

210--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the arts and cultural affairs law, in relation to resale of tickets to places of entertainment; and to repeal article 25 of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Article 25 of the arts and cultural affairs law is REPEALED
2 and a new article 25 is added to read as follows:
3 ARTICLE 25
4 TICKETS TO PLACES OF ENTERTAINMENT
5 SECTION 25.01. LEGISLATIVE FINDINGS.
6 25.03. DEFINITIONS.
7 25.05. TICKET SPECULATORS.
8 25.07. TICKET PRICES.
9 25.09. ADDITIONAL PRINTING ON TICKETS.
10 25.11. REALES OF TICKETS WITHIN BUFFER ZONE.
11 25.13. LICENSING OF TICKET RESELLERS.
12 25.15. BOND.
13 25.17. SUPERVISION AND REGULATION.
14 25.19. POSTING OF LICENSE OR CERTIFICATE.
15 25.21. CHANGE OF OFFICE LOCATION.
16 25.23. POSTING OF PRICE LISTS; INFORMATION TO PURCHASER.
17 25.24. AUTOMATED TICKET PURCHASING SOFTWARE.
18 25.25. RECORDS OF PURCHASES AND SALES.
19 25.27. COMMISSIONS TO EMPLOYEES OF PLACES OF ENTERTAINMENT.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

LBD00160-02-4

1 25.29. UNLAWFUL CHARGES IN CONNECTION WITH TICKETS.
2 25.30. OPERATOR PROHIBITIONS.
3 25.31. SUSPENSION OR REVOCATION OF LICENSES.
4 25.33. ENFORCEMENT.
5 25.35. CRIMINAL PENALTIES.

6 S 25.01. LEGISLATIVE FINDINGS. THE LEGISLATURE FINDS AND DECLARES THAT
7 TRANSACTIONS INVOLVING TICKETS FOR ADMISSION TO PLACES OF ENTERTAINMENT
8 ARE A MATTER OF PUBLIC INTEREST AND SUBJECT TO THE SUPERVISION OF NEW
9 YORK AND THE APPROPRIATE POLITICAL SUBDIVISIONS OF THE STATE FOR THE
10 PURPOSE OF SAFEGUARDING THE PUBLIC AGAINST FRAUD, EXTORTION, AND SIMILAR
11 ABUSES.

12 THE LEGISLATURE FURTHER FINDS THAT MANY TICKET RESELLERS ADVERTISE AND
13 SELL TICKETS TO PLACES OF ENTERTAINMENT WITHIN THE BOUNDARIES OF NEW
14 YORK STATE OFTEN FROM LOCATIONS OUTSIDE THE STATE, WITHOUT ADHERING TO
15 THE PROVISIONS OF THIS ARTICLE. THE LEGISLATURE OBJECTS TO ANY CLAIM
16 THAT BUSINESSES DOMICILED OUTSIDE NEW YORK STATE ARE EXEMPTED FROM THIS
17 STATUTE WHEN SELLING TICKETS TO EVENTS OCCURRING IN NEW YORK STATE,
18 REGARDLESS OF THE TERRITORIES OF ORIGIN OF BOTH THE BUYER AND SELLER. IT
19 IS THE LEGISLATURE'S INTENT THAT ALL GOVERNMENTAL BODIES CHARGED WITH
20 ENFORCEMENT OF THIS ARTICLE, INCLUDING THE ATTORNEY GENERAL OF NEW YORK
21 STATE HAVE THE AUTHORITY TO REGULATE THE ACTIVITIES OF ALL PERSONS
22 RESELLING TICKETS TO VENUES LOCATED WITHIN THIS STATE TO THE FULL EXTENT
23 OF THE STATE'S POWERS UNDER THE FEDERAL AND STATE CONSTITUTIONS AND THAT
24 THIS ARTICLE BE CONSTRUED IN LIGHT OF THIS PURPOSE.

25 S 25.03. DEFINITIONS. AS USED IN THIS ARTICLE THE TERM:

26 1. "ENTERTAINMENT" MEANS ALL FORMS OF ENTERTAINMENT INCLUDING, BUT NOT
27 LIMITED TO, THEATRICAL OR OPERATIC PERFORMANCES, CONCERTS, MOTION
28 PICTURES, ALL FORMS OF ENTERTAINMENT AT FAIR GROUNDS, AMUSEMENT PARKS
29 AND ALL TYPES OF ATHLETIC COMPETITIONS INCLUDING FOOTBALL, BASKETBALL,
30 BASEBALL, BOXING, TENNIS, HOCKEY, AND ANY OTHER SPORT, AND ALL OTHER
31 FORMS OF DIVERSION, RECREATION OR SHOW.

32 2. "ESTABLISHED PRICE" MEANS THE PRICE FIXED AT THE TIME OF SALE BY
33 THE OPERATOR OF ANY PLACE OF ENTERTAINMENT FOR ADMISSION THERETO, WHICH
34 MUST BE PRINTED OR ENDORSED ON EACH TICKET OF ADMISSION.

35 3. "MAXIMUM PREMIUM PRICE" MEANS ANY PREMIUM OR PRICE IN EXCESS OF THE
36 ESTABLISHED PRICE PRINTED OR ENDORSED ON THE TICKET PURSUANT TO SECTION
37 25.07 OF THIS ARTICLE, PLUS LAWFUL TAXES, SO THAT THE ULTIMATE PRICE OF
38 THE PURCHASE OF ANY SUCH TICKET TO A PLACE OF ENTERTAINMENT SHALL NOT
39 EXCEED THE SUM OF THE ESTABLISHED PRICE PLUS TWENTY PERCENT OF THE
40 ESTABLISHED PRICE.

41 4. "NOT-FOR-PROFIT ORGANIZATION" MEANS A DOMESTIC CORPORATION INCORPO-
42 RATED PURSUANT TO OR OTHERWISE SUBJECT TO THE NOT-FOR-PROFIT CORPORATION
43 LAW, A CHARITABLE ORGANIZATION REGISTERED WITH THE DEPARTMENT OF LAW, A
44 RELIGIOUS CORPORATION AS DEFINED IN SECTION SIXTY-SIX OF THE GENERAL
45 CONSTRUCTION LAW, A TRUSTEE AS DEFINED IN SECTION 8-1.4 OF THE ESTATES,
46 POWERS AND TRUSTS LAW, AN INSTITUTION OR CORPORATION FORMED PURSUANT TO
47 THE EDUCATION LAW, A SPECIAL ACT CORPORATION CREATED PURSUANT TO CHAPTER
48 FOUR HUNDRED SIXTY-EIGHT OF THE LAWS OF EIGHTEEN HUNDRED NINETY-NINE, AS
49 AMENDED, A SPECIAL ACT CORPORATION FORMED PURSUANT TO CHAPTER TWO
50 HUNDRED FIFTY-SIX OF THE LAWS OF NINETEEN HUNDRED SEVENTEEN, AS AMENDED,
51 A CORPORATION AUTHORIZED PURSUANT TO AN ACT OF CONGRESS APPROVED JANUARY
52 FIFTH, NINETEEN HUNDRED FIVE, (33 STAT. 599), AS AMENDED, A CORPORATION
53 ESTABLISHED BY MERGER OF CHARITABLE ORGANIZATIONS PURSUANT TO AN ORDER
54 OF THE SUPREME COURT, NEW YORK COUNTY DATED JULY TWENTY-FIRST, NINETEEN
55 HUNDRED EIGHTY-SIX AND FILED IN THE DEPARTMENT OF STATE ON JULY TWENTY-
56 NINTH, NINETEEN HUNDRED EIGHTY-SIX, OR A CORPORATION HAVING TAX EXEMPT

1 STATUS UNDER SECTION 501 (C) (3) OF THE UNITED STATES INTERNAL REVENUE
2 CODE, AND SHALL FURTHER BE DEEMED TO MEAN AND INCLUDE ANY FEDERATION OF
3 CHARITABLE ORGANIZATIONS.

4 5. "OPERATOR" MEANS ANY PERSON WHO OWNS, OPERATES, OR CONTROLS A PLACE
5 OF ENTERTAINMENT OR WHO PROMOTES OR PRODUCES AN ENTERTAINMENT.

6 6. "PLACE OF ENTERTAINMENT" MEANS ANY PRIVATELY OR PUBLICLY OWNED AND
7 OPERATED ENTERTAINMENT FACILITY SUCH AS A THEATRE, STADIUM, ARENA, RACE-
8 TRACK, MUSEUM, AMUSEMENT PARK, OR OTHER PLACE WHERE PERFORMANCES,
9 CONCERTS, EXHIBITS, ATHLETIC GAMES OR CONTESTS ARE HELD FOR WHICH AN
10 ENTRY FEE IS CHARGED.

11 7. "PHYSICAL STRUCTURE" MEANS THE PLACE OF ENTERTAINMENT, OR IN THE
12 CASE WHERE A STRUCTURE EITHER PARTIALLY OR WHOLLY SURROUNDS THE PLACE OF
13 ENTERTAINMENT, SUCH SURROUNDING STRUCTURE.

