF § 25.13

Current through L.2011, chapters 1 to 18 and 50 to 54.

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McKinney's Arts and Cultural Affairs Law § 25.15

McKinney's Consolidated Laws of New York Annotated CurrentnessArts and Cultural Affairs Law (Refs & Annos)Chapter 11-C. Of the Consolidated Laws (Refs & Annos)*■ Title G. Regulation of Sale of Theatre Tickets (Refs & Annos)*■ Article 25. Tickets to Places of Entertainment (Refs & Annos)➔ **§ 25.15. Bond**

<[Eff. until June 2, 2009, pursuant to L.1991, c. 704, § 4. See also, § 25.15 in Art. 25 Theatre Tickets, ante.]>

The secretary of state shall require the applicant for a license to file with the application therefor a bond in due form to the people of New York in the penal sum of twenty-five thousand dollars, with two or more sufficient sureties or a duly authorized surety company, which bond shall be approved by the secretary of state. Each such bond shall be conditioned that the obligor will not be guilty of any fraud or extortion, will not violate directly or indirectly any of the provisions of this article or any of the provisions of the license or certificate provided for in this article, will comply with the provisions of this article and will pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit or any unlawful act or omission of such obligor, his or her agents or employees, while acting within the scope of their employment, made, committed or omitted in connection with the provisions of this article in the business conducted under such license or caused by any other violation of this article in carrying on the business for which such license is granted. A suit to recover on the bond required to be filed by the provisions of this article may be brought in the name of the person damaged, upon the bond deposited with the department of state by such licensed person, in a court of competent jurisdiction. The amount of damages claimed by the plaintiff and not the penalty named in the bond shall determine the jurisdiction of the court in which the action is brought. One or more recoveries or payments upon such bond shall not vitiate the same but such bond shall remain in full force and effect, provided, however, that the aggregate amount of all such recoveries or payments shall not exceed the penal sum thereof. Upon the commencement of any action or actions against the surety upon any such bond for a sum or sums aggregating or exceeding the amount of such bond the secretary of state shall require a new and additional bond in like amount as the original one, which shall be filed with the department of state within thirty days after the demand therefor. Failure to file such bond within such period shall constitute cause for the revocation of the license pursuant to section 25.31 of this article theretofore issued to the licensee upon whom such demand shall have been made. Any suit or action against the surety on any bond required by the provisions of this section shall be commenced within one year after the cause of action shall have accrued.

CREDIT(S)

(Added L.1991, c. 704, § 1; amended L.2005, c. 106, § 6, eff. June 14, 2005; L.2007, c. 61, § 8, eff. May 31, 2007; L.2007, c. 374, § 6, eff. July 18, 2007.)

<[Eff. until June 1, 2009, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Theatre Tickets, ante.]>

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

L.2007, c. 374 legislation

L.2007, c. 374, § 13, provides:

McKinney's Arts and Cultural Affairs Law § 25.17

McKinney's Consolidated Laws of New York Annotated Currentness

Arts and Cultural Affairs Law (Refs & Annos)

Chapter 11-C. Of the Consolidated Laws (Refs & Annos)

■ Title G. Regulation of Sale of Theatre Tickets (Refs & Annos)

■ Article 25. Tickets to Places of Entertainment (Refs & Annos)

➔ § 25.17. Supervision and regulation

<[Eff. until June 2, 2009, pursuant to L.1991, c. 704, § 4. See also, § 25.17 in Art. 25 Theatre Tickets, ante.]>

The secretary of state shall have power, upon complaint of any person or on his or her own initiative, to investigate the business, business practices and business methods of any such licensee which relates to this state's or any other state's **ticket resale** law, or in regards to **ticket resale** practices generally. Each such licensee shall be obliged, on the reasonable request of the secretary of state, to supply such information as may be required concerning his or her business, business practices or business methods provided that the information requested is related to the complaint which forms the basis of such investigation. Each operator of any place of entertainment shall also be obliged, on request of the secretary of state, to supply such information as may be required concerning the business, business practices or business methods of any licensee provided that the information requested is related to the complaint which forms the basis of such investigation. The secretary of state shall have the power to promulgate such rules and regulations as may be deemed necessary for the enforcement of this article.

CREDIT(S)

(Added L.1991, c. 704, § 1; amended L.2007, c. 61, § 9, eff. May 31, 2007.)

<[Eff. until June 1, 2009, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Theatre Tickets, ante.]>

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

L.2007, c. 61 legislation

L.2007, c. 61, § 19, as amended by L.2007, c. 374, § 12, eff. July 18, 2007, provides:

"This act shall take effect immediately, provided this chapter shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and provided further, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through fifteen of this act shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section seventeen of this act shall take effect upon the reversion of article 25 of title G of the arts and cultural affairs law pursuant to section 4 of chapter 704 of the laws of 1991, as amended."

L.2005, c. 106 legislation

L.2005, c. 106, § 11-a, added by L.2005, c. 134, § 6, eff. June 30, 2005, deemed eff. June 14, 2005, provides:

McKinney's Arts and Cultural Affairs Law § 25.27

McKinney's Consolidated Laws of New York Annotated Currentness

Arts and Cultural Affairs Law (Refs & Annos)

Chapter 11-C. Of the Consolidated Laws (Refs & Annos)

■ Title G. Regulation of Sale of Theatre Tickets (Refs & Annos)

■ Article 25. Tickets to Places of Entertainment (Refs & Annos)

➔ **§ 25.27. Commissions to employees of places of entertainment**

<[Eff. until June 1, 2009, pursuant to L.1991, c. 704, § 4. See also, § 25.27 in Art. 25 Theatre Tickets, ante.]>

No licensee, other person or entity, whether or not domiciled, licensed or registered within the state, shall pay to any officer or employee of any place of entertainment, any commission, gratuity or bonus in connection with the sale, delivery or payment of tickets or in connection with the business being done by such licensee, other person or entity, whether or not domiciled, licensed or registered within the state, in tickets of admission to such place.

CREDIT(S)

(Added L.1991, c. 704, § 1; amended L.2001, c. 56, § 5, eff. June 8, 2001.)

<[Eff. until June 1, 2009, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Theatre Tickets, ante.]>

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

L.2005, c. 106 legislation

L.2005, c. 106, § 11-a, added by L.2005, c. 134, § 6, eff. June 30, 2005, deemed eff. June 14, 2005, provides:

"Notwithstanding the provisions of article 5 of the general construction law, the provisions of article 25 of title G of the arts and cultural affairs law are hereby revived and shall continue in full force and effect as they existed on May 31, 2005 and shall be subject to the repeal and reversion of such article pursuant to chapter 704 of the laws of 1991, as amended."

L.2001, c. 56 legislation

L.2001, c. 56, §§ 1, 8, provide:

"§ 1. This act shall be known and may be cited as the "ticket consumer protection act"."

"§ 8. This act shall take effect immediately; provided that section three of this act shall take effect 90 days after it shall have become a law; and provided further that the amendments to article 25 of title G of the arts and cultural affairs law, made by sections two, three, four, five and six of this act shall not affect the repeal of such article, as provided in section 4 of chapter 704 of the laws of 1991 and as amended by section seven of this act, and shall be deemed repealed therewith."

L.1991, c. 704 legislation

McKinney's Arts and Cultural Affairs Law § 25.29

McKinney's Consolidated Laws of New York Annotated Currentness

Arts and Cultural Affairs Law (Refs & Annos)

Chapter 11-C. Of the Consolidated Laws (Refs & Annos)

■ Title G. Regulation of Sale of Theatre Tickets (Refs & Annos)

■ Article 25. Tickets to Places of Entertainment (Refs & Annos)

➔ **§ 25.29. Unlawful charges in connection with tickets**

<[Repealed June 2, 2009, pursuant to L.1991, c. 704, § 4.]>

1. No operator of any place of entertainment, or his or her agent, representative, employee or licensee shall, if a price be charged for admission thereto, exact, demand, accept or receive, directly or indirectly, any premium or price in excess of the established price plus lawful taxes whether designated as price, gratuity or otherwise; provided, however: (a) nothing in this article shall be construed to prohibit a service charge by the operator or agents of the operator for special services, including but not limited to, sales away from the box office, credit card sales or delivery; and (b) nothing in this article shall be construed to prohibit an operator or its agent from offering for initial sale tickets by means of an auction.

2. In any prosecution under this section the attorney general shall have concurrent jurisdiction with any district attorney and in any such prosecution he or she or his or her deputy shall exercise all the powers and perform all the duties which the district attorney would otherwise be authorized to exercise or perform therein.

CREDIT(S)

(Added L.1991, c. 704, § 1; amended L.2007, c. 61, § 13, eff. May 31, 2007.)

<[Eff. until June 1, 2009, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Theatre Tickets, ante.]>

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

L.2007, c. 61 legislation

L.2007, c. 61, § 19, as amended by L.2007, c. 374, § 12, eff. July 18, 2007, provides:

"This act shall take effect immediately, provided this chapter shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and provided further, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through fifteen of this act shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section seventeen of this act shall take effect upon the reversion of article 25 of title G of the arts and cultural affairs law pursuant to section 4 of chapter 704 of the laws of 1991, as amended."

L.2005, c. 106 legislation

L.2005, c. 106, § 11-a, added by L.2005, c. 134, § 6, eff. June 30, 2005, deemed eff. June 14, 2005, provides:



Effective: July 2, 2010

McKinney's Consolidated Laws of New York Annotated Currentness

Arts and Cultural Affairs Law (Refs & Annos)

Chapter 11-C. Of the Consolidated Laws (Refs & Annos)

▢ Title G. Regulation of Sale of Theatre Tickets (Refs & Annos)

▢ Article 25. Tickets to Places of Entertainment (Refs & Annos)

→ **§ 25.30. Operator prohibitions**

<[Repealed May 16, 2011, pursuant to L.1991, c. 704, § 4]>

1. A ticket is a license, issued by the operator of a place of entertainment, for admission to the place of entertainment at the date and time specified on the ticket, subject to the terms and conditions as specified by the operator. Notwithstanding any other provision of law to the contrary, it shall be prohibited for any operator of a place of entertainment, or operator's agent, to:

(a) restrict by any means the resale of any tickets included in a subscription or season ticket package as a condition of purchase, as a condition to retain such tickets for the duration of the subscription or season ticket package agreement, or as a condition to retain any contractually agreed upon rights to purchase future subscription or season ticket packages that are otherwise conferred in the subscription or season ticket agreement;

(b) deny access to a ticket holder who possesses a resold subscription or season ticket to a performance based solely on the grounds that such ticket has been resold; or

(c) employ a paperless ticketing system unless the consumer is given an option to purchase paperless tickets that the consumer can transfer at any price, and at any time, and without additional fees, independent of the operator or operator's agent. Notwithstanding the foregoing, an operator or operator's agent may employ a paperless ticketing system that does not allow for independent transferability of paperless tickets only if the consumer is offered an option at the time of initial sale to purchase the same tickets in some other form that is transferrable independent of the operator or operator's agent including, but not limited to, paper tickets or e-tickets. The established price for any given ticket shall be the same regardless of the form or transferability of such ticket. The ability for a ticket to be transferred independent of the operator or operator's agent shall not constitute a special service for the purpose of imposing a service charge pursuant to section 25.29 of this article.

2. Additionally, nothing in this article shall be construed to prohibit an operator of a place of entertainment from maintaining and enforcing any policies regarding conduct or behavior at or in connection with their venue. Further, nothing in this article shall be construed to prohibit an operator of a place of entertainment or such operator's agent, from restricting the resale of tickets that are offered as part of a targeted promotion, at a discounted

price, or for free, to specific individuals or groups of individuals because of their status as, or membership in, a specific community or group, including, but not limited to, persons with disabilities, students, religious or civic organizations, or persons demonstrating economic hardship; provided, however that tickets offered promotionally to the general public shall not be considered as tickets offered to specific individuals or groups of individuals. Any promotional discounted or free tickets for which the operator or operator's agent restricts resale must be clearly marked as such. An operator shall be permitted to revoke or restrict season tickets for reasons relating to violations of venue policies, including but not limited to, attempts by two or more persons to gain admission to a single event with both the cancelled tickets originally issued to a season ticket holder and those tickets re-issued as part of a resale transaction, and to the extent the operator may deem necessary for the protection of the safety of patrons or to address fraud or misconduct.

3. No operator or operator's agent shall sell or convey tickets to any secondary ticket reseller owned or controlled by the operator or operator's agent.

4. The operator or the promoter shall determine whether a seat for which a ticket is for sale has an obstructed view, and shall disclose such obstruction. If the operator or promoter discloses that a seat for which a ticket is for sale has an obstructed view, it shall be the responsibility of the secondary ticket reseller to disclose such obstruction upon the resale of such ticket. Such obstruction shall not include an obstruction of view caused by a person, or persons, seated in an adjacent seat, or seats, or occupying an aisle; or an obstruction of view caused by an object or objects placed upon an adjacent seat or seats, or in an aisle; or an obstruction of view that is de minimus or transitory in nature.

CREDIT(S)

(Added L.2007, c. 61, § 14, eff. May 31, 2007. Amended L.2010, c. 151, § 8, eff. July 2, 2010.)

<[Eff. until May 16, 2011, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Theatre Tickets, ante.]>

HISTORICAL AND STATUTORY NOTES

2011 Electronic Update

L.2010, c. 151 legislation

L.2010, c. 151, § 11, provides:

“Notwithstanding the provisions of article 5 of the general construction law, if this act shall take effect after May 15, 2010, the provisions of article 25 of the arts and cultural affairs law, except section 25.11 are hereby revived and shall continue in full force and effect as they existed on May 15, 2010 through May 15, 2011, when upon such date such provisions shall expire and be deemed repealed.”

