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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/30/2015	.	
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The Committee on Commerce and Tourism (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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.



702540

11 (b) "Face value" means the face price of a ticket, as
12 determined by the event presenter and printed or displayed on
13 the ticket.

14 (c) "Online marketplace" means a website, software
15 application for a mobile device, or any other digital platform
16 that provides a forum for the buying and selling of tickets, but
17 does not include a website, software application for a mobile
18 device, or any other digital platform operated by a reseller,
19 ticket issuer, event presenter, or agent of an owner or operator
20 of a place of entertainment.

21 (d) "Place of entertainment" means a privately owned and
22 operated entertainment facility or publicly owned and operated
23 entertainment facility in this state, such as a theater,
24 stadium, museum, arena, racetrack, or other place where
25 performances, concerts, exhibits, games, athletic events, or
26 contests are held and for which an entry fee is charged. A
27 facility owned by a school, college, university, or house of
28 worship is a place of entertainment only when an event is held
29 for which an entry fee is charged.

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

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

38 (2)(1) A person or entity that offers for resale or resells
39 any ticket may charge only \$1 above the face value ~~admission~~



702540

40 ~~price~~ charged therefor by the original ticket seller of the
41 ticket for the following transactions:

42 (a) Passage or accommodations on any common carrier in this
43 state. However, this paragraph does not apply to travel agencies
44 that have an established place of business in this state and are
45 required to pay state, county, and city occupational license
46 taxes.

47 (b) Multiday or multievent tickets to a park or
48 entertainment complex or to a concert, entertainment event,
49 permanent exhibition, or recreational activity within such a
50 park or complex, including an entertainment/resort complex as
51 defined in s. 561.01(18).

52 (c) Event tickets originally issued by a charitable
53 organization exempt from taxation under s. 501(c)(3) of the
54 Internal Revenue Code for which no more than 3,000 tickets are
55 issued per performance. The charitable organization must issue
56 event tickets with the following statement conspicuously printed
57 or displayed on the face or back of the ticket: "Pursuant to s.
58 817.36, Florida Statutes, this ticket may not be resold for more
59 than \$1 over the face value ~~original admission price~~." This
60 paragraph does not apply to tickets issued or sold by a third
61 party contractor ticketing services provider on behalf of a
62 charitable organization otherwise included in this paragraph
63 unless the required disclosure is printed or displayed on the
64 ticket.

65 (d) Any tickets, other than the tickets in paragraph (a),
66 paragraph (b), or paragraph (c), that are resold or offered
67 through a resale ~~an Internet~~ website, or online marketplace
68 unless such resale website or online marketplace is authorized



702540

69 by the original ticket seller to sell such tickets or makes and
70 posts the following guarantees and disclosures on ~~through~~
71 ~~Internet~~ web pages on which are visibly posted, or links to web
72 pages on which are posted, text to which a prospective purchaser
73 is directed before completion of the resale transaction:

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

78 a. The ticketed event is canceled;

79 b. The purchaser is denied admission to the ticketed event,
80 unless such denial is due to the action or omission of the
81 purchaser; or

82 c. The ticket is not delivered to the purchaser ~~in the~~
83 ~~manner requested and~~ pursuant to any delivery guarantees made by
84 the reseller and such failure results in the purchaser's
85 inability to attend the ticketed event.

86 2. The resale website or online marketplace operator
87 discloses that it is not the issuer, original seller, or
88 reseller of the ticket or items and does not control the pricing
89 of the ticket or items, which may be resold for more than their
90 face ~~original~~ value.

91 (3) ~~(2)~~ This section does not authorize any individual or
92 entity to sell or purchase tickets at any price on property or
93 place of entertainment where an event is being held without the
94 prior express written consent of the owner of the property or
95 place of entertainment.

96 (4) ~~(3)~~ Any sales tax due for resales under this section
97 shall be remitted to the Department of Revenue in accordance



702540

98 with s. 212.04.

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

103 (5) (a) A person may not sell, use, or cause to be used any
104 means, method, technology, device, or software that is designed
105 or intended to, or that functions to, bypass portions of the
106 ticket-buying process or disguise the identity of the ticket
107 purchaser with the intent to circumvent a security measure, an
108 access control system or other control, authorization, or
109 measure on a ticket issuer's or resale ticket agent's website,
110 software application for a mobile device, or digital platform.

