

STATE OF NEW YORK

8245--C

2017-2018 Regular Sessions

IN ASSEMBLY

June 2, 2017

Introduced by M. of A. O'DONNELL, FAHY -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development -- reported and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the arts and cultural affairs law, in relation to the sale of tickets to places of entertainment; to amend chapter 704 of the laws of 1991, amending the arts and cultural affairs law and chapter 912 of the laws of 1920 relating to the regulation of boxing and wrestling matches relating to tickets to places of entertainment; and chapter 151 of the laws of 2010, amending the arts and cultural affairs law relating to resale of tickets to places of entertainment, in relation to extending the effectiveness of the provisions thereof

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 25.10 to read as follows:

3 § 25.10. Ticket resale requirements. 1. It shall be unlawful for a
4 licensee or other ticket reseller to contract for the sale of tickets,
5 contract to obtain tickets for another, or accept consideration for
6 payment in full or for a deposit for the sale of tickets unless such
7 licensee or other ticket reseller meets one or more of the following
8 requirements:

9 (a) such licensee or other ticket reseller has the offered ticket in
10 its possession;

11 (b) such licensee or other ticket reseller has a written contract to
12 obtain the offered ticket at a certain price from a person in possession

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

LBD11767-16-8

1 of the ticket or from a person who has a contractual right to obtain
2 such ticket; or

3 (c) such licensee or other ticket reseller informs the purchaser in a
4 clear and conspicuous manner and in plain language at the time of offer-
5 ing such ticket for sale and in a written notice prior to the completion
6 of the transaction that such licensee or other ticket reseller does not
7 have possession of the ticket, has no contract to obtain the offered
8 ticket at a certain price from a person in possession of the ticket or
9 from a person who has a contractual right to obtain such ticket, may not
10 be able to supply the ticket at the contracted price or range of prices,
11 and requires such purchaser to expressly confirm prior to completing the
12 transaction that the purchaser has read such notice.

13 2. Nothing in this section shall prohibit a licensee or other ticket
14 reseller from accepting a deposit from a prospective purchaser for a
15 resale pursuant to paragraph (c) of subdivision one of this section,
16 provided that such licensee or other ticket reseller informs the
17 purchaser in writing prior to receipt of consideration of the terms of
18 the deposit agreement, and includes in the written notice the disclo-
19 sures otherwise required by this section. If a licensee or ticket
20 reseller has entered into a contract with or received consideration from
21 a prospective purchaser for the sale of a ticket or tickets and cannot
22 supply such ticket or tickets at the contracted price or price range,
23 such licensee or ticket reseller shall refund any monies paid by such
24 prospective purchaser within ten business days of receipt of a request
25 for a refund from such purchaser.

26 3. Nothing in this section shall be construed to nullify, expand,
27 restrict, or otherwise amend or modify now existing laws or regulations
28 outside of this article, and nothing in this section shall be construed
29 as making lawful any fraudulent, deceptive, or illegal act or practice
30 that is unlawful pursuant to now existing laws or regulations.

31 4. The attorney general shall have jurisdiction to enforce the
32 provisions of this section in accordance with the powers granted to him
33 or her by section sixty-three of the executive law.

34 § 2. Section 25.19 of the arts and cultural affairs law, as amended by
35 chapter 61 of the laws of 2007, is amended to read as follows:

36 § 25.19. Posting of license or certificate. Immediately upon the
37 receipt of the license or certificate issued pursuant to this article by
38 the secretary of state, the licensee named therein shall cause such
39 license to be posted and at all times displayed in a conspicuous place
40 in the principal office of such business for which it is issued, and
41 shall cause the certificate for each branch office, bureau, agency or
42 sub-agency to be posted and at all times displayed in a conspicuous
43 place in such branch office, bureau, agency or sub-agency for which it
44 is issued, so that all persons visiting such principal office, branch
45 office, bureau, agency or sub-agency may readily see the same, and if
46 such licensee does business on the internet, including via a retail
47 ticket purchasing platform, to provide a license number displayed in a
48 conspicuous manner or a hyperlink displayed in a conspicuous manner to a
49 scanned copy of such license. Such license or certificate shall at all
50 reasonable times be subject to inspection by the secretary of state or
51 his or her authorized inspectors. It shall be unlawful for any person,
52 firm, partnership or corporation holding such license or certificate to
53 post such license or certificate or to permit such certificate to be
54 posted upon premises other than those described therein or to which it
55 has been transferred pursuant to the provisions of this article or
56 unlawfully to alter, deface or destroy any such license or certificate.