L.2010, c. 151, § 12, provides:

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“This act shall take effect immediately; provided that the amendments to section 25.03 of the arts and cultural affairs law, made by section one of this act, shall be subject to the expiration and reversion of such article pursuant to section 4 of chapter 704 of the laws of 1991, as amended, when upon such date the provisions of section two of this act shall take effect; provided further that the amendments to section 25.15 of the arts and cultural affairs law made by section four of this act shall not affect the expiration and reversion of such article and shall expire and be deemed repealed therewith; provided, further, that the amendments to section 25.25 of the arts and cultural affairs law, made by section six of this act shall not affect the repeal of such article and shall be deemed repealed therewith; provided, further, that the amendments to section 25.29 of the arts and cultural affairs law, made by section seven of this act shall not affect the repeal of such article and shall be deemed repealed therewith; provided, further, that the amendments to section 25.30 of the arts and cultural affairs law, made by section eight of this act, shall not affect the repeal of such article and shall be deemed repealed therewith; provided, further, that the provisions of paragraph (c) of subdivision 1 of section 25.30 of the arts and cultural affairs law as added by section eight of this act shall not apply to tickets sold at initial sale prior to the effective date [July 2, 2010] of this act; provided, further, that the amendments to section 25.35 of the arts and cultural affairs law, made by section nine of this act, shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section 25.24 of the arts and cultural affairs law, as added by section ten of this act, shall survive the expiration and reversion of article 25 of such law as provided in section 4 of chapter 704 of the laws of 1991, as amended.”

L.2007, c. 61 legislation

L.2007, c. 61, § 19, as amended by L.2007, c. 374, § 12, eff. July 18, 2007, provides:

“This act shall take effect immediately, provided this chapter shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and provided further, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through fifteen of this act shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section seventeen of this act shall take effect upon the reversion of article 25 of title G of the arts and cultural affairs law pursuant to section 4 of chapter 704 of the laws of 1991, as amended.”

L.1991, c. 704 legislation

L.1991, c. 704, § 4; amended L.1994, c. 319, § 1; L.1995, c. 114, § 1; L.1996, c. 28, § 1; L.1997, c. 632, § 1, deemed eff. June 1, 1997; L.1998, c. 73, § 1, eff. June 1, 1998; L.1999, c. 60, § 1, eff. June 1, 1999; L.2000, c. 42, § 1, eff. June 1, 2000; L.2001, c. 48, § 1, eff. May 31, 2001, deemed eff. June 1, 2001; L.2001, c. 56, § 7, eff. June 8, 2001; L.2003, c. 68, § 1, eff. June 10, 2003; L.2005, c. 106, § 10, eff. June 14, 2005; L.2007, c. 61, § 1, eff. May 31, 2007; L.2007, c. 374, § 11, eff. July 18, 2007; L.2009, c. 68, § 2, eff. June 9, 2009, deemed eff. June 1, 2009; L.2010, c. 151, § 5, eff. July 2, 2010, provides:

“This act [adding Arts and Cultural Affairs Law article 25, set out second, repealing Arts and Cultural Affairs

Law article 25, set out first, and amending McK. Unconsol. Laws § 8919] shall take effect on the sixtieth day after it shall have become a law [became law Aug. 2, 1991, eff. Oct. 1, 1991], provided, chapter 61 of the laws of 2007 shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and shall remain in full force and effect only until and including May 15, 2011 when such act shall be repealed and when, notwithstanding any other provision of law, the provisions of article 25 of title G of the arts and cultural affairs law, repealed by such act, shall be reinstituted; provided further that section 25.11 of the arts and cultural affairs law, as added by section one of this act, shall survive such repeal date. Provided, however, the printing on tickets required pursuant to sections 25.07 and 25.08 of article 25 of the arts and cultural affairs law, as added by this act, shall not apply to tickets printed prior to enactment of such article so long as notice of the higher maximum premium price and prohibition of sales within one thousand five hundred feet from the physical structure of the place of entertainment, where applicable, is prominently displayed at the point of sale and at such place of entertainment.”

McKinney's Arts and Cultural Affairs Law § 25.30, NY ART & CULT AFF § 25.30

Current through L.2011, chapters 1 to 18 and 50 to 54.

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Effective: July 2, 2010

McKinney's Consolidated Laws of New York Annotated Currentness
Arts and Cultural Affairs Law (Refs & Annos)

Chapter 11-C. Of the Consolidated Laws (Refs & Annos)

↗ Title G. Regulation of Sale of Theatre **Tickets**(Refs & Annos)

↗ Article 25. **Tickets** to Places of Entertainment (Refs & Annos)

→ **§ 25.35. Criminal penalties**

<[Repealed May 16, 2011, pursuant to L.1991, c. 704, § 4.]>

1. (a) Any person, firm, corporation or other entity, whether or not domiciled, licensed or registered within the state, which is convicted of violating section 25.27 or 25.29 of this article shall be guilty of a class A misdemeanor punishable by a fine not to exceed one thousand dollars or two times the amount of the defendant's gain, to be determined pursuant to the procedures set forth in section 400.30 of the criminal procedure law, whichever is greater, or by a term of imprisonment not to exceed one year, or by both such fine and imprisonment.

(b) Any person, firm, corporation or other entity, whether or not domiciled, licensed, or registered within the state, which is convicted of violating section 25.27 or 25.29 of this article, when the value of the commission, gratuity, bonus, premium or price unlawfully paid or accepted exceeds one thousand dollars for an event as defined in section 23.03 of this chapter, whether or not such payment is for **tickets** to a single performance of that event, shall be guilty of a class E felony, punishable by a term of imprisonment in accordance with the penal law, or by a fine of five thousand dollars or two times the amount of the defendant's gain, to be determined pursuant to the procedures set forth in section 400.30 of the criminal procedure law, whichever is greater, or by both such fine and imprisonment.

2. Any person, firm or corporation which is convicted of violating subdivision two of section 25.09 of this article shall be guilty of a misdemeanor punishable by a term of imprisonment not to exceed one year or by a fine not to exceed seven hundred fifty dollars on the first conviction; one thousand five hundred dollars on the second conviction; and two thousand dollars, on each subsequent conviction or by both such fine and imprisonment.

3. Any person, firm or corporation which is convicted of knowingly violating subdivision one of section 25.07 or section 25.13 or section 25.15 of this article shall be guilty of a misdemeanor punishable by a term of imprisonment not to exceed one hundred eighty days or by a fine not to exceed five hundred dollars on the first conviction; one thousand dollars on the second conviction; and two thousand dollars on each subsequent conviction or by both such fine and imprisonment.

4. Notwithstanding any other penalty which may be imposed for any other violation of this article, any person, firm or corporation which is convicted of violating section 25.11 of this article shall be guilty of a violation punishable by a fine not to exceed two hundred dollars on the first conviction; five hundred dollars on the second conviction; and one thousand dollars on each subsequent conviction.

5. Any person, firm or corporation which is convicted of violating subdivision one of section 25.09 of this article shall be guilty of a violation punishable by a fine not to exceed five hundred dollars.

6. Any person, firm or corporation which is convicted of violating any other section of this article shall be guilty of a violation punishable by a fine not to exceed two hundred fifty dollars.

7. Notwithstanding any other provision to the contrary, when the fines included in this section are imposed on a firm, corporation or other entity that is not a single person, such fines may be imposed at up to two times the amount otherwise allowed, or, where applicable, three times the amount of the defendant's gain.

CREDIT(S)

(Added L.1991, c. 704, § 1. Amended L.2001, c. 56, § 6, eff. June 8, 2001; L.2007, c. 374, § 10, eff. July 18, 2007; L.2010, c. 151, § 9, eff. July 2, 2010.)

<[Eff. until May 16, 2011, pursuant to L.1991, c. 704, § 4. See also, Art. 25 Theatre **Tickets**, ante.]>

HISTORICAL AND STATUTORY NOTES

2011 Electronic Update

L.2010, c. 151 legislation

L.2010, c. 151, § 11, provides:

“Notwithstanding the provisions of article 5 of the general construction law, if this act shall take effect after May 15, 2010, the provisions of article 25 of the arts and cultural affairs law, except section 25.11 are hereby revived and shall continue in full force and effect as they existed on May 15, 2010 through May 15, 2011, when upon such date such provisions shall expire and be deemed repealed.”

L.2010, c. 151, § 12, provides:

“This act shall take effect immediately; provided that the amendments to section 25.03 of the arts and cultural affairs law, made by section one of this act, shall be subject to the expiration and reversion of such article pursuant to section 4 of chapter 704 of the laws of 1991, as amended, when upon such date the provisions of section two of this act shall take effect; provided further that the amendments to section 25.15 of the arts and cultural af-

law made by section four of this act shall not affect the expiration and reversion of such article and shall expire and be deemed repealed therewith; provided, further, that the amendments to section 25.25 of the arts and cultural affairs law, made by section six of this act shall not affect the repeal of such article and shall be deemed repealed therewith; provided, further, that the amendments to section 25.29 of the arts and cultural affairs law, made by section seven of this act shall not affect the repeal of such article and shall be deemed repealed therewith; provided, further, that the amendments to section 25.30 of the arts and cultural affairs law, made by section eight of this act, shall not affect the repeal of such article and shall be deemed repealed therewith; provided, further, that the provisions of paragraph (c) of subdivision 1 of section 25.30 of the arts and cultural affairs law as added by section eight of this act shall not apply to **tickets** sold at initial sale prior to the effective date [July 2, 2010] of this act; provided, further, that the amendments to section 25.35 of the arts and cultural affairs law, made by section nine of this act, shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section 25.24 of the arts and cultural affairs law, as added by section ten of this act, shall survive the expiration and reversion of article 25 of such law as provided in section 4 of chapter 704 of the laws of 1991, as amended.”

L.2007, c. 374 legislation

L.2007, c. 374, § 13, provides:

“This act shall take effect immediately; provided, however, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through ten of this act shall not affect the repeal of such article and shall be deemed repealed therewith.”

L.2007, c. 61 legislation

L.2007, c. 61, § 19, as amended by L.2007, c. 374, § 12, eff. July 18, 2007, provides:

“This act shall take effect immediately, provided this chapter shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and provided further, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through fifteen of this act shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section seventeen of this act shall take effect upon the reversion of article 25 of title G of the arts and cultural affairs law pursuant to section 4 of chapter 704 of the laws of 1991, as amended.”

L.2005, c. 106 legislation

L.2005, c. 106, § 11-a, added by L.2005, c. 134, § 6, eff. June 30, 2005, deemed eff. June 14, 2005, provides:

“Notwithstanding the provisions of article 5 of the general construction law, the provisions of article 25 of title G of the arts and cultural affairs law are hereby revived and shall continue in full force and effect as they existed on May 31, 2005 and shall be subject to the repeal and reversion of such article pursuant to chapter 704 of the laws of 1991, as amended.”

L.2001, c. 56 legislation

L.2001, c. 56, §§ 1, 8, provide:

“§ 1. This act shall be known and may be cited as the “**ticket** consumer protection act”.”

“§ 8. This act shall take effect immediately; provided that section three of this act shall take effect 90 days after it shall have become a law; and provided further that the amendments to article 25 of title G of the arts and cultural affairs law, made by sections two, three, four, five and six of this act shall not affect the repeal of such article, as provided in section 4 of chapter 704 of the laws of 1991 and as amended by section seven of this act, and shall be deemed repealed therewith.”

L.1991, c. 704 legislation

L.1991, c. 704, § 4; amended L.1994, c. 319, § 1; L.1995, c. 114, § 1; L.1996, c. 28, § 1; L.1997, c. 632, § 1, deemed eff. June 1, 1997; L.1998, c. 73, § 1, eff. June 1, 1998; L.1999, c. 60, § 1, eff. June 1, 1999; L.2000, c. 42, § 1, eff. June 1, 2000; L.2001, c. 48, § 1, eff. May 31, 2001, deemed eff. June 1, 2001; L.2001, c. 56, § 7, eff. June 8, 2001; L.2003, c. 68, § 1, eff. June 10, 2003; L.2005, c. 106, § 10, eff. June 14, 2005; L.2007, c. 61, § 1, eff. May 31, 2007; L.2007, c. 374, § 11, eff. July 18, 2007; L.2009, c. 68, § 2, eff. June 9, 2009, deemed eff. June 1, 2009; L.2010, c. 151, § 5, eff. July 2, 2010, provides:

“This act [adding Arts and Cultural Affairs Law article 25, set out second, repealing Arts and Cultural Affairs Law article 25, set out first, and amending McK. Unconsol. Laws § 8919] shall take effect on the sixtieth day after it shall have become a law [became law Aug. 2, 1991, eff. Oct. 1, 1991], provided, chapter 61 of the laws of 2007 shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and shall remain in full force and effect only until and including May 15, 2011 when such act shall be repealed and when, notwithstanding any other provision of law, the provisions of article 25 of title G of the arts and cultural affairs law, repealed by such act, shall be reinstituted; provided further that section 25.11 of the arts and cultural affairs law, as added by section one of this act, shall survive such repeal date. Provided, however, the printing on **tickets** required pursuant to sections 25.07 and 25.08 of article 25 of the arts and cultural affairs law, as added by this act, shall not apply to **tickets** printed prior to enactment of such article so long as notice of the higher maximum premium price and prohibition of sales within one thousand five hundred feet from the physical structure of the place of entertainment, where applicable, is prominently displayed at the point of sale and at such place of entertainment.”

RESEARCH REFERENCES

2011 Electronic Update

Encyclopedias

NY Jur. 2d, Amusements & Exhibitions § 15, Resale of **Tickets**; **Ticket** Brokers--**Ticket Scalping**.

