

HB 1353

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1 A bill to be entitled
2 An act relating to ticket sales; amending s. 817.355,
3 F.S.; providing enhanced criminal penalties for second
4 and subsequent violations concerning fraudulent
5 creation or possession of admission ticket; providing
6 criminal penalties for persons who commit such
7 violations involving more than a specified number of
8 tickets; amending s. 817.36, F.S.; providing
9 definitions; providing criminal penalties for persons
10 who intentionally use or sell software for specified
11 purposes; requiring ticket brokers to register with
12 the Department of Agriculture and Consumer Services;
13 requiring ticket brokers and resale websites to make
14 specified disclosures to prospective buyers;
15 prohibiting ticket brokers and resale websites from
16 using website universal resource locators containing
17 trademarks without permission of the holder; providing
18 for civil remedies for violations; providing criminal
19 penalties; amending s. 817.361, F.S.; defining the
20 term "multiuse ticket"; revising language concerning
21 when a ticket is deemed nontransferable; providing
22 enhanced criminal penalties for second or subsequent
23 violations of provisions relating to resale of
24 multiday or multievent tickets; creating s. 817.362,
25 F.S.; providing that specified provisions do not
26 affect the initial sales of tickets; defining the term
27 "ticket"; providing that an admission ticket
28 represents a revocable license; providing an effective

29 date.

30

31 Be It Enacted by the Legislature of the State of Florida:

32

33 Section 1. Section 817.355, Florida Statutes, is amended
34 to read:

35 817.355 Fraudulent creation or possession of admission
36 ticket.—

37 (1) (a) Except as provided in paragraph (b) and subsection
38 (2), a Any person who counterfeits, forges, alters, or possesses
39 any ticket, token, or paper designed for admission to or the
40 rendering of services by any sports, amusement, concert, or
41 other facility offering services to the general public, with the
42 intent to defraud such facility, commits is guilty of a
43 misdemeanor of the first degree, punishable as provided in s.
44 775.082 or s. 775.083.

45 (b) A person who commits a second or subsequent violation
46 of paragraph (a) commits a felony of the third degree,
47 punishable as provided in s. 775.082 or s. 775.084 or by a fine
48 of up to \$10,000.

49 (2) A person who counterfeits, forges, alters, or
50 possesses 10 or more tickets, tokens, or papers designed for
51 admission to or the rendering of services by any sports,
52 amusement, concert, or other facility offering services to the
53 general public, with the intent to defraud such facility,
54 commits a felony of the third degree, punishable as provided in
55 s. 775.082 or s. 775.084 or by a fine of up to \$10,000.

56 Section 2. Section 817.36, Florida Statutes, is amended to

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57 read:

58 817.36 Resale of tickets.—

59 (1)~~(6)~~ As used in this section, the term:60 (a) "Department" means the Department of Agriculture and
61 Consumer Services.62 (b) "Online marketplace" means an Internet website that
63 provides a forum for the buying and selling of tickets and that
64 is not operated by a ticket issuer or an agent of an owner or
65 operator of a place of entertainment.66 (c) "Resale website" means an Internet website, or portion
67 of a website, whose primary purpose is to facilitate the resale
68 of tickets to consumers.69 (d) "Software" means computer programs that are primarily
70 designed or produced for the purpose of interfering with the
71 operation of any person or entity that sells, over the Internet,
72 tickets of admission to a sporting event, theater, musical
73 performance, or place of public entertainment or amusement of
74 any kind.75 (e) "Ticket broker" means a person in the business of
76 reselling tickets to events at places of entertainment in this
77 state and who charges a premium in excess of the face value of
78 the ticket. The term does not include an individual who does not
79 regularly engage in the business of reselling tickets, who
80 resells less than 60 tickets during any 1-year period, and who
81 initially obtained any tickets he or she sold to others for
82 personal use, or the use of an immediate family member, friend,
83 or known acquaintances. The term also does not include a person
84 operating a website whose primary business is to serve as a

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85 resale marketplace where third parties can buy and sell tickets,
86 and who does not otherwise engage in the business of reselling
87 tickets.

