

1                   A bill to be entitled  
 2           An act relating to resale of tickets; creating part XII of  
 3           chapter 559, F.S.; providing definitions; requiring  
 4           registration of certain ticket resellers; requiring  
 5           specified information from registrants; providing for a  
 6           registration fee; requiring a current registration  
 7           certificate to obtain a local occupational license;  
 8           requiring specified registration information in contracts  
 9           and advertisements; requiring notice of changes of name or  
 10          location; prohibiting assignment of registration;  
 11          providing for application of specified administrative  
 12          provisions to such registrations; permitting denial or  
 13          revocation of registration in certain circumstances;  
 14          providing for a performance bond; providing penalties;  
 15          amending s. 817.357, F.S.; prohibiting use of computer  
 16          software to evade quantity limits on ticket purchases;  
 17          requiring an original ticket seller to provide specified  
 18          information on a publicly available Internet site;  
 19          providing penalties; amending s. 817.36, F.S.; providing  
 20          civil penalties for certain violations; providing an  
 21          effective date.

22  
 23   Be It Enacted by the Legislature of the State of Florida:

24  
 25           Section 1. Part XII of chapter 559, Florida Statutes,  
 26           consisting of section 559.945, is created to read:

27                                   PART XII  
 28                                   TICKET RESELLERS

29           559.945 Ticket resellers.--  
 30           (1) For the purposes of this section, the term:  
 31           (a) "Department" means the Department of Agriculture and  
 32 Consumer Services.  
 33           (b) "Resale" means a sale of a ticket authorized under s.  
 34 817.36(3).  
 35           (c) "Ticket" means any ticket, token, paper, or other  
 36 thing designed for admission to or the rendering of services by  
 37 any sports, amusement, concert, or other facility offering  
 38 services to the general public.  
 39           (2) Each reseller of tickets shall annually register with  
 40 the department, providing: its legal business or trade name,  
 41 mailing address, and business locations; the full names,  
 42 addresses, telephone numbers, and social security numbers of its  
 43 owners or corporate officers and directors and the Florida agent  
 44 of the corporation; a statement indicating whether it is a  
 45 domestic or foreign corporation, its state and date of  
 46 incorporation, its charter number, and, if a foreign  
 47 corporation, the date it registered with the state, and  
 48 occupational license where applicable; the date on which a  
 49 reseller of tickets registered its fictitious name if the  
 50 reseller of tickets is operating under a fictitious or trade  
 51 name; the name of all other corporations, business entities, and  
 52 trade names through which each owner of the reseller of tickets  
 53 operated, was known, or did business as a reseller of tickets  
 54 within the preceding 5 years; a list of all authorized  
 55 independent agents, including the agent's trade name, full name,  
 56 mailing address, business address, telephone numbers, and social

57 security number; the business location and address of each  
 58 branch office and the full name and address of the manager or  
 59 supervisor; and proof of purchase of adequate bond or  
 60 establishment of a letter of credit or certificate of deposit as  
 61 required in this section. A certificate evidencing proof of  
 62 registration shall be issued by the department and must be  
 63 prominently displayed in the reseller of tickets' primary place  
 64 of business.

65 (3) Registration fees shall be \$300 per year per  
 66 registrant. All amounts collected shall be deposited by the  
 67 Chief Financial Officer to the credit of the General Inspection  
 68 Trust Fund of the Department of Agriculture and Consumer  
 69 Services pursuant to s. 570.20, for the sole purpose of  
 70 administration of this section.

71 (4) Each independent agent shall annually file an  
 72 affidavit with the department prior to engaging in business in  
 73 this state. This affidavit must include the independent agent's  
 74 full name, legal business or trade name, mailing address,  
 75 business address, telephone number, social security number, and  
 76 the name or names and addresses of each reseller of tickets  
 77 represented by the independent agent. A letter evidencing proof  
 78 of filing must be issued by the department and must be  
 79 prominently displayed in the independent agent's primary place  
 80 of business. As used in this subsection, the term "independent  
 81 agent" means a person who represents a reseller of tickets by  
 82 soliciting persons on its behalf; who has a written contract  
 83 with a reseller of tickets that is operating in compliance with  
 84 this section and any rules adopted thereunder; who does not

85 receive a fee, commission, or other valuable consideration  
86 directly from the purchaser for the reseller of tickets; who  
87 does not at any time have any unissued ticket stock in his or  
88 her possession; and who does not have the ability to issue  
89 tickets.