McKinney's Arts and Cultural Affairs Law § 25.35, NY ART & CULT AFF § 25.35

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McKinney's Arts and Cultural Affairs Law § 25.24

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Arts and Cultural Affairs Law (Refs & Annos)

Chapter 11-C. Of the Consolidated Laws (Refs & Annos)

Title G. Regulation of Sale of Theatre **Tickets**Article 25. Theatre **Tickets** (Refs & Annos)

➔§ 25.24. Automated ticket purchasing software

<[Arts and Cultural Affairs Law § 25.24, added by L.2010, c. 151, § 10, is not repealed May 15, 2014 with the rest of art. 25, **Tickets** to Places of Entertainment, pursuant to L.1991, c. 704, § 4, and is therefore also included in art. 25, Theatre **Tickets**, as reinstituted on that date.]>

1. The term "automated ticket purchasing software" shall mean, any machine, device, **computer** program or **computer** software that navigates or runs automated tasks on retail ticket purchasing websites in order to bypass security measures to purchase **tickets**.
2. It shall be unlawful for any person to utilize automated ticket purchasing software to purchase **tickets**.
3. Any person who knowingly utilizes automated ticket purchasing software in order to bypass security measures to purchase **tickets** shall be subject to a civil penalty in an amount of no less than five hundred dollars and no more than one thousand dollars for each such violation and shall forfeit all profits made from the sale of any such unlawfully obtained **tickets**.
4. Any person who intentionally maintains any interest in or maintains any control of the operation of automated ticket purchasing software to bypass security measures to purchase **tickets** shall be subject to a civil penalty in an amount of no less than seven hundred fifty dollars and no more than one thousand five hundred dollars for each such violation and shall forfeit all profits made from the sale of any such unlawfully obtained **tickets**.
5. Any person who is subject to a civil penalty under this section and has been assessed a penalty under this section in the previous five years shall be guilty of a violation and may be fined no less than one thousand dollars and no more than five thousand dollars for each such violation and shall forfeit all profits from the sale of any such unlawfully obtained **tickets**. In addition, a person convicted of a violation under this section may be required to forfeit any and all equipment used in the unlawful purchasing of **tickets**.
6. The attorney general shall have jurisdiction to enforce the provisions of this section in accordance with the powers granted to him or her by section sixty-three of the executive law.
7. In addition to the power given to the attorney general to enforce the provisions of this section, any place of entertainment, as defined by section 23.03 of this chapter, or any aggrieved party that has been injured by wrongful conduct prescribed by this section may bring an action to recover all actual damages suffered as a result of any of such wrongful conduct. The court in its discretion may award damages up to three times the amount of actual damages. The court may enjoin the respondent from any and all activity prohibited under this section. The court may also award reasonable attorney's fees and costs.

CREDIT(S)

(Added L.2010, c. 151, § 10, eff. July 2, 2010.)

<[Eff. May 15, 2014, pursuant to L.1991, c. 704, § 4. See also, art. 25, **Tickets** to Places of Entertainment, ante.]>

HISTORICAL AND STATUTORY NOTES

L.2010, c. 151 legislation

L.2010, c. 151, § 12, provides:

"This act shall take effect immediately; provided that the amendments to section 25.03 of the arts and cultural affairs law, made by section one of this act, shall be subject to the expiration and reversion of such article pursuant to section 4 of chapter 704 of the laws of 1991, as amended, when upon such date the provisions of section two of this act shall take effect; provided further that the amendments to section 25.15 of the arts and cultural affairs law made by section four of this act shall not affect the expiration and reversion of such article and shall expire and be deemed repealed therewith; provided, further, that the amendments to section 25.25 of the arts and cultural affairs law, made by section six of this act shall not affect the repeal of such article and shall be deemed repealed therewith; provided, further, that the amendments to section 25.29 of the arts and cultural affairs law, made by section seven of this act shall not affect the repeal of such article and shall be deemed repealed therewith; provided, further, that the amendments to section 25.30 of the arts and cultural affairs law, made by section eight of this act, shall not affect the repeal of such article and shall be deemed repealed therewith; provided, further, that the provisions of paragraph (c) of subdivision 1 of section 25.30 of the arts and cultural affairs law as added by section eight of this act shall not apply to **tickets** sold at initial sale prior to the effective date [July 2, 2010] of this act; provided, further, that the amendments to section 25.35 of the arts and cultural affairs law, made by section nine of this act, shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section 25.24 of the arts and cultural affairs law, as added by section ten of this act, shall survive the expiration and reversion of article 25 of such law as provided in section 4 of chapter 704 of the laws of 1991, as amended."

McKinney's Arts and Cultural Affairs Law § 25.24, NY ART & CULT AFF § 25.24

Current through L.2014, chapters 1 to 3.

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NORTH CAROLINA

N.C.G.S.A. § 14-344

West's North Carolina General Statutes Annotated Currentness

Chapter 14. Criminal Law

⌕ Subchapter XI. General Police Regulations

⌕ Article 44. Regulation of Sales

➔ **§ 14-344. Sale of admission tickets in excess of printed price**

Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars (\$3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars (\$3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section or as permitted by G.S. **14-344.1** shall be guilty of a Class 2 misdemeanor.

CREDIT(S)

Amended by Laws 1969, c. 1224, § 8; Laws 1977, c. 9; Laws 1979, c. 909; Laws 1981, c. 36; Laws 1985, c. 434, § 1; Laws 1991, c. 165, § 1; Laws 1993, c. 539, § 232, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994; S.L. 2008-158, § 3, eff. Aug. 1, 2008.

EXPIRATION

<The amendment by S.L. 2008-158, § 3, expires June 30, 2009, pursuant to § 4 of that act.>

HISTORICAL AND STATUTORY NOTES

Laws 1993, c. 539, § 1359, provides:

"This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions." [Amended by Laws 1994, Ex.Sess., c. 24, § 14(c), eff. March 26, 1994.]

Laws 1993, c. 539, was ratified July 24, 1993.

2008 Legislation

S.L. 2008-158, § 3, in the fifth sentence, inserted "or as permitted by G.S. **14-344.1**".

S.L. 2008-158, § 4, provides:

"This act becomes effective August 1, 2008, and expires June 30, 2009. The expiration of this act does not relieve a person's liability to file the report required under G.S. **14-344.1(e)** for gross receipts received in June 2009. Liability for acts or omissions before the expiration date of this act are not abated or affected by the expiration. Section 3 of this act applies to offenses committed on or after that date."

N.C.G.S.A. § 14-344, NC ST § 14-344

Current through S.L. 2009-5 of the 2009 Regular Session.



West's North Carolina General Statutes Annotated Currentness

Chapter 14. Criminal Law

▢ Subchapter XI. General Police Regulations

▢ Article 44. Regulation of Sales

→ **§ 14-344.1. Internet sale of admission tickets in excess of printed price**

(a) Internet Resale.--A person may resell an admission ticket under this section on the Internet at a price greater than the price on the face of the ticket only if all of the following conditions are met:

- (1) The venue where the event will occur has not prohibited the Internet ticket resale as provided under subsection (b) of this section.
- (2) The person reselling the ticket offers the ticket for resale on a Web site with a ticket guarantee that meets the requirements of subsection (c) of this section. A prospective purchaser must be directed to the guarantee before completion of the resale transaction.
- (3) The person reselling the ticket collects and remits to the State the privilege tax in accordance with G.S. 105-37.1.

(b) Resale Prohibited.--The venue where an event will occur may prohibit the resale of admission tickets for the event at a price greater than the price on the face of the ticket. To prohibit the resale of tickets under this section, the venue must file a notice of prohibition of the resale of admission tickets for a specified event with the Secretary of State and must post the notice of prohibition conspicuously on its Web site. The primary ticket seller for the event must also post the notice conspicuously on its Web site. A prohibition under this subsection may not become valid until 30 days after the notice is posted on the venue's Web site. The prohibition expires on December 31 of each year unless the prohibition is renewed. To renew a prohibition, a venue must renew its notice of prohibition filed with the Secretary of State and must post the notice as required under this subsection. A venue who files a notice of prohibition must pay a fee in the amount set in G.S. 55-1-22 for filing articles of incorporation. A venue that renews a notice of prohibition must pay a fee in the amount set in G.S. 55-1-22 for filing a paper annual report.

(c) Ticket Guarantee.--A person who resells or offers to resell admission tickets under this section must guarantee to the purchaser a full refund of the amount paid for the ticket under each of the following conditions:

- (1) The ticketed event is cancelled. Reasonable handling and delivery fees may be withheld from the refund price of a cancelled ticketed event if the ticket guarantee on the Web site specifically informs the pur-

chaser that handling and delivery fees will be withheld from the refunded amount.

(2) The purchaser is denied admission to the ticketed event. This subdivision does not apply if admission to the ticketed event is denied to the purchaser because of an action or omission of the purchaser.

(3) The ticket is not delivered to the purchaser in the manner described on the Web site or pursuant to the delivery guarantee made by the reseller, and the failure results in the purchaser's inability to attend the ticketed event.

(d) Student Tickets.--This section does not apply to student tickets issued by institutions of higher education in North Carolina for sporting events.

(e) Repealed by S.L. 2010-31, § 31.7(c), eff. June 30, 2010.

CREDIT(S)

Added by S.L. 2008-158, § 1, eff. Aug. 1, 2008. Amended by S.L. 2010-31, §§ 31.7(b), (c), eff. June 30, 2010.

HISTORICAL AND STATUTORY NOTES

2008 Legislation

S.L. 2008-158, § 4, provides:

“This act becomes effective August 1, 2008. Section 3 of this act applies to offenses committed on or after that date.” [Amended by S.L. 2009-255, § 1, eff. July 6, 2009.]

2010 Legislation

S.L. 2010-31, § 31.7(b), rewrote subsec. (a), which prior thereto read:

“(a) Internet Resale.--A person may resell an admission ticket under this section on the Internet at a price greater than the price on the face of the ticket unless the venue where the event will occur prohibits the Internet ticket resale as provided under subsection (b) of this section. To resell an admission ticket under this section, the person reselling the ticket must offer the ticket for resale on a Web site with a ticket guarantee that meets the requirements of subsection (c) of this section. A prospective purchaser must be directed to the guarantee before completion of the resale transaction. A person who resells an admission ticket under this section acknowledges liability for the informational report required under subsection (e) of this section.”

S.L. 2010-31, § 31.7(c), repealed subsec. (e), which prior thereto read:

“(e) Report on Receipts.--A person who resells or offers to resell admission tickets under this section must report each month to the Department of Revenue, under oath, on a form provided by the Department. The report is due by the 10th day after the end of each month and covers the gross receipts received during the previous month from reselling admission tickets to an event or venue in this State. The report must include all of the following:

“(1) The total amount of gross receipts derived from reselling an admission ticket on the Internet to an event or venue in this State. For purposes of this subsection, gross receipts exclude the price printed on the face of the ticket.

“(2) The event for which admission tickets are sold and the venue where the event will occur.

“(3) The person or venue from whom the reseller purchased admission tickets.

“(4) The acquisition price of the admission tickets.

“(5) The price received by the reseller for the admission tickets.

“(6) The name and address of the person to whom the admission ticket is resold, if the purchaser is a reseller.

“(7) Any other information required by the Secretary of Revenue.”

S.L. 2010-31, § 31.7(d), provides:

"If any provision of this section is declared by a court to violate the Internet Tax Freedom Act, Pub. L. 105-277, §§ 1100-1104, as amended, or is otherwise found to be invalid, then G.S. 14-344.1 is repealed."

N.C.G.S.A. § 14-344.1, NC ST § 14-344.1

Current through Chapter 18.

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N.C.G.S.A. § 14-344.2

West's North Carolina General Statutes Annotated Currentness

Chapter 14. Criminal Law

✱ Subchapter XI. General Police Regulations✱ Article 44. Regulation of Sales➔ **§ 14-344.2. Prohibition on ticket purchasing software**

(a) Definition.--The term "ticket seller" means a person who has executed a written agreement with the management of any venue in North Carolina for a sporting event, theater, musical performance, or public entertainment of any kind to sell tickets to the event over the Internet.

(b) Unfair Trade Practice.--A person who knowingly sells, gives, transfers, uses, distributes, or possesses software that is primarily designed or produced for the purpose of interfering with the operation of a ticket seller who sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or public entertainment of any kind by circumventing any security measures on the ticket seller's Web site, circumventing any access control systems of the ticket seller's Web site, circumventing any access control solutions of the ticket seller's Web site, or circumventing any controls or measures that are instituted by the ticket seller on its Web site to ensure an equitable ticket buying process shall be in violation of G.S. 75-1.1. The ticket seller and venue hosting the ticketed event have standing to bring a private right of action under G.S. 75-1.1 for violation of this section.

(c) Original Ticket Seller.--A person or firm is not liable under this section with respect to tickets for which the person or firm is the original ticket seller.

CREDIT(S)

Added by S.L. 2008-158, § 2, eff. Aug. 1, 2008.

HISTORICAL AND STATUTORY NOTES

2008 Legislation

S.L. 2008-158, § 4, provides:

"This act becomes effective August 1, 2008. Section 3 of this act applies to offenses committed on or after that date." [Amended by S.L. 2009-255, § 1, eff. July 6, 2009.]

N.C.G.S.A. § 14-344.2, NC ST § 14-344.2

The statutes and Constitution are current through
the end of the 2013 Regular Session of the General Assembly.

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OHIO

Westlaw.

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R.C. § 715.48

C

Baldwin's Ohio Revised Code Annotated Currentness

Title VII. Municipal Corporations

▣ Chapter 715. General Powers (Refs & Annos)

▣ Peace and Morals

→ 715.48 Regulation by license of shows and games; trafficking in tickets; exceptions

Any municipal corporation may:

(A) Regulate, by license or otherwise, restrain, or prohibit theatrical exhibitions, public shows, and athletic games, of whatever name or nature, for which money or other reward is demanded or received;

(B) Regulate, by license or otherwise, the business of trafficking in theatrical tickets, or other tickets of licensed amusements, by parties not acting as agents of those issuing them.

Public school entertainments, lecture courses, and lectures on historic, literary, or scientific subjects do not come within this section.

(1953 H 1, eff. 10-1-53; GC 3657)

HISTORICAL AND STATUTORY NOTES

Pre-1953 H 1 Amendments: 102 v 88; 99 v 5, § 7g

CROSS REFERENCES

Shows, power of municipal corporations, 3765.02

OHIO ADMINISTRATIVE CODE REFERENCES

Division of fairs and amusement rides, OAC Ch 901:9-2

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Westlaw Topic No. 376.