14 8. "RESALE" MEANS ANY SALE OF A TICKET FOR ENTRANCE TO A PLACE OF
15 ENTERTAINMENT LOCATED WITHIN THE BOUNDARIES OF THE STATE OF NEW YORK
16 OTHER THAN A SALE BY THE OPERATOR OR THE OPERATOR'S AGENT WHO IS
17 EXPRESSLY AUTHORIZED TO MAKE FIRST SALES OF SUCH TICKETS. RESALE SHALL
18 INCLUDE SALES BY ANY MEANS, INCLUDING IN PERSON, OR BY MEANS OF TELE-
19 PHONE, MAIL, DELIVERY SERVICE, FACSIMILE, INTERNET, EMAIL OR OTHER ELEC-
20 TRONIC MEANS, WHERE THE VENUE FOR WHICH THE TICKET GRANTS ADMISSION IS
21 LOCATED IN NEW YORK STATE. EXCEPT AS PROVIDED IN SECTIONS 25.11 AND
22 25.27 OF THIS ARTICLE, THE TERM "RESALE" SHALL NOT APPLY TO ANY PERSON,
23 FIRM OR CORPORATION WHICH PURCHASES ANY TICKETS SOLELY FOR THEIR OWN USE
24 OR THE USE OF THEIR INVITEES, EMPLOYEES AND AGENTS OR WHICH PURCHASES
25 TICKETS ON BEHALF OF OTHERS AND RESELLS SUCH TICKETS TO SUCH INVITEES,
26 EMPLOYEES AND AGENTS OR OTHERS AT OR LESS THAN THE ESTABLISHED PRICE.
27 SIMILARLY, THE TERM "RESALE" SHALL NOT APPLY TO ANY NOT-FOR-PROFIT
28 ORGANIZATION, OR PERSON ACTING ON BEHALF OF SUCH NOT-FOR-PROFIT ORGAN-
29 IZATION, AS LONG AS ANY PROFIT REALIZED FROM TICKET RESELLING IS WHOLLY
30 DEDICATED TO THE PURPOSES OF SUCH NOT-FOR-PROFIT ORGANIZATION.

31 9. "TICKET" MEANS ANY EVIDENCE OF THE RIGHT OF ENTRY TO ANY PLACE OF
32 ENTERTAINMENT.

33 10. "TICKET OFFICE" MEANS A BUILDING OR OTHER STRUCTURE LOCATED OTHER
34 THAN AT THE PLACE OF ENTERTAINMENT, AT WHICH THE OPERATOR OR THE OPERA-
35 TOR'S AGENT OFFERS TICKETS FOR FIRST SALE TO THE PUBLIC.

36 S 25.05. TICKET SPECULATORS. ANY PERSON WHO:

37 1. CONDUCTS ON OR IN ANY STREET IN A CITY OR IN THE COUNTY OF NASSAU
38 THE BUSINESS OF SELLING OR OFFERING FOR SALE ANY TICKET OF ADMISSION OR
39 ANY OTHER EVIDENCE OF THE RIGHT OF ENTRY TO ANY PERFORMANCE OR EXHIBI-
40 TION IN OR ABOUT THE PREMISES OF ANY THEATRE OR CONCERT HALL, PLACE OF
41 PUBLIC AMUSEMENT, CIRCUS OR COMMON SHOW; OR

42 2. SOLICITS ON OR IN ANY STREET IN A CITY OR IN THE COUNTY OF NASSAU
43 BY WORDS, SIGNS, CIRCULARS OR OTHER MEANS ANY PERSON TO PURCHASE ANY
44 SUCH TICKET OR OTHER EVIDENCE OF THE RIGHT OF ENTRY; OR

45 3. IN OR FROM ANY BUILDING, STORE, SHOP, BOOTH, YARD, GARDEN OR IN OR
46 FROM ANY OPENING, WINDOW, DOOR, HALLWAY, CORRIDOR OR IN OR FROM ANY
47 PLACE OF INGRESS OR EGRESS TO OR FROM ANY BUILDING, PLACE OF BUSINESS,
48 STORE, SHOP, BOOTH, YARD OR GARDEN IN A CITY OR IN THE COUNTY OF NASSAU
49 INDICATES, HOLDS OUT OR OFFERS FOR SALE TO ANY PERSON OR PERSONS ON OR
50 IN THE STREET BY WORD OF MOUTH, CRYING, CALLING, SHOUTING OR OTHER MEANS
51 THAT SUCH TICKET OR OTHER EVIDENCE OF THE RIGHT OF ENTRY MAY BE
52 PURCHASED IN SUCH BUILDING, STORE, SHOP, BOOTH, YARD, GARDEN OR ANY
53 OTHER PLACE; OR

54 4. IN OR FROM ANY SUCH PLACE OR PLACES IN A CITY OR IN THE COUNTY OF
55 NASSAU SOLICITS BY WORD OF MOUTH, CRYING, CALLING, SHOUTING OR OTHER

1 MEANS ANY PERSON ON OR IN THE STREET TO PURCHASE ANY SUCH TICKET OR
2 OTHER EVIDENCE OF THE RIGHT OF ENTRY, IS GUILTY OF A MISDEMEANOR.

3 S 25.07. TICKET PRICES. 1. EVERY OPERATOR OF A PLACE OF ENTERTAINMENT
4 SHALL, IF A PRICE BE CHARGED FOR ADMISSION THERETO, PRINT OR ENDORSE ON
5 THE FACE OF EACH SUCH TICKET THE ESTABLISHED PRICE. SUCH OPERATOR SHALL
6 LIKEWISE BE REQUIRED TO PRINT OR ENDORSE ON EACH TICKET THE MAXIMUM
7 PREMIUM PRICE AT WHICH SUCH TICKET OR OTHER EVIDENCE OF THE RIGHT OF
8 ENTRY MAY BE RESOLD OR OFFERED FOR RESALE. IT SHALL BE UNLAWFUL FOR ANY
9 PERSON, FIRM OR CORPORATION TO RESELL OR OFFER TO RESELL ANY TICKET TO
10 ANY PLACE OF ENTERTAINMENT FOR MORE THAN THE MAXIMUM PREMIUM PRICE.

11 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY PERSON, FIRM OR
12 CORPORATION, REGARDLESS OF WHETHER OR NOT LICENSED UNDER THIS ARTICLE,
13 THAT RESELLS TICKETS OR FACILITATES THE RESALE OR RESALE AUCTION OF
14 TICKETS BETWEEN INDEPENDENT PARTIES BY ANY MEANS, MUST GUARANTEE TO EACH
15 PURCHASER OF SUCH RESOLD TICKETS THAT THE PERSON, FIRM OR CORPORATION
16 WILL PROVIDE A FULL REFUND OF THE AMOUNT PAID BY THE PURCHASER (INCLUD-
17 ING, BUT NOT LIMITED TO, ALL FEES, REGARDLESS OF HOW CHARACTERIZED) IF
18 ANY OF THE FOLLOWING OCCURS: (A) THE EVENT FOR WHICH SUCH TICKET HAS
19 BEEN RESOLD IS CANCELLED, PROVIDED THAT IF THE EVENT IS CANCELLED THEN
20 ACTUAL HANDLING AND DELIVERY FEES NEED NOT BE REFUNDED AS LONG AS SUCH
21 PREVIOUSLY DISCLOSED GUARANTEE SPECIFIES THAT SUCH FEES WILL NOT BE
22 REFUNDED; (B) THE TICKET RECEIVED BY THE PURCHASER DOES NOT GRANT THE
23 PURCHASER ADMISSION TO THE EVENT DESCRIBED ON THE TICKET, FOR REASONS
24 THAT MAY INCLUDE, WITHOUT LIMITATION, THAT THE TICKET IS COUNTERFEIT OR
25 THAT THE TICKET HAS BEEN CANCELLED BY THE ISSUER DUE TO NON-PAYMENT, OR
26 THAT THE EVENT DESCRIBED ON THE TICKET WAS CANCELLED FOR ANY REASON
27 PRIOR TO PURCHASE OF THE RESOLD TICKET, UNLESS THE TICKET IS CANCELLED
28 DUE TO AN ACT OR OMISSION BY SUCH PURCHASER; OR (C) THE TICKET FAILS TO
29 CONFORM TO ITS DESCRIPTION AS ADVERTISED UNLESS THE BUYER HAS PRE-AP-
30 PROVED A SUBSTITUTION OF TICKETS.

31 3. PRIOR TO THE PAYMENT OF A REFUND IT SHALL BE THE OBLIGATION OF THE
32 SELLER AND PURCHASER TO FIRST MAKE A GOOD FAITH EFFORT TO REMEDY ANY
33 DISPUTES WHERE THE SELLER AND PURCHASER HAVE AGREED TO TERMS ESTABLISHED
34 BY THE LICENSEE OR WEBSITE MANAGER FOR THE DISPOSITION OF DISPUTES AS A
35 CONDITION TO FACILITATE THE TRANSACTION.

