

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 225 Ticket Sales
SPONSOR(S): Gaetz
TIED BILLS: **IDEN./SIM. BILLS:** SB 392

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee		Collins	Creamer
2) Civil Justice Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill amends s. 817.357, F.S., to increase transparency over the original sale of event tickets, and to eliminate safe harbors for original ticket sellers under the Florida Deceptive and Unfair Trade Practices Act.

Specifically, the bill:

- renames the section's title to "Transparency in ticket availability;"
- redefines the term "original ticket seller;"
- eliminates the safe harbor provision under the Florida Deceptive and Unfair Trade Practices Act for original ticket sellers who purchase more than the maximum amount of admissions tickets to an event, with the intent to resell those tickets;
- requires the original ticket seller to provide public notice of its ticket policies;
- requires the original ticket seller to comply with minimum consumer protection standards;
- requires that a full refund by the original ticket seller includes both the full price of the ticket, as well as any fees charged in connection to the purchase; and
- provides for certain prohibited acts by an original ticket seller, which result in a violation of the Florida Deceptive and Unfair Trade Practices Act.

The bill has no fiscal impact on state funds.

The bill has an effective date of July 1, 2012, and applies to all ticket sales made on or after that date.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Deceptive and Unfair Trade Practices Liability

Section 817.357, F.S., defines an “original ticket seller” as the issuer of a ticket, or a person or company who distributes or sells the tickets under a contract with the ticket issuer. The original ticket seller may set a maximum ticket limit quantity, whereby a purchaser cannot buy a quantity of tickets in excess of that limit. For example, if the original ticket seller sets the maximum ticket limit for an event at six tickets, a purchaser may not buy seven or more tickets from the original seller. This section provides that knowingly purchasing more than the maximum amount of admission tickets to an event, with the intent to resell those tickets, is a violation of the Florida Deceptive and Unfair Trade Practices Act. However, this limitation does not apply to tickets bought by the original ticket seller, itself.

Original Ticket Sale Transparency

Section 817.36, F.S., requires that online ticket resellers comply with minimum consumer protection standards. Specifically, in order to resell a ticket for higher than its face value, the reseller must provide a full refund if the event is cancelled, the purchaser is denied entry, or the ticket is not delivered prior to the event. Original ticket sellers are not subject to these standards.

Effect of Proposed Changes

Florida Deceptive and Unfair Trade Practices Liability

The bill amends s. 817.357, F.S., to define an “original ticket seller” as a person other than the operator of an internet resale marketplace that makes admission tickets available for initial sale to the general public, either directly or indirectly. This definition may include the operator of a venue, the sponsor or promoter of an event, a sports team participating in an event or a league whose teams are participating in an event, a theater company, musical group or similar participant in an event, or an agent representing any such person.

The term “original ticket seller,” as used in this section, does not apply to:

- a sponsor or promoter of an event that is intended solely to benefit a charitable endeavor, so long as all tickets are distributed free of charge; or
- a non-profit educational institution, with respect to an athletic event involving athletes or teams of the institution, so long as the tickets are initially distributed to students, faculty, staff, or alumni free of charge, or to booster members who have made substantial financial contributions to the institution.

Further, the bill eliminates the safe harbor provision under the Florida Deceptive and Unfair Trade Practices Act for original ticket sellers who purchase more than the maximum amount of admissions tickets to an event, with the intent to resell those tickets.

Original Ticket Sale Transparency

The bill renames s. 817.357, F.S., to ‘Transparency in ticket availability,’ and requires the original ticket seller to provide advance public notice of its ticket policies for any event that takes place in a facility that is publicly-funded, whether in whole or in part. The notice must be conspicuously placed on the original ticket seller’s website, and at any physical location where tickets are issued to the public.

Such notice shall include:

- identification of the event, including the date, time and location;
- identification of the on-sale date and time, and a complete list of outlets where public tickets are available, including Internet websites;
- the total number of tickets issued for the event, including the total number issued per class, tier, or level of admission;
- the total number of tickets made available for sale to the general public, including the total number available per class, tier, or level of admission;
- the established price of tickets made available for sale to the general public for each class, tier, or level of admission, including any applicable premiums, service charges, or fees;
- whether the ticket being sold was not made available at the time of the initial public sale;
- a toll-free phone number for customers to direct issues regarding the original sale of the ticket; and
- refund policies and procedures.

For each public notice, the original ticket seller must certify that it is in compliance with all of the above notice requirements, that all tickets designated as public sale tickets will in fact be made available for sale to the general public, and that all information contained in the notice is true and correct, to the best of the seller's knowledge.

Further, the bill requires original ticket sellers to comply with minimum consumer protection standards for any event that takes place in a facility that is publicly-funded, whether in whole or in part. Specifically, an original ticket seller must maintain a toll-free phone number for customers to direct issues regarding the original sale or resale of tickets, and must implement a standard refund policy.

Such policy must provide a full refund to the consumer if:

- the event is cancelled and not rescheduled;
- the ticket is counterfeit;
- the ticket is canceled by the issuer for non-payment by the original purchaser, or for any reason other than an act or omission by the consumer;
- the ticket materially fails to conform to the description provided by the seller or reseller, to the detriment of the consumer; or
- the ticket was not delivered to the consumer prior to the event, unless the non-delivery was due to an act or omission of the consumer.

A "full refund" must include the full price paid by the consumer for the ticket as well as any fees charged in connection to the purchase, including convenience fees, processing fees, at-home printing charges, shipping and handling charges, or delivery fees. The bill does not explicitly address the refund of taxes, such as sales tax. The original ticket seller may condition the refund upon the timely return of the ticket, and may promulgate any reasonable safeguards against abuse of the refund policy.

Except as otherwise provided in the bill, it is unlawful for an original ticket seller to:

- impose license or contractual terms on the sale of event tickets, including terms that prohibit the resale of the ticket, restrict the resale price, or limit the conditions under which a ticket may be resold or transferred, such as requiring the purchaser to agree to only resell through a designated channel;
- bring legal action against a person who resells or helps resell a ticket, including the operator of a physical or electronic marketplace, because he or she didn't have the permission of the ticket issuer or violated a resale restriction purportedly imposed by the issuer;
- impose a penalty or otherwise treat a purchaser differently if he or she resells or tries to resell the ticket, or does not comply with resale restrictions purportedly imposed by the issuer;
- employ any means that have the foreseeable effect of prohibiting the resale of tickets, including issuing event tickets in a form or manner that is not readily-transferrable to a subsequent purchaser, or conditioning entry into the event on presentation of the original purchaser's credit card or state-issued identification card; or

- attempt to control the price at which a ticket can be resold.

Any original ticket seller or its agent who sells a ticket without providing proper notice or otherwise fails to comply with the requirements in this section violates the Florida Deceptive and Unfair Trade Practices Act.

The bill has an effective date of July 1, 2012, and applies to all ticket sales made on or after that date.

B. SECTION DIRECTORY:

Section 1 amends s. 817.357, F.S., regarding the requirements for the original sale of event tickets, and provides that non-compliance with the requirements violates the Florida Deceptive and Unfair Trade Practices Act.

Section 2 provides an effective date of July 1, 2012, and applies to all ticket sales made on or after that date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Consumers will be able to resell their event tickets without limitation by the original ticket seller.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Under the bill, a “full refund” must include the full price paid by the consumer for the ticket as well as any fees charged in connection to the purchase, including convenience fees, processing fees, at-home printing charges, shipping and handling charges, or delivery fees. The bill does not explicitly address the refund of taxes, such as sales tax.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.