C.J.S. Theaters and Shows § 3.

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OH Jur. 3d Amusements & Exhibitions § 16, Power of Municipalities.

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R.C. § 715.48

Treatises and Practice Aids

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LAW REVIEW AND JOURNAL COMMENTARIES

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"Community Standards" in Cyberspace, John S. Zanghi. 21 U Dayton L Rev 95 (Fall 1995).

Cyberscalping: On-Line Ticket Sales, Comment. 31 U Tol L Rev 471 (Spring 2000).

Nude Dancing and the First Amendment, Comment. 59 U Cin L Rev 1275 (Spring 1991).

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NOTES OF DECISIONS

In general 2

Constitutional issues 1

Personal seat license 3

1. Constitutional issues

Jewish organization wishing to erect menorah in public square of city, during winter holiday season, satisfied likelihood of prevailing on merits requirement for issuance of preliminary injunction barring enforcement of city ordinance restricting use of square to city during seven week period including holidays; square was traditional public forum, regulation was content based though appearing to be neutral on its face, and was not narrowly tailored to further alleged compelling government purpose of encouraging city's economy. Chabad of Southern Ohio v. City of Cincinnati (S.D. Ohio, 11-27-2002) 233 F.Supp.2d 975, stay granted 2002 WL 31829493, vacated 123 S.Ct. 518, 537 U.S. 1501, 154 L.Ed.2d 509, clarification denied 2002 WL 31829494, affirmed 363 F.3d 427. Civil Rights ⇌ 1457(2)

Preliminary injunction would be issued barring enforcement of city ordinance prohibiting use of square for private speech during seven week period including winter holidays; challengers to ordinance established likelihood of prevailing on merits of claim that ordinance did not satisfy requirements for valid restriction on speech in traditional public forum, satisfaction of likelihood requirement resulted in satisfaction of irreparable harm requirement, city could not show any substantial harm arising from enjoinder of unconstitutional policy, and public interest favored prevention of violation of constitutional rights. Chabad of Southern Ohio v. City of Cincinnati (S.D. Ohio, 11-27- 2002) 233 F.Supp.2d 975, stay granted 2002 WL 31829493, vacated 123 S.Ct. 518, 537 U.S. 1501, 154 L.Ed.2d 509, clarification denied 2002 WL 31829494, affirmed 363 F.3d 427. Civil Rights ⇌ 1457(2)

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City's reservation to itself of exclusive control of all organized speech in central square, during winter holiday season, was content-based regulation of speech in traditional public forum, for purpose of First Amendment analysis, despite facial neutrality; there was evidence that assumption of control was designed to block all speech that was not Christian and of a cheerful nature. *Chabad of Southern Ohio v. City of Cincinnati* (S.D. Ohio, 11-27-2002) 233 F.Supp.2d 975, stay granted 2002 WL 31829493, vacated 123 S.Ct. 518, 537 U.S. 1501, 154 L.Ed.2d 509, clarification denied 2002 WL 31829494, affirmed 363 F.3d 427. Constitutional Law ⇌ 90.1(4)

City's reservation to itself, of control over all organized speech in central square, which was traditional public forum, during winter holiday season, was not narrowly tailored to further alleged compelling government interest in promoting tourism, and otherwise enhancing downtown economy; those interests were adequately furthered during rest of year through permit system, and it was possible that allowing wider range of holiday displays than would occur without government control would further objectives even more. *Chabad of Southern Ohio v. City of Cincinnati* (S.D. Ohio, 11-27-2002) 233 F.Supp.2d 975, stay granted 2002 WL 31829493, vacated 123 S.Ct. 518, 537 U.S. 1501, 154 L.Ed.2d 509, clarification denied 2002 WL 31829494, affirmed 363 F.3d 427. Constitutional Law ⇌ 90.1(4); Municipal Corporations ⇌ 721(3)

City's reservation to itself, of control over all organized speech in central square, which was traditional public forum, during winter holiday season, was unconstitutional even if viewed as time, place and manner restriction on content neutral speech; assumption of control was not narrowly tailored to further alleged compelling government interest in promoting tourism, and otherwise enhance downtown economy, as those interests were adequately furthered during rest of year through permit system, and it was possible that allowing wider range of holiday displays than would occur without government control would further objectives even more. *Chabad of Southern Ohio v. City of Cincinnati* (S.D. Ohio, 11-27-2002) 233 F.Supp.2d 975, stay granted 2002 WL 31829493, vacated 123 S.Ct. 518, 537 U.S. 1501, 154 L.Ed.2d 509, clarification denied 2002 WL 31829494, affirmed 363 F.3d 427. Constitutional Law ⇌ 90.1(4); Municipal Corporations ⇌ 721(3)

City's reservation to itself, of control over all organized speech in central square, during seven week period including winter holidays, did not leave open alternative means of communication, as required for valid regulation of speech in traditional public forum; square was extremely popular holiday gathering place, attracting 300,000 persons each season, and there was nothing like it elsewhere in metropolitan area. *Chabad of Southern Ohio v. City of Cincinnati* (S.D. Ohio, 11-27-2002) 233 F.Supp.2d 975, stay granted 2002 WL 31829493, vacated 123 S.Ct. 518, 537 U.S. 1501, 154 L.Ed.2d 509, clarification denied 2002 WL 31829494, affirmed 363 F.3d 427. Constitutional Law ⇌ 90.1(4); Municipal Corporations ⇌ 721(3)

Genuine issues of material fact as to whether tickets which were seized from ticket brokers when they were arrested outside baseball stadium were "contraband" which could be seized without warrant, and, if tickets were not contraband, whether proper basis for seizure existed, precluded summary judgment in brokers' conversion action against city. *Norwell v. Cincinnati* (Ohio App. 1 Dist., 05-28-1999) 133 Ohio App.3d 790, 729 N.E.2d 1223. Judgment ⇌ 181(33)

A personal seat license to purchase tickets at a public entertainment event constitutes personal property that is vested in the owner and that is alienable by the terms of the grantor's document that creates the right in the property owner. *Rayle v. Bowling Green State Univ.* (Ohio Ct.Cl., 07-28-2000) 108 Ohio Misc.2d 60, 739 N.E.2d 1260. Public Amusement And Entertainment ⇌ 65; Public Amusement And Entertainment ⇌ 66

Complaints alleging that defendants sold tickets to sporting-type event at greater than face value within 20 feet of crosswalk in violation of city code prohibiting street peddlers from selling merchandise within 20 feet of intersection of curblines, crosswalk, bus stop, or stairway charged offense against defendants, even though complaints made no reference to intersection of curblines with a crosswalk, as statute did not require selling to occur at intersection of curblines with crosswalk but, rather, prohibited selling within 20 feet of "corner" or crosswalk. *Cincinnati v. Hawkins* (Ohio Mun., 12-27-1993) 67 Ohio Misc.2d 4, 643 N.E.2d 1184. Hawkers And

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Peddlers ⇨ 6

Given the determination by the Newport city commission that nude dancing in establishments serving liquor is injurious to the citizens of the city, and that its ordinance prohibiting nude or nearly nude dancing in such establishments is necessary to a range of purposes including preventing blight and deterioration of the city's neighborhoods, decreasing the incidence of crime, disorderly conduct, and juvenile delinquency, and the presumption in favor of the regulation in this area that the Twenty-first Amendment requires, the interest in maintaining order outweighs the interest in free expression by dancing nude; the delegation by Kentucky of one portion of its power under the Twenty-first Amendment to the electorate to decide if liquor may be served in local establishments does not preclude the city's enactment of the ordinance. *City of Newport, Ky. v. Iacobucci* (U.S.Ky. 1986) 107 S.Ct. 383, 479 U.S. 92, 93 L.Ed.2d 334, rehearing denied 107 S.Ct. 913, 479 U.S. 1047, 93 L.Ed.2d 862, on remand 812 F.2d 294.

City's public indecency ordinance, facially banning all nudity in public places, did not violate First Amendment as applied to prohibit nude dancing at club, despite claim that ordinance was not enacted to combat secondary effects of adult entertainment; in requiring evidence of secondary effects motivation, district court imposed burden on city which governing Supreme Court precedent appeared designed to avoid, ordinance was virtually identical to statute upheld by Supreme Court and, moreover, evidence suggested that number of city councilmen actually supported ordinance in part because they wished to prevent occurrence of harmful secondary effects. *Triplett Grille, Inc. v. City of Akron* (C.A.6 (Ohio), 11-14-1994) 40 F.3d 129. Constitutional Law ⇨ 90.4(3); Obscenity ⇨ 2.5

Licensing scheme in city ordinance governing licensing and regulation of sexually oriented businesses was unconstitutional for failing to provide procedural safeguards against suppression of First Amendment protected expression, including effective limit on time within which licensor's decision must be made, or adequate avenue for prompt judicial review. *J.L. Spoons, Inc. v. City of Brunswick* (N.D. Ohio, 06-01-1998) 18 F.Supp.2d 775. Constitutional Law ⇨ 90.4(1); Licenses ⇨ 7(1)

Unconstitutional licensing and location provisions of city ordinance governing licensing and regulation of sexually oriented businesses were severable from remainder of ordinance; substantive operation provisions of ordinance could be read separately from unconstitutional provisions without insertion of any words or terms, and substantive operation provisions, standing alone, arguably furthered city's stated intent to regulate sexually oriented businesses in order to promote health, safety, morals, and general welfare of citizens of city. *J.L. Spoons, Inc. v. City of Brunswick* (N.D. Ohio, 06-01-1998) 18 F.Supp.2d 775. Municipal Corporations ⇨ 111(4)

Location restrictions provision in city ordinance governing licensing and regulation of sexually oriented businesses was unconstitutionally vague for failing to define or explain key terms necessary to determine appropriate locations for sexually oriented businesses, which thereby precluded determination of whether sufficient alternative avenues of communication existed for topless dancing. *J.L. Spoons, Inc. v. City of Brunswick* (N.D. Ohio, 06-01-1998) 18 F.Supp.2d 775. Constitutional Law ⇨ 90.4(3); Licenses ⇨ 7(1); Public Amusement And Entertainment ⇨ 9(2)

To withstand First Amendment scrutiny, substantial governmental interest served by zoning ordinance regulating adults-only businesses cannot be aimed at the content of the material involved, but may address the secondary effects of such businesses; such permissible interests include prevention of crime, protection of retail trade, maintenance of property values, and protection and preservation of neighborhoods, commercial districts, and quality of urban life. *Wolfe v. Village of Brice, Ohio* (S.D. Ohio, 03-17-1998) 997 F.Supp. 939. Constitutional Law ⇨ 90.4(1)

Although nude dancing is protected by First Amendment, it is entitled to less protection than is political speech or philosophical discussion. *Dia v. City of Toledo* (N.D. Ohio, 03-28-1996) 937 F.Supp. 673. Constitutional Law ⇨ 90.4(3)

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City's nude dancing ordinance violated First Amendment; city did not consider any evidence of secondary effects, implying secondary effects would be improper because every lawmaker did testify, and ordinance was unconstitutionally overbroad in that it applied to all performances which included nudity of any kind, not just erotic adult entertainment. *Triplett Grille, Inc. v. City of Akron* (N.D. Ohio 1993) 816 F.Supp. 1249, affirmed 40 F.3d 129. Constitutional Law ⇌ 90.4(2); Obscenity ⇌ 2.5

Municipal ordinance prohibiting sale of theatre tickets for a sum exceeding price of admission charged by management of such theatre is unconstitutional as it deprives persons engaged in selling theatre tickets at a profit, of a property right without due process of law. *Heller v. City of Cleveland* (Ohio Com.Pl. 1942) 10 Ohio Supp. 75, 37 Ohio Law Abs. 545, 25 O.O. 106. Constitutional Law ⇌ 295(1)

2. In general

In order for the "topless" and "bottomless" activities to make property owner's business an "adults-only entertainment establishment" for zoning purposes, the activities would need to be proven obscene or harmful to juveniles pursuant to city code section defining an "adults-only entertainment establishment" as an establishment which featured totally nude, topless, bottomless, strippers, male or female impersonators, or similar entertainment or services which were obscene or harmful to juveniles as defined by state law. *NIRA, Ltd. v. City of Columbus* (Ohio App. 10 Dist., Franklin, 06-03-2003) No. 02AP-969, 2003-Ohio-2829, 2003 WL 21267473, Unreported. Zoning And Planning ⇌ 278.1

Genuine issue of material fact as to whether city police officers assigned to "scalping detail" had probable cause to make arrests of ticket brokers outside baseball stadium, as would establish defense of privilege in brokers' action against city for tortious interference with their prospective contractual relations with ticket buyers, precluded summary judgment. *Norwell v. Cincinnati* (Ohio App. 1 Dist., 05-28-1999) 133 Ohio App.3d 790, 729 N.E.2d 1223. Judgment ⇌ 181(33)

Injunction held not proper remedy to enjoin mayor from issuing permits for boxing and wrestling exhibitions, on ground of lack of authority. *Village of Newburgh Heights v. Tegg* (Cuyahoga 1929) 32 Ohio App. 248, 167 N.E. 894, 7 Ohio Law Abs. 316, 29 Ohio Law Rep. 283. Injunction ⇌ 77(1)

"Tickets" to sporting event fell within definition of "merchandise" in city code provision prohibiting street peddlers from selling merchandise within 20 feet of various locations in urban area, where peddlers were acting as middlemen in secondary market and never intended to use "tickets" as license to attend sporting event. *Cincinnati, Ohio, Code 839-11(e). Cincinnati v. Hawkins* (Ohio Mun., 12-27-1993) 67 Ohio Misc.2d 4, 643 N.E.2d 1184. Hawkers And Peddlers ⇌ 3(1)

A trial court errs in failing to conduct an evidentiary hearing prior to denying a city's request for injunctive relief to prevent a high school boxing tournament from conducting future boxing events without a license. *City of Cleveland v. K.O. Drugs Boxing Academy* (Ohio App. 8 Dist., Cuyahoga, 11-19-1998) No. 74681, 1998 WL 811338, Unreported.