88 ~~(2)~~(1) A person or entity that offers for resale or
89 resells any ticket may charge only \$1 above the admission price
90 charged therefor by the original ticket seller of the ticket for
91 the following transactions:

92 (a) Passage or accommodations on any common carrier in
93 this state. However, this paragraph does not apply to travel
94 agencies that have an established place of business in this
95 state and are required to pay state, county, and city
96 occupational license taxes.

97 (b) Multiday or multievent tickets to a park or
98 entertainment complex or to a concert, entertainment event,
99 permanent exhibition, or recreational activity within such a
100 park or complex, including an entertainment/resort complex as
101 defined in s. 561.01(18).

102 (c) Event tickets originally issued by a charitable
103 organization exempt from taxation under s. 501(c)(3) of the
104 Internal Revenue Code for which no more than 3,000 tickets are
105 issued per performance. The charitable organization must issue
106 event tickets with the following statement conspicuously printed
107 on the face or back of the ticket: "Pursuant to s. 817.36,
108 Florida Statutes, this ticket may not be resold for more than \$1
109 over the original admission price." This paragraph does not
110 apply to tickets issued or sold by a third party contractor
111 ticketing services provider on behalf of a charitable
112 organization otherwise included in this paragraph unless the

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113 required disclosure is printed on the ticket.

114 (d) Any tickets, other than the tickets in paragraph (a),
115 paragraph (b), or paragraph (c), that are resold or offered
116 through an Internet website, unless such website is authorized
117 by the original ticket seller to sell such tickets or makes and
118 posts the following guarantees and disclosures on ~~through~~
119 Internet web pages on which are visibly posted, or links to web
120 pages on which are posted, text to which a prospective purchaser
121 is directed before completion of the resale transaction:

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

125 a. The ticketed event is canceled and the purchaser
126 requests a refund;

127 b. The purchaser is denied admission to the ticketed
128 event, unless such denial is due to the action or omission of
129 the purchaser;

130 c. The ticket is not delivered to the purchaser in the
131 manner requested and pursuant to any delivery guarantees made by
132 the reseller and such failure results in the purchaser's
133 inability to attend the ticketed event.

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

138 (3) ~~(2)~~ This section does not authorize any individual or
139 entity to sell or purchase tickets at any price on property
140 where an event is being held without the prior express written

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141 consent of the owner of the property.

142 ~~(4)(3)~~ Any sales tax due for resales under this section
143 shall be remitted to the Department of Revenue in accordance
144 with s. 212.04.

145 ~~(5)(4)~~ A person who knowingly resells a ticket or tickets
146 in violation of this section is liable to the state for a civil
147 penalty equal to treble the amount of the price for which the
148 ticket or tickets were resold.

149 ~~(6)(5)~~ A person who intentionally uses or sells software
150 to circumvent on a ticket seller's Internet website a security
151 measure, an access control system, or any other control or
152 measure that is used to ensure an equitable ticket-buying
153 process for the general public, commits a felony of the third
154 degree, punishable as provided in s. 775.082 or s. 775.084 or by
155 a fine of up to \$10,000, and is liable to the state for a civil
156 penalty equal to treble the amount for which the ticket or
157 tickets were sold.

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

163 1. Maintain a permanent office or place of business in
164 this state for the purpose of engaging in the business of a
165 ticket broker.

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

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

173 4. Pay an annual registration fee as determined by the
174 department sufficient to reimburse the department for the
175 administration of this subsection.

176 5. Renew the registration annually.

177 6. Register for sales and use tax purposes under chapter
178 212.

179 (b) Upon registration, the department shall issue each
180 ticket broker a unique registration number and publish a list of
181 registered ticket brokers, including registration numbers on the
182 department's website. A person who has been convicted of a
183 felony and who has not been pardoned or had his or her civil
184 rights other than voting restored under chapter 940 may not
185 register as a ticket broker.

