

Amendment No. a1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Regulatory Affairs
2 Committee

3 Representative Raulerson offered the following:

4
5 **Amendment to Amendment (184993) by Representative Smith**
6 **(with title amendment)**

7 Remove line 71 of the amendment and insert:

8 Section 3. Section 817.36, Florida Statutes, is amended to
9 read:

10 817.36 Resale of tickets.—

11 (1)(6) As used in this section, the term:

12 (a) "Department" means the Department of Agriculture and
13 Consumer Services.

14 (b) "Online marketplace" means an Internet website that
15 provides a forum for the buying and selling of tickets and that
16 is not operated by a ticket issuer or an agent of an owner or
17 operator of a place of entertainment.

18 (c) "Resale website" means an Internet website, or portion
19 of a website, whose primary purpose is to facilitate the resale
20 of tickets to consumers.

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21 (d) "Software" means computer programs that are primarily
22 designed or produced for the purpose of interfering with the
23 operation of any person or entity that sells, over the Internet,
24 tickets of admission to a sporting event, theater, musical
25 performance, or place of public entertainment or amusement of
26 any kind.

27 (e) "Ticket broker" means a person in the business of
28 reselling tickets to events at places of entertainment in this
29 state and who charges a premium in excess of the face value of
30 the ticket. The term does not include an individual who does not
31 regularly engage in the business of reselling tickets, who
32 resells less than 60 tickets during any 1-year period, and who
33 initially obtained any tickets he or she sold to others for
34 personal use, or the use of an immediate family member, friend,
35 or known acquaintances. The term also does not include a person
36 operating a website whose primary business is to serve as a
37 resale marketplace where third parties can buy and sell tickets,
38 and who does not otherwise engage in the business of reselling
39 tickets.

40 ~~(2)(1)~~ A person or entity that offers for resale or
41 resells any ticket may charge only \$1 above the admission price
42 charged therefor by the original ticket seller of the ticket for
43 the following transactions:

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

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

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

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

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

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77 a. The ticketed event is canceled and the purchaser
78 requests a refund;

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

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

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

90 (3)~~(2)~~ This section does not authorize any individual or
91 entity to sell or purchase tickets at any price on property
92 where an event is being held without the prior express written
93 consent of the owner of the property.

94 (4)~~(3)~~ Any sales tax due for resales under this section
95 shall be remitted to the Department of Revenue in accordance
96 with s. 212.04.

97 (5)~~(4)~~ A person who knowingly resells a ticket or tickets
98 in violation of this section is liable to the state for a civil
99 penalty equal to treble the amount of the price for which the
100 ticket or tickets were resold.

101 (6)~~(5)~~ A person who intentionally uses or sells software
102 to circumvent on a ticket seller's Internet website a security
103 measure, an access control system, or any other control or
104 measure that is used to ensure an equitable ticket-buying

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105 process for the general public, commits a felony of the third
106 degree, punishable as provided in s. 775.082 or s. 775.084 or by
107 a fine of up to \$10,000, and is liable to the state for a civil
108 penalty equal to treble the amount for which the ticket or
109 tickets were sold.

110 (7) (a) A ticket broker shall register with the department
111 by April 1, 2014, or within 30 days after commencing business as
112 a ticket broker in this state, whichever is later, and maintain
113 an active registration with the department. To have and maintain
114 an effective registration, a ticket broker shall:

115 1. Maintain a permanent office or place of business in
116 this state for the purpose of engaging in the business of a
117 ticket broker.

118 2. Submit the ticket broker's business name, a street
119 address in this state, and other information as requested on a
120 form designated by the department.

121 3. Certify that the broker does not use, sell, give,
122 transfer, or distribute software that is primarily designed for
123 the purpose of interfering with the operations of any ticket
124 seller in violation of this section.

125 4. Pay an annual registration fee as determined by the
126 department sufficient to reimburse the department for the
127 administration of this subsection.

