

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1057 Ticket Sales

SPONSOR(S): Economic Development & Tourism Subcommittee; Brodeur

TIED BILLS: **IDEN./SIM. BILLS:** SB 1142

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	12 Y, 0 N, As CS	Duncan	West
2) Economic Affairs Committee	16 Y, 0 N	Duncan	Creamer

SUMMARY ANALYSIS

Section 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. The bill amends s. 817.355, F.S., to provide that a person commits a third degree felony when they engage in a second or subsequent violation of the statutory provisions relating to the fraudulent creation or possession of admission tickets. The same criminal penalty applies to a person who counterfeits, forges, alters, clones, or possesses ten or more tickets with intent to defraud a facility that host sports, amusements, concerts, or other events open to the public.

The bill amends s. 817.361, F.S., to define the terms “issuer,” “multiuse ticket,” and “theme park complex” relating to the sale or transfer of a multiuse ticket. The bill provides that a multiuse ticket is nontransferable unless otherwise specifically indicated on the ticket or on the ticket issuer’s website. The bill increases the criminal penalties for a first time violation of the provisions related to using a multiuse ticket that has already been used for admission from a second degree misdemeanor to first degree misdemeanor. The criminal penalties for a second or subsequent violation are increased from a first degree misdemeanor to a third degree felony.

The bill has no fiscal impact on state or local government revenues.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Tickets – Definition and Use

A “ticket” is a slip of paper containing a certificate that the person to whom it is issued, or the holder, is entitled to some right or privilege.¹ 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, 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 statutory definition, 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 Admission Tickets

Section 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.

Resale of Multiday or Multievent Tickets

Section 817.361, F.S., defines a “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 meaning.

The statute further provides that it is a violation 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 provision section is guilty of a second degree misdemeanor, punishable as provided in ss. 775.082 or 775.083, F.S.⁴

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. 775.082 or 775.083, F.S.⁵

¹ Black’s Law Dictionary, Online Legal Dictionary, 2nd Ed., <http://thelawdictionary.org/ticket/> (Last visited March 7, 2014.).

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

³ Section 775.082(4)(a), F.S., provides that a person who has been convicted of a first degree misdemeanor may be sentenced to a term of imprisonment not to exceed one year. Section 775.083(1)(d), F.S., provides that a person who has been convicted of a first degree misdemeanor may be sentenced to pay a fine not to exceed \$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.

⁴Section 775.082(4)(b), F.S., provides that the penalty for a second degree misdemeanor shall be a term of imprisonment not to exceed sixty days. Section 775.083(1)(e), F.S., 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.

⁵ See *supra* note 3.

Effect of Proposed Changes

Penalties for Counterfeiting Admission Tickets

The bill establishes criminal penalties for subsequent violations of the law relating to the creation or possession of fraudulent admission tickets. Specifically, a person who counterfeits, forges, alters, clones, or possesses a ticket, card, wristband, or other medium that accesses or is associated with a 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, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.⁶

The bill also imposes a criminal penalty for a person who counterfeits, forges, alters, clones, or possesses ten or more admission tickets, cards, wristbands, or other media that accesses or is associated with tickets, tokens, or papers designed for admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to defraud such facility. Such person commits a third degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.⁷

Sale or Transfer of Multiuse Tickets

The bill creates subsection (1) of s. 817.361, F.S., to retitle a “multiday” or “multievent” ticket as a “multiuse ticket,” and to define several terms related to the use, sale, or transfer 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 theme park complex, amusement location or other facility in a theme park complex, or for admission for more than one day or more than once in the same 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 provides 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
- explicitly states on its website that the multiuse ticket may be used by more than one person.

Enforcement

The bill creates subsection (2) of s. 817.361, F.S., to specify that cards, wristbands, or other mediums associated with a multiuse ticket are included as forms of admission covered by the provisions of the bill and provides that it is a violation to sell, offer to sell, or transfer in connection with a commercial transaction, any nontransferable multiuse ticket, card, wristband, or other medium after that ticket or medium has been used at least once for admission.

The bill creates subsection (3)(a) and (b) of s. 817.361, F.S., to provide that a person who violates subsection (2) commits a first degree misdemeanor, which is punishable as provided in ss. 775.082 or 775.083, F.S.,⁸ and a second or subsequent violation constitutes a third degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.⁹

⁶ Section 775.082(3)(d), F.S., provides that the penalty for a third degree felony may be a term of imprisonment not to exceed five years. Section 775.083(1)(c), F.S., provides that a person who has been convicted of a third degree felony may be sentenced to pay a fine not to exceed \$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. Section 775.084, F.S., provides enhanced penalties for habitual felony offenders.

⁷ *Id.*

⁸ *See supra* note 3.

⁹ *See supra* note 6.

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, clones or otherwise possesses a ticket, card, wristband, or other medium; and to provide a criminal penalty for a person who counterfeits, forges, alters, clones or otherwise possesses ten or more of such tickets.
- Section 2: Creates subsections (1) - (3) of 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 an effective date of July 1, 2014.

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:

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:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state 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 March 19, 2014, the House Economic Development & Tourism Subcommittee adopted a strike-all amendment and passed the bill as a committee substitute. The committee substitute (CS) specifies that:

- It is a violation of the provisions in the bill to clone admission tickets.
- Cards, wristbands, and other media associated with a ticket or multiuse ticket are included as forms of admission covered by the provisions and penalties established in the bill.

The CS also removes the provision stating that it is a violation to purchase, offer to purchase, sell, offer for sale, or transfer from or to any person in connection with a commercial transaction a card, wristband, or other medium associated with a multiuse ticket knowing that another person possesses a card, wristband, or other medium that accesses or is associated with the same multiuse ticket. The penalties associated with this provision are also removed from the bill.

The analysis has been updated to reflect the strike-all amendment.