186 (8) A ticket broker or resale website must disclose to a
187 prospective ticket resale purchaser, whether on the ticket
188 broker's resale website, online marketplace, or in person,
189 before a resale:

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

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

196 (9) A ticket broker or resale website may not use a

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197 website with a uniform resource locator (URL) that incorporates
198 or contains a trademark rightfully owned by another in such a
199 way that the incorporation or use amounts to a violation of
200 federal trademark law without the written consent of the
201 trademark owner.

202 (10) (a) A person aggrieved by a violation of this section
203 may, without regard to any other remedy or relief to which the
204 person is entitled, bring an action to obtain a declaratory
205 judgment that an act or practice violates this section and to
206 enjoin a person who has violated, is violating, or is otherwise
207 likely to violate this section.

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

211 (11) Except as otherwise provided in this section and in
212 addition to any noncriminal penalties provided in this section,
213 a person who knowingly violates this section commits a felony of
214 the third degree, punishable as provided in s. 775.082 or s.
215 775.084 or may be fined up to \$10,000.

216 Section 3. Section 817.361, Florida Statutes, is amended
217 to read:

218 817.361 Resale of multiday or multievent ticket.—

219 (1) For purposes of this section, the term "multiuse
220 ticket" means a ticket, other medium, or right designed for
221 admission to more than one amusement location or other facility
222 offering entertainment to the general public, or for admission
223 for more than 1 day to one or more such locations or other
224 facilities. The issuer of a multiuse ticket is the person or

225 entity that created the multiuse ticket and is obligated to
 226 allow admission thereunder.

227 (2) A multiuse ticket is deemed to be nontransferable
 228 unless the issuer either prints clearly on the multiuse ticket
 229 "May be used by more than one person" or explicitly states on
 230 its website that the multiuse ticket may be used by more than
 231 one person.

232 (3) A person who ~~whoever~~ offers for sale, sells, or
 233 transfers in connection with a commercial transaction, with or
 234 without consideration, any nontransferable multiuse ticket or
 235 ~~other nontransferable medium designed for admission to more than~~
 236 ~~one amusement location or other facility offering entertainment~~
 237 ~~to the general public, or for admission for more than 1 day~~
 238 ~~thereto, after said ticket or other medium has been used at~~
 239 least once for admission commits a violation of this section, ~~is~~
 240 ~~guilty of a misdemeanor of the second degree, punishable as~~
 241 ~~provided in s. 775.082 or s. 775.083. A nontransferable ticket~~
 242 ~~or other nontransferable medium is one on which is clearly~~
 243 ~~printed the phrase: "Nontransferable; must be used by the same~~
 244 ~~person on all days" or words of similar import.~~

245 (4) (a) Except as provided in paragraph (b), a person who
 246 violates this section commits misdemeanor of the second degree,
 247 punishable as provided in s. 775.082 or by a fine of up to
 248 \$10,000. ~~Upon conviction for~~

249 (b) A person who commits a second or subsequent violation
 250 of this section subsection, such person commits ~~is guilty of a~~
 251 felony ~~misdemeanor~~ of the ~~third~~ first ~~degree,~~ punishable as
 252 provided in s. 775.082 or s. 775.084 or by a fine of up to

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253 \$10,000 ~~or s. 775.083.~~

254 Section 4. Section 817.362, Florida Statutes, is created
255 to read:

256 817.362 Initial sales of tickets unaffected.—In order to
257 preserve the rights of consumers to secure tickets to live
258 entertainment events through safe and reliable means, nothing in
259 ss. 817.355-817.361 prevents operators of places of
260 entertainment, event presenters, or their agents from using any
261 ticketing methods for the initial sale of tickets, through any
262 medium, whether existing now or in the future.

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

268 (2) An admission ticket represents a revocable license,
269 held by the person in possession of the ticket, to use a seat or
270 standing area in a specific place of an athletic contest or
271 entertainment event for a limited time. The license represented
272 by the ticket may be revoked at any time, with or without cause,
273 by the ticket issuer.

274 Section 6. This act shall take effect October 1, 2013.