

8124

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 IF SUCH VIOLATION OF PARAGRAPH (I), (II)
48 OR (III) OF THIS SUBDIVISION INVOLVES LESS THAN TWO HUNDRED FIFTY TICK-
49 ETS, AND A CLASS E FELONY IF SUCH VIOLATION OF PARAGRAPH (I), (II) OR
50 (III) OF THIS SUBDIVISION INVOLVES TWO HUNDRED FIFTY OR MORE TICKETS.

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