

1 A bill to be entitled

2 An act relating to ticket sales; amending s. 817.36,
3 F.S.; defining terms; revising provisions to include
4 digital platforms; revising certain presale disclosure
5 requirements; revising provisions relating to
6 prohibitions on bypassing portions of the ticket
7 buying process, disguising the identity of a buyer, or
8 circumventing security measures; providing criminal
9 penalties for violations; providing for recovery of
10 damages up to treble the amount of actual damages for
11 such violations; providing criminal penalties for
12 knowingly reselling a ticket in violation of statute;
13 requiring specified disclosures before resale of a
14 ticket; prohibiting misrepresentations of affiliation
15 or endorsement by resellers without consent; providing
16 exceptions; authorizing declaratory judgments;
17 providing criminal penalties for certain violations;
18 requiring rulemaking; deleting provisions imposing
19 penalties for intentionally using or selling software
20 to circumvent certain ticket seller security measures;
21 providing an effective date.

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

24
25 Section 1. Section 817.36, Florida Statutes, is amended to
26 read:

27 | 817.36 Ticket sales ~~Resale of tickets.~~—

28 | (1) As used in this section, the term:

29 | (a) "Department" means the Department of Agriculture and
 30 | Consumer Services.

31 | (b) "Face value" means the face price of a ticket, as
 32 | determined by the event presenter and printed or displayed on
 33 | the ticket.

34 | (c) "Online marketplace" means a website, software
 35 | application for a mobile device, or any other digital platform
 36 | that provides a forum for the buying and selling of tickets, but
 37 | does not include a website, software application for a mobile
 38 | device, or any other digital platform operated by a reseller,
 39 | ticket issuer, event presenter, or agent of an owner or operator
 40 | of a place of entertainment.

41 | (d) "Place of entertainment" means a privately owned and
 42 | operated entertainment facility or publicly owned and operated
 43 | entertainment facility in this state, such as a theater,
 44 | stadium, museum, arena, racetrack, or other place where
 45 | performances, concerts, exhibits, games, athletic events, or
 46 | contests are held and for which an entry fee is charged. A
 47 | facility owned by a school, college, university, or house of
 48 | worship is a place of entertainment only when an event is held
 49 | for which an entry fee is charged.

50 | (e) "Resale website" means a website, software application
 51 | for a mobile device, any other digital platform, or portion
 52 | thereof, whose primary purpose is to facilitate the resale of

53 tickets to consumers, but excludes an online marketplace.

54 (f) "Ticket" means a printed, electronic, or other type of
 55 evidence of the right, option, or opportunity to occupy space at
 56 or to enter or attend an entertainment event even if not
 57 evidenced by any physical manifestation of such right.

58 (2)~~(1)~~ A person or entity that offers for resale or
 59 resells any ticket may charge only \$1 above the face value
 60 ~~admission price~~ charged therefor by the original ticket seller
 61 of the ticket for the following transactions:

62 (a) Passage or accommodations on any common carrier in
 63 this state. However, this paragraph does not apply to travel
 64 agencies that have an established place of business in this
 65 state and are required to pay state, county, and city
 66 occupational license taxes.

67 (b) Multiday or multievent tickets to a park or
 68 entertainment complex or to a concert, entertainment event,
 69 permanent exhibition, or recreational activity within such a
 70 park or complex, including an entertainment/resort complex as
 71 defined in s. 561.01(18).

72 (c) Event tickets originally issued by a charitable
 73 organization exempt from taxation under s. 501(c)(3) of the
 74 Internal Revenue Code for which no more than 3,000 tickets are
 75 issued per performance. The charitable organization must issue
 76 event tickets with the following statement conspicuously printed
 77 or displayed on the face or back of the ticket: "Pursuant to s.
 78 817.36, Florida Statutes, this ticket may not be resold for more

79 | than \$1 over the face value ~~original admission price.~~" This
 80 | paragraph does not apply to tickets issued or sold by a third
 81 | party contractor ticketing services provider on behalf of a
 82 | charitable organization otherwise included in this paragraph
 83 | unless the required disclosure is printed or displayed on the
 84 | ticket.

85 | (d) Any tickets, other than the tickets in paragraph (a),
 86 | paragraph (b), or paragraph (c), that are resold or offered
 87 | through a resale ~~an Internet~~ website or online marketplace,
 88 | unless such resale website or online marketplace is authorized
 89 | by the original ticket seller to sell such tickets or makes and
 90 | posts the following guarantees and disclosures on ~~through~~
 91 | ~~Internet~~ web pages on which are visibly posted, or links to web
 92 | pages on which are posted, text to which a prospective purchaser
 93 | is directed before completion of the resale transaction:

94 | 1. The resale website or online marketplace operator
 95 | guarantees a full refund of the amount paid for the ticket
 96 | including any servicing, handling, or processing fees, if such
 97 | fees are not disclosed, when:

98 | a. The ticketed event is canceled;
 99 | b. The purchaser is denied admission to the ticketed
 100 | event, unless such denial is due to the action or omission of
 101 | the purchaser; or

102 | c. The ticket is not delivered to the purchaser ~~in the~~
 103 | ~~manner requested and~~ pursuant to any delivery guarantees made by
 104 | the reseller and such failure results in the purchaser's

105 inability to attend the ticketed event.