36 S 25.09. ADDITIONAL PRINTING ON TICKETS. EVERY OPERATOR OF A PLACE OF
37 ENTERTAINMENT HAVING A PERMANENT SEATING CAPACITY IN EXCESS OF FIVE
38 THOUSAND PERSONS SHALL, IF A PRICE BE CHARGED FOR ADMISSION THERETO,
39 PRINT OR ENDORSE IN A CLEAR AND LEGIBLE MANNER ON EACH TICKET, "THIS
40 TICKET MAY NOT BE RESOLD WITHIN ONE THOUSAND FIVE HUNDRED FEET FROM THE
41 PHYSICAL STRUCTURE OF THIS PLACE OF ENTERTAINMENT UNDER PENALTY OF LAW".

42 S 25.11. RESALES OF TICKETS WITHIN BUFFER ZONE. 1. NO PERSON, FIRM,
43 CORPORATION OR NOT-FOR-PROFIT ORGANIZATION, WHETHER OR NOT DOMICILED,
44 LICENSED OR REGISTERED WITHIN THE STATE, SHALL RESELL, OFFER TO RESELL
45 OR SOLICIT THE RESALE OF ANY TICKET TO ANY PLACE OF ENTERTAINMENT HAVING
46 A PERMANENT SEATING CAPACITY IN EXCESS OF FIVE THOUSAND PERSONS WITHIN
47 ONE THOUSAND FIVE HUNDRED FEET FROM THE PHYSICAL STRUCTURE OF SUCH PLACE
48 OF ENTERTAINMENT, OR A TICKET OFFICE.

49 2. NO PERSON, FIRM, CORPORATION OR NOT-FOR-PROFIT ORGANIZATION, WHETH-
50 ER OR NOT DOMICILED, LICENSED OR REGISTERED WITHIN THE STATE, SHALL
51 RESELL, OFFER TO RESELL OR SOLICIT THE RESALE OF ANY TICKET TO ANY PLACE
52 OF ENTERTAINMENT HAVING A PERMANENT SEATING CAPACITY OF FIVE THOUSAND OR
53 FEWER PERSONS WITHIN FIVE HUNDRED FEET FROM THE PHYSICAL STRUCTURE OR
54 TICKET OFFICE OF SUCH PLACE OF ENTERTAINMENT, PROVIDED HOWEVER THAT
55 CURRENT LICENSEES AND THOSE SEEKING A LICENSE UNDER THIS ARTICLE ARE

1 EXEMPT FROM SUCH BUFFER ZONE WHEN OPERATING OUT OF A PERMANENT PHYSICAL
2 STRUCTURE.

3 3. NOTWITHSTANDING SUBDIVISIONS ONE AND TWO OF THIS SECTION, AN OPERA-
4 TOR MAY DESIGNATE AN AREA WITHIN THE PROPERTY LINE OF SUCH PLACE OF
5 ENTERTAINMENT FOR THE LAWFUL RESALE OF TICKETS ONLY TO EVENTS AT SUCH
6 PLACE OF ENTERTAINMENT BY ANY PERSON, FIRM, CORPORATION OR NOT-FOR-PRO-
7 FIT ORGANIZATION, WHETHER OR NOT DOMICILED, LICENSED OR REGISTERED WITH-
8 IN THE STATE.

9 4. FOR PURPOSES OF THIS SECTION, "TICKET OFFICE" MEANS A BUILDING OR
10 OTHER STRUCTURE LOCATED OTHER THAN AT THE PLACE OF ENTERTAINMENT, AT
11 WHICH THE OPERATOR OR THE OPERATOR'S AGENT OFFERS TICKETS FOR FIRST SALE
12 TO THE PUBLIC.

13 S 25.13. LICENSING OF TICKET RESELLERS. 1. NO PERSON, FIRM OR CORPO-
14 RATION SHALL RESELL OR ENGAGE IN THE BUSINESS OF RESELLING ANY TICKETS
15 TO A PLACE OF ENTERTAINMENT OR OPERATE AN INTERNET WEBSITE OR ANY OTHER
16 ELECTRONIC SERVICE THAT PROVIDES A MECHANISM FOR TWO OR MORE PARTIES TO
17 PARTICIPATE IN A RESALE TRANSACTION OR THAT FACILITATES RESALE TRANS-
18 ACTIONS BY THE MEANS OF AN AUCTION, OR OWN, CONDUCT OR MAINTAIN ANY
19 OFFICE, BRANCH OFFICE, BUREAU, AGENCY OR SUB-AGENCY FOR SUCH BUSINESS
20 WITHOUT HAVING FIRST PROCURED A LICENSE OR CERTIFICATE FOR EACH LOCATION
21 AT WHICH BUSINESS WILL BE CONDUCTED FROM THE SECRETARY OF STATE. ANY
22 OPERATOR OR MANAGER OF A WEBSITE THAT SERVES AS A PLATFORM TO FACILITATE
23 RESALE, OR RESALE BY WAY OF A COMPETITIVE BIDDING PROCESS, SOLELY
24 BETWEEN THIRD PARTIES AND DOES NOT IN ANY OTHER MANNER ENGAGE IN REALES
25 OF TICKETS TO PLACES OF ENTERTAINMENT SHALL BE EXEMPT FROM THE LICENSING
26 REQUIREMENTS OF THIS SECTION. THE DEPARTMENT OF STATE SHALL ISSUE AND
27 DELIVER TO SUCH APPLICANT A CERTIFICATE OR LICENSE TO CONDUCT SUCH BUSI-
28 NESS AND TO OWN, CONDUCT OR MAINTAIN A BUREAU, AGENCY, SUB-AGENCY,
29 OFFICE OR BRANCH OFFICE FOR THE CONDUCT OF SUCH BUSINESS ON THE PREMISES
30 STATED IN SUCH APPLICATION UPON THE PAYMENT BY OR ON BEHALF OF THE
31 APPLICANT OF A FEE OF FIVE THOUSAND DOLLARS AND SHALL BE RENEWED UPON
32 THE PAYMENT OF A LIKE FEE ANNUALLY. SUCH LICENSE OR CERTIFICATE SHALL
33 NOT BE TRANSFERRED OR ASSIGNED, EXCEPT BY PERMISSION OF THE SECRETARY OF
34 STATE. SUCH LICENSE OR CERTIFICATE SHALL RUN TO THE FIRST DAY OF JANUARY
35 NEXT ENSUING THE DATE THEREOF, UNLESS SOONER REVOKED BY THE SECRETARY OF
36 STATE. SUCH LICENSE OR CERTIFICATE SHALL BE GRANTED UPON A WRITTEN
37 APPLICATION SETTING FORTH SUCH INFORMATION AS THE SECRETARY OF STATE MAY
38 REQUIRE IN ORDER TO ENABLE HIM OR HER TO CARRY INTO EFFECT THE
39 PROVISIONS OF THIS ARTICLE AND SHALL BE ACCOMPANIED BY PROOF SATISFAC-
40 TORY TO THE SECRETARY OF STATE OF THE MORAL CHARACTER OF THE APPLICANT.

41 2. NO OPERATOR'S AGENT SHALL SELL OR CONVEY TICKETS TO ANY SECONDARY
42 TICKET RESELLER OWNED OR CONTROLLED BY THE OPERATOR'S AGENT.

43 2-A. NO TICKET SELLER SHALL RESELL ANY TICKET DURING THE FIRST FORTY-
44 EIGHT HOURS AFTER SUCH TICKET IS FIRST AVAILABLE FOR PRIMARY SALE;
45 PROVIDED THAT SUCH RESTRICTION SHALL NOT APPLY WITH RESPECT TO SEASON
46 TICKETS OR BUNDLED SERIES TICKETS. NO TICKET SELLER SHALL SELL OR RESELL
47 ANY TICKET THAT SUCH SELLER DOES NOT OWN AT THE TIME OF THE OFFER OR
48 SALE. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO VENUES
49 CONTAINING LESS THAN SIX THOUSAND SEATS.

50 3. THE OPERATOR OR THE PROMOTER SHALL DETERMINE WHETHER A SEAT FOR
51 WHICH A TICKET IS FOR SALE HAS AN OBSTRUCTED VIEW, AND SHALL DISCLOSE
52 SUCH OBSTRUCTION. EVERY SALE OR RESALE OF SUCH TICKET SHALL INCLUDE A
53 DISCLOSURE OF SUCH OBSTRUCTED VIEW.

54 4. IF ANY LICENSEE UNDER THIS SECTION DEMONSTRATES THAT THEIR BUSINESS
55 PROVIDES A SERVICE TO FACILITATE TICKET TRANSACTIONS WITHOUT CHARGING
56 ANY FEES, SURCHARGES OR SERVICE CHARGES ABOVE THE ESTABLISHED PRICE, ON

1 EVERY TRANSACTION, EXCEPT A REASONABLE AND ACTUAL CHARGE FOR THE DELIV-
2 ERY OF TICKETS, THEN THE FEES FOR LICENSING UNDER THIS SECTION SHALL BE
3 WAIVED.