While a municipality is empowered by this section, to require operators of moving pictures to be qualified, yet an ordinance with that end in view is void if it prescribes no standard of qualifications, but leaves the issuance of licenses to the unlimited discretion or caprice of the examining officers. *Ex parte Lewis*, 14 NP(NS) 609 (CP, Hamilton 1913).

This section, being a general law, neither adds to nor detracts from the right of a home rule city to pass ordinances regulating showing of motion pictures. *American Committee on Maternal Welfare v. City of Cincinnati* (Ohio Com.Pl. 1938) 5 Ohio Supp. 425, 26 Ohio Law Abs. 533, 11 O.O. 366.

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A municipal corporation may not require the operator of a show or amusement device at a county fair to secure a license for its operation, but it may require the operator of a show or amusement device to secure a license from the municipal corporation to operate such a show or amusement device on the county fairgrounds, except at the county fair, when the fairgrounds is located within the municipal corporation. 1962 OAG 3182.

3. Personal seat license

Brochure that formed agreement between holders of seat licenses to buy club-level season tickets and professional football team, stating that "failure to purchase season tickets will forfeit your right to the COA" (Charter Ownership Agreements), gave license holders the unilateral right to cancel their club-seat licenses by not purchasing club-seat tickets, despite lease term language in brochure. *Dunkelman v. Cincinnati Bengals* (Ohio App. 1 Dist., 12-22-2006) 2006-Ohio-6825, 2006 WL 3759590. Contracts ⇌ 217

A personal seat license (PSL) to purchase season tickets for professional sporting events constitutes personal property that is vested in the owner, and is alienable by the terms of the grantor's document that creates the right in the owner; a PSL is not a mere license to purchase tickets, but rather is a valuable expectancy interest in renewable rights to season tickets that is a wholly separate and distinct interest from game tickets. *Marinik v. The Cascade Group* (Ohio Mun., 10-08-1999) 103 Ohio Misc.2d 18, 724 N.E.2d 877. Public Amusement And Entertainment ⇌ 71

Present fair market value of personal seat licenses (PSLs) allowing holder to purchase season tickets for professional football team, which had been attached by judgment creditor in garnishment proceeding, was original contract price, and thus, judgment debt would be reduced by that amount following transfer of PSLs to judgment creditor, where PSLs were subject to restriction on transfer which would not expire for over six months, and only potential buyer was team, which had general policy of repurchasing PSLs for face value at which they were issued. *Marinik v. The Cascade Group* (Ohio Mun., 10-08-1999) 103 Ohio Misc.2d 18, 724 N.E.2d 877. Garnishment ⇌ 25

R.C. § 715.48, OH ST § 715.48

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R.C. § 505.95

C

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Title V. Townships

■ Chapter 505. Trustees (Refs & Annos)

■ Assorted Provisions

→ 505.95 Regulation of resale of tickets to theatrical or sporting events

(A) A board of township trustees may adopt a resolution to regulate in the unincorporated area of the township, by license or otherwise, the resale, by parties not acting as agents of those issuing them, of tickets to theatrical or sporting events or to other public amusements.

(B) The board of township trustees may establish a fine of not more than one hundred dollars for each separate violation of any resolution adopted under division (A) of this section. Fifty per cent of the moneys arising from the collection of the fine shall be deposited in the township's general fund. The remaining fifty per cent of those moneys shall be deposited in the county's general fund.

(C) Any person allegedly aggrieved by a violation of a resolution adopted under division (A) of this section may seek injunctive or other appropriate relief in connection with the act or practice that violates that resolution.

(1999 S 52, eff. 11-2-99)

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R.C. § 505.95, OH ST § 505.95

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R.C. § 3773.49

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Title XXXVII. Health--Safety--Morals

Chapter 3773. Boxing; Discharging Firearms; Dueling

Boxing Matches or Exhibitions

3773.49 Advertising to include price of admission

Each person who conducts a public boxing or wrestling match or exhibition shall cause to be inserted into each advertisement of the match or exhibition the price of admission.

Each ticket of admission to any such match or exhibition shall clearly bear the purchase price. No person shall sell such a ticket for a price greater than that printed on the ticket. No tickets shall be sold except from the box office on the premises in which the match or exhibition is held or such additional locations as the Ohio athletic commission has authorized in writing as locations from which tickets may be sold for a designated match or exhibition.

(1996 S 240, eff. 9-3-96; 1981 S 60, eff. 7-27-81)

CROSS REFERENCES

Penalty: 3773.99(C)

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Public Amusement and Entertainment ¶70.
Westlaw Topic No. 315T.

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OH Jur. 3d Amusements & Exhibitions § 27, Regulation of Sale and Issuance of Tickets.

R.C. § 3773.49, OH ST § 3773.49

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OREGON

O.R.S. § 646A.115

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Title 50. Trade Regulations and Practices

Chapter 646A. Trade Regulation (Refs & Annos)

Sales

(Going Out of Business Sales)

➔**646A.115. Interference with ticket sales to entertainment events**

(1) As used in this section:

(a) "Admission **ticket**" means evidence of a purchaser's right of entry to a venue or an entertainment event.

(b) "Entertainment event" means a performance, recreation, amusement, diversion, spectacle, show or similar event including, but not limited to, a theatrical or musical performance, concert, film, game, ride or sporting event.

(c) "Operator" means a person that owns, operates or controls a venue or that produces or promotes an entertainment event, or the person's agent or employee.

(d) "Resale" means a sale other than an operator's initial sale of an admission **ticket** for a venue that is located in or an entertainment event that occurs in this state, irrespective of the location in which the sale occurs or the means by which a reseller solicits or advertises the sale or delivers or receives payment for the admission **ticket**.

(e) "Reseller" means a person other than an operator that conducts a resale.

(2) A person may not intentionally sell or use software, the purpose of which is to circumvent, thwart, interfere with or evade a control or measure, including a security measure or an access control system, that an operator or reseller establishes or uses to ensure an equitable distribution, sale or resale of admission **tickets** for an entertainment event.(3) Violation of subsection (2) of this section is an unlawful practice under ORS 646.608 that is subject to an action under ORS 646.632 and 646.638.

CREDIT(S)

Added by Laws 2009, c. 310, § 1, eff. Jan. 1, 2010.

O. R. S. § 646A.115, OR ST § 646A.115

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PENNSYLVANIA

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Effective: May 12, 2010

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Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

→ § 201. Definitions

The following words and phrases when used in this act shall have the meanings ascribed to them in this section:

- (1) **"Amusement."** All manner and forms of entertainment including among others theatrical or operatic performances, concerts, moving picture shows, vaudeville, circus, carnival and side shows; all forms of entertainment at fair grounds, and amusement parks, athletic contests, including wrestling matches, boxing and sparring exhibitions, football and baseball games, skating, golfing, tennis, hockey, bathing, swimming, archery, shooting, riding, dancing and all other forms of diversion, sport, recreation or pastime, shows, exhibitions, contests, displays and games.
- (2) **"City."** Any city of the first class.
- (3) **"Department."** The Department of Revenue of the Commonwealth of Pennsylvania.
- (4) **"Established Price."** The price fixed by the owner of any place of amusement for admission thereto, which must be stamped, printed or written on each **ticket** of admission.
- (5) **"Licensor."** The county treasurer of each county of the second, third, fourth, fifth, sixth, seventh and eighth class, and the receiver of taxes in each city of the first class.
- (6) **"Owner."** Any person who owns, operates or controls a place of amusement or who promotes or produces an amusement, or any person who promotes or produces an amusement with the written contractual consent of the owner or operator of an amusement.
- (7) **"Place of Amusement."** Any place indoors or outdoors where the general public or a limited or selected number thereof may upon payment of an established price attend or engage in any amusement as herein defined, including among others theatres, opera houses, moving picture houses, amusement parks, stadiums, arenas, baseball parks, skating rinks, circus or carnival tents or grounds, fair grounds, social, sporting, athletic, riding, gun and country clubs, riding academies, golf courses, bathing and swimming places, dance halls, tennis courts, archery, rifle or shotgun ranges, roof gardens, cabarets, nightclubs and other like places.

(8) “**Producer.**” Any person who engages an act or amusement and puts on the show.

(9) “**Promoter.**” Any person engaged by a producer to promote an amusement.

(10) “**Resale.**” The act of selling any **ticket** of admission by one party to another after an original sale to a party by an owner or an agent of an owner.

(11) “**Ticket.**” Any evidence of the right of entry to any amusement or place of amusement for admission to which a price is charged.

(12) “**Ticket purchasing software.**” Computer software primarily designed for the purpose of interfering with the operations of a **ticket** seller by circumventing:

(i) a security measure of the **ticket** seller's Internet website;

(ii) an access control system of the **ticket** seller's Internet website; or

(iii) any function or operation of the **ticket** seller's Internet website designed to ensure that the sale of **tickets**, including, but not limited to, the number of **tickets** sold to a single purchaser, occurs in an equitable manner for members of the public.

(13) “**Ticket seller.**” A person who has executed a written agreement with an owner to sell, over the Internet, **tickets** to an amusement.

CREDIT(S)

1947, May 2, P.L. 143, § 1. Amended 1990, June 29, P.L. 263, No. 62, § 1, effective in 60 days; 2010, May 12, P.L. 187, No. 23, § 1, imd. effective.

HISTORICAL AND STATUTORY NOTES

2008 Main Volume

Title of Act:

An Act regulating the sale and **resale** for profit and the carrying on of the business of selling or reselling **tickets** or other devices for admission to places of amusement; providing for the licensing of persons reselling such **tickets** for profit; providing for the suspension and revocation of such licenses; imposing duties on licensees and owners or operators of places of amusement; imposing powers and duties on the Department of Revenue, county treasurers, district attorneys, and the receiver of taxes, and city solicitors in cities of the first class; making dis-

4 P.S. § 201

Page 3

position of moneys collected and providing penalties. 1947, May 2, P.L. 143.

RESEARCH REFERENCES

2011 Electronic Update

Treatises and Practice Aids

14 West's Pennsylvania Practice § 2:4, Amusements Offenses (Title 4).

4 P.S. § 201, PA ST 4 P.S. § 201

Current through Act 2011-3

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4 P.S. § 202

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 4 P.S. Amusements (Refs & Annos)

 Chapter 8. Resale of Tickets**➔§ 202. Reselling of tickets; licenses**

(a) Subject to subsection (c), no person shall purchase with intent to resell, resell or engage in or continue in the business of reselling any tickets of admission, or any other evidence of the right of entry to any place of amusement, at a price higher than the marked ticket price fixed by the owners of such place of amusement, without having first obtained a license to so resell or engage in such business from the licensor of the county or city in which such person intends to conduct such business as hereinafter provided, and no person shall so resell or conduct such a business during any period of suspension or revocation of his license.

(b) An owner may reserve the right to sell again a ticket in case of default in payment of the purchase money by the purchaser.

(c) The provisions of this act shall neither restrict nor otherwise apply to, nor make illegal, the resale, offering at resale or purchase of a ticket to any amusement or place of amusement through an Internet website nor serve as the means through which resales and purchases can be made. A reseller that uses the Internet website shall not be required to obtain a license to resell through the Internet website if the operator of the Internet website:

(1) Has a business presence and physical street address in this Commonwealth and clearly and conspicuously posts that address on the Internet website, or has a business presence in this Commonwealth and one of the following: a registered agent, a foreign business license or a certificate of authority issued by the Department of State.

(2) Guarantees to all purchasers that it will provide, and in fact provides, a full refund of the amount paid by the purchaser, including all fees, regardless of how characterized, if any of the following occur:

(i) The amusement is canceled. If the amusement is canceled, reasonable handling and delivery fees need not be refunded as long as the previously disclosed guarantee specifies that the fees will not be refunded.

(ii) The ticket received by the purchaser does not allow the purchaser to enter the amusement, for reasons including the fact that the ticket is counterfeit or has been canceled by the issuer due to nonpayment, unless the ticket is canceled due to an act or omission by the purchaser.

(iii) The ticket fails to conform to its description on the Internet website.

CREDIT(S)

1947, May 2, P.L. 143, § 2. Amended 1990, June 29, P.L. 263, No. 62, § 2, effective in 60 days; 2007, July 13, P.L. 104, No. 32, § 1, imd. effective.

4 P.S. § 202, PA ST 4 P.S. § 202

Current through end of the 2008 Regular and 2007-2008 First Special Sessions

4 P.S. § 203

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

➔§ 203. Application for license

(a) In order that there may be uniformity throughout the Commonwealth in the application for and issuance of licenses, the Department of Revenue shall prepare and furnish to licensors, application forms and regulations prescribed by such department, pertinent to applications for and issuance of such licenses.

(b) Every applicant for a license to engage in such business shall file his written application with the licensor of the county or city in which he intends to conduct such business. Such application shall be made upon the forms and consistent with the regulations prescribed by the department.

(c) Every such application shall be accompanied by a fee of fifty dollars (\$50), which shall be collected by the licensor for the use of the county or city for which such license is issued; the bond as hereinafter specified; a description of the location where the applicant proposes to conduct his place of business; and proof, satisfactory to the licensor, that the applicant is of good moral character and repute.

(d) If the applicant is an individual, his application shall show that the applicant is a citizen of the United States and has been a resident of this Commonwealth for at least one year immediately preceding his application. If the applicant is a corporation, the application shall show that the corporation was created under the laws of Pennsylvania, or holds a certificate of authority to transact business in Pennsylvania; that all its officers, directors and stockholders are citizens of the United States, and that its manager is a citizen of the United States.

(e) Every application by an individual shall set forth his address. If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof.

(f) The application shall be signed and verified by affidavit of the applicant if a natural person, or, if an association, by a member or partner thereof, or, if a corporation, by any individual specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority. If any false statement is intentionally made in any part of the application the affiant shall be deemed guilty of a misdemeanor and upon indictment and conviction shall be subject to the penalties provided by this act.

