

CS/HB 1287

2009

1 A bill to be entitled
2 An act relating to resale of tickets; amending s. 817.36,
3 F.S.; providing restrictions on the resale of event
4 tickets by or benefiting a tax-exempt charitable
5 organization; allowing a charitable organization as an
6 original ticket issuer or seller to have the choice to
7 prohibit ticket purchases for resale or to require
8 contractual agreements with ticket resellers; requiring
9 that a person or entity who offers to sell or resell over
10 the Internet tickets to specified public entertainment or
11 amusement events of any kind may not offer such tickets
12 for sale until such tickets have first been offered for
13 sale via an event-provider-authorized outlet or offering;
14 providing exceptions; prohibiting use of computer software
15 to circumvent a ticket seller's website security measures,
16 access control systems, or other controls or measures used
17 to ensure an equitable ticket-buying process; providing
18 penalties; defining the term "software"; providing that a
19 violation of this section is a violation of the Florida
20 Deceptive and Unfair Trade Practices Act; providing for a
21 civil penalty equal to treble the amount for which tickets
22 were sold in violation of s. 817.36, F.S.; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 817.36, Florida Statutes, is amended to
28 read:

29 817.36 Resale of tickets.--

30 (1) A person or entity who offers ~~Whoever shall offer~~ for
 31 resale or resells ~~resell~~ any ticket may only charge \$1 above the
 32 admission price charged therefor by the original ticket seller
 33 of the said ~~the~~ ticket for the following transactions:

34 (a) (1) ~~(a) (1)~~ Passage or accommodations on any common carrier in
 35 this state.; ~~however, the provisions of This paragraph does~~
 36 ~~subsection shall~~ not apply to travel agencies that have an
 37 established place of business in this state, ~~which place of~~
 38 ~~business~~ is required to pay state, county, and city occupational
 39 license taxes.

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

45 (c) Tickets for events sponsored by or benefiting a
 46 charitable organization exempt from taxation under s. 501(c)(3)
 47 of the Internal Revenue Code.

48 (d) 1. (3) ~~(d) 1. (3)~~ Any tickets, other than the tickets in paragraphs
 49 (a), (b), and (c) subsections (1) and (2), that are resold or
 50 offered through an Internet website, unless such website is
 51 authorized by the original ticket seller or makes and posts the
 52 following guarantees and disclosures through Internet web pages
 53 on which are visibly posted, or links to web pages on which are
 54 posted, text to which a prospective purchaser is directed before
 55 completion of the resale transaction:

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

59 ~~(I)1.~~ The ticketed event is canceled;

60 ~~(II)2.~~ The purchaser is denied admission to the ticketed
61 event, unless such denial is due to the action or omission of
62 the purchaser;

63 ~~(III)3.~~ The ticket is not delivered to the purchaser in
64 the manner requested and pursuant to any delivery guarantees
65 made by the reseller and such failure results in the purchaser's
66 inability to attend the ticketed event.

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

71 2.a. A person or entity who offers to sell or resell over
72 the Internet tickets of admission to a live entertainment event,
73 theater, musical performance, or place of public entertainment
74 or amusement of any kind may not offer such tickets for sale
75 until such tickets have first been offered for sale via an
76 event-provider-authorized outlet or offering.

77 b. An Internet portal or website may not allow any person
78 or entity to offer for resale any ticket of admission to a live
79 entertainment event, theater, musical performance, or place of
80 public entertainment or amusement of any kind, unless and until
81 such tickets have first been offered for sale via an event-
82 provider-authorized outlet or offering.

83 c. This subparagraph does not apply to sporting or

84 athletic events.

85 3.a. A person or entity who intentionally uses or sells
86 software to circumvent on a ticket seller's Internet website a
87 security measure, an access control system, or any other control
88 or measure that is used to ensure an equitable ticket-buying
89 process commits a misdemeanor of the second degree, punishable
90 as provided in s. 775.082 or s. 775.083.

91 b. As used in this subparagraph, the term "software" means
92 computer programs that are primarily designed or produced for
93 the purpose of interfering with the operation of any person or
94 entity that sells, over the Internet, tickets of admission to a
95 sporting event, theater, musical performance, or place of public
96 entertainment or amusement of any kind.

97 (2) ~~(4)~~ Nothing in This section does not authorize
98 authorizes any individual or entity to sell or purchase tickets
99 at any price on property where an event is being held without
100 the prior express written consent of the owner of the property.

101 (3) Any not-for-profit organization as an original ticket
102 issuer or seller of tickets subject to paragraph (1)(c) shall
103 have the choice to prohibit ticket purchases for the purposes of
104 remarketing or reselling by any other person or firm or to
105 require binding contractual agreements with registered ticket
106 resellers for the purposes of purchasing, remarketing, or
107 reselling the event or entertainment tickets.

108 (4) ~~(5)~~ Any sales tax due for resales under this section
109 shall be remitted to the Department of Revenue in accordance
110 with s. 212.04.

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111 (5) A person or entity who violates this section commits a
112 violation of ss. 501.201-501.213, the Florida Deceptive and
113 Unfair Trade Practices Act. A person or entity who resells a
114 ticket or tickets in violation of this section is liable to the
115 state for a civil penalty equal to treble the amount for which
116 the ticket or tickets were sold.

117 Section 2. This act shall take effect July 1, 2009.