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.

§ 3. Section 25.23 of the arts and cultural affairs law, as amended by chapter 106 of the laws of 2005, is amended to read as follows:

§ 25.23. Posting of price lists; information to purchaser. 1. In every principal office or branch office, bureau, agency or sub-agency of any licensee under this article, there shall be conspicuously posted and at all times displayed a price list showing the established price charged by the operator of the place of entertainment for which a ticket is being sold by such licensee, together with the price being charged by such licensee for the resale of such ticket, so that all persons visiting such place may readily see the same. The licensee shall also on request furnish each purchaser of a ticket with a receipt showing the same information. Further, if the licensee conducts business through the use of the internet, the same price list, or hyperlink to the same, shall be conspicuously displayed on the internet page on which tickets are accessed. In addition the licensee shall publish in a conspicuous place, or hyperlink to on the internet a statement clearly detailing the required guarantees required by section 25.07 of this article.

2. An online resale marketplace shall post a clear and conspicuous notice on the website that the website is for the secondary sale of a ticket, that the price of such ticket offered for sale may exceed the established price and shall also state the refund policy of the platform in connection with the cancellation or postponement of an event. An online resale marketplace shall require that the user confirm having read such notice before completing any transaction. For the purposes of this section, an "online resale marketplace" means any operator or manager of a website or other electronic service that resells tickets or serves as a platform to facilitate resale, or resale by way of a competitive bidding process.

§ 4. Section 25.24 of the arts and cultural affairs law is amended by adding a new subdivision 10 to read as follows:

10. Any person, firm, corporation or other entity who is a licensee under this article who is adjudicated guilty of the following acts may lose their license and may be barred from licensure under this article for a period not to exceed three years to be determined by the department of state pursuant to section 25.31 of this article if such licensee: (a) knowingly utilized ticket purchasing software in order to purchase tickets; (b) knowingly resold or offered to resell a ticket that such licensee knew was obtained using ticket purchasing software; or (c) intentionally maintained any interest in or maintained any control of the operation of ticket purchasing software to purchase tickets.

§ 5. Section 25.07 of the arts and cultural affairs law is amended by adding a new subdivision 4 to read as follows:

4. Every operator or operator's agent of a place of entertainment, any licensee or other ticket reseller or platform that facilitates the resale of tickets shall disclose in a clear and conspicuous manner the total price of the ticket and the portion of the ticket price stated in dollars that represents a service charge, or any other fee or surcharge prior to accepting payment therefor.

§ 6. The arts and cultural affairs law is amended by adding a new section 25.12 to read as follows:

§ 25.12. Professional sports organization membership pass. Notwithstanding section 25.30 of this article, an operator of a place of enter-

1 tainment or such operator's agent may offer paperless tickets which do
2 not allow for independent transferability provided that such tickets are
3 included in a membership pass at a discounted price offered by a profes-
4 sional sports organization for seating in venues or stadiums with a
5 fixed capacity of over thirty thousand seats that guarantees entry to a
6 specified number of events in a specified time period with seat assign-
7 ments assigned no more than four hours prior to the commencement of the
8 event and such seat assignment must be variable from game to game and
9 not intended for season ticket holders. Tickets provided under such
10 membership pass may be restricted from being transferred or resold,
11 including through the operator or operators' agents, and must be clearly
12 marked as such prior to initial offering or sale. Such membership pass
13 shall not mean a subscription or season ticket package offered for sale
14 and shall not result in the sale of more than five percent of the maxi-
15 mum amount of all seats that will be made available at a venue for a
16 particular event to be sold under this section.

17 § 7. Section 25.30 of the arts and cultural affairs law is amended by
18 adding a new subdivision 5 to read as follows:

19 5. No operator or its agent shall transfer a prospective ticket
20 purchaser through any means to a licensee or secondary ticket reseller
21 without providing a clear and conspicuous disclosure that informs the
22 prospective purchaser that the ticket is not being offered by the opera-
23 tor or its agent, but rather by a licensee or other ticket reseller in
24 the secondary market.