CREDIT(S)

1947, May 2, P.L. 143, § 3.

4 P.S. § 203, PA ST 4 P.S. § 203

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4 P.S. § 204

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

➔§ 204. Issuance of license

Upon receipt of the application, fee and bond, and upon being satisfied that the applicant is of good moral character and repute, and that the location of the proposed place of business is suitable, and that the applicant has complied with all other necessary requirements, the licensor shall grant and issue a license to the applicant.

CREDIT(S)

1947, May 2, P.L. 143, § 4.

4 P.S. § 204, PA ST 4 P.S. § 204

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4 P.S. § 205

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 4 P.S. Amusements (Refs & Annos)

↖ Chapter 8. Resale of Tickets

➔ § 205. Bond

(a) No license shall be granted and issued to any applicant until he has filed with the licensor an approved bond, payable to the county or city in which such license is to be granted and issued, in the amount of one thousand dollars (\$1,000). Such bond shall have as surety a duly authorized surety company.

(b) Every such bond shall be conditioned for the faithful observance of the provisions of this act and regulations of the department formulated hereunder. Every such bond shall be filed with and retained by the licensor and a record thereof made in alphabetical order, which record shall be open to public inspection. Every such bond shall be turned over to the district attorney of the proper county or to the city solicitor to be collected if, and when, the licensee's license shall have been revoked and his bond forfeited as provided in this act.

CREDIT(S)

1947, May 2, P.L. 143, § 5.

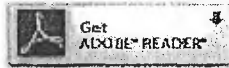
4 P.S. § 205, PA ST 4 P.S. § 205

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4 P.S. § 206

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Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

➔ **§ 206. Non-assignability; non-transferability**

No license issued under this act shall be assigned or transferred.

CREDIT(S)

1947, May 2, P.L. 143, § 6.

4 P.S. § 206, PA ST 4 P.S. § 206

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4 P.S. § 207

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Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

→§ 207. Removal of office of licensee; notice

(a) No change in the location of the place of business of any licensee covered by any license shall be made unless such licensee first obtains the approval of the licensor.

(b) When any licensee, holding an unexpired license issued pursuant to this act, having first obtained the approval of the licensor removes his place of business to a location other than that described in his license, but within the jurisdiction of the licensor, he shall within twenty-four hours immediately following such removal, give written notice to the licensor. Such written notice shall describe the premises to which such removal is made, the date on which it is made, and shall be accompanied by the license issued. Immediately upon receipt by the licensor of such notice and license he shall cause to be written or stamped across the face of such license a statement to the effect that the licensee therein described as removed on the date stated in such written notice from the place originally described in such license to the place described in such written notice and he shall then return the license with the endorsement thereon to the licensee therein described.

(c) No more than one change of location shall be permitted a licensee in any one calendar year.

CREDIT(S)

1947, May 2, P.L. 143, § 7.

4 P.S. § 207, PA ST 4 P.S. § 207

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4 P.S. § 208

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Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

→§ 208. License year; renewal

Each license issued or granted shall expire on the thirty-first day of December following its issuance. Licenses shall be renewed upon the payment of a fifty dollar (\$50) fee, annually.

CREDIT(S)

1947, May 2, P.L. 143, § 8.

4 P.S. § 208, PA ST 4 P.S. § 208

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4 P.S. § 209

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Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

→§ 209. License; hearings; revocation and suspension of licenses; appeals

(a) The licensor upon the written request of any applicant for a license or for renewal thereof, whose application therefor has been refused, shall afford such licensee an opportunity to be heard by giving such licensee five (5) days' notice by mail to such licensee.

(b) Repealed by 1978, April 28, P.L. 202, No. 53, § 2(a) [1245], effective June 27, 1978.

(c) If any licensee shall have obtained his license by fraud or misrepresentation, or made any misstatement in his application or otherwise violates any of the provisions of this act, or any rule or regulation of the department relative to this act, or for other sufficient cause the licensor shall be empowered, on giving five (5) days' notice by mail to such licensee, and on affording such licensee an opportunity to answer the charges made against him, to suspend for such period as he may deem proper or revoke, in proper cases, the license issued to him if such said licensee fails to appear at the time set for hearing, or if after such hearing the licensor shall find such licensee guilty of such charges. When a license is revoked the licensee's bond may be forfeited by the licensor.

Any licensee whose license is revoked shall be ineligible to have a license under this act until the expiration of three (3) years from the date such license was revoked.

CREDIT(S)

1947, May 2, P.L. 143, § 9. Affected 1978, April 28, P.L. 202, No. 53, § 2(a) [1245], effective June 27, 1978.

4 P.S. § 209, PA ST 4 P.S. § 209

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4 P.S. § 210

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Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

→§ 210. Posting of license; price lists; records

(a) Immediately upon the receipt of the license issued pursuant to this act the licensee named therein shall cause such license to be posted and at all times displayed in a conspicuous place in the place of business for which it is issued so that all persons visiting such office may readily see the same.

(b) No resale shall be made by any licensee except at such place of business.

(c) Every licensee shall cause to be posted and at all times displayed in a conspicuous place in his place of business, a price list showing the established price and the price being charged by such licensee for every type of ticket which he is reselling.

(d) Every licensee shall at all times keep full and accurate sets of records showing the prices at which he has bought and sold all tickets and the names and addresses of the person from whom they were bought.

(e) The place of business and the records of every licensee shall at all reasonable times be subject and open to inspection by the licensor or the agents thereof.

CREDIT(S)

1947, May 2, P.L. 143, § 10.

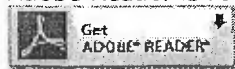
4 P.S. § 210, PA ST 4 P.S. § 210

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4 P.S. § 211

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 4 P.S. Amusements (Refs & Annos)

← Chapter 8. Resale of Tickets

→ § 211. Printing prices on tickets

The owner of every place of amusement shall, if a price be charged for admission thereto, cause to be plainly stamped or printed or written on the face of every ticket to be so used, the established price. Such owner shall likewise cause to be plainly stamped, printed or written on the face of each such ticket the maximum premium, which shall not exceed twenty-five percent (25%) of the price of the ticket or the sum of five dollars (\$5.00), whichever shall be more, plus lawful taxes, at which such ticket may be resold or offered for resale, other than under section 2(c) [FN1] or by ticket brokers duly licensed by a city of the first class as of June 1, 2007.

CREDIT(S)

1947, May 2, P.L. 143, § 11. Amended 1966, Feb. 2, P.L. (1965) 1869, § 1; 1984, Dec. 12, P.L. 971, No. 191, § 1, imd. effective; 1990, June 29, P.L. 263, No. 62, § 2, effective in 60 days; 2007, July 13, P.L. 104, No. 32, § 1, imd. effective.

[FN1] 4 P.S. § 202.

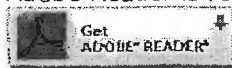
4 P.S. § 211, PA ST 4 P.S. § 211

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4 P.S. § 211.1

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Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

➔§ 211.1. Application of act

The provisions of this act shall apply only to the sale and resale of those tickets or other devices for admissions to places of amusement within the Commonwealth of Pennsylvania.

CREDIT(S)

1947, May 2, P.L. 143, No. 62, § 11.1, added 1984, Dec. 12, P.L. 971, No. 191, § 2, imd. effective.

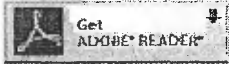
4 P.S. § 211.1, PA ST 4 P.S. § 211.1

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4 P.S. § 212

Purdon's Pennsylvania Statutes and Consolidated Statutes CurrentnessTitle 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

→§ 212. Resale; violation

It shall be unlawful for any person to purchase with intent to resell, to resell or to offer to resell any such ticket at any price in excess of such maximum premium, plus the established price and lawful taxes as stamped, printed or written thereon.

CREDIT(S)

1947, May 2, P.L. 143, § 12. Amended 1990, June 29, P.L. 263, No. 62, § 3, effective in 60 days.

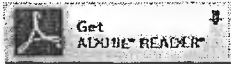
4 P.S. § 212, PA ST 4 P.S. § 212

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4 P.S. § 212.1

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Effective: May 12, 2010

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Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

→ § 212.1. Unlawful ticket purchasing software

(a) It is unlawful for a person to knowingly use ticket purchasing software and acquire tickets from a ticket seller, if the tickets would not have been acquired by the person but for the use of the ticket purchasing software.

(b) A person who violates this section commits a misdemeanor and shall, upon conviction, be sentenced to a fine of five thousand dollars (\$5,000). For purposes of assessing the fine, each ticket acquired through the use of ticket purchasing software in violation of this section constitutes a separate incident.

(c) The court, in imposing a sentence, shall order restitution pursuant to 18 Pa.C.S. § 1106 (relating to restitution for injuries to person or property).

CREDIT(S)

1947, May 2, P.L. 143, No. 62, § 12.1, added 2010, May 12, P.L. 187, No. 23, § 2, imd. effective.

4 P.S. § 212.1, PA ST 4 P.S. § 212.1

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4 P.S. § 213

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Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

➔§ 213. Penalties; exemptions

(a) Every person who violates any provision of this act shall upon summary conviction thereof for the first offense be sentenced to pay a fine of not more than three hundred dollars (\$300) and costs of prosecution, and in default of payment thereof shall undergo imprisonment for thirty (30) days; and for a second or subsequent offense shall be guilty of a misdemeanor of the second degree and upon conviction thereof shall be sentenced to pay a fine not to exceed five thousand dollars (\$5,000), or to undergo imprisonment for a period not to exceed two (2) years, or both. If the violation shall be by a corporation, partnership or association, the officers and directors of such corporation, or the members of such partnership or association, its agents and employees, with guilty knowledge of the fact, shall be guilty and upon conviction shall be punished as herein before provided.

(b) The right of the licensor to suspend and revoke licenses granted and issued under this act shall be in addition to the penalties set forth in this section.

(c) Upon conviction of a violation of any provision of this act, the sentencing court shall impose upon and collect from the defendant a surcharge of fifty dollars (\$50) in addition to and independent of any fine and cost imposed upon the defendant. The surcharge shall be paid into the city or county treasury for purposes of assisting in enforcement of this act.

(d) The provisions of this act shall not apply to fundraising activities performed by or on the behalf of charitable organizations that qualify as an exempt organization under section 501(c) or 527 of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 501(c) or 527) or to political fundraising performed in accordance with the provisions of the act of June 3, 1937 (P.L. 1333, No. 320), known as the "Pennsylvania Election Code." [FN1]

CREDIT(S)

1947, May 2, P.L. 143, § 13. Amended 1990, June 29, P.L. 263, No. 62, § 3, effective in 60 days.

[FN1] 25 P.S. § 2600 et seq.

4 P.S. § 213, PA ST 4 P.S. § 213

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4 P.S. § 214

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Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

→§ 214. **Disposition of fees; forfeitures**

All fees and moneys accruing from bond forfeitures received or recovered under the provisions of this act shall be paid into the county or city treasury for the use of the county or city in which such license was issued.

CREDIT(S)

1947, May 2, P.L. 143, § 14.

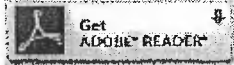
4 P.S. § 214, PA ST 4 P.S. § 214

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4 P.S. § 215

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Title 4 P.S. Amusements (Refs & Annos)

Chapter 8. Resale of Tickets

➔§ 215. Municipal ordinances superseded

This act shall supersede all municipal ordinances embracing the same subject matter: Provided, That this act shall not affect the rights of any licensee or licensor existing under nor bar any prosecution for a violation of any such ordinance prior to the effective date of this act.

CREDIT(S)

1947, May 2, P.L. 143, § 15.

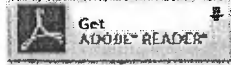
4 P.S. § 215, PA ST 4 P.S. § 215

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Gen.Laws 1956, § 5-22-26

C

West's General Laws of Rhode Island Annotated Currentness

Title 5. Businesses and Professions

Chapter 22. Shows and Exhibitions

→ § 5-22-26. Ticket speculators

No person shall sell, offer for sale, or attempt to sell any ticket, privilege, or license of admission to an entertainment event, including, but not limited to, any place of public amusement, arena, stadium, theatre, performance, sport, exhibition, or athletic contest in this state at a price greater than the price, including tax, printed on the ticket, and a reasonable service charge for services actually rendered not to exceed three dollars (\$3.00) or ten percent (10%) of the price printed on the ticket, whichever is greater. The owner or operator of the property on which an entertainment event is to be held or is being held may authorize, in writing, any person to sell a ticket, privilege, or license of admission at a price in excess of that authorized under this section. That writing shall specify the price for which the ticket, privilege, or license of admission is to be sold. Any person violating any provision of this section is guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000) for each offense.

P.L. 1984, ch. 394, § 1; P.L. 1986, ch. 205, § 1; P.L. 1988, ch. 599, § 1.

CROSS REFERENCES

Aiding and abetting crimes, prosecution, see § 11-1-3.

Civil liability for crimes, see § 9-1-2.

Common law offenses, punishment not prescribed, see § 11-1-1.

Punishments for felonies and misdemeanors, generally, see § 11-1-2.

LIBRARY REFERENCES

Public Amusement and Entertainment ⇐70.

Westlaw Key Number Search: 315Tk70.

Gen. Laws, 1956, § 5-22-26, RI ST § 5-22-26

Current with all 2006 legislation

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RI ST § 11-36-12

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Gen.Laws 1956, § 11-36-12

West's General Laws of Rhode Island Annotated Currentness

Title 11. Criminal Offenses

Chapter 36. Railroads and Carriers

→ § 11-36-12. Profiteering on tickets

No person shall resell or offer for resale a ticket or tickets for passage of a person on a common carrier at an increase in price in excess of one dollar (\$1.00) over the established rate for the passage and, whenever the resale is completed, the seller shall give to the purchaser a receipt indicating the amount paid for the ticket or tickets. Any person found guilty of violating the provisions of this section shall be fined not more than five hundred dollars (\$500).

P.L. 1944, ch. 1415, § 1.

