

By the Committee on Commerce and Tourism; and Senator Simpson

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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 deleting provisions imposing penalties for
14 intentionally using or selling software to circumvent
15 certain ticket seller security measures; requiring
16 specified disclosures before resale of a ticket;
17 prohibiting misrepresentations of affiliation or
18 endorsement by resellers without consent; providing
19 exceptions; authorizing declaratory judgments;
20 authorizing the Department of Legal Affairs or a state
21 attorney to bring a civil or criminal action under
22 certain circumstances; providing criminal penalties
23 for certain violations; requiring rulemaking;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 817.36, Florida Statutes, is amended to
29 read:

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30 817.36 Ticket sales ~~Resale of tickets.~~-

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

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

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

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

44 (d) "Place of entertainment" means a privately owned and
45 operated entertainment facility or publicly owned and operated
46 entertainment facility in this state, such as a theater,
47 stadium, museum, arena, racetrack, or other place where
48 performances, concerts, exhibits, games, athletic events, or
49 contests are held and for which an entry fee is charged. A
50 facility owned by a school, college, university, or house of
51 worship is a place of entertainment only when an event is held
52 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

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59 or to enter or attend an entertainment event even if not
60 evidenced by any physical manifestation of such right.

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

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

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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;

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

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

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

114 (3)(2) This section does not authorize any individual or
115 entity to sell or purchase tickets at any price on property or
116 place of entertainment where an event is being held without the

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117 prior express written consent of the owner of the property or
118 place of entertainment.

119 ~~(4)(3)~~ Any sales tax due for resales under this section
120 shall be remitted to the Department of Revenue in accordance
121 with s. 212.04.

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

126 (5) (a) A person may not sell, use, or cause to be used any
127 means, method, technology, device, or software that is designed
128 or intended to, or that functions to, bypass portions of the
129 ticket-buying process or disguise the identity of the ticket
130 purchaser with the intent to circumvent a security measure, an
131 access control system or other control, authorization, or
132 measure on a ticket issuer's or resale ticket agent's website,
133 software application for a mobile device, or digital platform.

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

141 (c) A person who knowingly violates this subsection commits
142 a misdemeanor of the second degree, punishable as provided in s.
143 775.082 or s. 775.083 or by a fine not to exceed \$10,000, or
144 both. Each ticket purchase, sale, or violation of this
145 subsection constitutes a separate offense.

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146 (d) A party that has been injured by wrongful conduct in
147 violation of this subsection may bring an action to recover all
148 actual damages suffered as a result of any of such wrongful
149 conduct. The court in its discretion may award damages up to
150 three times the amount of actual damages. ~~A person who~~
151 ~~intentionally uses or sells software to circumvent on a ticket~~
152 ~~seller's Internet website a security measure, an access control~~
153 ~~system, or any other control or measure that is used to ensure~~
154 ~~an equitable ticket buying process is liable to the state for a~~
155 ~~civil penalty equal to treble the amount for which the ticket or~~
156 ~~tickets were sold.~~

157 (6) A person, resale website, or online marketplace must
158 clearly and conspicuously disclose to a prospective ticket
159 resale purchaser, whether on the resale website or online
160 marketplace, or in person, before a resale:

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

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

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

170 (d) If the ticket is not in the actual physical possession
171 of the reseller:

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

174 2. The period of time when the reseller reasonably expects

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175 to have the ticket in actual physical possession and available
176 for delivery; and

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

179
180 This subsection does not apply to a person who does not
181 regularly engage in the business of reselling tickets; who, in
182 any given 12-month period, resells fewer than 60 tickets or
183 fewer than one-third of all tickets purchased from a given
184 sports entity, whichever is less; and who obtains the tickets
185 for his or her own use or the use of his or her family members,
186 friends, or acquaintances. ~~As used in this section, the term~~
187 "software" means computer programs that are primarily designed
188 or produced for the purpose of interfering with the operation of
189 any person or entity that sells, over the Internet, tickets of
190 admission to a sporting event, theater, musical performance, or
191 place of public entertainment or amusement of any kind.

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

197 (b) A person who knowingly violates this subsection commits
198 a felony of the third degree, punishable as provided in s.
199 775.082 or s. 775.083 or by a fine not to exceed \$10,000, or
200 both.

201 (8) (a) A person aggrieved by a violation of this section
202 may, without regard to any other remedy or relief to which the
203 person is entitled, bring an action to obtain a declaratory

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204 judgment that an act or practice violates this section and to
205 enjoin a person who has violated, is violating, or is otherwise
206 likely to violate this section.

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

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

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

232 (11) The department shall adopt rules to implement this

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233 section.

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