

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 163 Ticket Sales
SPONSOR(S): Regulatory Affairs Committee; Smith
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 394

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	7 Y, 6 N	Collins	Luczynski
2) Regulatory Affairs Committee	15 Y, 0 N, As CS	Collins	Hamon

SUMMARY ANALYSIS

The bill amends s. 817.355, F.S., to provide penalties for violations and subsequent violations of sections relating to the fraudulent creation or possession of admission tickets.

The bill also amends s. 817.361, F.S., to create definitions related to the resale or repurchase of a “multiuse ticket,” and to increase criminal penalties for violations and subsequent violations of sections relating to the resale or repurchase of a multiuse ticket that has been used at least once for admission. Moreover, the bill provides that a multiuse ticket is nontransferable unless otherwise specifically provided on the ticket or on the ticket issuer’s website.

The bill has no fiscal impact on state funds.

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Generally

A “ticket” is defined as a certificate indicating that the person to whom it is issued, or the holder, is entitled to some right or privilege.¹ Generally, in the absence of a statute to the contrary, an event or admission ticket is considered to be a license to witness the performance, which may be revoked by the owner or proprietor at will, either before or after admission of the ticketholder.² Florida law does not currently address whether an event or admission ticket is deemed to be a license or a property interest.

Without a statute to the contrary, a ticket is generally considered a license, and the ticket seller is able to place restrictions upon the use of that ticket. For example, a common restriction placed on an event or admission ticket by the seller is the inability to reenter the venue facility upon leaving. In addition to manner of use restrictions, the ticket seller is also able to place conditions and restrictions upon the resale or transferability of the ticket.

Penalties for Counterfeiting, Forging, Altering or Otherwise Possessing Such Tickets

Current Situation

Currently, s. 817.355, F.S., provides that a person who counterfeits, forges, alters, or possesses any ticket, token, or paper that is designed for admission to any sports, amusement, concert, or other facility offering services to the general public is guilty of a first degree misdemeanor.³

The statutory language does not provide any increased criminal or civil penalties for subsequent violations. There is also no criminal or civil penalty for a person who counterfeits, forges, alters, or possesses more than one of such tickets, with the intent to defraud the event or amusement facility.

Effect of Proposed Changes

The bill creates s. 817.355(2), F.S., to provide criminal penalties for subsequent violations of the section relating to the creation or possession of fraudulent admission tickets. Specifically, a person who counterfeits, forges, alters, or possesses any ticket, token, or paper that is designed for admission to any sports, amusement, concert, or other facility offering services to the general public for a subsequent time commits a third degree felony which is punishable as provided in ss. 775.082,⁴ 775.083,⁵ or 775.084,⁶ F.S.

Moreover, the bill creates s. 817.355(3), F.S., to impose a criminal penalty for a person who counterfeits, forges, alters, or possesses ten or more of such tickets, tokens, or papers designed for admission to any sports, amusement, concert, or other facility offering services to the general public,

¹ Black’s Law Dictionary (9th ed. 2009), ticket.

² 27A Am. Jur. 2d Entertainment and Sports Law § 42.

³ Section 775.082(4)(a), Florida Statutes, provides that the penalty for a first degree misdemeanor shall be a term of imprisonment not to exceed one year; Section 775.083(1)(d), Florida Statutes, provides that a person who has been convicted of a first degree misdemeanor may be sentenced to pay a fine of \$1,000, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration.

⁴ Section 775.082(3)(d), Florida Statutes, provides that the penalty for a third degree felony shall be a term of imprisonment not to exceed five years.

⁵ Section 775.083(1)(c), Florida Statutes, provides that a person who has been convicted of a third degree felony may be sentenced to pay a fine of \$5,000, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration.

⁶ Section 775.084, Florida Statutes, provides enhanced penalties for habitual felony offenders.

with the intent to defraud such facility. Such person commits a third degree felony, which is punishable as provided in ss. 775.082,⁷ 775.083,⁸ or 775.084,⁹ F.S.

Resale or Repurchase of Multiuse Tickets

Current Situation

Section 817.361, F.S., sets forth the statutory provisions relating to multi-day or multi-event tickets. The statute defines “nontransferable ticket or other nontransferable medium” as one on which the following phrase is clearly printed: “Nontransferable; must be used by the same person on all days,” or words of similar import.

The statute further provides that it is a violation of the section to sell, offer for sale, or otherwise transfer in connection with a commercial transaction, any nontransferable ticket or medium designed for admission to more than one amusement location or other facility offering entertainment to the general public, or for admission for more than one day thereto, after said ticket has been used at least once for admission. A person who violates the section is guilty of a second degree misdemeanor, punishable as provided in ss. 775.082¹⁰ or 775.083, F.S.¹¹

Moreover, the statute provides that upon a subsequent violation of the section, such person is guilty of a first degree misdemeanor, punishable as provided in ss. 775.082¹² or 775.083,¹³ F.S.

