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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 tickets; providing  
6 criminal penalties for persons who commit such  
7 violations involving more than a specified number of  
8 tickets; reordering and amending s. 817.36, F.S.;  
9 providing definitions; providing criminal penalties  
10 for persons who intentionally use or sell software for  
11 specified purposes; providing for recovery of damages  
12 for specified violations; deleting a provision  
13 relating to use of software for specified purposes;  
14 requiring ticket brokers to register with the  
15 Department of Agriculture and Consumer Services;  
16 requiring ticket brokers and resale websites to make  
17 specified disclosures to prospective buyers;  
18 prohibiting ticket brokers and resale websites from  
19 using specified intellectual property in certain  
20 circumstances; providing for civil and administrative  
21 remedies for violations; providing criminal penalties;  
22 requiring rulemaking; creating s. 817.362, F.S.;  
23 providing that specified provisions do not affect the  
24 initial sales of tickets; defining the term "ticket";  
25 providing that an admission ticket represents a  
26 revocable license; providing an effective date.

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

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

817.355 Fraudulent creation or possession of admission ticket.—

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

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

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

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

817.36 Resale of tickets.—

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

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57        (a) "Department" means the Department of Agriculture and  
58 Consumer Services.

59        (b) "Online marketplace" means an Internet website that  
60 provides a forum for the buying and selling of tickets, but does  
61 not include a reseller, ticket issuer, or agent of an owner or  
62 operator of a place of entertainment.

63        (c) "Resale website" means a website, or portion of a  
64 website, that facilitates the sale of tickets by resellers to  
65 consumers or on which resellers offer tickets for sale to  
66 consumers.

67        (d) "Software" means computer programs that are primarily  
68 designed or produced for the purpose of interfering with the  
69 operation of any person or entity that sells, over the Internet,  
70 tickets of admission to a sporting event, theater, musical  
71 performance, or place of public entertainment or amusement of  
72 any kind.

73        (e)1. "Ticket broker" means a person, or persons acting in  
74 concert, involved in the business of reselling tickets of  
75 admission to places of entertainment and who charge a premium in  
76 excess of the price, plus taxes, printed on the tickets.

77        2. The term does not include:

78        a. A person who does not regularly engage in the business  
79 of reselling tickets, who resells less than 60 tickets or one-  
80 third of all tickets purchased from a professional sports entity  
81 during any 1-year period, and who obtained the tickets for the  
82 person's own use or the use of the person's family, friends, or  
83 acquaintances.

84        b. A person operating a website whose primary business is

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85 | to serve as an online marketplace for third parties to buy and  
86 | sell tickets, and whose primary business is not engaging in the  
87 | reselling of 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 a ~~an Internet~~ website, unless such website is authorized  
117 by the original ticket seller or makes and posts the following  
118 guarantees and disclosures on ~~through Internet~~ web pages on  
119 which are visibly posted, or links to web pages on which are  
120 posted, text to which a prospective purchaser is directed before  
121 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;

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

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

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

137 (3) ~~(2)~~ This section does not authorize any individual or  
138 entity to sell or purchase tickets at any price on property  
139 where an event is being held without the prior express written  
140 consent of the owner of the property.

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141 ~~(4)-(3)~~ Any sales tax due for resales under this section  
142 shall be remitted to the Department of Revenue in accordance  
143 with s. 212.04.

144 (5) (a) A person may not sell, use, or cause to be used by  
145 any means, method, technology, devices, or software that is  
146 designed, intended, or functions to bypass portions of the  
147 ticket-buying process or disguise the identity of the ticket  
148 purchaser or circumvent a security measure, an access control  
149 system, or other control, authorization, or measure on a ticket  
150 issuer's or resale ticket agent's website.

151 (b) A person may not use or cause to be used any means,  
152 method, or technology that is designed, intended, or functions  
153 to disguise the identity of the purchaser with the purpose of  
154 purchasing or attempting to purchase via online sale a quantity  
155 of tickets to a place of entertainment in excess of authorized  
156 limits established by the owner or operator of a place of  
157 entertainment or of the entertainment event or an agent of any  
158 such person.

159 (c) A person who violates this subsection commits  
160 misdemeanor of the second degree, punishable as provided in s.  
161 775.082 or s. 775.083. Each ticket purchase, sale, or violation  
162 of this subsection constitutes a separate offense.

163 (d) A party that has been injured by wrongful conduct in  
164 violation of this subsection may bring an action to recover all  
165 actual damages suffered as a result of any of such wrongful  
166 conduct. The court in its discretion may award damages up to  
167 three times the amount of actual damages.