4 S 25.15. BOND. THE SECRETARY OF STATE SHALL REQUIRE THE APPLICANT FOR
5 A LICENSE TO FILE WITH THE APPLICATION THEREFOR A BOND IN DUE FORM TO
6 THE PEOPLE OF NEW YORK IN THE PENAL SUM OF TWENTY-FIVE THOUSAND DOLLARS,
7 WITH TWO OR MORE SUFFICIENT SURETIES OR A DULY AUTHORIZED SURETY COMPA-
8 NY, WHICH BOND SHALL BE APPROVED BY THE SECRETARY OF STATE. EACH SUCH
9 BOND SHALL BE CONDITIONED THAT THE OBLIGOR WILL NOT BE GUILTY OF ANY
10 FRAUD OR EXTORTION, WILL NOT VIOLATE DIRECTLY OR INDIRECTLY ANY OF THE
11 PROVISIONS OF THIS ARTICLE OR ANY OF THE PROVISIONS OF THE LICENSE OR
12 CERTIFICATE PROVIDED FOR IN THIS ARTICLE, WILL COMPLY WITH THE
13 PROVISIONS OF THIS ARTICLE AND WILL PAY ALL DAMAGES OCCASIONED TO ANY
14 PERSON BY REASON OF ANY MISSTATEMENT, MISREPRESENTATION, FRAUD OR DECEIT
15 OR ANY UNLAWFUL ACT OR OMISSION OF SUCH OBLIGOR, HIS OR HER AGENTS OR
16 EMPLOYEES, WHILE ACTING WITHIN THE SCOPE OF THEIR EMPLOYMENT, MADE,
17 COMMITTED OR OMITTED IN CONNECTION WITH THE PROVISIONS OF THIS ARTICLE
18 IN THE BUSINESS CONDUCTED UNDER SUCH LICENSE OR CAUSED BY ANY OTHER
19 VIOLATION OF THIS ARTICLE IN CARRYING ON THE BUSINESS FOR WHICH SUCH
20 LICENSE IS GRANTED. ONE OR MORE RECOVERIES OR PAYMENTS UPON SUCH BOND
21 SHALL NOT VITIATE THE SAME BUT SUCH BOND SHALL REMAIN IN FULL FORCE AND
22 EFFECT, PROVIDED, HOWEVER, THAT THE AGGREGATE AMOUNT OF ALL SUCH RECOV-
23 ERIES OR PAYMENTS SHALL NOT EXCEED THE PENAL SUM THEREOF. BEFORE THE
24 SECRETARY SHALL DRAW UPON SUCH BOND, THE SECRETARY SHALL ISSUE A DETER-
25 MINATION IN WRITING WHICH SHALL INCLUDE THE BASIS OF SUCH ACTION. THE
26 SECRETARY SHALL NOTIFY IN WRITING THE LICENSEE OF ANY SUCH DETERMINATION
27 AND SHALL AFFORD THE LICENSEE AN OPPORTUNITY TO RESPOND WITHIN TWENTY
28 DAYS OF THE RECEIPT OF SUCH DETERMINATION. IN NO EVENT MAY THE BOND BE
29 DRAWN UPON IN LESS THAN TWENTY-FIVE DAYS AFTER THE SERVICE OF A DETERMI-
30 NATION TO THE LICENSEE. SUCH WRITTEN NOTICE MAY BE SERVED BY DELIVERY
31 THEREOF PERSONALLY TO THE LICENSEE, OR BY CERTIFIED MAIL TO THE LAST
32 KNOWN BUSINESS ADDRESS OF SUCH LICENSEE. ONLY UPON SUCH DETERMINATION OF
33 THE SECRETARY SHALL MONEYS BE WITHDRAWN FROM THE BOND. UPON THE
34 COMMENCEMENT OF ANY ACTION OR ACTIONS AGAINST THE SURETY UPON ANY SUCH
35 BOND FOR A SUM OR SUMS AGGREGATING OR EXCEEDING THE AMOUNT OF SUCH BOND
36 THE SECRETARY OF STATE SHALL REQUIRE A NEW AND ADDITIONAL BOND IN LIKE
37 AMOUNT AS THE ORIGINAL ONE, WHICH SHALL BE FILED WITH THE DEPARTMENT OF
38 STATE WITHIN THIRTY DAYS AFTER THE DEMAND THEREFOR. FAILURE TO FILE
39 SUCH BOND WITHIN SUCH PERIOD SHALL CONSTITUTE CAUSE FOR THE REVOCATION
40 OF THE LICENSE PURSUANT TO SECTION 25.31 OF THIS ARTICLE THERETOFORE
41 ISSUED TO THE LICENSEE UPON WHOM SUCH DEMAND SHALL HAVE BEEN MADE. ANY
42 SUIT OR ACTION AGAINST THE SURETY ON ANY BOND REQUIRED BY THE PROVISIONS
43 OF THIS SECTION SHALL BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF
44 ACTION SHALL HAVE ACCRUED.

45 S 25.17. SUPERVISION AND REGULATION. THE SECRETARY OF STATE SHALL HAVE
46 POWER, UPON COMPLAINT OF ANY PERSON OR ON HIS OR HER OWN INITIATIVE, TO
47 INVESTIGATE THE BUSINESS, BUSINESS PRACTICES AND BUSINESS METHODS OF ANY
48 SUCH LICENSEE WHICH RELATES TO THIS STATE'S OR ANY OTHER STATE'S TICKET
49 RESALE LAW, OR IN REGARDS TO TICKET RESALE PRACTICES GENERALLY. EACH
50 SUCH LICENSEE SHALL BE OBLIGED, ON THE REASONABLE REQUEST OF THE SECRE-
51 TARY OF STATE, TO SUPPLY SUCH INFORMATION AS MAY BE REQUIRED CONCERNING
52 HIS OR HER BUSINESS, BUSINESS PRACTICES OR BUSINESS METHODS PROVIDED
53 THAT THE INFORMATION REQUESTED IS RELATED TO THE COMPLAINT WHICH FORMS
54 THE BASIS OF SUCH INVESTIGATION. EACH OPERATOR OF ANY PLACE OF ENTER-
55 TAINMENT SHALL ALSO BE OBLIGED, ON REQUEST OF THE SECRETARY OF STATE, TO
56 SUPPLY SUCH INFORMATION AS MAY BE REQUIRED CONCERNING THE BUSINESS,

1 BUSINESS PRACTICES OR BUSINESS METHODS OF ANY LICENSEE PROVIDED THAT THE
2 INFORMATION REQUESTED IS RELATED TO THE COMPLAINT WHICH FORMS THE BASIS
3 OF SUCH INVESTIGATION. THE SECRETARY OF STATE SHALL HAVE THE POWER TO
4 PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE DEEMED NECESSARY FOR THE
5 ENFORCEMENT OF THIS ARTICLE.

6 S 25.19. POSTING OF LICENSE OR CERTIFICATE. IMMEDIATELY UPON THE
7 RECEIPT OF THE LICENSE OR CERTIFICATE ISSUED PURSUANT TO THIS ARTICLE BY
8 THE SECRETARY OF STATE, THE LICENSEE NAMED THEREIN SHALL CAUSE SUCH
9 LICENSE TO BE POSTED AND AT ALL TIMES DISPLAYED IN A CONSPICUOUS PLACE
10 IN THE PRINCIPAL OFFICE OF SUCH BUSINESS FOR WHICH IT IS ISSUED, AND
11 SHALL CAUSE THE CERTIFICATE FOR EACH BRANCH OFFICE, BUREAU, AGENCY OR
12 SUB-AGENCY TO BE POSTED AND AT ALL TIMES DISPLAYED IN A CONSPICUOUS
13 PLACE IN SUCH BRANCH OFFICE, BUREAU, AGENCY OR SUB-AGENCY FOR WHICH IT
14 IS ISSUED, SO THAT ALL PERSONS VISITING SUCH PRINCIPAL OFFICE, BRANCH
15 OFFICE, BUREAU, AGENCY OR SUB-AGENCY MAY READILY SEE THE SAME, AND IF
16 SUCH LICENSEE DOES BUSINESS ON THE INTERNET, TO PROVIDE A HYPERLINK
17 DISPLAYED IN A CONSPICUOUS MANNER TO A SCANNED COPY OF SUCH LICENSE.
18 SUCH LICENSE OR CERTIFICATE SHALL AT ALL REASONABLE TIMES BE SUBJECT TO
19 INSPECTION BY THE SECRETARY OF STATE OR HIS OR HER AUTHORIZED INSPEC-
20 TORS. IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, PARTNERSHIP OR CORPO-
21 RATION HOLDING SUCH LICENSE OR CERTIFICATE TO POST SUCH LICENSE OR
22 CERTIFICATE OR TO PERMIT SUCH CERTIFICATE TO BE POSTED UPON PREMISES
23 OTHER THAN THOSE DESCRIBED THEREIN OR TO WHICH IT HAS BEEN TRANSFERRED
24 PURSUANT TO THE PROVISIONS OF THIS ARTICLE OR UNLAWFULLY TO ALTER,
25 DEFACE OR DESTROY ANY SUCH LICENSE OR CERTIFICATE.

