

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

AN ACT to amend the arts and cultural affairs law, in relation to limiting the re-sale price of tickets to charitable events and criminalizing violations of the limitation

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

1 Section 1. The arts and cultural affairs law is amended by adding a  
2 new section 25.06 to read as follows:  
3 S 25.06. TICKET SPECULATORS; CHARITABLE OR NOT-FOR-PROFIT EVENTS. 1.  
4 EVERY OPERATOR OF A PLACE OF ENTERTAINMENT SHALL, IF A PRICE BE CHARGED  
5 FOR ADMISSION THERETO FOR ENTERTAINMENT DEDICATED TO CHARITY OR  
6 NOT-FOR-PROFIT CAUSE, PRINT OR ENDORSE ON THE FACE OF EACH SUCH TICKET  
7 THE ESTABLISHED PRICE, OR THE FINAL AUCTION PRICE IF SUCH TICKET WAS  
8 SOLD OR RESOLD BY AUCTION THROUGH THE OPERATOR OR ITS AGENT. EACH SUCH  
9 OPERATOR SHALL ALSO BE REQUIRED TO PRINT OR ENDORSE ON EACH TICKET THAT  
10 THE ESTABLISHED PRICE IS THE MAXIMUM PRICE AT WHICH SUCH TICKET OR OTHER  
11 EVIDENCE OF THE RIGHT OF ENTRY MAY BE RESOLD OR OFFERED FOR RESALE IF AN  
12 EVENT GENERATES TICKET SALES REVENUE DEDICATED TO A CHARITY OR NOT-FOR-  
13 PROFIT CAUSE. IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM OR CORPORATION  
14 TO RESELL OR OFFER TO RESELL ANY TICKET OR OTHER EVIDENCE OF RIGHT OF  
15 ENTRY TO ANY PLACE OF ENTERTAINMENT IF AN EVENT GENERATES TICKET SALE  
16 REVENUE DEDICATED TO A CHARITY OR NOT-FOR-PROFIT CAUSE FOR MORE THAN THE  
17 ESTABLISHED PRICE.  
18 2. A. ANY PERSON, FIRM OR CORPORATION WHICH, IN VIOLATION OF SUBDIVI-  
19 SION ONE OF THIS SECTION, UNLAWFULLY RESELLS, OR OFFERS TO RESELL, A  
20 TICKET TO AN EVENT THAT GENERATES TICKET SALE REVENUE DEDICATED TO A  
21 CHARITY OR NOT-FOR-PROFIT CAUSE AT A PRICE THAT EXCEEDS THE MAXIMUM  
22 PRICE AT WHICH SUCH TICKET MAY BE RESOLD OR OFFERED FOR RESALE SHALL BE

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

1 GUILTY OF A MISDEMEANOR PUNISHABLE BY A TERM OF IMPRISONMENT NOT TO  
2 EXCEED ONE YEAR OR BY A FINE NOT TO EXCEED SEVEN HUNDRED FIFTY DOLLARS  
3 ON THE FIRST CONVICTION; ONE THOUSAND FIVE HUNDRED DOLLARS ON THE SECOND  
4 CONVICTION; AND TWO THOUSAND DOLLARS, ON EACH SUBSEQUENT CONVICTION OR  
5 BY BOTH SUCH FINE AND IMPRISONMENT.

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

11 3. AS USED IN THIS SECTION THE TERM: A. "ENTERTAINMENT DEDICATED TO A  
12 CHARITY OR NOT-FOR-PROFIT CAUSE" MEANS ALL FORMS OF ENTERTAINMENT  
13 INCLUDING, BUT NOT LIMITED TO, THEATRICAL OR OPERATIC PERFORMANCES,  
14 CONCERTS, MOTION PICTURES, ALL FORMS OF ENTERTAINMENT AT FAIR GROUNDS,  
15 AMUSEMENT PARKS AND ALL TYPES OF ATHLETIC COMPETITIONS INCLUDING FOOT-  
16 BALL, BASKETBALL, BASEBALL, BOXING, TENNIS, HOCKEY, AND ANY OTHER SPORT,  
17 AND ALL OTHER FORMS OF DIVERSION, RECREATION OR SHOW FROM WHICH SIGNIF-  
18 ICANT REVENUE IS DESIGNATED FOR A NOT-FOR-PROFIT ORGANIZATION AS DEFINED  
19 IN PARAGRAPH D OF THIS SUBDIVISION; AND

20 B. "ESTABLISHED PRICE" MEANS THE PRICE FIXED AT THE TIME OF SALE BY  
21 THE OPERATOR OF ANY PLACE OF ENTERTAINMENT FOR ADMISSION THERETO, WHICH  
22 MUST BE PRINTED OR ENDORSED ON EACH TICKET OF ADMISSION;

23 C. "FINAL AUCTION PRICE" SHALL MEAN THE PRICE PAID FOR A SINGLE TICKET  
24 BY A WINNING BIDDER. IN THE CASE OF A SINGLE ACTION PRICE FOR A TICKET  
25 PACKAGE, INCLUDING PACKAGES CONTAINING TICKETS TO MULTIPLE EVENTS, THE  
26 FINAL AUCTION PRICE PER TICKET SHALL BE ESTABLISHED BY EVENLY DIVIDING A  
27 PRORATED SHARE OF THE WINNING BID, WHICH SHALL BE DETERMINED BY THE  
28 SELLER, BY THE NUMBER OF TICKETS TO SUCH EVENT;

