

By Senator Garcia

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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 a
9 definition; requiring ticket brokers to make specified
10 disclosures to prospective buyers; prohibiting ticket
11 brokers from using website universal resource locators
12 containing trademarks without permission of the
13 holder; providing criminal penalties; amending s.
14 817.361, F.S.; providing enhanced criminal penalties
15 for second or subsequent violations of provisions
16 relating to resale of multiday or multievent tickets;
17 creating s. 817.362, F.S.; providing that specified
18 provisions do not affect the initial sales of tickets;
19 providing that an admission ticket represents a
20 revocable license; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 817.355, Florida Statutes, is amended to
25 read:

26 817.355 Fraudulent creation or possession of admission
27 ticket.—

28 (1) (a) Except as provided in paragraph (b) and subsection
29 (2), a ~~Any~~ person who counterfeits, forges, alters, or possesses

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30 any ticket, token, or paper designed for admission to or the
31 rendering of services by any sports, amusement, concert, or
32 other facility offering services to the general public, with the
33 intent to defraud such facility, commits ~~is guilty of a~~
34 misdemeanor of the first degree, punishable as provided in s.
35 775.082 or s. 775.083.

36 (b) A person who commits a second or subsequent violation
37 of paragraph (a) commits a felony of the third degree,
38 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

39 (2) A person who counterfeits, forges, alters, or possesses
40 10 or more tickets, tokens, or papers designed for admission to
41 or the rendering of services by any sports, amusement, concert,
42 or other facility offering services to the general public, with
43 the intent to defraud such facility, commits a felony of the
44 third degree, punishable as provided in s. 775.082, s. 775.083,
45 or s. 775.084.

46 Section 2. Section 817.36, Florida Statutes, is reordered
47 and amended to read:

48 817.36 Resale of tickets.—

49 (2)~~(1)~~ A person or entity that offers for resale or resells
50 any ticket may charge only \$1 above the admission price charged
51 therefor by the original ticket seller of the ticket for the
52 following transactions:

53 (a) Passage or accommodations on any common carrier in this
54 state. However, this paragraph does not apply to travel agencies
55 that have an established place of business in this state and are
56 required to pay state, county, and city occupational license
57 taxes.

58 (b) Multiday or multievent tickets to a park or

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59 entertainment complex or to a concert, entertainment event,
60 permanent exhibition, or recreational activity within such a
61 park or complex, including an entertainment/resort complex as
62 defined in s. 561.01(18).

63 (c) Event tickets originally issued by a charitable
64 organization exempt from taxation under s. 501(c)(3) of the
65 Internal Revenue Code for which no more than 3,000 tickets are
66 issued per performance. The charitable organization must issue
67 event tickets with the following statement conspicuously printed
68 on the face or back of the ticket: "Pursuant to s. 817.36,
69 Florida Statutes, this ticket may not be resold for more than \$1
70 over the original admission price." This paragraph does not
71 apply to tickets issued or sold by a third party contractor
72 ticketing services provider on behalf of a charitable
73 organization otherwise included in this paragraph unless the
74 required disclosure is printed on the ticket.

75 (d) Any tickets, other than the tickets in paragraph (a),
76 paragraph (b), or paragraph (c), that are resold or offered
77 through an Internet website, unless such website is authorized
78 by the original ticket seller or makes and posts the following
79 guarantees and disclosures through Internet web pages on which
80 are visibly posted, or links to web pages on which are posted,
81 text to which a prospective purchaser is directed before
82 completion of the resale transaction:

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

86 a. The ticketed event is canceled;

87 b. The purchaser is denied admission to the ticketed event,

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88 unless such denial is due to the action or omission of the
89 purchaser;

90 c. The ticket is not delivered to the purchaser in the
91 manner requested and pursuant to any delivery guarantees made by
92 the reseller and such failure results in the purchaser's
93 inability to attend the ticketed event.

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

98 (3)~~(2)~~ This section does not authorize any individual or
99 entity to sell or purchase tickets at any price on property
100 where an event is being held without the prior express written
101 consent of the owner of the property.

102 (4)~~(3)~~ Any sales tax due for resales under this section
103 shall be remitted to the Department of Revenue in accordance
104 with s. 212.04.