26 S 25.21. CHANGE OF OFFICE LOCATION. IN THE EVENT OF A CHANGE IN THE
27 LOCATION OF THE PREMISES COVERED BY LICENSE OR CERTIFICATE ISSUED UNDER
28 THIS ARTICLE, THE DEPARTMENT OF STATE SHALL BE DULY NOTIFIED IN WRITING
29 OF SUCH CHANGE WITHIN TWENTY-FOUR HOURS THEREAFTER. THE SECRETARY OF
30 STATE SHALL CAUSE TO BE WRITTEN OR STAMPED ACROSS THE FACE OF SUCH
31 LICENSE OR CERTIFICATE A STATEMENT TO THE EFFECT THAT THE HOLDER OF SUCH
32 LICENSE HAS REMOVED ON THE DATE STATED IN SUCH WRITTEN NOTICE SUCH PRIN-
33 CIPAL OFFICE, BRANCH OFFICE, BUREAU, AGENCY OR SUB-AGENCY FROM THE PLACE
34 ORIGINALLY DESCRIBED IN SUCH LICENSE OR CERTIFICATE TO THE PLACE
35 DESCRIBED IN SUCH WRITTEN NOTICE, AND SUCH LICENSE OR CERTIFICATE WITH
36 THE ENDORSEMENT THEREON SHALL BE RETURNED TO THE LICENSEE NAMED THEREIN.
37 NO TICKETS SHALL BE SOLD AT ANY PLACE OTHER THAN PLACES FOR WHICH A
38 LICENSE OR CERTIFICATE PROVIDED FOR BY THIS ARTICLE HAS BEEN ISSUED AND
39 POSTED.

40 S 25.23. POSTING OF PRICE LISTS; INFORMATION TO PURCHASER. 1. IN
41 EVERY PRINCIPAL OFFICE OR BRANCH OFFICE, BUREAU, AGENCY OR SUB-AGENCY OF
42 ANY LICENSEE UNDER THIS ARTICLE, THERE SHALL BE CONSPICUOUSLY POSTED AND
43 AT ALL TIMES DISPLAYED A PRICE LIST SHOWING THE ESTABLISHED PRICE
44 CHARGED BY THE OPERATOR OF THE PLACE OF ENTERTAINMENT FOR WHICH A TICKET
45 IS BEING SOLD BY SUCH LICENSEE, TOGETHER WITH THE PRICE BEING CHARGED BY
46 SUCH LICENSEE FOR THE RESALE OF SUCH TICKET, SO THAT ALL PERSONS VISIT-
47 ING SUCH PLACE MAY READILY SEE THE SAME. THE LICENSEE SHALL ALSO ON
48 REQUEST FURNISH EACH PURCHASER OF A TICKET WITH A RECEIPT SHOWING THE
49 SAME INFORMATION. FURTHER, IF THE LICENSEE CONDUCTS BUSINESS THROUGH THE
50 USE OF THE INTERNET, THE SAME PRICE LIST, OR HYPERLINK TO THE SAME,
51 SHALL BE CONSPICUOUSLY DISPLAYED ON THE INTERNET PAGE ON WHICH TICKETS
52 ARE ACCESSED. IN ADDITION THE LICENSEE SHALL PUBLISH IN A CONSPICUOUS
53 PLACE, OR HYPERLINK TO ON THE INTERNET A STATEMENT CLEARLY DETAILING THE
54 REQUIRED GUARANTEES REQUIRED BY SECTION 25.07 OF THIS ARTICLE.

55 2. (A) AN ONLINE RESALE MARKETPLACE SHALL POST A CLEAR AND CONSPICUOUS
56 NOTICE ON THE WEBSITE OF SUCH ONLINE RESALE MARKETPLACE THAT THE WEBSITE

1 IS FOR THE SECONDARY SALE OF TICKETS AND SHALL REQUIRE THAT THE USER
2 CONFIRM HAVING READ SUCH NOTICE BEFORE STARTING ANY TRANSACTION. NO
3 OPERATOR OR ITS AGENT SHALL TRANSFER A PROSPECTIVE TICKET PURCHASER
4 THROUGH ANY MEANS TO A SECONDARY SELLER WITHOUT PROVIDING A CLEAR AND
5 CONSPICUOUS DISCLOSURE APPROPRIATE FOR THE SELLING PLATFORM THAT INFORMS
6 THE PROSPECTIVE PURCHASER THAT THE TICKET OFFERED IS IN THE SECONDARY
7 MARKET.

8 (B) NO OPERATOR OR OPERATOR'S AGENT OR ANY PERSON WHO IS EMPLOYED BY
9 SUCH OPERATOR OR OPERATOR'S AGENT SHALL RESELL OR ENGAGE IN THE BUSINESS
10 OF RESELLING ANY TICKETS OF ADMISSION OR ANY OTHER EVIDENCE OF THE RIGHT
11 OF ENTRY TO A THEATRE, PLACE OF AMUSEMENT OR ENTERTAINMENT, OR OTHER
12 PLACES WHERE PUBLIC EXHIBITIONS, GAMES, CONTESTS OR PERFORMANCES ARE
13 HELD. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO DONATIONS MADE
14 BY THE OPERATOR OR OPERATOR'S AGENT, WHEN THERE IS NO COMPENSATION
15 PROVIDED, TO INDIVIDUALS OR CHARITABLE ORGANIZATIONS WHERE THE TICKETS
16 ARE FOR PERSONAL USE OR CHARITABLE PURPOSES.

17 S 25.24. AUTOMATED TICKET PURCHASING SOFTWARE. 1. THE TERM "AUTOMATED
18 TICKET PURCHASING SOFTWARE" SHALL MEAN, ANY MACHINE, DEVICE, COMPUTER
19 PROGRAM OR COMPUTER SOFTWARE THAT NAVIGATES OR RUNS AUTOMATED TASKS ON
20 RETAIL TICKET PURCHASING WEBSITES IN ORDER TO BYPASS SECURITY MEASURES
21 TO PURCHASE TICKETS.

22 2. IT SHALL BE UNLAWFUL FOR ANY PERSON TO UTILIZE AUTOMATED TICKET
23 PURCHASING SOFTWARE TO PURCHASE TICKETS.

24 3. ANY PERSON WHO KNOWINGLY UTILIZES AUTOMATED TICKET PURCHASING SOFT-
25 WARE IN ORDER TO BYPASS SECURITY MEASURES TO PURCHASE TICKETS SHALL BE
26 SUBJECT TO A CIVIL PENALTY IN AN AMOUNT OF NO LESS THAN FIVE HUNDRED
27 DOLLARS AND NO MORE THAN ONE THOUSAND DOLLARS FOR EACH SUCH VIOLATION
28 AND SHALL FORFEIT ALL PROFITS MADE FROM THE SALE OF ANY SUCH UNLAWFULLY
29 OBTAINED TICKETS.

30 4. ANY PERSON WHO INTENTIONALLY MAINTAINS ANY INTEREST IN OR MAINTAINS
31 ANY CONTROL OF THE OPERATION OF AUTOMATED TICKET PURCHASING SOFTWARE TO
32 BYPASS SECURITY MEASURES TO PURCHASE TICKETS SHALL BE SUBJECT TO A CIVIL
33 PENALTY IN AN AMOUNT OF NO LESS THAN SEVEN HUNDRED FIFTY DOLLARS AND NO
34 MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS FOR EACH SUCH VIOLATION AND
35 SHALL FORFEIT ALL PROFITS MADE FROM THE SALE OF ANY SUCH UNLAWFULLY
36 OBTAINED TICKETS.

37 5. ANY PERSON WHO IS SUBJECT TO A CIVIL PENALTY UNDER THIS SECTION AND
38 HAS BEEN ASSESSED A PENALTY UNDER THIS SECTION IN THE PREVIOUS FIVE
39 YEARS SHALL BE GUILTY OF A VIOLATION AND MAY BE FINED NO LESS THAN ONE
40 THOUSAND DOLLARS AND NO MORE THAN FIVE THOUSAND DOLLARS FOR EACH SUCH
41 VIOLATION AND SHALL FORFEIT ALL PROFITS FROM THE SALE OF ANY SUCH UNLAW-
42 FULLY OBTAINED TICKETS. IN ADDITION, A PERSON CONVICTED OF A VIOLATION
43 UNDER THIS SECTION MAY BE REQUIRED TO FORFEIT ANY AND ALL EQUIPMENT USED
44 IN THE UNLAWFUL PURCHASING OF TICKETS.

45 6. THE ATTORNEY GENERAL SHALL HAVE JURISDICTION TO ENFORCE THE
46 PROVISIONS OF THIS SECTION IN ACCORDANCE WITH THE POWERS GRANTED TO HIM
47 OR HER BY SECTION SIXTY-THREE OF THE EXECUTIVE LAW.