29 D. "NOT-FOR-PROFIT ORGANIZATION" MEANS A DOMESTIC CORPORATION INCORPO-  
30 RATED PURSUANT TO OR OTHERWISE SUBJECT TO THE NOT-FOR-PROFIT CORPORATION  
31 LAW, A CHARITABLE ORGANIZATION REGISTERED WITH THE DEPARTMENT OF LAW, A  
32 RELIGIOUS CORPORATION AS DEFINED IN SECTION SIXTY-SIX OF THE GENERAL  
33 CONSTRUCTION LAW, A TRUSTEE AS DEFINED IN SECTION 8-1.4 OF THE ESTATES,  
34 POWERS AND TRUSTS LAW, AN INSTITUTION OR CORPORATION FORMED PURSUANT TO  
35 THE EDUCATION LAW, A SPECIAL ACT CORPORATION CREATED PURSUANT TO CHAPTER  
36 FOUR HUNDRED SIXTY-EIGHT OF THE LAWS OF EIGHTEEN HUNDRED NINETY-NINE, AS  
37 AMENDED, A SPECIAL ACT CORPORATION FORMED PURSUANT TO CHAPTER TWO  
38 HUNDRED FIFTY-SIX OF THE LAWS OF NINETEEN HUNDRED SEVENTEEN, AS AMENDED,  
39 A CORPORATION AUTHORIZED PURSUANT TO AN ACT OF CONGRESS APPROVED JANUARY  
40 FIFTH, NINETEEN HUNDRED FIVE, (33 STAT. 599), AS AMENDED, A CORPORATION  
41 ESTABLISHED BY MERGER OF CHARITABLE ORGANIZATIONS PURSUANT TO AN ORDER  
42 OF THE SUPREME COURT, NEW YORK COUNTY DATED JULY TWENTY-FIRST, NINETEEN  
43 HUNDRED EIGHTY-SIX AND FILED IN THE DEPARTMENT OF STATE ON JULY TWENTY-  
44 NINTH, NINETEEN HUNDRED EIGHTY-SIX, OR A CORPORATION HAVING TAX EXEMPT  
45 STATUS UNDER SECTION 501 (C) (3) OF THE UNITED STATES INTERNAL REVENUE  
46 CODE, AND SHALL FURTHER BE DEEMED TO MEAN AND INCLUDE ANY FEDERATION OF  
47 CHARITABLE ORGANIZATIONS.

48 E. "OPERATOR" MEANS ANY PERSON WHO OWNS, OPERATES, OR CONTROLS A PLACE  
49 OF ENTERTAINMENT OR WHO PROMOTES OR PRODUCES AN ENTERTAINMENT;

50 F. "PLACE OF ENTERTAINMENT" MEANS ANY PRIVATELY OR PUBLICLY OWNED AND  
51 OPERATED ENTERTAINMENT FACILITY SUCH AS A THEATRE, STADIUM, ARENA, RACE-  
52 TRACK, MUSEUM, AMUSEMENT PARK, OR OTHER PLACE WHERE PERFORMANCES,  
53 CONCERTS, EXHIBITS, ATHLETIC GAMES OR CONTESTS ARE HELD FOR WHICH AN  
54 ENTRY FEE IS CHARGED;

55 G. "RESALE" MEANS ANY SALE OF A TICKET FOR ENTRANCE TO A PLACE OF  
56 ENTERTAINMENT LOCATED WITHIN THE BOUNDARIES OF THE STATE OF NEW YORK

1 OTHER THAN A SALE BY THE OPERATOR OR THE OPERATOR'S AGENT WHO IS  
2 EXPRESSLY AUTHORIZED TO MAKE FIRST SALES OF SUCH TICKETS. RESALE SHALL  
3 INCLUDE SALES BY ANY MEANS, INCLUDING IN PERSON, OR BY MEANS OF TELE-  
4 PHONE, MAIL, DELIVERY SERVICE, FACSIMILE, INTERNET, EMAIL OR OTHER ELEC-  
5 TRONIC MEANS, WHERE THE VENUE FOR WHICH THE TICKET GRANTS ADMISSION IS  
6 LOCATED IN NEW YORK STATE. EXCEPT AS PROVIDED IN SECTION 25.11 OF THIS  
7 ARTICLE, THE TERM "RESALE" SHALL NOT APPLY TO ANY PERSON, FIRM OR CORPO-  
8 RATION WHICH PURCHASES ANY TICKETS SOLELY FOR THEIR OWN USE OR THE USE  
9 OF THEIR INVITEES, EMPLOYEES AND AGENTS OR WHICH PURCHASES TICKETS ON  
10 BEHALF OF OTHERS AND RESELLS SUCH TICKETS TO SUCH INVITEES, EMPLOYEES  
11 AND AGENTS OR OTHERS AT OR LESS THAN THE ESTABLISHED PRICE. SIMILARLY,  
12 THE TERM "RESALE" SHALL NOT APPLY TO ANY NOT-FOR-PROFIT ORGANIZATION, OR  
13 PERSON ACTING ON BEHALF OF SUCH NOT-FOR-PROFIT ORGANIZATION, AS LONG AS  
14 ANY PROFIT REALIZED FROM TICKET RESELLING IS WHOLLY DEDICATED TO THE  
15 PURPOSES OF SUCH NOT-FOR-PROFIT ORGANIZATION; AND

16 H. "TICKET" MEANS ANY EVIDENCE OF THE RIGHT OF ENTRY TO ANY PLACE OF  
17 ENTERTAINMENT.

18 S 2. This act shall take effect on the forty-fifth day after it shall  
19 have become a law.