128 5. Renew the registration annually.

129 6. Register for sales and use tax purposes under chapter
130 212.

131 (b) Upon registration, the department shall issue each
132 ticket broker a unique registration number and publish a list of

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133 registered ticket brokers, including registration numbers on the
134 department's website. A person who has been convicted of a
135 felony and who has not been pardoned or had his or her civil
136 rights other than voting restored under chapter 940 may not
137 register as a ticket broker.

138 (8) A ticket broker or resale website must disclose to a
139 prospective ticket resale purchaser, whether on the ticket
140 broker's resale website, online marketplace, or in person,
141 before a resale:

142 (a) The face value and exact location of the seat offered
143 for sale, including any section, row, and seat number, or area
144 specifically designated as accessible seating that is printed on
145 the ticket.

146 (b) Whether the ticket offered for sale is in the actual
147 possession of the reseller and available for delivery.

148 (9) A ticket broker or resale website may not use a
149 website with a uniform resource locator (URL) that incorporates
150 or contains a trademark rightfully owned by another in such a
151 way that the incorporation or use amounts to a violation of
152 federal trademark law without the written consent of the
153 trademark owner.

154 (10) (a) A person aggrieved by a violation of this section
155 may, without regard to any other remedy or relief to which the
156 person is entitled, bring an action to obtain a declaratory
157 judgment that an act or practice violates this section and to
158 enjoin a person who has violated, is violating, or is otherwise
159 likely to violate this section.

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160 (b) In any action brought by a person who has suffered a
161 loss as a result of a violation of this section, such person may
162 recover actual damages, plus attorney fees and court costs.

163 (11) Except as otherwise provided in this section and in
164 addition to any noncriminal penalties provided in this section,
165 a person who knowingly violates this section commits a felony of
166 the third degree, punishable as provided in s. 775.082 or s.
167 775.084 or may be fined up to \$10,000.

168 (12) The department shall adopt rules necessary to
169 implement the provisions of this section.

170 Section 4. Section 817.362, Florida Statutes, is created
171 to read:

172 817.362 Initial sales of tickets unaffected.—In order to
173 preserve the rights of consumers to secure tickets to live
174 entertainment events through safe and reliable means, nothing in
175 ss. 817.355-817.361 prevents operators of places of
176 entertainment, event presenters, or their agents from using any
177 ticketing methods for the initial sale of tickets, through any
178 medium, whether existing now or in the future.

179 Section 5. (1) As used in this section, the term "ticket"
180 means a printed, electronic, or other type of evidence of the
181 right, option, or opportunity to occupy space at or to enter or
182 attend an entertainment event even if not evidenced by a
183 physical manifestation of such right.

184 (2) An admission ticket represents a revocable license,
185 held by the person in possession of the ticket, to use a seat or
186 standing area in a specific place of an athletic contest or
187 entertainment event for a limited time. The license represented

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188 by the ticket may be revoked at any time, with or without cause,
189 by the ticket issuer.

190 Section 6. This act shall take effect October 1, 2013.
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195 **T I T L E A M E N D M E N T**

196 Remove line 88 of the amendment and insert:
197 multiuse tickets; amending s. 817.36, F.S.; providing
198 definitions; providing criminal penalties for persons
199 who intentionally use or sell software for specified
200 purposes; requiring ticket brokers to register with
201 the Department of Agriculture and Consumer Services;
202 requiring ticket brokers and resale websites to make
203 specified disclosures to prospective buyers;
204 prohibiting ticket brokers and resale websites from
205 using website universal resource locators containing
206 trademarks without permission of the holder; providing
207 for civil remedies for violations; providing criminal
208 penalties; requiring the department to adopt rules;
209 creating s. 817.362, F.S.; providing that specified
210 provisions do not affect the initial sales of tickets;
211 defining the term "ticket"; providing that an
212 admission ticket represents a revocable license;
213 providing an effective date.
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