48 7. IN ADDITION TO THE POWER GIVEN TO THE ATTORNEY GENERAL TO ENFORCE
49 THE PROVISIONS OF THIS SECTION, ANY PLACE OF ENTERTAINMENT, AS DEFINED
50 BY SECTION 23.03 OF THIS CHAPTER, OR ANY AGGRIEVED PARTY THAT HAS BEEN
51 INJURED BY WRONGFUL CONDUCT PRESCRIBED BY THIS SECTION MAY BRING AN
52 ACTION TO RECOVER ALL ACTUAL DAMAGES SUFFERED AS A RESULT OF ANY OF SUCH
53 WRONGFUL CONDUCT. THE COURT IN ITS DISCRETION MAY AWARD DAMAGES UP TO
54 THREE TIMES THE AMOUNT OF ACTUAL DAMAGES. THE COURT MAY ENJOIN THE
55 RESPONDENT FROM ANY AND ALL ACTIVITY PROHIBITED UNDER THIS SECTION. THE
56 COURT MAY ALSO AWARD REASONABLE ATTORNEY'S FEES AND COSTS. ANY PENALTY

1 OR RECOVERY AUTHORIZED BY THIS SECTION MAY BE RECOVERED IN A CLASS
2 ACTION.

3 S 25.25. RECORDS OF PURCHASES AND SALES. 1. EVERY LICENSEE SHALL AT
4 ALL TIMES KEEP FULL AND ACCURATE SETS OF RECORDS SHOWING: (A) THE PRICES
5 AT WHICH ALL TICKETS HAVE BEEN BOUGHT AND SOLD BY SUCH LICENSEE; AND (B)
6 THE NAMES AND ADDRESSES OF THE PERSON, FIRM OR CORPORATION FROM WHOM
7 THEY WERE BOUGHT. OPERATORS OFFERING FOR INITIAL SALE TICKETS BY MEANS
8 OF AN AUCTION SHALL MAINTAIN A RECORD OF THE PRICE WHEN KNOWN AND THE
9 NUMBER OF TICKETS AND TYPES OF SEATS OFFERED THROUGH AUCTION. THESE
10 RECORDS SHALL BE MADE AVAILABLE UPON REQUEST TO THE STATE ATTORNEY
11 GENERAL, THE SECRETARY OF STATE, OR OTHER GOVERNMENTAL BODY WITH THE
12 EXPRESS AUTHORITY TO ENFORCE ANY SECTION OF THIS ARTICLE; PROVIDED,
13 HOWEVER, THAT THE RECORDS REQUIRED TO BE MAINTAINED BY THIS SECTION
14 SHALL BE CONSIDERED PROPRIETARY IN NATURE AND SHALL BE GOVERNED BY THE
15 PROTECTIONS SET FORTH IN SUBDIVISION FIVE OF SECTION EIGHTY-NINE OF THE
16 PUBLIC OFFICERS LAW. THESE RECORDS SHALL BE RETAINED FOR A PERIOD OF NOT
17 LESS THAN TEN YEARS.

18 2. TWICE ANNUALLY, ON JUNE THIRTIETH AND DECEMBER THIRTY-FIRST, EVERY
19 LICENSEE THAT RESELLS TICKETS OR FACILITATES THE RESALE OR RESALE
20 AUCTION OF TICKETS BETWEEN INDEPENDENT PARTIES BY ANY AND ALL MEANS
21 SHALL REPORT TO THE DEPARTMENT OF STATE THE TOTAL NUMBER OF, AND AVERAGE
22 RESALE OR AVERAGE FINAL RESALE AUCTION PRICE OF, ALL TICKETS TO EACH
23 TICKETED EVENT, PROVIDED, HOWEVER, THAT REPEAT PERFORMANCES OF A SINGLE
24 EVENT, AND MULTIPLE EVENTS THAT ARE PART OF A SEASON-LONG PERFORMANCE
25 SHALL BE TREATED AS A SINGLE EVENT FOR THE PURPOSES OF THE REPORTING
26 REQUIREMENT OF THIS SUBDIVISION. THE INFORMATION REQUIRED TO BE REPORTED
27 BY THIS SECTION SHALL BE CONSIDERED PROPRIETARY IN NATURE AND SHALL BE
28 GOVERNED BY THE PROTECTIONS SET FORTH IN SUBDIVISION FIVE OF SECTION
29 EIGHTY-NINE OF THE PUBLIC OFFICERS LAW, AND SHALL BE USED EXCLUSIVELY
30 FOR ANALYTICAL PURPOSES BY THE CONSUMER PROTECTION BOARD.

31 3. EVERY OPERATOR OF A PLACE OF ENTERTAINMENT SHALL MAKE PUBLIC THE
32 PERCENTAGE OF TICKETS TO A PLACE OF ENTERTAINMENT THAT WILL BE MADE
33 AVAILABLE TO THE PUBLIC. AT THE TIME OF THE INITIAL SALE OF TICKETS, THE
34 OPERATOR SHALL MAKE PUBLIC THE TOTAL NUMBER AND LOCATIONS OF TICKETS,
35 AND THE PERCENTAGE OF TICKETS SOLD AT SUCH INITIAL PUBLIC SALE.

36 S 25.27. COMMISSIONS TO EMPLOYEES OF PLACES OF ENTERTAINMENT. NO
37 LICENSEE, OTHER PERSON OR ENTITY, WHETHER OR NOT DOMICILED, LICENSED OR
38 REGISTERED WITHIN THE STATE, SHALL PAY TO ANY OFFICER OR EMPLOYEE OF ANY
39 PLACE OF ENTERTAINMENT, ANY COMMISSION, GRATUITY OR BONUS IN CONNECTION
40 WITH THE SALE, DELIVERY OR PAYMENT OF TICKETS OR IN CONNECTION WITH THE
41 BUSINESS BEING DONE BY SUCH LICENSEE, OTHER PERSON OR ENTITY, WHETHER OR
42 NOT DOMICILED, LICENSED OR REGISTERED WITHIN THE STATE, IN TICKETS OF
43 ADMISSION TO SUCH PLACE.

44 S 25.29. UNLAWFUL CHARGES IN CONNECTION WITH TICKETS. 1. NO OPERATOR
45 OF ANY PLACE OF ENTERTAINMENT, OR HIS OR HER AGENT, REPRESENTATIVE,
46 EMPLOYEE OR LICENSEE SHALL, IF A PRICE BE CHARGED FOR ADMISSION THERETO,
47 EXACT, DEMAND, ACCEPT OR RECEIVE, DIRECTLY OR INDIRECTLY, ANY PREMIUM OR
48 PRICE IN EXCESS OF THE ESTABLISHED PRICE PLUS LAWFUL TAXES WHETHER
49 DESIGNATED AS PRICE, GRATUITY OR OTHERWISE; PROVIDED, HOWEVER: (A) NOTH-
50 ING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT A REASONABLE SERVICE
51 CHARGE BY THE OPERATOR OR AGENTS OF THE OPERATOR FOR SPECIAL SERVICES,
52 INCLUDING BUT NOT LIMITED TO, SALES AWAY FROM THE BOX OFFICE, CREDIT
53 CARD SALES OR DELIVERY; AND (B) NOTHING IN THIS ARTICLE SHALL BE
54 CONSTRUED TO PROHIBIT AN OPERATOR OR ITS AGENT FROM OFFERING FOR INITIAL
55 SALE TICKETS BY MEANS OF AN AUCTION.

1 2. IN ANY PROSECUTION UNDER THIS SECTION THE ATTORNEY GENERAL SHALL
2 HAVE CONCURRENT JURISDICTION WITH ANY DISTRICT ATTORNEY AND IN ANY SUCH
3 PROSECUTION HE OR SHE OR HIS OR HER DEPUTY SHALL EXERCISE ALL THE POWERS
4 AND PERFORM ALL THE DUTIES WHICH THE DISTRICT ATTORNEY WOULD OTHERWISE
5 BE AUTHORIZED TO EXERCISE OR PERFORM THEREIN.

