STATE OF NEW YORK

8501--B

IN SENATE

May 9, 2018

Introduced by Sen. MURPHY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 the sale of tickets to places of entertainment; to amend chapter 704 of the laws of 1991, amending the arts and cultural affairs law and chapter 912 of the laws of 1920 relating to the regulation of boxing and wrestling matches relating to tickets to places of entertainment; and chapter 151 of the laws of 2010, amending the arts and cultural affairs law relating to resale of tickets to places of entertainment, in relation to extending the effectiveness of the provisions thereof

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

Section 1. The arts and cultural affairs law is amended by adding a new section 25.10 to read as follows:

§ 25.10. Ticket resale requirements. 1. It shall be unlawful for a licensee or other ticket reseller to contract for the sale of tickets, contract to obtain tickets for another, or accept consideration for payment in full or for a deposit for the sale of tickets unless such licensee or other ticket reseller meets one or more of the following requirements:

(a) such licensee or other ticket reseller has the offered ticket in its possession;

(b) such licensee or other ticket reseller has a written contract to obtain the offered ticket at a certain price from a person in possession of the ticket or from a person who has a contractual right to obtain such ticket; or

(c) such licensee or other ticket reseller informs the purchaser in a clear and conspicuous manner and in plain language at the time of offering such ticket for sale and in a written notice prior to the completion of the transaction that such licensee or other ticket reseller does not

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

LBD15773-04-8

have possession of the ticket, has no contract to obtain the offered ticket at a certain price from a person in possession of the ticket or from a person who has a contractual right to obtain such ticket, may not be able to supply the ticket at the contracted price or range of prices, and requires such purchaser to expressly confirm prior to completing the transaction that the purchaser has read such notice.

2. Nothing in this section shall prohibit a licensee or other ticket reseller from accepting a deposit from a prospective purchaser for a resale pursuant to paragraph (c) of subdivision one of this section, provided that such licensee or other ticket reseller informs the purchaser in writing prior to receipt of consideration of the terms of the deposit agreement, and includes in the written notice the disclosures otherwise required by this section. If a licensee or ticket reseller has entered into a contract with or received consideration from a prospective purchaser for the sale of a ticket or tickets and cannot supply such ticket or tickets at the contracted price or price range, such licensee or ticket reseller shall refund any monies paid by such prospective purchaser within ten business days of receipt of a request for a refund from such purchaser.

3. Nothing in this section shall be construed to nullify, expand, restrict, or otherwise amend or modify now existing laws or regulations outside of this article, and nothing in this section shall be construed as making lawful any fraudulent, deceptive, or illegal act or practice that is unlawful pursuant to now existing laws or regulations.

4. The attorney general shall have jurisdiction to enforce the provisions of this section in accordance with the powers granted to him or her by section sixty-three of the executive law.

§ 2. Section 25.19 of the arts and cultural affairs law, as amended by chapter 61 of the laws of 2007, is amended to read as follows:

§ 25.19. Posting of license or certificate. Immediately upon the receipt of the license or certificate issued pursuant to this article by the secretary of state, the licensee named therein shall cause such license to be posted and at all times displayed in a conspicuous place in the principal office of such business for which it is issued, and shall cause the certificate for each branch office, bureau, agency or sub-agency to be posted and at all times displayed in a conspicuous place in such branch office, bureau, agency or sub-agency for which it is issued, so that all persons visiting such principal office, branch office, bureau, agency or sub-agency may readily see the same, and if such licensee does business on the internet, including via a retail ticket purchasing platform, to provide a license number displayed in a conspicuous manner or a hyperlink displayed in a conspicuous manner to a scanned copy of such license. Such license or certificate shall at all reasonable times be subject to inspection by the secretary of state or his or her authorized inspectors. It shall be unlawful for any person, firm, partnership or corporation holding such license or certificate to post such license or certificate or to permit such certificate to be posted upon premises other than those described therein or to which it has been transferred pursuant to the provisions of this article or unlawfully to alter, deface or destroy any such license or certificate. For purposes of this section, the term "retail ticket purchasing platform" shall mean a retail ticket purchasing website, application, phone system, or other technology platform used to sell tickets.

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

§ 25.23. Posting of price lists; information to purchaser. 1. In every principal office or branch office, bureau, agency or sub-agency of any licensee under this article, there shall be conspicuously posted and at all times displayed a price list showing the established price charged by the operator of the place of entertainment for which a ticket is being sold by such licensee, together with the price being charged by such licensee for the resale of such ticket, so that all persons visiting such place may readily see the same. The licensee shall also on request furnish each purchaser of a ticket with a receipt showing the same information. Further, if the licensee conducts business through the use of the internet, the same price list, or hyperlink to the same, shall be conspicuously displayed on the internet page on which tickets are accessed. In addition the licensee shall publish in a conspicuous place, or hyperlink to on the internet a statement clearly detailing the required guarantees required by section 25.07 of this article.

2. An online resale marketplace shall post a clear and conspicuous notice on the website that the website is for the secondary sale of a ticket, that the price of such ticket offered for sale may exceed the established price and shall also state the refund policy of the platform in connection with the cancellation or postponement of an event. An online resale marketplace shall require that the user confirm having read such notice before completing any transaction. For the purposes of this section, an "online resale marketplace" means any operator or manager of a website or other electronic service that resells tickets or serves as a platform to facilitate resale, or resale by way of a competitive bidding process.

