

8123

I N S E N A T E

June 13, 2016

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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. Section 25.24 of the arts and cultural affairs law, as  
2 added by chapter 151 of the laws of 2010, is amended to read as follows:  
3 S 25.24. [Automated ticket] TICKET purchasing software. 1. The term  
4 "[automated] ticket purchasing software" shall mean, any machine,  
5 device, computer program or computer software that [navigates or runs  
6 automated tasks on retail ticket purchasing websites in order to  
7 bypass], ON ITS OWN OR WITH HUMAN ASSISTANCE, BYPASSES security measures  
8 [to purchase tickets] OR ACCESS CONTROL SYSTEMS ON A RETAIL TICKET  
9 PURCHASING PLATFORM, OR OTHER CONTROLS OR MEASURES ON A RETAIL TICKET  
10 PURCHASING PLATFORM THAT ASSIST IN IMPLEMENTING A LIMIT ON THE NUMBER OF  
11 TICKETS THAT CAN BE PURCHASED, TO PURCHASE TICKETS. FOR PURPOSES OF  
12 THIS SECTION, THE TERM "RETAIL TICKET PURCHASING PLATFORM" SHALL MEAN A  
13 RETAIL TICKET PURCHASING WEBSITE, APPLICATION, PHONE SYSTEM, OR OTHER  
14 TECHNOLOGY PLATFORM USED TO SELL TICKETS.  
15 2. (A) It shall be unlawful for any person, FIRM, CORPORATION OR OTHER  
16 ENTITY to utilize [automated] ticket purchasing software to purchase  
17 tickets.  
18 (B) IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, CORPORATION OR OTHER  
19 ENTITY TO KNOWINGLY RESELL OR OFFER TO RESELL A TICKET THAT SUCH PERSON,  
20 FIRM, CORPORATION OR OTHER ENTITY KNOWS WAS OBTAINED USING TICKET  
21 PURCHASING SOFTWARE AND WAS NOT OBTAINED FOR THEIR OWN USE OR THE USE OF  
22 THEIR INVITEES, EMPLOYEES, OR AGENTS.  
23 3. (A) Any person, FIRM, CORPORATION OR OTHER ENTITY who knowingly  
24 utilizes [automated] ticket purchasing software in order [to bypass  
25 security measures] to purchase tickets shall be subject to a civil  
26 penalty in an amount of no less than five hundred dollars and no more  
27 than [one thousand dollars] ONE THOUSAND FIVE HUNDRED DOLLARS for each

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

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

3 4. Any person, FIRM, CORPORATION OR OTHER ENTITY who intentionally  
4 maintains any interest in or maintains any control of the operation of  
5 [automated] ticket purchasing software to [bypass security measures to]  
6 purchase tickets shall be subject to a civil penalty in an amount of no  
7 less than seven hundred fifty dollars and no more than one thousand five  
8 hundred dollars for each such violation and shall forfeit all profits  
9 made from the sale of any such unlawfully obtained tickets.

10 5. ANY PERSON, FIRM, CORPORATION OR OTHER ENTITY WHO KNOWINGLY  
11 RESELLS OR OFFERS TO RESELL A TICKET THAT SUCH PERSON, FIRM, CORPORATION  
12 OR OTHER ENTITY KNOWS WAS OBTAINED USING TICKET PURCHASING SOFTWARE AND  
13 WAS NOT OBTAINED FOR THEIR OWN USE OR THE USE OF THEIR INVITEES, EMPLOY-  
14 EES, OR AGENTS SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT OF NO  
15 LESS THAN FIVE HUNDRED DOLLARS AND NO MORE THAN ONE THOUSAND FIVE  
16 HUNDRED DOLLARS FOR EACH SUCH VIOLATION AND SHALL FORFEIT ALL PROFITS  
17 MADE FROM THE SALE OF ANY SUCH UNLAWFULLY OBTAINED TICKET.

18 6. Any person who is subject to a civil penalty under this section and  
19 has been assessed a penalty under this section in the previous [five]  
20 THREE years shall be guilty of a violation and may be fined no less than  
21 one thousand dollars and no more than five thousand dollars for each  
22 such violation and shall forfeit all profits from the sale of any such  
23 unlawfully obtained tickets. In addition, a person convicted of a  
24 violation under this section may be required to forfeit any and all  
25 equipment used in the unlawful purchasing of tickets.

26 [6.] 7. The attorney general shall have jurisdiction to enforce the  
27 provisions of this section in accordance with the powers granted to him  
28 or her by section sixty-three of the executive law.

29 [7.] 8. In addition to the power given to the attorney general to  
30 enforce the provisions of this section, any place of entertainment, as  
31 defined by section 23.03 of this chapter, or any aggrieved party that  
32 has been injured by wrongful conduct prescribed by this section may  
33 bring an action to recover all actual damages suffered as a result of  
34 any of such wrongful conduct. The court in its discretion may award  
35 damages up to three times the amount of actual damages. The court may  
36 enjoin the respondent from any and all activity prohibited under this  
37 section. The court may also award reasonable attorney's fees and costs.

38 9. ANY PERSON, FIRM, CORPORATION OR OTHER ENTITY WHO FOR THE PURPOSE  
39 OF SELLING OR OFFERING TO SELL TICKETS IN ORDER TO DERIVE A PROFIT THERE-  
40 FROM (I) INTENTIONALLY UTILIZES TICKET PURCHASING SOFTWARE TO PURCHASE  
41 SUCH TICKETS, (II) INTENTIONALLY MAINTAINS ANY INTEREST IN OR MAINTAINS  
42 ANY CONTROL OF THE OPERATION OF TICKET PURCHASING SOFTWARE WHICH IS USED  
43 TO PURCHASE SUCH TICKETS, OR (III) KNOWINGLY RESELLS OR OFFERS TO RESELL  
44 A TICKET THAT SUCH PERSON, FIRM, CORPORATION OR OTHER ENTITY KNOWS WAS  
45 OBTAINED USING TICKET PURCHASING SOFTWARE AND WAS NOT OBTAINED FOR THEIR  
46 OWN USE OR THE USE OF THEIR INVITEES, EMPLOYEES, OR AGENTS, SHALL BE  
47 GUILTY OF A CLASS A MISDEMEANOR.

48 S 2. This act shall take effect on the ninetieth day after it shall  
49 have become a law.