

# STATE OF NEW YORK

8245

2017-2018 Regular Sessions

## IN ASSEMBLY

June 2, 2017

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development

AN ACT to amend the arts and cultural affairs law, in relation to the sale of tickets to places of entertainment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 25.07 of the arts and cultural affairs law is  
2 amended by adding a new subdivision 1-a to read as follows:

3 1-a. Every operator of a place of entertainment shall make public the  
4 number of tickets to a place of entertainment that are available for  
5 purchase at all times while such tickets are available for purchase.

6 § 2. Section 25.13 of the arts and cultural affairs law is amended by  
7 adding a new subdivision 2-a to read as follows:

8 2-a. No operator of a place of entertainment, licensee or other  
9 secondary ticket reseller shall sell or resell any ticket that such  
10 operator, licensee or reseller does not own at the time of the offer or  
11 sale of such ticket.

12 § 3. Section 25.23 of the arts and cultural affairs law, as amended by  
13 chapter 106 of the laws of 2005, is amended to read as follows:

14 § 25.23. Posting of price lists; information to purchaser. 1. In  
15 every principal office or branch office, bureau, agency or sub-agency of  
16 any licensee under this article, there shall be conspicuously posted and  
17 at all times displayed a price list showing the established price  
18 charged by the operator of the place of entertainment for which a ticket  
19 is being sold by such licensee, together with the price being charged by  
20 such licensee for the resale of such ticket, so that all persons visit-  
21 ing such place may readily see the same. The licensee shall also on  
22 request furnish each purchaser of a ticket with a receipt showing the  
23 same information. Further, if the licensee conducts business through the  
24 use of the internet, the same price list, or hyperlink to the same,  
25 shall be conspicuously displayed on the internet page on which tickets

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

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1 are accessed. In addition the licensee shall publish in a conspicuous  
2 place, or hyperlink to on the internet a statement clearly detailing the  
3 required guarantees required by section 25.07 of this article.

4 2. Any operator or manager of a website or other electronic service  
5 that serves as a platform to facilitate resale, or resale by way of a  
6 competitive bidding process, shall post a clear and conspicuous notice  
7 on such website that the website is for the secondary sale of a ticket.

8 3. Any operator or manager of a website or other electronic service  
9 that serves as a platform to facilitate resale, or resale by way of a  
10 competitive bidding process, shall provide on such platform a place  
11 where licensees and other ticket resellers must post their license or  
12 certificate issued pursuant to this article, or a hyperlink that allows  
13 for such posting.

14 § 4. Section 25.24 of the arts and cultural affairs law is amended by  
15 adding a new subdivision 10 to read as follows:

16 10. Any person, firm, corporation or other entity who is a licensee  
17 under this article who is adjudicated guilty of the following acts shall  
18 lose their license and will be barred from licensure under this article  
19 for a period of three years following such adjudication if such licen-  
20 see: (a) knowingly utilized ticket purchasing software in order to  
21 purchase tickets; (b) knowingly resold or offered to resell a ticket  
22 that such licensee knew was obtained using ticket purchasing software;  
23 or (c) intentionally maintained any interest in or maintained any  
24 control of the operation of ticket purchasing software to purchase tick-  
25 ets.

26 § 5. Section 25.25 of the arts and cultural affairs law is amended by  
27 adding a new subdivision 3 to read as follows:

28 3. On a monthly basis, every licensee or other ticket reseller that  
29 resells tickets or facilitates the resale of tickets or resale auction  
30 of tickets between independent parties by any and all means shall report  
31 to the operator of a place of entertainment from whom such tickets were  
32 purchased the difference between the face value of each ticket sold and  
33 the price received for each resold ticket. The price differential  
34 between the face value of a ticket and the price for which such ticket  
35 is resold shall be used in the calculation of any residual payments due  
36 to artists or performers under any contracts entered into after the  
37 effective date of this subdivision. Any additional residual payments due  
38 and owing based on the price differential between the face value of a  
39 ticket and the resale price of such ticket shall be paid by such licen-  
40 see or other ticket reseller to such entity or entities that are obli-  
41 gated to make such residual payments.

42 § 6. Section 25.29 of the arts and cultural affairs law, as amended by  
43 chapter 61 of the laws of 2007, subdivision 1 as amended by chapter 151  
44 of the laws of 2010, is amended to read as follows:

45 § 25.29. Unlawful charges in connection with tickets. 1. No operator  
46 of any place of entertainment, or his or her agent, representative,  
47 employee or licensee shall, if a price be charged for admission thereto,  
48 exact, demand, accept or receive, directly or indirectly, any premium or  
49 price in excess of the established price plus lawful taxes whether  
50 designated as price, gratuity or otherwise; provided, however: (a) noth-  
51 ing in this article shall be construed to prohibit a reasonable service  
52 charge by the operator or agents of the operator for special services,  
53 including but not limited to, sales away from the box office, credit  
54 card sales or delivery; and (b) nothing in this article shall be  
55 construed to prohibit an operator or its agent from offering for initial  
56 sale tickets by means of an auction.

2. In any advertisement or promotion of a ticket to a place of entertainment, including online advertising, the total price of the ticket and the portion of the ticket price stated in dollars that represents a service charge, or any other fee surcharge shall be clearly and conspicuously disclosed.

3. In any prosecution under this section the attorney general shall have concurrent jurisdiction with any district attorney and in any such prosecution he or she or his or her deputy shall exercise all the powers and perform all the duties which the district attorney would otherwise be authorized to exercise or perform therein.

§ 7. Paragraph (c) of subdivision 1 of section 25.30 of the arts and cultural affairs law, as added by chapter 151 of the laws of 2010, is amended to read as follows:

(c) employ a paperless ticketing system forty-eight hours after tickets have been on sale to the general public as provided in paragraph (d) of subdivision one of section 25.30 of this article; after such forty-eight hour period, no operator of a place of entertainment or its agent shall employ a paperless ticketing system unless the consumer is given an option to purchase paperless tickets that the consumer can transfer at any price, and at any time, and without additional fees, independent of the operator or operator's agent. Notwithstanding the foregoing, an operator or operator's agent may employ a paperless ticketing system that does not allow for independent transferability of paperless tickets only if the consumer is offered an option at the time of initial sale to purchase the same tickets in some other form that is transferable independent of the operator or operator's agent including, but not limited to, paper tickets or e-tickets. The established price for any given ticket shall be the same regardless of the form or transferability of such ticket. The ability for a ticket to be transferred independent of the operator or operator's agent shall not constitute a special service for the purpose of imposing a service charge pursuant to section 25.29 of this article.

§ 8. Subdivision 1 of section 25.30 of the arts and cultural affairs law is amended by adding a new paragraph (d) to read as follows:

(d) resell any ticket to a licensee or other ticket reseller during the first forty-eight hours after such ticket is first available for primary sale to the general public; provided, however, that such restriction shall not apply to season tickets or other bundled series tickets.

§ 9. Section 25.30 of the arts and cultural affairs law is amended by adding a new subdivision 5 to read as follows:

5. No operator or its agent shall transfer a prospective ticket purchaser through any means to a licensee or secondary ticket reseller without providing a clear and conspicuous disclosure that informs the prospective purchaser that the ticket is not being offered by the operator or its agent, but rather by a licensee or other ticket reseller in the secondary market.

§ 10. This act shall take effect immediately; provided, however, the amendments to article 25 of the arts and cultural affairs law made by sections one, two, three, five, six, seven, eight and nine of this act shall not affect the repeal of such article and shall be deemed repealed therewith.