Codifications: G.L. 1938, ch. 612, § 59.

CROSS REFERENCES

Rebates, see § 39-2-4.

LIBRARY REFERENCES

Carriers ↪257.

Westlaw Key Number Search: 70k257.

C.J.S. Carriers § 497.

Gen. Laws, 1956, § 11-36-12, RI ST § 11-36-12

Current with all 2006 legislation

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SOUTH CAROLINA



Code of Laws of South Carolina 1976 Annotated Currentness

Title 16. Crimes and Offenses

Chapter 17. Offenses Against Public Policy

Article 7. Miscellaneous Offenses

→ § 16-17-710. Resale of ticket to event; price restriction; exceptions; penalties.

(A) A person or entity who offers for resale or **resells** a **ticket** for admission to an event must request or receive no more than one dollar above the price charged by the original **ticket** seller.

(B) This section does not apply to an open market event **ticket** offered for resale through an internet website or at a permitted physical location when the person or entity **reselling** the **ticket** guarantees to the **ticket** buyer a full refund of the amount paid for the **ticket** if:

(1) the event is cancelled, except that **ticket** delivery and processing charges are not required to be refunded if disclosed in the guarantee;

(2) the buyer is denied admission to the event, unless the denial is due to the act or omission of the buyer; or

(3) the **ticket** is not delivered to the buyer and the failure results in the buyer's inability to use the **ticket** to attend the event.

(C) For purposes of this section, the term “open market event **ticket**” means a **ticket** to an event other than an event sponsored by or taking place at a venue owned by an institution of higher education. An institution of higher education may designate a **ticket** as an open market event **ticket** if the institution approves the resale of the **ticket** prior to the initial sale or delivery of the **ticket** and issues a public statement or notice authorizing the resale of the **ticket**.

(D) For purposes of this section, the term “permitted physical location” is a physical geographic location that is either:

(1) on property not owned by the owner of the venue of the **ticketed** event or on public property even if the property is the venue of the **ticketed** event subject to reasonable restrictions or conditions imposed by the owner to protect the safety and welfare of attendees of the **ticketed** event; or

(2) on private property owned by the owner of the venue of the **ticketed** event if the owner expressly author-

izes in writing such resales to occur on the property. The owner may provide specific locations on the property for resales to occur and provide for any conditions for resales on the property.

(E) A person or entity who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

(F) The resale or offer for resale of each **ticket** constitutes a separate offense.

CREDIT(S)

HISTORY: 1962 Code § 16-575; 1968 (55) 2692; 1977 Act No. 64; 2006 Act No. 367, § 2, eff June 9, 2006.

EFFECT OF AMENDMENT

The **2006** amendment rewrote this section.

CROSS REFERENCES

Applicability of provisions pertaining to use of uniform traffic **ticket**, see § 56-7-10.
Person or firm violating the provisions of this section as subject to the provisions, penalties, and damages of the South Carolina Unfair Trade Practices Act, see § 39-5-36.

LIBRARY REFERENCES

Theaters and Shows  4.
WESTLAW Topic No. 376.
C.J.S. Entertainment and Amusement; Sports §§ 47 to 48, 50 to 51.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Sports Law § 43, South Carolina Legislation.

S.C. Jur. Unfair Trade Practices Act § 13.1, Resale of **Tickets**.

Code 1976 § 16-17-710, SC ST § 16-17-710

Current through End of 2010 Reg. Sess.

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Code 1976 § 39-5-36

Page 1



Code of Laws of South Carolina 1976 Annotated Currentness

Title 39. Trade and Commerce

Chapter 5. Unfair Trade Practices

Article 1. General Provisions

→ **§ 39-5-36. Resale of tickets for more than one dollar above original price.**

(A) A person or firm who knowingly purchases a quantity of **tickets** for admission to an event which exceeds the maximum quantity posted by or on behalf of the original **ticket** seller at the point of original sale or printed on the **tickets** and intends to **resell** the **tickets** in excess of one dollar above the price charged by the original **ticket** seller violates the South Carolina Unfair Trade Practices Act and is subject to its provisions, penalties, and damages.

(B) A person or firm who violates the provisions of Section 16-17-710(A) is subject to the provisions, penalties, and damages of the South Carolina Unfair Trade Practices Act.

(C) A person or firm is not liable pursuant to this section with respect to **tickets** for which the person or firm is the original **ticket** seller.

(D) For purposes of this section, the term “original **ticket** seller” means the issuer of the **tickets** or a person or firm who provides **ticket** distribution services or **ticket** sales service under a contract with the issuer.

CREDIT(S)

HISTORY: 2006 Act No. 367, § 1, eff June 9, 2006.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Unfair Trade Practices Act § 13.1, Resale of **Tickets**.

Code 1976 § 39-5-36, SC ST § 39-5-36

Current through End of 2010 Reg. Sess.

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Code 1976 § 39-5-36

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SOUTH DAKOTA

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Page 1

SDCL § 7-18-29

C

South Dakota Codified Laws Currentness

Title 7. Counties

Chapter 7-18. Corporate Powers and Obligations of Counties (Refs & Annos)

→ 7-18-29. Authority of county commissioners to regulate hawkers, peddlers, pawnbrokers, ticket scalpers or employment agencies

Each board of county commissioners may license, tax, regulate, or prohibit any hawkers, peddlers, pawnbrokers, ticket scalpers, or employment agencies not otherwise licensed, taxed, regulated, or prohibited pursuant to § 9-34-8.

Source: SL 1994, ch 64, § 3.

RESEARCH REFERENCES

Forms

19A Am. Jur. Pl. & Pr. Forms Peddlers Solicitors & Trans. Deal. § 3.

S D C L § 7-18-29, SD ST § 7-18-29

Current through the 2007 Regular Session and Supreme Court Rule 06-77

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SD ST § 9-34-8

Page 1

SDCL § 9-34-8

C

South Dakota Codified Laws Currentness
Title 9. Municipal Government
Chapter 9-34. Trade Regulation and Licenses

→9-34-8. Hawkers, peddlers, pawnbrokers, scalpers, employment agencies— Provisions not applicable to peddling or soliciting telecommunications services

Every municipality may license, tax, regulate, or prohibit hawkers, peddlers, solicitors, pawnbrokers, ticket scalpers, and employment agencies. However, the provisions of § 9-34-18 and this section do not apply to the peddling or soliciting of telecommunications services subject to the provisions of chapter 49-13 or 49-31.

Source: SL 1890, ch 37, art V, § 1, subdiv 30; RPolC 1903, § 1229, subdiv 30; SL 1913, ch 119, § 53, subdiv 30; RC 1919, § 6169 (55); SL 1925, ch 245; SDC 1939, § 45.0201 (73); SL 1992, ch 65.

CROSS REFERENCES

Pawnbrokers, see § 37-16-1 et seq.

LIBRARY REFERENCES

Hawkers and Peddlers ↪2.
Westlaw Key Number Search: 198k2.

RESEARCH REFERENCES

ALR Library

House-to-house soliciting and peddling without invitation, construction and application of municipal ordinance prohibiting, 77 A.L.R.2d 1216.

House-to-house soliciting and peddling without invitation, validity of municipal ordinance prohibiting, 35 A.L.R.2d 355.

License fee exacted of peddlers or transient merchants, reasonableness, 39 A.L.R. 1385.

Pawnbrokers, validity of statutes or ordinances which impose duties as regards identity of persons with whom they deal or other means of enforcing criminal law against theft, 125 A.L.R. 598.

Regulation of private employment agencies, 20 A.L.R.3d 599.

Forms

9A Am. Jur. Pl. & Pr. Forms Employment Agencies § 3.

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TENNESSEE

T. C. A. § 39-17-1105

West's Tennessee Code Annotated Currentness

Title 39. Criminal Offenses

Chapter 17. Offenses Against Public Health, Safety and Welfare

Part 11. Public Events

→§ 39-17-1105. Internet ticket sales; software designed to interfere with operations; offense

(a) As used in this section, unless the context otherwise requires, "ticket seller" means a person who has executed a written agreement with the management of any venue for a sporting event, theater, musical performance, or public entertainment or amusement of any kind, to sell tickets to such an event over the Internet.

(b) It is an offense for any person to knowingly sell, give, transfer, use, distribute or possess with the intent to sell, give or distribute software that is primarily designed or produced for the purpose of interfering with the operations of any ticket seller that sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind by circumventing any security measures on the ticket seller's web site, circumventing any access control systems of the ticket seller's web site, or circumventing any controls or measures that are instituted by the ticket seller on its web site to ensure an equitable ticket buying process.

(c)(1) A violation of this section is a Class B misdemeanor, punishable by fine only of not more than five hundred dollars (\$500), or any profits made or tickets acquired in the course of the violation of this section, whichever amount is greater.

(2) Each acquisition, sale, or offer in violation of this section constitutes a separate offense.

CREDIT(S)

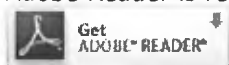
2008 Pub.Acts, c. 731, § 1, eff. July 1, 2008.

T. C. A. § 39-17-1105, TN ST § 39-17-1105
Current through end of 2013 First Reg. Sess.

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TEXAS

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V.T.C.A., Tax Code § 151.432

Effective: [See Text Amendments]

Vernon's Texas Statutes and Codes Annotated Currentness

Tax Code (Refs & Annos)

Title 2. State Taxation (Refs & Annos)

Subtitle E. Sales, Excise, and Use Taxes

Chapter 151. Limited Sales, Excise, and Use Tax (Refs & Annos)

Subchapter I. Reports, Payments, and Methods of Reporting (Refs & Annos)

→ § 151.432. Deductions of Tax on Ticket or Admission Document to Amusement Service

(a) A reseller of a ticket or admission document to an amusement service may deduct from taxable sales reported the adjusted value of the ticket or admission document purchased for resale from a non-permitted purchaser of the ticket or admission document if:

(1) the taxes imposed by this chapter were paid by the purchaser and the purchaser does not hold a permit issued under this chapter;

(2) language on the ticket or admission document purchased for resale states that all taxes have been included in the price of the ticket or admission document;

(3) the ticket or admission document for which a deduction is claimed was not purchased tax-free by use of a resale or exemption certificate; and

(4) the ticket or admission document is actually resold.

(b) The reseller's books and records must be kept in accordance with the requirements of Section 151.025 and must:

(1) identify the non-permitted purchaser;

(2) document the face value of any ticket or admission document purchased by a non-permitted purchaser;

(3) document that sales tax was included in a ticket or admission document purchased by a non-permitted purchaser;

(4) document the sale of the ticket or admission document; and

(5) account for any remaining inventory of unsold tickets or admission documents.

(c) The reseller may satisfy Subsection (b)(3) by retaining a reproduction of a ticket or admission document to the amusement service.

(d) In this section, "adjusted value of a ticket or admission document" means the face value of the ticket or admission document, less the included state or local sales or use taxes.

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V.T.C.A., Tax Code § 151.432

Added by Acts 1997, 75th Leg., ch. 1099, § 1, eff. Oct. 1, 1997.

LIBRARY REFERENCES

2002 Main Volume

Taxation ¶1282.
Westlaw Topic No. 371.
C.J.S. Taxation § 1245.

V. T. C. A., Tax Code § 151.432, TX TAX § 151.432

Current through Chapters effective immediately through Ch. 1430 (End) of the
2007 Regular Session of the 80th Legislature

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VIRGINIA

C

West's Annotated Code of Virginia Currentness

Title 15.2. Counties, Cities and Towns (Refs & Annos)

Subtitle II. Powers of Local Government

Chapter 9. General Powers of Local Governments (Refs & Annos)

Article 5. Additional Powers

→ **§ 15.2-969. Ordinances prohibiting resale of tickets to certain public events; penalty**

Any locality may provide, by ordinance, that it is unlawful for any person, firm or corporation to **resell** for profit any **ticket** for admission to any sporting event, theatrical production, lecture, motion picture or any other event open to the public for which **tickets** are ordinarily sold, except in the case of religious, charitable, or educational organizations where all or a portion of the admission price reverts to the sponsoring group and the resale for profit of such **ticket** is authorized by the sponsor of the event and the manager or owner of the facility in which the event is being held. Such ordinance may provide that violators thereof are guilty of a Class 3 misdemeanor.

This section shall not apply to any resale of a **ticket** that occurs on the Internet.

CREDIT(S)


Acts 1997, c. 587, eff. Dec. 1, 1997. Amended by Acts 2009, c. 321; Acts 2009, c. 376.

CROSS REFERENCES

Punishment for designated classes of misdemeanors, see § 18.2-11.

LIBRARY REFERENCES

Key Numbers

Theaters and Shows  2.

Westlaw Key Number Search: 376k2.

Encyclopedias

C.J.S. Entertainment and Amusement; Sports §§ 10 to 16.

VA Code Ann. § 15.2-969, VA ST § 15.2-969

Current through End of 2010 Reg. Sess. and includes 2011 Reg. Sess. cc. 1 to 3

VA Code Ann. § 15.2-969

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VA Code Ann. § **18.2-152.2**West's Annotated Code of Virginia CurrentnessTitle 18.2. Crimes and Offenses Generally (Refs & Annos)Chapter 5. Crimes Against Property (Refs & Annos)Article 7.1. Computer Crimes (Refs & Annos)➔§ **18.2-152.2. Definitions; computer crimes**

For purposes of this article:

"Commercial electronic mail" means electronic mail, the primary purpose of which is the advertisement or promotion of a commercial product or service.

"Computer" means a device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions. Such term does not include simple calculators, automated typewriters, facsimile machines, or any other specialized computing devices that are preprogrammed to perform a narrow range of functions with minimal end-user or operator intervention and are dedicated to a specific task.

"Computer data" means any representation of information, knowledge, facts, concepts, or instructions which is being prepared or has been prepared and is intended to be processed, is being processed, or has been processed in a computer or computer network. "Computer data" may be in any form, whether readable only by a computer or only by a human or by either, including, but not limited to, computer printouts, magnetic storage media, punched cards, or stored internally in the memory of the computer.