111 (b) A person may not use or cause to be used any means,
112 method, or technology that is designed, intended, or functions
113 to disguise the identity of the purchaser with the purpose of
114 purchasing or attempting to purchase via online sale a quantity
115 of tickets to a place of entertainment in excess of authorized
116 limits established by the owner or operator of a place of
117 entertainment or of the entertainment event or his or her agent.

118 (c) A person who knowingly violates this subsection commits
119 a misdemeanor of the second degree, punishable as provided in s.
120 775.082 or s. 775.083 or by a fine not to exceed \$10,000, or
121 both. Each ticket purchase, sale, or violation of this
122 subsection constitutes a separate offense.

123 (d) A party that has been injured by wrongful conduct in
124 violation of this subsection may bring an action to recover all
125 actual damages suffered as a result of any of such wrongful
126 conduct. The court in its discretion may award damages up to



702540

127 three times the amount of actual damages. A person who
128 intentionally uses or sells software to circumvent on a ticket
129 seller's Internet website a security measure, an access control
130 system, or any other control or measure that is used to ensure
131 an equitable ticket-buying process is liable to the state for a
132 civil penalty equal to treble the amount for which the ticket or
133 tickets were sold.

134 (6) A person, resale website or online marketplace must
135 clearly and conspicuously disclose to a prospective ticket
136 resale purchaser, whether on the resale website or online
137 marketplace, or in person, before a resale:

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

141 (b) That it is a resale website or online marketplace and
142 prices of tickets can often exceed face value; and

143 (c) If the ticket is in the actual physical possession of
144 the reseller, the face value and exact location of the seat
145 offered for sale, including a section, row, and seat number, or
146 area specifically designated as accessible seating; or

147 (d) If the ticket is not in the actual physical possession
148 of the reseller:

149 1. That the ticket offered for sale is not in the actual
150 physical possession of the reseller;

151 2. The period of time when the reseller reasonably expects
152 to have the ticket in actual physical possession and available
153 for delivery; and

154 3. Whether the reseller is actively making an offer to
155 procure the ticket.



702540

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This subsection does not apply to a person who does not regularly engage in the business of reselling tickets; who, in any given 12-month period, resells fewer than 60 tickets or fewer than one-third of all tickets purchased from a given sports entity, whichever is less; and who obtains the tickets for his or her own use or the use of his or her family members, friends, or acquaintances. ~~As used in this section, the term "software" means computer programs that are primarily designed or produced for the purpose of interfering with the operation of any person or entity that sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind.~~

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

(b) A person who knowingly violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083 or by a fine not to exceed \$10,000, or both.

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

(b) In any action brought by a person who has suffered a



702540

185 loss as a result of a violation of this section, such person may
186 recover actual damages, plus attorney fees and court costs.

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

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

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

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

212
213 ===== T I T L E A M E N D M E N T =====



702540

214 And the title is amended as follows:

215 Delete everything before the enacting clause
216 and insert:

217 A bill to be entitled

218 An act relating to ticket sales; amending s. 817.36,
219 F.S.; defining terms; revising provisions to include
220 digital platforms; revising certain presale disclosure
221 requirements; revising provisions relating to
222 prohibitions on bypassing portions of the ticket-
223 buying process, disguising the identity of a buyer, or
224 circumventing security measures; providing criminal
225 penalties for violations; providing for recovery of
226 damages up to treble the amount of actual damages for
227 such violations; providing criminal penalties for
228 knowingly reselling a ticket in violation of statute;
229 deleting provisions imposing penalties for
230 intentionally using or selling software to circumvent
231 certain ticket seller security measures; requiring
232 specified disclosures before resale of a ticket;
233 prohibiting misrepresentations of affiliation or
234 endorsement by resellers without consent; providing
235 exceptions; authorizing declaratory judgments;
236 authorizing the Department of Legal Affairs or a state
237 attorney to bring a civil or criminal action under
238 certain circumstances; providing criminal penalties
239 for certain violations; requiring rulemaking;
240 providing an effective date.