

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1127 Resale of Tickets

SPONSOR(S): Business & Professions Subcommittee; Moskowitz

TIED BILLS: **IDEN./SIM. BILLS:** SB 1344

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---------------------|---------|--|
| 1) Business & Professions Subcommittee | 11 Y, 2 N, As CS | Butler | Anstead |
| 2) Agriculture & Natural Resources Appropriations Subcommittee | | | |
| 3) Regulatory Affairs Committee | | | |

SUMMARY ANALYSIS

The resale of admission tickets and fraudulent activities related to the resale of admission tickets are regulated by Chapter 817, F.S. Currently, the resale of tickets is both prohibited under certain circumstances and restricted in other circumstances. Florida law does not currently address whether an event or admission ticket is deemed to be a license or a property interest.

The bill defines a "ticket" as "a license issued by the operator of a place of entertainment for admission to that place of entertainment at the date and time specified on the ticket, subject to the terms and conditions specified by the operator."

The bill prohibits an operator of a place of entertainment or the operator's agent from restricting, by any means, the resale of a ticket that is sold or offered for sale to the public. The bill provides that an operator may place restrictions on the resale of tickets that are offered for sale as part of a targeted promotion to specific individuals or groups, so long as such tickets are clearly marked.

The bill prohibits denying access to a ticketed event based on the fact that the ticket was resold.

These restrictions are not intended to prevent an operator from ejecting or denying access to a person based on conduct, behavior, for the safety of patrons, or to address fraud or misconduct.

There does not appear to be a fiscal impact to state or local governments.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Tickets – Definition and Use

Absent a statute to the contrary, an event or admission ticket is generally considered to be a license to witness the performance, which may be restricted or revoked by the owner or proprietor at will, before or after admission of the ticketholder.¹ Florida law does not currently address whether an event or admission ticket is deemed to be a license or a property interest.

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.

Generally, a person or entity offering to resell a ticket may only charge \$1 above the admission price charged by the initial ticket seller. A person or entity must abide by these restrictions for tickets for passage or accommodations on a common carrier unless the person or entity is a travel agency,² multiday or multievent tickets to a theme park or entertainment complex,³ and tickets issued by a charitable organization that offers no more than 3,000 tickets per performance.⁴

Any other tickets may be resold for a price greater than \$1 above the admission price if the person or website is authorized to do so by the original ticket seller or provides certain guarantees and disclosures.⁵

A person or website offering tickets for resale that is not authorized by the original ticket seller must guarantee a full refund, including all fees, when a ticketed event is canceled, the purchaser is denied admission except when such denial is the fault of the purchaser, or the ticket is not delivered in the manner requested by the purchaser.⁶ Further, such person or website operator must disclose that it is not the issuer, original seller, or reseller of the ticket, does not control the pricing of the ticket, and that the ticket may be resold for more than its original value.⁷

A person who knowingly resells a ticket in violation of the ticket resale provisions of s. 817.36, F.S., is liable to the state for a civil penalty equal to three times the amount for which the ticket or tickets were sold.⁸

Effect of the Bill

The bill defines a “ticket” as “a license issued by the operator of a place of entertainment for admission to that place of entertainment at the date and time specified on the ticket, subject to the terms and conditions specified by the operator.”

¹ 27A Am. Jur. 2d Entertainment and Sports Law § 42.

² s. 817.36(1)(a), F.S.

³ s. 817.36(1)(b), F.S.

⁴ s. 817.36(1)(c), F.S.

⁵ s. 817.36(1)(d), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ s. 817.36(4), F.S.

The bill prohibits an operator of a place of entertainment or the operator's agent from restricting, by any means, the resale or transfer of any ticket.

The bill provides that the above restrictions are not intended to prevent an operator or an operator's agent from revoking a ticket or ejecting a person from a venue based on conduct or behavior at an event or place of entertainment, for the protection and the safety of patrons, or to address fraud or misconduct.

The bill provides that an operator or the operator's agent may place restrictions on the resale of tickets that are offered as part of a targeted promotion, sold at a discounted price, or provided free of charge to specific individuals or groups of individuals; however, restrictions may not be placed on the resale of tickets offered promotionally to the general public.

The bill requires that any promotionally discounted or free tickets that have restrictions on their resale must be clearly marked as such.

The bill does not define a "place of entertainment."

B. SECTION DIRECTORY:

Section 1 amends s. 817.36, F.S., to prohibit an operator or operator's agent of a place of entertainment from placing restrictions on the resale or transfer of any ticket.

Section 2 provides the bill has an effective date of July 1, 2016.

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:

Indeterminate. The bill may provide protections for resellers of tickets and the secondary market for tickets; however, it may have an indeterminate negative fiscal impact on primary ticket vendors, such as places of entertainment or venues.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not define a "place of entertainment." This phrase could be defined to clarify who may be affected by the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 2, 2016, the Business & Professions Subcommittee considered an amendment and reported the bill favorably as a committee substitute. The amendment removed the limitation that only season and subscription tickets may not be restricted from resale by an operator, and provided that an operator of a place of entertainment or the operator's agent may not restrict, by any means, the resale or transfer of any ticket.

This staff analysis is drafted to reflect the committee substitute.