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

10. Any person, firm, corporation or other entity who is a licensee under this article who is adjudicated guilty of the following acts may lose their license and may be barred from licensure under this article for a period not to exceed three years to be determined by the department of state pursuant to section 25.31 of this article if such licensee: (a) knowingly utilized ticket purchasing software in order to purchase tickets; (b) knowingly resold or offered to resell a ticket that such licensee knew was obtained using ticket purchasing software; or (c) intentionally maintained any interest in or maintained any control of the operation of ticket purchasing software to purchase tickets.

§ 5. Section 25.07 of the arts and cultural affairs law is amended by adding a new subdivision 4 to read as follows:

4. Every operator or operator's agent of a place of entertainment, any licensee or other ticket reseller or platform that facilitates the resale of tickets shall disclose in a clear and conspicuous manner 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 or surcharge prior to accepting payment therefor.

§ 6. The arts and cultural affairs law is amended by adding a new section 25.12 to read as follows:

§ 25.12. Professional sports organization membership pass. Notwithstanding section 25.30 of this article, an operator of a place of entertainment or such operator's agent may offer paperless tickets which do not allow for independent transferability provided that such tickets are included in a membership pass at a discounted price offered by a professional sports organization for seating in venues or stadiums with a fixed capacity of over thirty thousand seats that guarantees entry to a

specified number of events in a specified time period with seat assignments assigned no more than four hours prior to the commencement of the event and such seat assignment must be variable from game to game and not intended for season ticket holders. Tickets provided under such membership pass may be restricted from being transferred or resold, including through the operator or operators' agents, and must be clearly marked as such prior to initial offering or sale. Such membership pass shall not mean a subscription or season ticket package offered for sale and shall not result in the sale of more than five percent of the maximum amount of all seats that will be made available at a venue for a particular event to be sold under this section.

§ 7. 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.

§ 8. The arts and cultural affairs law is amended by adding a new section 25.34 to read as follows:

§ 25.34. Ticket websites. 1. As used in this section:

(a) "Ticket website" means an internet website advertising the sale of tickets, offering the sale of such tickets, or facilitating a secondary ticket exchange.

(b) "URL" means the uniform resource locator for a website on the internet.

2. (a) It shall be unlawful for any person or other entity to, with intent to mislead or deceive, own, operate, or control a ticket website for an event scheduled at a place of entertainment to use a subdomain or domain name in a ticket website's URL that contains:

(i) the name of the place of entertainment, provided that this paragraph shall not preclude the use of general terms to depict a geographical location or venue category;

(ii) the name of the specific event, including the name of a person or entity scheduled to perform or appear at the event; or

(iii) a name substantially similar to those in subparagraph (i) or (ii) of this paragraph.

(b) Paragraph (a) of this subdivision shall not apply if the person is acting on behalf of, and with the consent of, the place of entertainment, event, artist or sports team for which the website is being created.

3. Any person, firm, corporation or other entity who intentionally owns, operates, or controls such ticket website shall be subject to a civil penalty in an amount of no more than one thousand five hundred dollars for each such violation.

4. Any person who is subject to a civil penalty under this section and has been assessed a penalty under this section in the previous three years shall be assessed a civil penalty of no more than five thousand dollars for each such violation.

5. The attorney general shall have jurisdiction to enforce the provisions of this section in accordance with the powers granted to him or her by section sixty-three of the executive law.

§ 9. Section 4 of chapter 704 of the laws of 1991, amending the arts and cultural affairs law and chapter 912 of the laws of 1920 relating to the regulation of boxing and wrestling matches relating to tickets to

places of entertainment, as amended by chapter 68 of the laws of 2017, is amended to read as follows:

§ 4. This act shall take effect on the sixtieth day after it shall have become a law, provided, chapter 61 of the laws of 2007 shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and shall remain in full force and effect only until and including June 30, [~~2018~~] **2021** when such act shall be repealed and when, notwithstanding any other provision of law, the provisions of article 25 of title G of the arts and cultural affairs law, repealed by such act, shall be reinstituted; provided further that section 25.11 of the arts and cultural affairs law, as added by section one of this act, shall survive such repeal date. Provided, however, the printing on tickets required pursuant to sections 25.07 and 25.08 of article 25 of the arts and cultural affairs law, as added by this act, shall not apply to tickets printed prior to enactment of such article so long as notice of the higher maximum premium price and prohibition of sales within one thousand five hundred feet from the physical structure of the place of entertainment, where applicable, is prominently displayed at the point of sale and at such place of entertainment.

§ 10. Section 11 of chapter 151 of the laws of 2010, amending the arts and cultural affairs law relating to resale of tickets to places of entertainment, as amended by chapter 68 of the laws of 2017, is amended to read as follows:

§ 11. Notwithstanding the provisions of article 5 of the general construction law, if this act shall take effect after May 15, 2010, the provisions of article 25 of the arts and cultural affairs law, except section 25.11 are hereby revived and shall continue in full force and effect as they existed on May 15, 2010 through June 30, [~~2018~~] **2021** when upon such date such provisions shall expire and be deemed repealed.

§ 11. This act shall take effect immediately; provided however that:

(a) sections one, two, three, four, five, seven and eight of this act shall take effect on the one hundred eightieth day after it shall have become a law; and

(b) the amendments to article 25 of the arts and cultural affairs law made by sections one, two, three, five, six, seven and eight of this act shall not affect the repeal of such article and shall be deemed repealed therewith.