S T A T E O F N E W Y O R K

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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:

Section 1. Section 25.24 of the arts and cultural affairs law, as added by chapter 151 of the laws of 2010, is amended to read as follows:

S 25.24. [Automated ticket] TICKET purchasing software. 1. The term "[automated] ticket purchasing software" shall mean, any machine, device, computer program or computer software that [navigates or runs automated tasks on retail ticket purchasing websites in order to bypass], ON ITS OWN OR WITH HUMAN ASSISTANCE, BYPASSES security measures [to purchase tickets] OR ACCESS CONTROL SYSTEMS ON A RETAIL TICKET PURCHASING PLATFORM, OR OTHER CONTROLS OR MEASURES ON A RETAIL TICKET PURCHASING PLATFORM THAT ASSIST IN IMPLEMENTING A LIMIT ON THE NUMBER OF TICKETS THAT CAN BE PURCHASED, TO PURCHASE TICKETS. 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.

2. (A) It shall be unlawful for any person, FIRM, CORPORATION OR OTHER ENTITY to utilize [automated] ticket purchasing software to purchase tickets.

(B) IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, CORPORATION OR OTHER ENTITY TO KNOWINGLY RESELL OR OFFER TO RESELL A TICKET THAT SUCH PERSON, FIRM, CORPORATION OR OTHER ENTITY KNOWS WAS OBTAINED USING TICKET PURCHASING SOFTWARE AND WAS NOT OBTAINED FOR THEIR OWN USE OR THE USE OF THEIR INVITEES, EMPLOYEES, OR AGENTS.

3. (A) Any person, FIRM, CORPORATION OR OTHER ENTITY who knowingly utilizes [automated] ticket purchasing software in order [to bypass security measures] to purchase tickets shall be subject to a civil penalty in an amount of no less than five hundred dollars and no more 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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such violation and shall forfeit all profits made from the sale of any such unlawfully obtained tickets.

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

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

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

[6.] 7. 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.

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

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

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