"Computer network" means two or more computers connected by a network.

"Computer operation" means arithmetic, logical, monitoring, storage or retrieval functions and any combination thereof, and includes, but is not limited to, communication with, storage of data to, or retrieval of data from any device or human hand manipulation of electronic or magnetic impulses. A "computer operation" for a particular computer may also be any function for which that computer was generally designed.

"Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, causes the computer to perform one or more computer operations.

"Computer services" means computer time or services, including data processing services, Internet services, electronic mail services, electronic message services, or information or data stored in connection therewith.

"Computer software" means a set of computer programs, procedures and associated documentation concerned with computer data or with the operation of a computer, computer program, or computer network.

"Electronic mail service provider" (EMSP) means any person who (i) is an intermediary in sending or receiving electronic mail and (ii) provides to end- users of electronic mail services the ability to send or receive electronic mail.

"Financial instrument" includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any computerized representation thereof.

"Network" means any combination of digital transmission facilities and packet switches, routers, and similar equipment interconnected to enable the exchange of computer data.

"Owner" means an owner or lessee of a computer or a computer network or an owner, lessee, or licensee of computer data, computer programs or computer software.

"Person" shall include any individual, partnership, association, corporation or joint venture.

"Property" shall include:

1. Real property;
2. Computers and computer networks;
3. Financial instruments, computer data, computer programs, computer software and all other personal property regardless of whether they are:
 - a. Tangible or intangible;
 - b. In a format readable by humans or by a computer;
 - c. In transit between computers or within a computer network or between any devices which comprise a computer; or
 - d. Located on any paper or in any device on which it is stored by a computer or by a human; and
4. Computer services.

"Spam" means unsolicited commercial electronic mail. Spam shall not include commercial electronic mail transmitted to a recipient with whom the sender has an existing business or personal relationship.

A person "uses" a computer or computer network when he attempts to cause or causes a computer or computer network to perform or to stop performing computer operations.

A person is "without authority" when he knows or reasonably should know that he has no right, agreement, or permission or acts in a manner knowingly exceeding such right, agreement, or permission.

CREDIT(S)

Acts 1984, c. 751; Acts 1999, c. 886; Acts 1999, c. 904; Acts 1999, c. 905; Acts 2000, c. 627; Acts 2003, c. 987; Acts 2003, c. 1016; Acts 2005, c. 761; Acts 2005, c. 812; Acts 2005, c. 827; Acts 2009, c. 321; Acts 2009, c. 376; Acts 2010, c. 489.

HISTORICAL AND STATUTORY NOTES

Acts 1999 cc. 886, 904 and 905 all redefined computer services, added a definition of electronic mail service provider, and added in the last paragraph provisions comprising cl. (ii). Prior to amendment, computer services was defined as follows:

" 'Computer services' includes computer time or services or data processing services or information or data stored in connection therewith."

Acts 2000, c. 627 redefined computer network formerly defined as follows:

" 'Computer network' means a set of related, remotely connected devices and any communications facilities including more than one computer with the capability to transmit data among them through the communications facilities."

Acts 2003, cc. 987 and 1016, made identical amendments, and in the definition of electronic mail service provider inserted "(EMSP)", and rewrote the definitions of "uses" and "without authority", which prior thereto read:

"A person 'uses' a computer or computer network when he:

"1. Attempts to cause or causes a computer or computer network to perform or to stop performing computer operations;

"2. Attempts to cause or causes the withholding or denial of the use of a computer, computer network, computer program, computer data or computer software to another user; or

"3. Attempts to cause or causes another person to put false information into a computer.

"A person is 'without authority' when (i) he has no right or permission of the owner to use a computer or he uses a computer in a manner exceeding such right or permission or (ii) he uses a computer, a computer network, or the computer services of an electronic mail service provider to transmit unsolicited bulk electronic mail in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider. Transmission of electronic mail from an organization to its members shall not be deemed to be unsolicited bulk electronic mail."

Acts 2005, cc. 761, 812 and 827 made identical changes and rewrote the definitions for "Computer", "uses" and "without authority". Acts 2005, c. 761 made the same changes as Acts 2005, cc. 761, 812 and 827, and also in the definition for "Owner" deleted the comma preceding "or computer software". Prior thereto the definitions for "Computer", "uses" and "without authority" read:

" 'Computer' means an electronic, magnetic, optical, hydraulic or organic device or group of devices which, pursuant to a computer program, to human instruction, or to permanent instructions contained in the device or group of devices, can automatically perform computer operations with or on computer data and can communicate the results to another computer or to a person. The term 'computer' includes any connected or directly related device, equipment, or facility which enables the computer to store, retrieve or communicate computer programs, computer data or the results of computer

operations to or from a person, another computer or another device."

"A person 'uses' a computer or computer network when he attempts to cause or causes:

"1. A computer or computer network to perform or to stop performing computer operations;

"2. The withholding or denial of the use of a computer, computer network, computer program, computer data or computer software to another user; or

"3. A person to put false information into a computer.

"A person is 'without authority' when he has no right or permission of the owner to use a computer or computer network or he uses a computer or computer network in a manner exceeding such right or permission."

Acts 2009, c. 321, rewrote the last paragraph, which prior thereto read:

"A person is 'without authority' when he knows or reasonably should know that he has no right or permission or knowingly acts in a manner exceeding such right or permission."

Acts 2009, c. 376, in the last paragraph inserted ", agreement," deleted "knowingly" preceding "acts in a manner", and inserted ", agreement," preceding "or permission".

In 2009, pursuant to the direction of the Virginia Code Commission, the changes by Acts 2009, c. 321 were followed instead of the changes by Acts 2009, c. 376.

Acts 2010, c. 489, added definitions for "Commercial electronic mail" and "Spam".

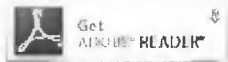
VA Code Ann. § **18.2-152.2**, VA ST § **18.2-152.2**

Current through End of the 2013 Reg. Sess. and
the End of 2013 Sp. S. I and includes 2014 Reg. Sess. cc. 1, 2 and 8.

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WISCONSIN

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W.S.A. 42.07

C

West's Wisconsin Statutes Annotated Currentness

■ Cultural Institutions (Ch. 42 to 44)

■ Chapter 42. State Fair Park Board (Refs & Annos)

→42.07. Ticket scalping; penalty

(1) Every ticket or other evidence of the right of entry to any amusement, game, contest, exhibition or performance given by or under the auspices of the state fair park shall be considered a revocable license to the person to whom such ticket is issued and shall be transferable only on such terms and conditions as the state fair park board prescribes.

(2) No such ticket or other evidence of the right of entry may be sold for more than the price printed upon the face of the ticket. Any person reselling any such ticket for more than said price shall be fined not less than \$10 nor more than \$100 or imprisoned not more than 60 days.

<<For credits, see Historical Note field.>>

HISTORICAL AND STATUTORY NOTES

2003 Main Volume

Source:

L.1973, c. 104, eff. Aug. 16, 1973.

L.1973, c. 343, § 49, eff. June 7, 1974.

St.1987, § 93.24(9).

1989 Act 219, § 29, eff. April 28, 1990.

1989 Act 219, § 29 renumbered and amended § 93.24(9) as this section.

LAW REVIEW AND JOURNAL COMMENTARIES

Reassessing the ticket scalping dispute: Application, effects and criticisms of current anti-scalping legislation. 5 Seton Hall J.Sport L. 189 (1995).

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2003 Main Volume

Agriculture ↩5.

Westlaw Topic No. 23.

Westlaw Topic No. 23.

C.J.S. Agriculture §§ 131, 133 to 137.

RESEARCH REFERENCES

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W.S.A. 66.0410

West's Wisconsin Statutes Annotated Currentness
Municipalities (Ch. 59 to 68)
 Chapter 66. General Municipality Law (Refs & Annos)
 Subchapter IV. Regulation

→66.0410. Local regulation of ticket reselling

(1) Definitions. In this section:

(a) "Political subdivision" means a city, village, town, or county.

(b) "Ticket" means a ticket that is sold to an entertainment or sporting event.

(2) Reselling of tickets. (a) A political subdivision may not enact an ordinance or adopt a resolution and the Board of Regents of the University of Wisconsin System may not promulgate a rule or adopt a resolution prohibiting the resale of any ticket for an amount that is equal to or less than the ticket's face value.

(b) If a political subdivision or the Board of Regents of the University of Wisconsin System has in effect on April 22, 2004 an ordinance, rule, or resolution that is inconsistent with par. (a), the ordinance, rule, or resolution does not apply and may not be enforced.

<<For credits, see Historical Note field.>>

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

Source:
2003 Act 191, § 1, eff. April 22, 2004.

W. S. A. 66.0410, WI ST 66.0410

Current through 2007 Act 14, published 06/13/07

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2008-158
SENATE BILL 1407

AN ACT TO PROTECT CUSTOMERS WHEN PURCHASING TICKETS VIA THE INTERNET
AND TO PROHIBIT THE USE OF SOFTWARE TO UNFAIRLY PURCHASE TICKETS OVER
THE INTERNET.

The General Assembly of North Carolina enacts:

SECTION 1. Article 44 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-344.1. Internet sale of admission tickets in excess of printed price.

(a) Internet Resale. – A person may resell an admission ticket under this section on the Internet at a price greater than the price on the face of the ticket unless the venue where the event will occur prohibits the Internet ticket resale as provided under subsection (b) of this section. To resell an admission ticket under this section, the person reselling the ticket must offer the ticket for resale on a Web site with a ticket guarantee that meets the requirements of subsection (c) of this section. A prospective purchaser must be directed to the guarantee before completion of the resale transaction. A person who resells an admission ticket under this section acknowledges liability for the informational report required under subsection (e) of this section.

(b) Resale Prohibited. – The venue where an event will occur may prohibit the resale of admission tickets for the event at a price greater than the price on the face of the ticket. To prohibit the resale of tickets under this section, the venue must file a notice of prohibition of the resale of admission tickets for a specified event with the Secretary of State and must post the notice of prohibition conspicuously on its Web site. The primary ticket seller for the event must also post the notice conspicuously on its Web site. A prohibition under this subsection may not become valid until 30 days after the notice is posted on the venue's Web site. The prohibition expires on December 31 of each year unless the prohibition is renewed. To renew a prohibition, a venue must renew its notice of prohibition filed with the Secretary of State and must post the notice as required under this subsection. A venue who files a notice of prohibition must pay a fee in the amount set in G.S. 55-1-22 for filing articles of incorporation. A venue that renews a notice of prohibition must pay a fee in the amount set in G.S. 55-1-22 for filing a paper annual report.

(c) Ticket Guarantee. – A person who resells or offers to resell admission tickets under this section must guarantee to the purchaser a full refund of the amount paid for the ticket under each of the following conditions:

- (1) The ticketed event is cancelled. Reasonable handling and delivery fees may be withheld from the refund price of a cancelled ticketed event if the ticket guarantee on the Web site specifically informs the purchaser that handling and delivery fees will be withheld from the refunded amount.
- (2) The purchaser is denied admission to the ticketed event. This subdivision does not apply if admission to the ticketed event is denied to the purchaser because of an action or omission of the purchaser.
- (3) The ticket is not delivered to the purchaser in the manner described on the Web site or pursuant to the delivery guarantee made by the reseller, and the failure results in the purchaser's inability to attend the ticketed event.

(d) Student Tickets. – This section does not apply to student tickets issued by institutions of higher education in North Carolina for sporting events.

(e) Report on Receipts. – A person who resells or offers to resell admission tickets under this

section must report each month to the Department of Revenue, under oath, on a form provided by the Department. The report is due by the 10th day after the end of each month and covers the gross receipts received during the previous month from reselling admission tickets to an event or venue in this State. The report must include all of the following:

- (1) The total amount of gross receipts derived from reselling an admission ticket on the Internet to an event or venue in this State. For purposes of this subsection, gross receipts exclude the price printed on the face of the ticket.
- (2) The event for which admission tickets are sold and the venue where the event will occur.
- (3) The person or venue from whom the reseller purchased admission tickets.
- (4) The acquisition price of the admission tickets.
- (5) The price received by the reseller for the admission tickets.
- (6) The name and address of the person to whom the admission ticket is resold, if the purchaser is a reseller.
- (7) Any other information required by the Secretary of Revenue."

SECTION 2. Article 44 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-344.2. Prohibition on ticket purchasing software.

(a) **Definition.** – The term 'ticket seller' means a person who has executed a written agreement with the management of any venue in North Carolina for a sporting event, theater, musical performance, or public entertainment of any kind to sell tickets to the event over the Internet.

(b) **Unfair Trade Practice.** – A person who knowingly sells, gives, transfers, uses, distributes, or possesses software that is primarily designed or produced for the purpose of interfering with the operation of a ticket seller who sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or public entertainment of any kind by circumventing any security measures on the ticket seller's Web site, circumventing any access control systems of the ticket seller's Web site, circumventing any access control solutions of the ticket seller's Web site, or circumventing any controls or measures that are instituted by the ticket seller on its Web site to ensure an equitable ticket buying process shall be in violation of G.S. 75-1.1. The ticket seller and venue hosting the ticketed event have standing to bring a private right of action under G.S. 75-1.1 for violation of this section.

(c) **Original Ticket Seller.** – A person or firm is not liable under this section with respect to tickets for which the person or firm is the original ticket seller."

SECTION 3. G.S. 14-344 reads as rewritten:

"§ 14-344. Sale of admission tickets in excess of printed price.

Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars (\$3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars (\$3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section or as permitted by G.S. 14-344.1 shall be guilty of a Class 2 misdemeanor."

SECTION 4. This act becomes effective August 1, 2008, and expires June 30, 2009. The expiration of this act does not relieve a person's liability to file the report required under G.S. 14-344.1 (e) for gross receipts received in June 2009. Liability for acts or omissions before the expiration date of this act are not abated or affected by the expiration. Section 3 of this act applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:35 a.m. this 3rd day of August 2008