90 (5) Any person applying for or renewing a local  
91 occupational license to engage in business as a reseller of  
92 tickets must exhibit a current registration certificate from the  
93 department before the local occupational license may be issued  
94 or reissued.

95 (6) Each contract of a reseller of tickets must include  
96 the phrase " (NAME OF FIRM) is registered with the State of  
97 Florida as a Reseller of Tickets. Registration No. \_\_\_\_\_."

98 (7) Each advertisement of a reseller of tickets must  
99 include the phrase "Fl. Reseller of Tickets Reg. No. \_\_\_\_\_."

100 (8) No registration shall be valid for any reseller of  
101 tickets transacting business at any place other than that  
102 designated in its application, unless the department is first  
103 notified in writing in advance of any change of location. A  
104 registration issued under this section shall not be assignable,  
105 and the reseller of tickets shall not be permitted to conduct  
106 business under more than one name except as registered. A  
107 reseller of tickets desiring to change its registered name or  
108 location or designated agent for service of process at a time  
109 other than upon renewal of registration shall notify the  
110 department of such change.

111 (9) Applications under this section shall be subject to  
112 the provisions of s. 120.60.

113       (10) The department may deny or refuse to renew the  
114 registration of any reseller of tickets based upon a  
115 determination that the reseller of tickets, or any of its  
116 directors, officers, owners, or general partners:

117       (a) Has failed to meet the requirements for registration  
118 as provided in this section;

119       (b) Has been convicted of a crime involving fraud,  
120 dishonest dealing, or any other act of moral turpitude;

121       (c) Has not satisfied a civil fine or penalty arising out  
122 of any administrative or enforcement action brought by any  
123 governmental agency or private person based upon conduct  
124 involving fraud, dishonest dealing, or any violation of this  
125 section;

126       (d) Has pending against him or her any criminal,  
127 administrative, or enforcement proceedings in any jurisdiction,  
128 based upon conduct involving fraud, dishonest dealing, or any  
129 other act of moral turpitude; or

130       (e) Has had a judgment entered against him or her in any  
131 action brought by the department or the Department of Legal  
132 Affairs pursuant to ss. 501.201-501.213 or this section.

133       (11) (a) An application must be accompanied by a  
134 performance bond in the amount of \$25,000. The surety on such  
135 bond shall be a surety company authorized to do business in the  
136 state.

137       (b) In lieu of the performance bond required in this  
138 subsection, a registrant or applicant for registration may  
139 establish a certificate of deposit or an irrevocable letter of  
140 credit in a Florida banking institution in the amount of the

141 performance bond. The department shall be the beneficiary to  
142 this certificate of deposit, and the original shall be filed  
143 with the department. Any such letter of credit shall provide  
144 that the issuer will give the department not less than 120 days'  
145 written notice prior to terminating or refusing to renew the  
146 letter of credit.

147 (c) The bond, letter of credit, or certificate of deposit  
148 shall be in favor of the department for the use and benefit of  
149 any ticket purchaser who is injured by the fraud,  
150 misrepresentation, breach of contract, financial failure, or  
151 violation of any provision of this section or s. 817.357 by the  
152 reseller of tickets. Such liability may be enforced either by  
153 proceeding in an administrative action as specified in paragraph  
154 (d) or by filing a judicial suit at law in a court of competent  
155 jurisdiction. However, in such court suit the bond, letter of  
156 credit, or certificate of deposit posted with the department  
157 shall not be amenable or subject to any judgment or other legal  
158 process issuing out of or from such court in connection with  
159 such lawsuit, but such bond, letter of credit, or certificate of  
160 deposit shall be amenable to and enforceable only by and through  
161 administrative proceedings before the department. It is the  
162 intent of the Legislature that such bond, letter of credit, or  
163 certificate of deposit shall be applicable and liable only for  
164 the payment of claims duly adjudicated by order of the  
165 department. The bond, letter of credit, or certificate of  
166 deposit shall be open to successive claims, but the aggregate  
167 amount may not exceed the amount of the bond, letter of credit,  
168 or certificate of deposit.

