

# STATE OF NEW YORK

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8245--C

2017-2018 Regular Sessions

## IN ASSEMBLY

June 2, 2017

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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.

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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.

1 For purposes of this section, the term "retail ticket purchasing plat-  
2 form" shall mean a retail ticket purchasing website, application, phone  
3 system, or other technology platform used to sell tickets.

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

6 § 25.23. Posting of price lists; information to purchaser. 1. In  
7 every principal office or branch office, bureau, agency or sub-agency of  
8 any licensee under this article, there shall be conspicuously posted and  
9 at all times displayed a price list showing the established price  
10 charged by the operator of the place of entertainment for which a ticket  
11 is being sold by such licensee, together with the price being charged by  
12 such licensee for the resale of such ticket, so that all persons visit-  
13 ing such place may readily see the same. The licensee shall also on  
14 request furnish each purchaser of a ticket with a receipt showing the  
15 same information. Further, if the licensee conducts business through the  
16 use of the internet, the same price list, or hyperlink to the same,  
17 shall be conspicuously displayed on the internet page on which tickets  
18 are accessed. In addition the licensee shall publish in a conspicuous  
19 place, or hyperlink to on the internet a statement clearly detailing the  
20 required guarantees required by section 25.07 of this article.

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

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

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

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

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

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

55 § 25.12. Professional sports organization membership pass. Notwith-  
56 standing 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.