106 2. The resale website or online marketplace operator
107 discloses that it is not the issuer, original seller, or
108 reseller of the ticket or items and does not control the pricing
109 of the ticket or items, which may be resold for more than their
110 face ~~original~~ value.

111 ~~(3)-(2)~~ This section does not authorize any individual or
112 entity to sell or purchase tickets at any price on property or
113 place of entertainment where an event is being held without the
114 prior express written consent of the owner of the property or
115 place of entertainment.

116 ~~(4)-(3)~~ Any sales tax due for resales under this section
117 shall be remitted to the Department of Revenue in accordance
118 with s. 212.04.

119 (5) (a) A person may not sell, use, or cause to be used by
120 any means, method, technology, devices, or software that is
121 designed, intended, or functions to bypass portions of the
122 ticket-buying process or disguise the identity of the ticket
123 purchaser or circumvent a security measure, an access control
124 system, or other control, authorization, or measure on a ticket
125 issuer's or resale ticket agent's website, software application
126 for a mobile device, or digital platform.

127 (b) A person may not use or cause to be used any means,
128 method, or technology that is designed, intended, or functions
129 to disguise the identity of the purchaser with the purpose of
130 purchasing or attempting to purchase via online sale a quantity

131 of tickets to a place of entertainment in excess of authorized
132 limits established by the owner or operator of a place of
133 entertainment or of the entertainment event or an agent of any
134 such person.

135 (c) A person who knowingly violates this subsection
136 commits a felony of the third degree, punishable as provided in
137 s. 775.082 or s. 775.084 or by a fine not to exceed \$10,000.
138 Each ticket purchase, sale, or violation of this subsection
139 constitutes a separate offense.

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

145 ~~(4) A person who knowingly resells a ticket or tickets in~~
146 ~~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) A person, resale website, or online marketplace must
150 clearly and conspicuously disclose to a prospective ticket
151 resale purchaser, whether on the resale website or online
152 marketplace, or in person, before a resale:

153 (a) The refund policy of the person, resale website, or
154 online marketplace in connection with the cancellation or
155 postponement of an entertainment event;

156 (b) That it is a resale website or online marketplace and

157 that prices of tickets can often exceed face value; and

158 (c)1. If the ticket is in the actual physical possession
159 of the reseller, the face value and exact location of the seat
160 offered for sale, including a section, row, and seat number, or
161 area specifically designated as accessible seating; or

162 2. If the ticket is not in the actual physical possession
163 of the reseller:

164 a. That the ticket offered for sale is not in the actual
165 physical possession of the reseller.

166 b. The period of time when the reseller reasonably expects
167 to have the ticket in actual physical possession and available
168 for delivery.

169 c. Whether the reseller is actively making an offer to
170 procure the ticket.

171 (7) (a) A resale website or online marketplace shall not
172 make any representation of affiliation or endorsement with a
173 venue or artist without the express written consent of the venue
174 or artist, except when it constitutes fair use and is consistent
175 with applicable laws.

176 (b) A person who knowingly violates this subsection
177 commits a felony of the third degree, punishable as provided in
178 s. 775.082 or s. 775.084 or by a fine not to exceed \$10,000.

179 (8) (a) A person aggrieved by a violation of this section
180 may, without regard to any other remedy or relief to which the
181 person is entitled, bring an action to obtain a declaratory
182 judgment that an act or practice violates this section and to

183 enjoin a person who has violated, is violating, or is otherwise
184 likely to violate this section.

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

188 (9) If the department, by its own inquiry or as a result
189 of complaints, has reason to believe that a violation of this
190 section has occurred or is occurring, the department may conduct
191 an investigation, conduct hearings, subpoena witnesses and
192 evidence, and administer oaths and affirmations. If, as a result
193 of the investigation, the department has reason to believe a
194 violation of this section has occurred, the department with the
195 coordination of the Department of Legal Affairs and any state
196 attorney, if the violation has occurred or is occurring within
197 her or his judicial circuit, may bring a civil or criminal
198 action and seek other relief, including injunctive relief, as
199 the court deems appropriate. This subsection does not prohibit
200 the department from providing information to any law enforcement
201 agency or to any other regulatory agency and the department may
202 report to the appropriate law enforcement officers any
203 information concerning a violation of this section.

204 (10) Except as otherwise provided in this section, a
205 person who knowingly resells a ticket or tickets in violation of
206 this section commits a misdemeanor of the second degree,
207 punishable as provided in s. 775.082 or s. 775.083. Each
208 violation of this section constitutes a separate offense.

209 (11) The department shall adopt rules to implement this
 210 section.

211 ~~(5) A person who intentionally uses or sells software to~~
 212 ~~circumvent on a ticket seller's Internet website a security~~
 213 ~~measure, an access control system, or any other control or~~
 214 ~~measure that is used to ensure an equitable ticket buying~~
 215 ~~process is liable to the state for a civil penalty equal to~~
 216 ~~treble the amount for which the ticket or tickets were sold.~~

217 ~~(6) As used in this section, the term "software" means~~
 218 ~~computer programs that are primarily designed or produced for~~
 219 ~~the purpose of interfering with the operation of any person or~~
 220 ~~entity that sells, over the Internet, tickets of admission to a~~
 221 ~~sporting event, theater, musical performance, or place of public~~
 222 ~~entertainment or amusement of any kind.~~

223 Section 2. This act shall take effect October 1, 2015.