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I N   A S S E M B L Y

March 24, 2016

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Introduced by M. of A. CRESPO -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development -- 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 automated ticket purchasing software

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

- 1     Section 1. Subdivisions 1, 2 and 3 of section 25.24 of the arts and  
2     cultural affairs law, as added by chapter 151 of the laws of 2010, are  
3     amended to read as follows:
- 4     1. The term "automated ticket purchasing software" shall mean, any  
5     machine, device, computer program or computer software that navigates or  
6     runs automated tasks on retail ticket purchasing websites in order to  
7     bypass security measures to purchase tickets, OR TO CIRCUMVENT A SECURITY  
8     MEASURE, ACCESS CONTROL SYSTEM OR OTHER CONTROL OR MEASURE USED BY  
9     INTERNET TICKET SELLERS TO ENSURE EQUITABLE CONSUMER ACCESS TO TICKETS  
10    FOR A GIVEN EVENT.
- 11    2. (A) It shall be unlawful for any person, FIRM, CORPORATION OR OTHER  
12    ENTITY to utilize automated ticket purchasing software to purchase tick-  
13    ets, OR TO CIRCUMVENT A SECURITY MEASURE, ACCESS CONTROL SYSTEM OR OTHER  
14    CONTROL OR MEASURE USED BY INTERNET TICKET SELLERS TO ENSURE EQUITABLE  
15    CONSUMER ACCESS TO TICKETS FOR A GIVEN EVENT.
- 16    (B) IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, CORPORATION OR OTHER  
17    ENTITY TO SELL AUTOMATED TICKET PURCHASING SOFTWARE TO PURCHASE TICKETS,  
18    OR TO CIRCUMVENT A SECURITY MEASURE, ACCESS CONTROL SYSTEM, OR OTHER  
19    CONTROL OR MEASURE USED BY INTERNET TICKET SELLERS TO ENSURE EQUITABLE  
20    CONSUMER ACCESS TO TICKETS FOR A GIVEN EVENT.
- 21    3. (A) Any person, FIRM, CORPORATION OR OTHER ENTITY who knowingly  
22    utilizes automated ticket purchasing software in order to bypass securi-  
23    ty measures to purchase tickets OR TO CIRCUMVENT A SECURITY MEASURE,  
24    ACCESS CONTROL SYSTEM OR OTHER CONTROL OR MEASURE USED BY INTERNET TICK-  
25    ET SELLERS TO ENSURE EQUITABLE CONSUMER ACCESS TO TICKETS FOR A GIVEN  
26    EVENT shall be subject to a civil penalty in an amount:

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

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(I) of no less than five hundred dollars [and no] NOR more than one thousand dollars for [each] THE FIRST such violation;

(II) OF NO LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS FOR A SECOND SUCH VIOLATION WITHIN A TWENTY-FOUR MONTH PERIOD; OR

(III) OF NO LESS THAN TWO THOUSAND DOLLARS NOR MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS FOR A THIRD OR ANY SUBSEQUENT SUCH VIOLATION WITHIN A TWENTY-FOUR MONTH PERIOD;

and shall forfeit all profits made from the sale of any such unlawfully obtained tickets.

(B) ANY PERSON, FIRM, CORPORATION, OR OTHER ENTITY WHO KNOWINGLY SELLS AUTOMATED TICKET PURCHASING SOFTWARE SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT:

(I) OF NO LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS FOR THE FIRST SUCH VIOLATION;

(II) OF NO LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS FOR A SECOND SUCH VIOLATION WITHIN A TWENTY-FOUR MONTH PERIOD; OR

(III) OF NO LESS THAN TWO THOUSAND DOLLARS NOR MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS FOR A THIRD OR ANY SUBSEQUENT SUCH VIOLATION WITHIN A TWENTY-FOUR MONTH PERIOD;

AND SHALL FORFEIT ALL PROFITS MADE FROM THE SALE OF ANY SUCH SOFTWARE.

(C) NOTHING IN THIS SUBDIVISION SHALL LIMIT THE APPLICABILITY OF CRIMINAL PENALTIES THAT MAY BE IMPOSED PURSUANT TO SECTION 25.35 OF THIS ARTICLE.

S 2. Subdivisions 6 and 7 of section 25.35 of the arts and cultural affairs law are renumbered subdivisions 7 and 8, and a new subdivision 6 is added to read as follows:

6. (A) ANY PERSON, FIRM, CORPORATION OR OTHER ENTITY, WHETHER OR NOT DOMICILED, LICENSED OR REGISTERED WITHIN THE STATE, WHICH IS CONVICTED OF KNOWINGLY VIOLATING ANY PROVISION OF SUBDIVISION THREE OF SECTION 25.24 OF THIS ARTICLE SHALL BE GUILTY OF A CLASS A MISDEMEANOR AS DEFINED IN THE PENAL LAW.

(B) ANY PERSON, FIRM, CORPORATION OR OTHER ENTITY, WHETHER OR NOT DOMICILED, LICENSED OR REGISTERED WITHIN THE STATE, WHICH IS CONVICTED OF KNOWINGLY VIOLATING ANY PROVISION OF SUBDIVISION THREE OF SECTION 25.24 OF THIS ARTICLE AFTER HAVING BEEN CONVICTED OF A KNOWING VIOLATION OF SUCH SUBDIVISION WITHIN A TWENTY-FOUR MONTH PERIOD SHALL BE GUILTY OF A CLASS E FELONY AS DEFINED IN THE PENAL LAW.

(C) NOTHING IN THIS SUBDIVISION SHALL LIMIT THE APPLICABILITY OF CIVIL PENALTIES THAT MAY BE IMPOSED PURSUANT TO SECTION 25.24 OF THIS ARTICLE.

S 3. This act shall take effect on the ninetieth day after it shall have become a law; provided that the amendments to section 25.35 of the arts and cultural affairs law made by section two of this act shall not affect the repeal of such article and shall be deemed repealed therewith; provided, further that paragraph (c) of section 25.24 of the arts and cultural affairs law, as added by section one of this act, shall be subject to the repeal of article 25 of such law, pursuant to chapter 704 of the laws of 1991, as amended, and shall be deemed repealed therewith.