STATE OF NEW YORK

7011

IN SENATE

(Prefiled)

January 3, 2018

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the arts and cultural affairs law, in relation to limiting the re-sale price of tickets to charitable events and criminalizing violations of the limitation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The arts and cultural affairs law is amended by adding a new section 25.06 to read as follows:

§ 25.06. Ticket speculators; charitable or not-for-profit events. 1. Every operator of a place of entertainment shall, if a price be charged for admission thereto for entertainment dedicated to charity or not-for-profit cause, print or endorse on the face of each such ticket the established price, or the final auction price if such ticket was sold or resold by auction through the operator or its agent. Each such operator shall also be required to print or endorse on each ticket that the established price is the maximum price at which such ticket or other evidence of the right of entry may be resold or offered for resale if an event generates ticket sales revenue dedicated to a charity or not-for-profit cause. It shall be unlawful for any person, firm or corporation to resell or offer to resell any ticket or other evidence of right of entry to any place of entertainment if an event generates ticket sale revenue dedicated to a charity or not-for-profit cause for more than the established price.

2. a. Any person, firm or corporation which, in violation of subdivision one of this section, unlawfully resells, or offers to resell, a ticket to an event that generates ticket sale revenue dedicated to a charity or not-for-profit cause at a price that exceeds the maximum price at which such ticket may be resold or offered for resale shall be guilty of a misdemeanor punishable by a term of imprisonment not to exceed one year or by a fine not to exceed seven hundred fifty dollars on the first conviction; one thousand five hundred dollars on the second

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

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conviction; and two thousand dollars, on each subsequent conviction or by both such fine and imprisonment.

b. Notwithstanding any other provision to the contrary, when the fines included in this section are imposed on a firm, corporation or other entity that is not a single person, such fines may be imposed at up to two times the amount otherwise allowed, or, where applicable, three times the amount of the defendant's gain.

3. As used in this section the term: a. "entertainment dedicated to a charity or not-for-profit cause" means all forms of entertainment including, but not limited to, theatrical or operatic performances, concerts, motion pictures, all forms of entertainment at fair grounds, amusement parks and all types of athletic competitions including football, basketball, baseball, boxing, tennis, hockey, and any other sport, and all other forms of diversion, recreation or show from which significant revenue is designated for a not-for-profit organization as defined in paragraph d of this subdivision; and

b. "established price" means the price fixed at the time of sale by the operator of any place of entertainment for admission thereto, which must be printed or endorsed on each ticket of admission;

c. "final auction price" shall mean the price paid for a single ticket by a winning bidder. In the case of a single action price for a ticket package, including packages containing tickets to multiple events, the final auction price per ticket shall be established by evenly dividing a prorated share of the winning bid, which shall be determined by the seller, by the number of tickets to such event;

d. "not-for-profit organization" means a domestic corporation incorporated pursuant to or otherwise subject to the not-for-profit corporation law, a charitable organization registered with the department of law, a religious corporation as defined in section sixty-six of the general construction law, a trustee as defined in section 8-1.4 of the estates, powers and trusts law, an institution or corporation formed pursuant to the education law, a special act corporation created pursuant to chapter four hundred sixty-eight of the laws of eighteen hundred ninety-nine, as amended, a special act corporation formed pursuant to chapter two hundred fifty-six of the laws of nineteen hundred seventeen, as amended, a corporation authorized pursuant to an act of congress approved January fifth, nineteen hundred five, (33 stat. 599), as amended, a corporation established by merger of charitable organizations pursuant to an order of the supreme court, New York county dated July twenty-first, nineteen hundred eighty-six and filed in the department of state on July twenty-ninth, nineteen hundred eighty-six, or a corporation having tax exempt status under section 501 (c) (3) of the United States Internal Revenue Code, and shall further be deemed to mean and include any federation of charitable organizations.

e. "operator" means any person who owns, operates, or controls a place of entertainment or who promotes or produces an entertainment;

f. "place of entertainment" means any privately or publicly owned and operated entertainment facility such as a theatre, stadium, arena, racetrack, museum, amusement park, or other place where performances, concerts, exhibits, athletic games or contests are held for which an entry fee is charged;

g. "resale" means any sale of a ticket for entrance to a place of entertainment located within the boundaries of the state of New York other than a sale by the operator or the operator's agent who is expressly authorized to make first sales of such tickets. Resale shall include sales by any means, including in person, or by means of tele-

phone, mail, delivery service, facsimile, internet, email or other electronic means, where the venue for which the ticket grants admission is located in New York state. Except as provided in section 25.11 of this article, the term "resale" shall not apply to any person, firm or corporation which purchases any tickets solely for their own use or the use of their invitees, employees and agents or which purchases tickets on behalf of others and resells such tickets to such invitees, employees and agents or others at or less than the established price. Similarly, the term "resale" shall not apply to any not-for-profit organization, or person acting on behalf of such not-for-profit organization, as long as any profit realized from ticket reselling is wholly dedicated to the purposes of such not-for-profit organization; and

h. "ticket" means any evidence of the right of entry to any place of entertainment.

§ 2. This act shall take effect on the forty-fifth day after it shall have become a law; provided, however, that section 25.06 of the arts and cultural affairs law, as added by section one of this act, shall survive the expiration and reversion of article 25 of such law as provided in section 4 of chapter 704 of the laws of 1991, as amended.