

By Senator Gelber

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

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

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

28 PART XII

29 TICKET RESELLERS

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30 559.945 Ticket resellers.-

31 (1) For the purposes of this section, the term:

32 (a) "Department" means the Department of Agriculture and
33 Consumer Services.

34 (b) "Resale" means a sale of a ticket authorized under s.
35 817.36(3).

36 (c) "Ticket" means any ticket, token, paper, or other thing
37 designed for admission to or the rendering of services by any
38 sports, amusement, concert, or other facility offering services
39 to the general public.

40 (2) Each reseller of tickets shall annually register with
41 the department, providing: its legal business or trade name,
42 mailing address, and business locations; the full names,
43 addresses, telephone numbers, and social security numbers of its
44 owners or corporate officers and directors and the Florida agent
45 of the corporation; a statement indicating whether it is a
46 domestic or foreign corporation, its state and date of
47 incorporation, its charter number, and, if a foreign
48 corporation, the date it registered with the state, and
49 occupational license where applicable; the date on which a
50 reseller of tickets registered its fictitious name if the
51 reseller of tickets is operating under a fictitious or trade
52 name; the name of all other corporations, business entities, and
53 trade names through which each owner of the reseller of tickets
54 operated, was known, or did business as a reseller of tickets
55 within the preceding 5 years; a list of all authorized
56 independent agents, including the agent's trade name, full name,
57 mailing address, business address, telephone numbers, and social
58 security number; the business location and address of each

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

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

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

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88 ticket stock in his or her possession; and who does not have the
89 ability to issue 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 the
96 phrase " (NAME OF FIRM) is registered with the State of Florida
97 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 the
112 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:

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117 (a) Has failed to meet the requirements for registration as
118 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 performance
134 bond in the amount of \$25,000. The surety on such bond shall be
135 a surety company authorized to do business in the state.

136 (b) In lieu of the performance bond required in this
137 subsection, a registrant or applicant for registration may
138 establish a certificate of deposit or an irrevocable letter of
139 credit in a Florida banking institution in the amount of the
140 performance bond. The department shall be the beneficiary to
141 this certificate of deposit, and the original shall be filed
142 with the department. Any such letter of credit shall provide
143 that the issuer will give the department not less than 120 days'
144 written notice prior to terminating or refusing to renew the
145 letter of credit.

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

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

174 (e) In any situation in which the reseller of tickets is

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

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

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

188 817.357 Purchase of tickets.—

189 (1) (a) Whoever knowingly:

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

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

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

203 a. The number of tickets offered for sale to the general

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204 public at each price level;

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

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

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

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

215
216 violates ss. 501.201-501.213, the Florida Deceptive and Unfair
217 Trade Practices Act.

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

221 (2) A person or firm is not liable under this section with
222 respect to tickets for which that person or firm is the original
223 ticket seller. For purposes of this section, the term "original
224 ticket seller" means the issuer of such ticket or a person or
225 firm who provides distribution services or ticket sales services
226 under a contract with such issuer.

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

229 817.36 Resale of tickets.—

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

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233 transactions:

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

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

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

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

256 a.1. The ticketed event is canceled;

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

260 c.3. The ticket is not delivered to the purchaser in the
261 manner requested and pursuant to any delivery guarantees made by

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262 the reseller and such failure results in the purchaser's
263 inability to attend the ticketed event.

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

268 (2)~~(4)~~ Nothing in this section authorizes any individual or
269 entity to sell or purchase tickets at any price on property
270 where an event is being held without the prior express written
271 consent of the owner of the property.

272 (3)~~(5)~~ Any sales tax due for resales under this section
273 shall be remitted to the Department of Revenue in accordance
274 with s. 212.04.

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

279 Section 4. This act shall take effect October 1, 2009.