169       (d) Any ticket purchaser may file a claim against the  
 170 bond, letter of credit, or certificate of deposit which shall be  
 171 made in writing to the department within 120 days after an  
 172 alleged injury has occurred or is discovered to have occurred.  
 173 The proceedings shall be held in accordance with ss. 120.569 and  
 174 120.57.

175       (e) In any situation in which the reseller of tickets is  
 176 currently the subject of an administrative, civil, or criminal  
 177 action by either the department, the Department of Legal  
 178 Affairs, or the state attorney concerning compliance with this  
 179 section, the right to proceed against the bond, letter of  
 180 credit, or certificate of deposit, as provided in paragraph (d),  
 181 shall be suspended until after any enforcement action becomes  
 182 final.

183       (12) A person who resells a ticket without a valid  
 184 registration under this section commits a misdemeanor of the  
 185 second degree, punishable as provided in s. 775.082 or s.  
 186 775.083.

187       Section 2. Section 817.357, Florida Statutes, is amended  
 188 to read:

189       817.357 Purchase of tickets.--

190       (1) (a) Whoever knowingly:

191       1. Purchases from the original ticket seller a quantity of  
 192 tickets to an event which exceeds the maximum ticket limit  
 193 quantity posted by or on behalf of the original ticket seller at  
 194 the point of original sale or printed on the tickets themselves  
 195 and intends to resell such tickets;

196           2. Uses computer software to purchase tickets to an event  
 197 in a way that evades the ticket limit quantity posted by or on  
 198 behalf of the original ticket seller; or

199           3. Is an original ticket seller and refuses to post on a  
 200 publicly available Internet website the following information in  
 201 connection with the sale, allocation, or distribution of tickets  
 202 to each event for which the seller is the original seller as  
 203 soon as possible in conjunction with the original public sale:

204           a. The number of tickets offered for sale to the general  
 205 public at each price level;

206           b. The number of tickets allocated or distributed to the  
 207 original ticket seller or its agents at each price level;

208           c. The number of tickets sold, allocated, or distributed  
 209 to fan clubs at each price level;

210           d. The number of tickets sold, allocated, or distributed  
 211 to the promoter or performer or their agents at each price  
 212 level; and

213           e. The identity of the recipients of any tickets sold,  
 214 allocated, or distributed to anyone not listed in sub-  
 215 subparagraphs a.-d. at each price level,

216  
 217 violates ss. 501.201-501.213, the Florida Deceptive and Unfair  
 218 Trade Practices Act.

219           (b) A person who violates subparagraph (a)2. commits a  
 220 misdemeanor of the second degree, punishable as provided in s.  
 221 775.082 or s. 775.083.

222           (2) A person or firm is not liable under this section with  
 223 respect to tickets for which that person or firm is the original



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224 ticket seller. For purposes of this section, the term "original  
225 ticket seller" means the issuer of such ticket or a person or  
226 firm who provides distribution services or ticket sales services  
227 under a contract with such issuer.

228 Section 3. Section 817.36, Florida Statutes, is amended to  
229 read:

230 817.36 Resale of tickets.--

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

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

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

246 (c)~~(3)~~ Any tickets, other than the tickets in paragraphs  
247 (a) and (b) ~~subsections (1) and (2)~~, that are resold or offered  
248 through an Internet website, unless such website is authorized  
249 by the original ticket seller or makes and posts the following  
250 guarantees and disclosures through Internet web pages on which  
251 are visibly posted, or links to web pages on which are posted,

252 text to which a prospective purchaser is directed before  
253 completion of the resale transaction:

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

257 a.1.~~1.~~ The ticketed event is canceled;

258 b.2.~~2.~~ The purchaser is denied admission to the ticketed  
259 event, unless such denial is due to the action or omission of  
260 the purchaser;

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

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

269 (2)~~(4)~~ Nothing in this section authorizes any individual  
270 or entity to sell or purchase tickets at any price on property  
271 where an event is being held without the prior express written  
272 consent of the owner of the property.

273 (3)~~(5)~~ Any sales tax due for resales under this section  
274 shall be remitted to the Department of Revenue in accordance  
275 with s. 212.04.

276 (4) A person who sells a ticket or tickets in violation of  
277 this section is liable to the state for a civil penalty equal to  
278 treble the amount the ticket or tickets were sold for in  
279 violation of this section.

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Section 4. This act shall take effect October 1, 2008.