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I N S E N A T E

March 8, 2016

Introduced by Sens. LANZA, BOYLE -- 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 automated ticket purchasing software

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

1 Section 1. Subdivisions 1, 2 and 3 of section 25.24 of the arts and
2 cultural affairs law, as added by chapter 151 of the laws of 2010, are
3 amended to read as follows:

4 1. The term "automated ticket purchasing software" shall mean, any
5 machine, device, computer program or computer software that navigates or
6 runs automated tasks on retail ticket purchasing websites in order to
7 bypass security measures to purchase tickets, OR TO CIRCUMVENT A SECURI-
8 TY MEASURE, ACCESS CONTROL SYSTEM OR OTHER CONTROL OR MEASURE USED BY
9 INTERNET TICKET SELLERS TO ENSURE EQUITABLE CONSUMER ACCESS TO TICKETS
10 FOR A GIVEN EVENT.

11 2. (A) It shall be unlawful for any person, FIRM, CORPORATION OR OTHER
12 ENTITY to utilize automated ticket purchasing software to purchase tick-
13 ets, OR TO CIRCUMVENT A SECURITY MEASURE, ACCESS CONTROL SYSTEM OR OTHER
14 CONTROL OR MEASURE USED BY INTERNET TICKET SELLERS TO ENSURE EQUITABLE
15 CONSUMER ACCESS TO TICKETS FOR A GIVEN EVENT.

16 (B) IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, CORPORATION OR OTHER
17 ENTITY TO SELL AUTOMATED TICKET PURCHASING SOFTWARE TO PURCHASE TICKETS,
18 OR TO CIRCUMVENT A SECURITY MEASURE, ACCESS CONTROL SYSTEM, OR OTHER
19 CONTROL OR MEASURE USED BY INTERNET TICKET SELLERS TO ENSURE EQUITABLE
20 CONSUMER ACCESS TO TICKETS FOR A GIVEN EVENT.

21 3. (A) Any person, FIRM, CORPORATION OR OTHER ENTITY who knowingly
22 utilizes automated ticket purchasing software in order to bypass securi-
23 ty measures to purchase tickets OR TO CIRCUMVENT A SECURITY MEASURE,
24 ACCESS CONTROL SYSTEM OR OTHER CONTROL OR MEASURE USED BY INTERNET TICK-

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

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1 ET SELLERS TO ENSURE EQUITABLE CONSUMER ACCESS TO TICKETS FOR A GIVEN
2 EVENT shall be subject to a civil penalty in an amount:

3 (I) of no less than five hundred dollars [and no] NOR more than one
4 thousand dollars for [each] THE FIRST such violation;

5 (II) OF NO LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN ONE THOUSAND
6 FIVE HUNDRED DOLLARS FOR A SECOND SUCH VIOLATION WITHIN A TWENTY-FOUR
7 MONTH PERIOD; OR

8 (III) OF NO LESS THAN TWO THOUSAND DOLLARS NOR MORE THAN TWO THOUSAND
9 FIVE HUNDRED DOLLARS FOR A THIRD OR ANY SUBSEQUENT SUCH VIOLATION WITHIN
10 A TWENTY-FOUR MONTH PERIOD;

11 and shall forfeit all profits made from the sale of any such unlawfully
12 obtained tickets.

13 (B) ANY PERSON, FIRM, CORPORATION, OR OTHER ENTITY WHO KNOWINGLY SELLS
14 AUTOMATED TICKET PURCHASING SOFTWARE SHALL BE SUBJECT TO A CIVIL PENALTY
15 IN AN AMOUNT:

16 (I) OF NO LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND
17 DOLLARS FOR THE FIRST SUCH VIOLATION;

18 (II) OF NO LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN ONE THOUSAND
19 FIVE HUNDRED DOLLARS FOR A SECOND SUCH VIOLATION WITHIN A TWENTY-FOUR
20 MONTH PERIOD; OR

21 (III) OF NO LESS THAN TWO THOUSAND DOLLARS NOR MORE THAN TWO THOUSAND
22 FIVE HUNDRED DOLLARS FOR A THIRD OR ANY SUBSEQUENT SUCH VIOLATION WITHIN
23 A TWENTY-FOUR MONTH PERIOD;

24 AND SHALL FORFEIT ALL PROFITS MADE FROM THE SALE OF ANY SUCH SOFTWARE.

25 (C) NOTHING IN THIS SUBDIVISION SHALL LIMIT THE APPLICABILITY OF CRIM-
26 INAL PENALTIES THAT MAY BE IMPOSED PURSUANT TO SECTION 25.35 OF THIS
27 ARTICLE.

28 S 2. Subdivisions 6 and 7 of section 25.35 of the arts and cultural
29 affairs law are renumbered subdivisions 7 and 8, and a new subdivision 6
30 is added to read as follows:

31 6. (A) ANY PERSON, FIRM, CORPORATION OR OTHER ENTITY, WHETHER OR NOT
32 DOMICILED, LICENSED OR REGISTERED WITHIN THE STATE, WHICH IS CONVICTED
33 OF KNOWINGLY VIOLATING ANY PROVISION OF SUBDIVISION THREE OF SECTION
34 25.24 OF THIS ARTICLE SHALL BE GUILTY OF A CLASS A MISDEMEANOR AS
35 DEFINED IN THE PENAL LAW.

36 (B) ANY PERSON, FIRM, CORPORATION OR OTHER ENTITY, WHETHER OR NOT
37 DOMICILED, LICENSED OR REGISTERED WITHIN THE STATE, WHICH IS CONVICTED
38 OF KNOWINGLY VIOLATING ANY PROVISION OF SUBDIVISION THREE OF SECTION
39 25.24 OF THIS ARTICLE AFTER HAVING BEEN CONVICTED OF A KNOWING VIOLATION
40 OF SUCH SUBDIVISION WITHIN A TWENTY-FOUR MONTH PERIOD SHALL BE GUILTY OF
41 A CLASS E FELONY AS DEFINED IN THE PENAL LAW.

42 (C) NOTHING IN THIS SUBDIVISION SHALL LIMIT THE APPLICABILITY OF CIVIL
43 PENALTIES THAT MAY BE IMPOSED PURSUANT TO SECTION 25.24 OF THIS ARTICLE.

44 S 3. This act shall take effect on the ninetieth day after it shall
45 have become a law; provided that the amendments to section 25.35 of the
46 arts and cultural affairs law made by section two of this act shall not
47 affect the repeal of such article and shall be deemed repealed there-
48 with; provided, further that paragraph (c) of section 25.24 of the arts
49 and cultural affairs law, as added by section one of this act, shall be
50 subject to the repeal of article 25 of such law, pursuant to chapter 704
51 of the laws of 1991, as amended, and shall be deemed repealed therewith.