

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
5 requirements related to ticket refunds; revising
6 ticket resale disclosure requirements; providing
7 ticket transferability guidelines; revising provisions
8 relating to prohibitions on bypassing portions of the
9 ticket buying process, disguising the identity of a
10 buyer, or circumventing security measures; providing
11 criminal penalties; providing for recovery of damages
12 up to treble the amount of actual damages for such
13 violations; requiring specified disclosures before
14 resale of a ticket; providing indemnity for resale
15 websites and online marketplaces from the
16 representations of resellers; prohibiting
17 misrepresentations of affiliation or endorsement by
18 resellers without consent; providing exceptions;
19 providing criminal penalties; authorizing declaratory
20 judgments; authorizing the Department of Agriculture
21 and Consumer Services to enforce the ticket resale
22 provisions; providing criminal penalties for certain
23 violations; authorizing rulemaking; deleting
24 provisions imposing penalties for intentionally using
25 or selling software to circumvent certain ticket
26 seller security measures; providing an effective date.

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

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

817.36 Ticket sales ~~Resale of tickets.~~

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

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

(b) "Face value" means the face price of a ticket, as determined by the event presenter and printed or displayed on the ticket when originally offered for sale.

(c) "Online marketplace" means a website, software application for a mobile device, or any other digital platform that provides an online forum for the buying and selling of tickets in transactions between ticket resellers and purchasers.

(d) "Place of entertainment" means a privately owned and operated entertainment facility or publicly owned and operated entertainment facility in this state, such as a theater, stadium, museum, arena, racetrack, entertainment/resort complex as defined in s. 561.01, or part thereof, or other place where performances, concerts, exhibits, games, athletic events, or contests are held and for which an entry fee is charged. A facility owned by a school, college, university, or house of worship is a place of entertainment only when an event is held for which an entry fee is charged.

53 (e) "Resale website" means a website, software application
54 for a mobile device, any other digital platform, or portion
55 thereof, whose primary purpose is to facilitate the resale of
56 tickets to consumers, but excludes an online marketplace.

57 (f) "Ticket" means a printed, electronic, or other type of
58 evidence of the right, option, or opportunity to occupy space at
59 or to enter place of entertainment even if not evidenced by any
60 physical manifestation of such right.

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

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

70 (b) ~~Multiday or multievent~~ Tickets to a park or
71 entertainment complex or to a concert, entertainment event,
72 permanent exhibition, or recreational activity within such a
73 park or complex, including an entertainment/resort complex as
74 defined in s. 561.01 ~~561.01(18)~~.

75 (c) Event tickets originally issued by a charitable
76 organization exempt from taxation under s. 501(c)(3) of the
77 Internal Revenue Code for which no more than 3,000 tickets are
78 issued per performance. The charitable organization must issue

79 event tickets with the following statement conspicuously printed
80 or displayed on the face or back of the ticket: "Pursuant to s.
81 817.36, Florida Statutes, this ticket may not be resold for more
82 than \$1 over the face value ~~original admission price~~." This
83 paragraph does not apply to tickets issued or sold by a third
84 party contractor ticketing services provider on behalf of a
85 charitable organization otherwise included in this paragraph
86 unless the required disclosure is printed or displayed on the
87 ticket.

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

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

101 a. The ticketed event is canceled and the purchaser
102 requests a refund;

103 b. The purchaser is denied admission to the ticketed
104 event, unless such denial is due to the action or omission of

105 the purchaser; or

106 c. The ticket is not delivered to the purchaser ~~in the~~
 107 ~~manner requested and~~ pursuant to any delivery guarantees made by
 108 the reseller and such failure results in the purchaser's
 109 inability to attend the ticketed event.

110 2. The resale website or online marketplace operator
 111 discloses that it is not the issuer, or original seller, ~~or~~
 112 ~~reseller~~ of the ticket and that the prices of tickets often
 113 exceed face or items and does not control the pricing of the
 114 ticket or items, which may be resold for more than their
 115 original value.

116 ~~(3)-(2)~~ This section does not authorize any individual or
 117 entity to sell or purchase tickets at any price on property or
 118 place of entertainment where an event is being held without the
 119 prior express written consent of the owner of the property or
 120 place of entertainment.

121 ~~(4)-(3)~~ Any sales tax due for resales under this section
 122 shall be remitted to the Department of Revenue in accordance
 123 with s. 212.04.

124 (5) (a) A person may not sell, use, or cause to be used by
 125 any technology, device, or software that is designed, intended,
 126 or functions to bypass portions of the ticket-buying process or
 127 circumvent a security measure, an access control system, or
 128 other control, authorization, or measure on a ticket issuer's or
 129 resale ticket agent's website, software application for a mobile
 130 device, or digital platform for the purpose of purchasing

131 tickets for commercial resale.