168 ~~(6)-(4)~~ A person who knowingly resells a ticket or tickets

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169 in violation of this section is liable to the state for a civil  
170 penalty equal to treble the amount of the price for which the  
171 ticket or tickets were resold.

172 (7) (a) A ticket broker shall register with the department  
173 by April 1, 2015, or within 30 days after commencing business as  
174 a ticket broker in this state, whichever is later, and maintain  
175 an active registration with the department. To have and maintain  
176 an effective registration, a ticket broker must:

177 1. Maintain a permanent office or place of business in  
178 this state for the purpose of engaging in the business of a  
179 ticket broker.

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

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

187 4. Pay an annual registration fee as determined by the  
188 department sufficient to reimburse the department for the  
189 administration of this subsection.

190 5. Renew the registration annually.

191 6. Register for sales and use tax purposes under chapter  
192 212.

193 (b) Upon registration, the department shall issue each  
194 ticket broker a unique registration number and publish a list of  
195 registered ticket brokers, including registration numbers on the  
196 department's website. A person who has been convicted of a

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197 felony and who has not been pardoned or had his or her civil  
198 rights other than voting restored under chapter 940 may not  
199 register as a ticket broker.

200 (8) A ticket broker or resale website must clearly and  
201 conspicuously disclose to a prospective ticket resale purchaser,  
202 whether on the ticket broker's resale website, online  
203 marketplace, or in person, before a resale:

204 (a) The face value and exact location of the seat offered  
205 for sale, including a section, row, and seat number, or area  
206 specifically designated as accessible seating that is printed on  
207 the ticket.

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

210 (c) If the ticket is not in the actual physical possession  
211 of the reseller, the period of time when the reseller reasonably  
212 expects to have the ticket in actual possession and available  
213 for delivery.

214 (d) Whether the reseller is actively making an offer to  
215 procure the ticket.

216 (e) The refund policy of the ticket broker or resale  
217 website in connection with the cancellation or postponement of  
218 an entertainment event.

219 (f) That it is a resale website and prices of tickets can  
220 often exceed face value.

221 (9) A resale website may not use the name of venue,  
222 artist, or team trademark or service mark in any way without the  
223 consent of the owner of the name of the venue, artist, or team  
224 trademark or service mark, except when it constitutes fair use



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225 and consistent with applicable laws, including full disclosure  
226 or attribution of the true owner.

227 (10) (a) A person aggrieved by a violation of this section  
228 may, without regard to any other remedy or relief to which the  
229 person is entitled, bring an action to obtain a declaratory  
230 judgment that an act or practice violates this section and to  
231 enjoin a person who has violated, is violating, or is otherwise  
232 likely to violate this section.

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

236 (11) (a) The department may enter an order imposing one or  
237 more of the following penalties against any person who violates  
238 the requirements of this section or rules adopted under this  
239 section or who impedes, obstructs, hinders, or otherwise  
240 prevents or attempts to prevent the department in the  
241 performance of its duties in connection with this section:

242 1. Imposition of an administrative fine of not more than  
243 \$1,000 per occurrence.

244 2. Revocation or suspension of the registration.

245 (b) Except as otherwise provided in this section and in  
246 addition to any noncriminal penalties provided in this section,  
247 a person who knowingly violates this section commits a felony of  
248 the third degree, punishable as provided in s. 775.082 or s.  
249 775.084 or may be fined up to \$10,000.

250 (12) The department shall adopt rules to implement the  
251 registration provisions of this section.

252 ~~(5) A person who intentionally uses or sells software to~~

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253 ~~circumvent on a ticket seller's Internet website a security~~  
254 ~~measure, an access control system, or any other control or~~  
255 ~~measure that is used to ensure an equitable ticket-buying~~  
256 ~~process is liable to the state for a civil penalty equal to~~  
257 ~~treble the amount for which the ticket or tickets were sold.~~

258 Section 3. Section 817.362, Florida Statutes, is created  
259 to read:

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

267 Section 4. (1) As used in this section, the term "ticket"  
268 means a physical, electronic, or other form of a certificate,  
269 document, voucher, token, or other evidence indicating that the  
270 bearer, possessor, or person entitled to possession through  
271 purchase or otherwise has:

272 (a) A revocable right, privilege, or license to enter an  
273 event venue or occupy a particular seat or area in an event  
274 venue with respect to one or more events; or

275 (b) An entitlement to purchase such a right, privilege, or  
276 license with respect to one or more future events.

277 (2) An admission ticket represents a revocable license,  
278 held by the person in possession of the ticket, to use a seat or  
279 standing area in a specific place of an event for a limited  
280 time. The license represented by the ticket may be revoked at

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281 | any time, with or without cause, by the ticket issuer.

282 |       Section 5. This act shall take effect October 1, 2014.