Effect of Proposed Changes

Definitions

The bill creates s. 817.361(1), F.S., to retitle a “multiday” or “multievent” ticket as a “multiuse ticket,” and to define several terms related to the use, resale, or repurchase of a multiuse ticket. Specifically, the bill defines the terms “issuer,” “multiuse ticket,” and “theme park complex.”

- “Issuer” is defined as the person or entity that created a multiuse ticket and is obligated to allow admission pursuant to that ticket.
- “Multiuse ticket” is defined as a ticket, other medium, or right designed for admission to more than one amusement location or other facility in a theme park complex, or for admission for more than one day to one or more such locations or facilities in a theme park complex.
- “Theme park complex” is defined as an area comprised of at least 25 acres owned by the same business entity that contains rides or other recreational activities.

The bill also creates s. 817.361(2), F.S., to provide that a multiuse ticket is nontransferable, unless the issuer:

- Clearly prints on the multiuse ticket that it “may be used by more than one person;” or

⁷ Section 775.082(3)(d), Florida Statutes, provides that the penalty for a third degree felony shall be a term of imprisonment not to exceed five years.

⁸ Section 775.083(1)(c), Florida Statutes, provides that a person who has been convicted of a third degree felony may be sentenced to pay a fine of \$5,000, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration.

⁹ Section 775.084, Florida Statutes, provides enhanced penalties for habitual felony offenders.

¹⁰ Section 775.082(4)(b), Florida Statutes, provides that the penalty for a second degree misdemeanor shall be a term of imprisonment not to exceed sixty days.

¹¹ Section 775.083(1)(e), Florida Statutes, provides that a person who has been convicted of a second degree misdemeanor may be sentenced to pay a fine of \$500, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration.

¹² Section 775.082(4)(a), Florida Statutes, provides that the penalty for a first degree misdemeanor shall be a term of imprisonment not to exceed one year.

¹³ Section 775.083(1)(d), Florida Statutes, provides that a person who has been convicted of a first degree misdemeanor may be sentenced to pay a fine of \$1,000, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration.

- Explicitly states on its website that the multiuse ticket may be used by more than one person.

Enforcement

The bill creates s. 817.361(2), F.S., to retain the existing statutory language that it is a violation of the section to sell, offer for sale, or otherwise transfer in connection with a commercial transaction, any nontransferable multiuse ticket after that ticket or medium has been used at least once for admission.

The bill further creates s. 817.361(3), F.S., to provide that a person who violates the section commits a first degree misdemeanor, which is punishable as provided in ss. 775.082¹⁴ or 775.083,¹⁵ F.S. Moreover, subsequent violations constitute a third degree felony, punishable as provided in ss. 775.082,¹⁶ 775.083,¹⁷ or 775.084,¹⁸ F.S.

B. SECTION DIRECTORY:

Section 1: amends s. 817.355, F.S., to provide increased criminal penalties for repeat violations by a person who counterfeits, forges, alters or otherwise possesses such ticket; and to provide a criminal penalty for a person who counterfeits, forges, alters or otherwise possesses ten or more of such tickets.

Section 2: amends s. 817.361, F.S., to provide definitions relating to multiuse tickets; to provide that a multiuse ticket is nontransferable, unless otherwise provided by the issuer; to provide increased criminal penalties for a person who violates the section relating to multiuse tickets; and to provide increased criminal penalties for subsequent violations of the section relating to multiuse tickets.

Section 3: provides for an effective date of July 1, 2013.

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.

¹⁴ Section 775.082(4)(a), Florida Statutes, provides that the penalty for a first degree misdemeanor shall be a term of imprisonment not to exceed one year.

¹⁵ Section 775.083(1)(d), Florida Statutes, provides that a person who has been convicted of a first degree misdemeanor may be sentenced to pay a fine of \$1,000, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration

¹⁶ Section 775.082(3)(d), Florida Statutes, provides that the penalty for a third degree felony shall be a term of imprisonment not to exceed five years.

¹⁷ Section 775.083(1)(b), Florida Statutes, provides that a person who has been convicted of a third degree felony may be sentenced to pay a fine of \$10,000, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration

¹⁸ Section 775.084, Florida Statutes, provides enhanced penalties for habitual felony offenders.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

When purchasing singular-use or multiuse tickets, consumers will likely have increased protections of the authenticity of their tickets.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The 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 sales tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 16, 2013, the Regulatory Affairs Committee considered and adopted one strike-all amendment, and the bill was reported favorably as a Committee Substitute. The strike-all amendment:

- Provides penalties for violations and subsequent violations of sections relating to the fraudulent creation or possession of admission tickets.
- Creates definitions related to the resale or repurchase of a "multiuse ticket."
- Increases criminal penalties for violations and subsequent violations of sections relating to the resale or repurchase of a multiuse ticket that has been used at least once for admission.
- Provides that a multiuse ticket is nontransferable unless otherwise specifically provided on the ticket or on the issuer's website.

The analysis is drafted to the Committee Substitute.