132 (b) A person may not use or cause to be used any
133 technology that is designed or intended to disguise the identity
134 of the purchaser with the purpose of purchasing tickets for
135 resale or attempting to purchase tickets for resale via online
136 sale a quantity of tickets to a place of entertainment in excess
137 of authorized limits established by the owner or operator of a
138 place of entertainment or of the entertainment event or an agent
139 of any such person.

140 (c) A person who knowingly violates this subsection
141 commits a misdemeanor of the second degree, punishable as
142 provided in s. 775.082 or s. 775.083. Each ticket purchase,
143 sale, or violation of this subsection constitutes a separate
144 offense.

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

150 ~~(4) A person who knowingly resells a ticket or tickets in~~
151 ~~violation of this section is liable to the state for a civil~~
152 ~~penalty equal to treble the amount of the price for which the~~
153 ~~ticket or tickets were resold.~~

154 (6) A reseller selling a ticket to an event at a place of
155 entertainment not constructed in whole or in part with taxpayer
156 funds on a retail website or online marketplace must clearly and

157 conspicuously disclose to a prospective ticket resale purchaser
158 on the resale website or online marketplace, before a resale:

159 (a) The refund policy of the reseller, resale website, or
160 online marketplace in connection with the cancellation or
161 postponement of an entertainment event.

162 (b) That the ticket is being sold on a resale website or
163 online marketplace and that the price of tickets can often
164 exceed face value.

165 (c)1. If the ticket is in the actual physical possession
166 of the reseller, the general location of the seat offered for
167 sale, including the section and a range of not more than five
168 rows, or an area specifically designated as accessible seating;
169 or

170 2. If the ticket is not in the actual physical possession
171 of the reseller:

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

174 b. The period of time when the reseller reasonably expects
175 to have the ticket in actual physical possession and available
176 for delivery.

177 c. Whether the reseller is actively making an offer to
178 procure the ticket.

179 3. A resale website or online marketplace is not liable
180 for any representations made by a reseller using its platform to
181 offer a ticket for sale; however, a resale website or online
182 marketplace may not permit a reseller to use the resale website

183 or online marketplace to offer a ticket for sale if the
184 disclosures required by this subsection are not provided by the
185 reseller.

186 (7) (a) A resale website or online marketplace shall not
187 make any representation of affiliation or endorsement with a
188 venue or artist without the express consent of the venue or
189 artist, except when it constitutes fair use or is consistent
190 with applicable laws.

191 (b)1. Except as provided in subparagraph 2., a person who
192 knowingly violates this subsection commits a misdemeanor of the
193 second degree, punishable as provided in s. 775.082 or s.
194 775.083.

195 2. A person who has been convicted two or more times for a
196 violation of this subsection, and who subsequently knowingly
197 violates this subsection, commits a misdemeanor of the first
198 degree, punishable as provided in s. 775.082 or s. 775.083.

199 (8) (a) A person aggrieved by a violation of this section
200 may, without regard to any other remedy or relief to which the
201 person is entitled, bring an action to obtain a declaratory
202 judgment that an act or practice violates this section and to
203 enjoin a person who has violated, is violating, or is otherwise
204 likely to violate this section.

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

208 (9) If the department, by its own inquiry or as a result

209 of complaints, has reason to believe that a violation of this
 210 section has occurred or is occurring, the department may conduct
 211 an investigation, conduct hearings, subpoena witnesses and
 212 evidence, and administer oaths and affirmations. If, as a result
 213 of the investigation, the department has reason to believe a
 214 violation of this section has occurred, the department with the
 215 coordination of the Department of Legal Affairs and any state
 216 attorney, if the violation has occurred or is occurring within
 217 her or his judicial circuit, may bring a civil or criminal
 218 action and seek other relief, including injunctive relief, as
 219 the court deems appropriate. This subsection does not prohibit
 220 the department from providing information to any law enforcement
 221 agency or to any other regulatory agency and the department may
 222 report to the appropriate law enforcement officers any
 223 information concerning a violation of this section.

224 (10) Except as otherwise provided in this section, a
 225 person who knowingly resells a ticket or tickets in violation of
 226 this section commits a misdemeanor of the second degree,
 227 punishable as provided in s. 775.082 or s. 775.083. Each
 228 violation of this section constitutes a separate offense.

229 (11) The department may adopt rules to implement and
 230 enforce this section.

231 ~~(5) A person who intentionally uses or sells software to~~
 232 ~~circumvent on a ticket seller's Internet website a security~~
 233 ~~measure, an access control system, or any other control or~~
 234 ~~measure that is used to ensure an equitable ticket buying~~

235 ~~process is liable to the state for a civil penalty equal to~~
236 ~~treble the amount for which the ticket or tickets were sold.~~

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

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