105 (5)~~(4)~~ A person who knowingly resells a ticket or tickets
106 in violation of this section is liable to the state for a civil
107 penalty equal to treble the amount of the price for which the
108 ticket or tickets were resold.

109 (6)~~(5)~~ A person who intentionally uses or sells software to
110 circumvent on a ticket seller's Internet website a security
111 measure, an access control system, or any other control or
112 measure that is used to ensure an equitable ticket-buying
113 process is liable to the state for a civil penalty equal to
114 treble the amount for which the ticket or tickets were sold.

115 (7) A ticket broker must disclose to a prospective ticket
116 resale purchaser, whether on the ticket broker's resale website

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117 or in person, before a resale:

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

122 (b) The difference between the face value of the ticket and
123 the amount the ticket broker is charging the purchaser for such
124 ticket.

125 (c) Whether the ticket offered for sale is in the actual
126 possession of the reseller and available for delivery.

127 (8) A ticket broker may not use a website with a uniform
128 resource locator (URL) that contains a trademark rightfully
129 owned by another without the written consent of the trademark
130 owner.

131 (9) In addition to any other penalties provided in this
132 section, a person who knowingly violates this section commits a
133 felony of the third degree, punishable as provided in s.
134 775.082, s. 775.083, or s. 775.084.

135 (1)~~(6)~~ As used in this section, the term:

136 (a) "Software" means computer programs that are primarily
137 designed or produced for the purpose of interfering with the
138 operation of any person or entity that sells, over the Internet,
139 tickets of admission to a sporting event, theater, musical
140 performance, or place of public entertainment or amusement of
141 any kind.

142 (b) "Ticket broker" means a person in the business of
143 reselling tickets to events at places of entertainment in this
144 state and who charges a premium in excess of the face value of
145 the ticket. The term does not include an individual who does not

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146 regularly engage in the business of reselling tickets, who
147 resells less than 60 tickets during any 1-year period, and who
148 initially obtained any tickets he or she sold to others for
149 personal use, or the use of an immediate family member, friend,
150 or known acquaintances. The term also does not include a person
151 operating a website whose primary business is to serve as a
152 resale marketplace where third parties can buy and sell tickets,
153 and who does not otherwise engage in the business of reselling
154 tickets.

155 Section 3. Section 817.361, Florida Statutes, is amended to
156 read:

157 817.361 Resale of multiday or multievent ticket.-

158 (1) A person who ~~Whoever~~ offers for sale, sells, or
159 transfers in connection with a commercial transaction, with or
160 without consideration, any nontransferable ticket or other
161 nontransferable medium designed for admission to more than one
162 amusement location or other facility offering entertainment to
163 the general public, or for admission for more than 1 day
164 thereto, after said ticket or other medium has been used at
165 least once for admission, commits a violation of this section ~~is~~
166 ~~guilty of a misdemeanor of the second degree, punishable as~~
167 ~~provided in s. 775.082 or s. 775.083.~~ A nontransferable ticket
168 or other nontransferable medium is one on which the ticket,
169 medium, or receipt provided with the nontransferable ticket or
170 medium is clearly printed the phrase: "Nontransferable; must be
171 used by the same person on all days" or words of similar import.

172 (2) (a) Except as provided in paragraph (b), a person who
173 violates this section commits a misdemeanor of the second
174 degree, punishable as provided in s. 775.082 or s. 775.083. ~~Upon~~

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175 ~~conviction for~~

176 (b) A person who commits a second or subsequent violation
177 of this section commits subsection, such person is guilty of a
178 felony misdemeanor of the third ~~first~~ degree, punishable as
179 provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

180 Section 4. Section 817.362, Florida Statutes, is created to
181 read:

182 817.362 Initial sales of tickets unaffected.—In order to
183 preserve the rights of consumers to secure tickets to live
184 entertainment events through safe and reliable means, nothing in
185 ss. 817.355-817.361 prevents operators of places of
186 entertainment, event presenters, or their agents from using any
187 ticketing methods for the initial sale of tickets, through any
188 medium, whether existing now or in the future.

189 Section 5. An admission ticket represents a revocable
190 license, held by the person in possession of the ticket, to use
191 a seat or standing area in a specific place of an athletic
192 contest or entertainment event for a limited time. The license
193 represented by the ticket may be revoked at any time, with or
194 without cause, by the ticket issuer.

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