6 S 25.30. OPERATOR PROHIBITIONS. 1. A TICKET IS A LICENSE, ISSUED BY
7 THE OPERATOR OF A PLACE OF ENTERTAINMENT, FOR ADMISSION TO THE PLACE OF
8 ENTERTAINMENT AT THE DATE AND TIME SPECIFIED ON THE TICKET, SUBJECT TO
9 THE TERMS AND CONDITIONS AS SPECIFIED BY THE OPERATOR. NOTWITHSTANDING
10 ANY OTHER PROVISION OF LAW TO THE CONTRARY, IT SHALL BE PROHIBITED FOR
11 ANY OPERATOR OF A PLACE OF ENTERTAINMENT, OR OPERATOR'S AGENT, TO:

12 (A) RESTRICT BY ANY MEANS THE RESALE OF ANY TICKETS INCLUDED IN A
13 SUBSCRIPTION OR SEASON TICKET PACKAGE AS A CONDITION OF PURCHASE, AS A
14 CONDITION TO RETAIN SUCH TICKETS FOR THE DURATION OF THE SUBSCRIPTION OR
15 SEASON TICKET PACKAGE AGREEMENT, OR AS A CONDITION TO RETAIN ANY
16 CONTRACTUALLY AGREED UPON RIGHTS TO PURCHASE FUTURE SUBSCRIPTION OR
17 SEASON TICKET PACKAGES THAT ARE OTHERWISE CONFERRED IN THE SUBSCRIPTION
18 OR SEASON TICKET AGREEMENT;

19 (B) DENY ACCESS TO A TICKET HOLDER WHO POSSESSES A RESOLD SUBSCRIPTION
20 OR SEASON TICKET TO A PERFORMANCE BASED SOLELY ON THE GROUNDS THAT SUCH
21 TICKET HAS BEEN RESOLD; OR

22 (C) EMPLOY A FORM OF PAPERLESS TICKETING THAT IS NOT READILY TRANSFER-
23 ABLE TO ANOTHER CUSTOMER THROUGH A TRANSACTION THAT IS INDEPENDENT OF
24 THE OPERATOR OR OPERATOR'S AGENT, UNLESS A PURCHASER IS GIVEN THE OPTION
25 AT THE TIME OF FIRST PUBLIC SALE TO PURCHASE THE SAME TICKETS AT THE
26 SAME ESTABLISHED PRICE IN SOME OTHER FORM, INCLUDING, BUT NOT LIMITED
27 TO, PAPER TICKETS, THAT IS READILY TRANSFERABLE THROUGH A TRANSACTION
28 THAT IS INDEPENDENT OF THE OPERATOR OR OPERATOR'S AGENT, PROVIDED HOWEV-
29 ER, THAT NOTHING IN THIS PARAGRAPH SHALL PROHIBIT THE OPERATOR OR OPERA-
30 TOR'S AGENT FROM IMPOSING A NOMINAL SURCHARGE ON PAPERLESS TICKETS.

31 2. ADDITIONALLY, NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIB-
32 IT AN OPERATOR OF A PLACE OF ENTERTAINMENT FROM MAINTAINING AND ENFORC-
33 ING ANY POLICIES REGARDING CONDUCT OR BEHAVIOR AT OR IN CONNECTION WITH
34 THEIR VENUE. FURTHER, NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO
35 PROHIBIT AN OPERATOR OF A PLACE OF ENTERTAINMENT OF SIX THOUSAND SEATS
36 OR LESS, OR SUCH OPERATOR'S AGENT, FROM RESTRICTING THE RESALE OF TICK-
37 ETS THAT ARE OFFERED AT A PROMOTIONAL OR DISCOUNTED PRICE, FOR FREE, OR
38 FOR PERSONS WITH DISABILITIES. AN OPERATOR SHALL BE PERMITTED TO REVOKE
39 OR RESTRICT SEASON TICKETS FOR REASONS RELATING TO VIOLATIONS OF VENUE
40 POLICIES, INCLUDING BUT NOT LIMITED TO, ATTEMPTS BY TWO OR MORE PERSONS
41 TO GAIN ADMISSION TO A SINGLE EVENT WITH BOTH THE CANCELLED TICKETS
42 ORIGINALLY ISSUED TO A SEASON TICKET HOLDER AND THOSE TICKETS RE-ISSUED
43 AS PART OF A RESALE TRANSACTION, AND TO THE EXTENT THE OPERATOR MAY DEEM
44 NECESSARY FOR THE PROTECTION OF THE SAFETY OF PATRONS OR TO ADDRESS
45 FRAUD OR MISCONDUCT.

46 3. NO OPERATOR OR OPERATOR'S AGENT OR ANY PERSON WHO IS EMPLOYED BY
47 SUCH OPERATOR OR OPERATOR'S AGENT SHALL RESELL OR ENGAGE IN THE BUSINESS
48 OF RESELLING ANY TICKETS OF ADMISSION OR ANY OTHER EVIDENCE OF THE RIGHT
49 OF ENTRY TO A THEATRE, PLACE OF AMUSEMENT OR ENTERTAINMENT, OR OTHER
50 PLACES WHERE PUBLIC EXHIBITIONS, GAMES, CONTESTS OR PERFORMANCES ARE
51 HELD. THIS PROVISION SHALL NOT APPLY TO DONATIONS MADE BY THE OPERATOR
52 OR OPERATOR'S AGENT, WHEN THERE IS NO COMPENSATION PROVIDED, TO INDIVID-
53 UALS OR CHARITABLE ORGANIZATIONS WHERE THE TICKETS ARE FOR PERSONAL USE
54 OR CHARITABLE PURPOSES.

55 4. THE OPERATOR OR THE PROMOTER SHALL DETERMINE WHETHER A SEAT FOR
56 WHICH A TICKET IS FOR SALE HAS AN OBSTRUCTED VIEW, AND SHALL DISCLOSE

1 SUCH OBSTRUCTION. IF THE OPERATOR OR PROMOTER DISCLOSES THAT A SEAT FOR
2 WHICH A TICKET IS FOR SALE HAS AN OBSTRUCTED VIEW, IT SHALL BE THE
3 RESPONSIBILITY OF THE SECONDARY TICKET RESELLER TO DISCLOSE SUCH
4 OBSTRUCTION UPON THE RESALE OF SUCH TICKET. SUCH OBSTRUCTION SHALL NOT
5 INCLUDE AN OBSTRUCTION OF VIEW CAUSED BY A PERSON, OR PERSONS, SEATED IN
6 AN ADJACENT SEAT, OR SEATS, OR OCCUPYING AN AISLE; OR AN OBSTRUCTION OF
7 VIEW CAUSED BY AN OBJECT OR OBJECTS PLACED UPON AN ADJACENT SEAT OR
8 SEATS, OR IN AN AISLE; OR AN OBSTRUCTION OF VIEW THAT IS DE MINIMUS OR
9 TRANSITORY IN NATURE.

10 S 25.31. SUSPENSION OR REVOCATION OF LICENSES. 1. POWERS OF DEPARTMENT
11 OF STATE. THE DEPARTMENT OF STATE MAY DENY AN APPLICATION OR MAY REVOKE
12 OR SUSPEND A LICENSE ISSUED PURSUANT TO THIS ARTICLE, IMPOSE A FINE NOT
13 EXCEEDING ONE THOUSAND DOLLARS PER VIOLATION PAYABLE TO THE DEPARTMENT
14 OF STATE, ISSUE A REPRIMAND AND ORDER RESTITUTION UPON PROOF TO THE
15 SATISFACTION OF THE SECRETARY OF STATE THAT THE HOLDER THEREOF HAS: (A)
16 VIOLATED ANY PROVISION OF THIS ARTICLE OR ANY RULE OR REGULATION ADOPTED
17 HEREUNDER; (B) MADE A MATERIAL MISSTATEMENT IN THE APPLICATION FOR SUCH
18 LICENSE; (C) ENGAGED IN FRAUD OR FRAUDULENT PRACTICES; (D) DEMONSTRATED
19 UNTRUSTWORTHINESS OR INCOMPETENCY; OR (E) BEEN CONVICTED OF A SERIOUS
20 OFFENSE OR MISDEMEANOR WHICH, IN THE DISCRETION OF THE SECRETARY, BEARS
21 SUCH A RELATIONSHIP TO LICENSURE AS TO CONSTITUTE A BAR TO LICENSURE OR
22 RENEWAL.

23 2. DETERMINATION OF DEPARTMENT OF STATE. IN THE EVENT THAT THE DEPART-
24 MENT OF STATE SHALL REVOKE OR SUSPEND ANY SUCH LICENSE, OR IMPOSE ANY
25 FINE OR REPRIMAND ON THE HOLDER THEREOF, ITS DETERMINATION SHALL BE IN
26 WRITING AND OFFICIALLY SIGNED. THE ORIGINAL OF SUCH DETERMINATION, WHEN
27 SO SIGNED, SHALL BE FILED WITH THE DEPARTMENT OF STATE AND COPIES THERE-
28 OF SHALL BE SERVED PERSONALLY OR BY CERTIFIED MAIL UPON THE LICENSEE OR
29 APPLICANT AND ADDRESSED TO THE PRINCIPAL PLACE OF BUSINESS OF SUCH
30 LICENSEE.