25 § 8. The arts and cultural affairs law is amended by adding a new
26 section 25.34 to read as follows:

27 § 25.34. Ticket websites. 1. As used in this section:

28 (a) "Ticket website" means an internet website advertising the sale of
29 tickets, offering the sale of such tickets, or facilitating a secondary
30 ticket exchange.

31 (b) "URL" means the uniform resource locator for a website on the
32 internet.

33 2. (a) It shall be unlawful for any person or other entity to, with
34 intent to mislead or deceive, own, operate, or control a ticket website
35 for an event scheduled at a place of entertainment to use a subdomain or
36 domain name in a ticket website's URL that contains:

37 (i) the name of the place of entertainment, provided that this para-
38 graph shall not preclude the use of general terms to depict a geograph-
39 ical location or venue category;

40 (ii) the name of the specific event, including the name of a person or
41 entity scheduled to perform or appear at the event; or

42 (iii) a name substantially similar to those in subparagraph (i) or
43 (ii) of this paragraph.

44 (b) Paragraph (a) of this subdivision shall not apply if the person is
45 acting on behalf of, and with the consent of, the place of enter-
46 tainment, event, artist or sports team for which the website is being
47 created.

48 3. Any person, firm, corporation or other entity who intentionally
49 owns, operates, or controls such ticket website shall be subject to a
50 civil penalty in an amount of no more than one thousand five hundred
51 dollars for each such violation.

52 4. Any person who is subject to a civil penalty under this section and
53 has been assessed a penalty under this section in the previous three
54 years shall be assessed a civil penalty of no more than five thousand
55 dollars for each such violation.

1 5. The attorney general shall have jurisdiction to enforce the
2 provisions of this section in accordance with the powers granted to him
3 or her by section sixty-three of the executive law.

4 § 9. Section 4 of chapter 704 of the laws of 1991, amending the arts
5 and cultural affairs law and chapter 912 of the laws of 1920 relating to
6 the regulation of boxing and wrestling matches relating to tickets to
7 places of entertainment, as amended by chapter 68 of the laws of 2017,
8 is amended to read as follows:

9 § 4. This act shall take effect on the sixtieth day after it shall
10 have become a law, provided, chapter 61 of the laws of 2007 shall not
11 take effect with respect to the issuance of licenses or certificates
12 under this article by the secretary of state or department of state
13 until January 1, 2008 and regulation under this article by the commis-
14 sioners of licenses of the political subdivisions of the state shall
15 continue through December 31, 2007, and shall remain in full force and
16 effect only until and including June 30, [~~2018~~ 2021 when such act shall
17 be repealed and when, notwithstanding any other provision of law, the
18 provisions of article 25 of title G of the arts and cultural affairs
19 law, repealed by such act, shall be reinstituted; provided further that
20 section 25.11 of the arts and cultural affairs law, as added by section
21 one of this act, shall survive such repeal date. Provided, however, the
22 printing on tickets required pursuant to sections 25.07 and 25.08 of
23 article 25 of the arts and cultural affairs law, as added by this act,
24 shall not apply to tickets printed prior to enactment of such article so
25 long as notice of the higher maximum premium price and prohibition of
26 sales within one thousand five hundred feet from the physical structure
27 of the place of entertainment, where applicable, is prominently
28 displayed at the point of sale and at such place of entertainment.

29 § 10. Section 11 of chapter 151 of the laws of 2010, amending the arts
30 and cultural affairs law relating to resale of tickets to places of
31 entertainment, as amended by chapter 68 of the laws of 2017, is amended
32 to read as follows:

33 § 11. Notwithstanding the provisions of article 5 of the general
34 construction law, if this act shall take effect after May 15, 2010, the
35 provisions of article 25 of the arts and cultural affairs law, except
36 section 25.11 are hereby revived and shall continue in full force and
37 effect as they existed on May 15, 2010 through June 30, [~~2018~~ 2021 when
38 upon such date such provisions shall expire and be deemed repealed.

39 § 11. This act shall take effect immediately; provided however that:

40 (a) sections one, two, three, four, five, seven and eight of this act
41 shall take effect on the one hundred eightieth day after it shall have
42 become a law; and

43 (b) the amendments to article 25 of the arts and cultural affairs law
44 made by sections one, two, three, five, six, seven and eight of this act
45 shall not affect the repeal of such article and shall be deemed repealed
46 therewith.