31 3. NO LICENSE SHALL BE SUSPENDED OR REVOKED NOR SHALL ANY FINE OR
32 REPRIMAND BE IMPOSED, NOR SHALL ANY APPLICATION BE DENIED, UNTIL AFTER
33 AN OPPORTUNITY FOR A HEARING HAD BEFORE AN OFFICER OR EMPLOYEE OF THE
34 DEPARTMENT OF STATE DESIGNATED FOR SUCH PURPOSE BY THE SECRETARY OF
35 STATE UPON NOTICE TO THE LICENSEE OR APPLICANT OF AT LEAST TEN DAYS. THE
36 NOTICE SHALL BE SERVED BY CERTIFIED MAIL AND SHALL STATE THE DATE AND
37 PLACE OF HEARING AND SET FORTH THE GROUND OR GROUNDS CONSTITUTING THE
38 CHARGES AGAINST THE LICENSEE OR THE REASONS FOR THE PROPOSED DENIAL OF
39 THE APPLICATION. THE LICENSEE OR APPLICANT SHALL HAVE THE OPPORTUNITY TO
40 BE HEARD IN HIS OR HER DEFENSE EITHER IN PERSON OR BY COUNSEL AND MAY
41 PRODUCE WITNESSES AND TESTIFY ON HIS OR HER BEHALF. A STENOGRAPHIC
42 RECORD OF THE HEARING SHALL BE TAKEN AND PRESERVED. THE HEARING MAY BE
43 ADJOURNED FROM TIME TO TIME. THE PERSON CONDUCTING THE HEARING SHALL
44 MAKE A WRITTEN REPORT OF HIS OR HER FINDINGS AND A RECOMMENDATION TO THE
45 SECRETARY OF STATE FOR DECISION. THE SECRETARY OF STATE SHALL REVIEW
46 SUCH FINDINGS AND THE RECOMMENDATION AND, AFTER DUE DELIBERATION, SHALL
47 ISSUE AN ORDER ACCEPTING, MODIFYING OR REJECTING SUCH RECOMMENDATION AND
48 DISMISSING THE CHARGES OR SUSPENDING OR REVOKING THE LICENSE OR IMPOSING
49 A FINE OR REPRIMAND UPON THE LICENSEE. FOR THE PURPOSE OF THIS ARTICLE,
50 THE SECRETARY OF STATE OR ANY OFFICER OR EMPLOYEE OF THE DEPARTMENT OF
51 STATE DESIGNATED BY HIM OR HER, MAY ADMINISTER OATHS, TAKE TESTIMONY,
52 SUBPOENA WITNESSES AND COMPEL THE PRODUCTION OF BOOKS, PAPERS, RECORDS
53 AND DOCUMENTS DEEMED PERTINENT TO THE SUBJECT OF INVESTIGATION.

54 S 25.33. ENFORCEMENT. 1. THE ATTORNEY GENERAL SHALL ESTABLISH A TOLL-
55 FREE TELEPHONE NUMBER AND ACCEPT THROUGH ITS WEBSITE ALLEGATIONS FROM
56 THE PUBLIC OF IMPROPER TICKET ACQUISITION, DISTRIBUTION OR SALES PRAC-

TICES, INCLUDING DECEPTIVE PRACTICES, CORRUPTION, FRAUD OR IRREGULAR PRACTICES WITH RESPECT TO TICKET SALES FOR EVENTS IN NEW YORK STATE OR WITH RESPECT TO TICKETS SOLD TO RESIDENTS OF THE STATE. THE ATTORNEY GENERAL SHALL PROMINENTLY DISPLAY ON ITS WEBSITE INFORMATION REGARDING THE HOTLINE. THE ATTORNEY GENERAL SHALL INVESTIGATE AS APPROPRIATE ALL CREDIBLE ALLEGATIONS RECEIVED REGARDING IMPROPER TICKET ACQUISITION, DISTRIBUTION OR SALES PRACTICES.

2. NOTWITHSTANDING ANY RIGHT OF ACTION GRANTED TO ANY GOVERNMENTAL BODY PURSUANT TO THIS CHAPTER, ANY PERSON WHO HAS BEEN INJURED BY REASON OF A VIOLATION OF THIS ARTICLE MAY BRING AN ACTION IN HIS OR HER OWN NAME TO ENJOIN SUCH UNLAWFUL ACT, AN ACTION TO RECOVER HIS OR HER ACTUAL DAMAGES OR FIFTY DOLLARS, WHICHEVER IS GREATER, OR BOTH SUCH ACTIONS. THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES TO A PREVAILING PLAINTIFF.

S 25.35. CRIMINAL PENALTIES. 1. (A) ANY PERSON, FIRM, CORPORATION OR OTHER ENTITY, WHETHER OR NOT DOMICILED, LICENSED OR REGISTERED WITHIN THE STATE, WHICH IS CONVICTED OF VIOLATING SECTION 25.27 OR 25.29 OF THIS ARTICLE SHALL BE GUILTY OF A CLASS A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED TWO THOUSAND DOLLARS OR FOUR TIMES THE AMOUNT OF THE DEFENDANT'S GAIN, TO BE DETERMINED PURSUANT TO THE PROCEDURES SET FORTH IN SECTION 400.30 OF THE CRIMINAL PROCEDURE LAW, WHICHEVER IS GREATER, OR BY A TERM OF IMPRISONMENT NOT TO EXCEED ONE YEAR, OR BY BOTH SUCH FINE AND IMPRISONMENT.

(B) ANY PERSON, FIRM, CORPORATION OR OTHER ENTITY, WHETHER OR NOT DOMICILED, LICENSED, OR REGISTERED WITHIN THE STATE, WHICH IS CONVICTED OF VIOLATING SECTION 25.27 OR 25.29 OF THIS ARTICLE, WHEN THE VALUE OF THE COMMISSION, GRATUITY, BONUS, PREMIUM OR PRICE UNLAWFULLY PAID OR ACCEPTED EXCEEDS ONE THOUSAND DOLLARS FOR AN EVENT AS DEFINED IN SECTION 23.03 OF THIS CHAPTER, WHETHER OR NOT SUCH PAYMENT IS FOR TICKETS TO A SINGLE PERFORMANCE OF THAT EVENT, SHALL BE GUILTY OF A CLASS E FELONY, PUNISHABLE BY A TERM OF IMPRISONMENT IN ACCORDANCE WITH THE PENAL LAW, OR BY A FINE OF TEN THOUSAND DOLLARS OR FOUR TIMES THE AMOUNT OF THE DEFENDANT'S GAIN, TO BE DETERMINED PURSUANT TO THE PROCEDURES SET FORTH IN SECTION 400.30 OF THE CRIMINAL PROCEDURE LAW, WHICHEVER IS GREATER, OR BY BOTH SUCH FINE AND IMPRISONMENT.

2. ANY PERSON, FIRM OR CORPORATION WHICH IS CONVICTED OF VIOLATING SECTION 25.05 OF THIS ARTICLE SHALL BE GUILTY OF A MISDEMEANOR PUNISHABLE BY A TERM OF IMPRISONMENT NOT TO EXCEED ONE YEAR OR BY A FINE NOT TO EXCEED ONE THOUSAND FIVE HUNDRED DOLLARS ON THE FIRST CONVICTION; THREE THOUSAND DOLLARS ON THE SECOND CONVICTION; AND FOUR THOUSAND DOLLARS, ON EACH SUBSEQUENT CONVICTION OR BY BOTH SUCH FINE AND IMPRISONMENT.

3. ANY PERSON, FIRM OR CORPORATION WHICH IS CONVICTED OF KNOWINGLY VIOLATING SUBDIVISION ONE OF SECTION 25.07 OR SECTION 25.13 OR SECTION 25.15 OF THIS ARTICLE SHALL BE GUILTY OF A MISDEMEANOR PUNISHABLE BY A TERM OF IMPRISONMENT NOT TO EXCEED ONE HUNDRED EIGHTY DAYS OR BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS ON THE FIRST CONVICTION; TWO THOUSAND DOLLARS ON THE SECOND CONVICTION; AND FOUR THOUSAND DOLLARS ON EACH SUBSEQUENT CONVICTION OR BY BOTH SUCH FINE AND IMPRISONMENT.

4. NOTWITHSTANDING ANY OTHER PENALTY WHICH MAY BE IMPOSED FOR ANY OTHER VIOLATION OF THIS ARTICLE, ANY PERSON, FIRM OR CORPORATION WHICH IS CONVICTED OF VIOLATING SECTION 25.11 OF THIS ARTICLE SHALL BE GUILTY OF A VIOLATION PUNISHABLE BY A FINE NOT TO EXCEED FOUR HUNDRED DOLLARS ON THE FIRST CONVICTION; FIVE HUNDRED DOLLARS ON THE SECOND CONVICTION; AND ONE THOUSAND DOLLARS ON EACH SUBSEQUENT CONVICTION.

1 5. ANY PERSON, FIRM OR CORPORATION WHICH IS CONVICTED OF VIOLATING
2 SECTION 25.05 OF THIS ARTICLE SHALL BE GUILTY OF A VIOLATION PUNISHABLE
3 BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS.

4 6. ANY PERSON, FIRM OR CORPORATION WHICH IS CONVICTED OF VIOLATING ANY
5 OTHER SECTION OF THIS ARTICLE SHALL BE GUILTY OF A VIOLATION PUNISHABLE
6 BY A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS.

7 7. NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, WHEN THE FINES
8 INCLUDED IN THIS SECTION ARE IMPOSED ON A FIRM, CORPORATION OR OTHER
9 ENTITY THAT IS NOT A SINGLE PERSON, SUCH FINES MAY BE IMPOSED AT UP TO
10 TWO TIMES THE AMOUNT OTHERWISE ALLOWED, OR, WHERE APPLICABLE, THREE
11 TIMES THE AMOUNT OF THE DEFENDANT'S GAIN.

12 S 2. This act shall take effect immediately and shall be deemed to
13 have been in full force and effect on and after May 16, 2014.