

STATE OF NEW YORK

8501--A

IN SENATE

May 9, 2018

Introduced by Sen. MURPHY -- 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

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 or
5 accept consideration for payment in full or for a deposit for the sale
6 of tickets unless such licensee or other ticket reseller meets one or
7 more of the following requirements:

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

10 (b) such licensee or other ticket reseller has a written contract to
11 obtain the offered ticket at a certain price from a person in possession
12 of the ticket or from a person who has a contractual right to obtain
13 such ticket; or

14 (c) such licensee or other ticket reseller informs the purchaser in a
15 clear and conspicuous manner and in plain language at the time of offer-
16 ing such ticket for sale and in a written notice prior to the completion
17 of the transaction that such licensee or other ticket reseller does not
18 have possession of the ticket, has no contract to obtain the offered
19 ticket at a certain price from a person in possession of the ticket or
20 from a person who has a contractual right to obtain such ticket, may not

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

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1 be able to supply the ticket at the contracted price or range of prices,
2 and requires such purchaser to expressly confirm prior to completing the
3 transaction that the purchaser has read such notice.

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

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

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

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

27 § 25.19. Posting of license or certificate. Immediately upon the
28 receipt of the license or certificate issued pursuant to this article by
29 the secretary of state, the licensee named therein shall cause such
30 license to be posted and at all times displayed in a conspicuous place
31 in the principal office of such business for which it is issued, and
32 shall cause the certificate for each branch office, bureau, agency or
33 sub-agency to be posted and at all times displayed in a conspicuous
34 place in such branch office, bureau, agency or sub-agency for which it
35 is issued, so that all persons visiting such principal office, branch
36 office, bureau, agency or sub-agency may readily see the same, and if
37 such licensee does business on the internet, including via a retail
38 ticket purchasing platform, to provide a license number displayed in a
39 conspicuous manner or a hyperlink displayed in a conspicuous manner to a
40 scanned copy of such license. Such license or certificate shall at all
41 reasonable times be subject to inspection by the secretary of state or
42 his or her authorized inspectors. It shall be unlawful for any person,
43 firm, partnership or corporation holding such license or certificate to
44 post such license or certificate or to permit such certificate to be
45 posted upon premises other than those described therein or to which it
46 has been transferred pursuant to the provisions of this article or
47 unlawfully to alter, deface or destroy any such license or certificate.
48 For purposes of this section, the term "retail ticket purchasing plat-
49 form" shall mean a retail ticket purchasing website, application, phone
50 system, or other technology platform used to sell tickets.

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

53 § 25.23. Posting of price lists; information to purchaser. 1. In
54 every principal office or branch office, bureau, agency or sub-agency of
55 any licensee under this article, there shall be conspicuously posted and
56 at all times displayed a price list showing the established price

1 charged by the operator of the place of entertainment for which a ticket
2 is being sold by such licensee, together with the price being charged by
3 such licensee for the resale of such ticket, so that all persons visit-
4 ing such place may readily see the same. The licensee shall also on
5 request furnish each purchaser of a ticket with a receipt showing the
6 same information. Further, if the licensee conducts business through the
7 use of the internet, the same price list, or hyperlink to the same,
8 shall be conspicuously displayed on the internet page on which tickets
9 are accessed. In addition the licensee shall publish in a conspicuous
10 place, or hyperlink to on the internet a statement clearly detailing the
11 required guarantees required by section 25.07 of this article.

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

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

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

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

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

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

46 § 25.12. Professional sports organization membership pass. Notwith-
47 standing section 25.30 of this article, an operator of a place of enter-
48 tainment or such operator's agent may offer paperless tickets which do
49 not allow for independent transferability provided that such tickets are
50 included in a membership pass at a discounted price offered by a profes-
51 sional sports organization that guarantees entry to a specified number
52 of events in a specified time period. Tickets provided under such
53 membership pass cannot be transferred or resold, including through the
54 operator or operators' agents, and must be clearly marked as such. Such
55 membership pass shall not mean a subscription or season ticket package

1 offered for sale and shall not result in the sale of more than five
2 percent of all seats available at a venue for a particular event.

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

5 5. No operator or its agent shall transfer a prospective ticket
6 purchaser through any means to a licensee or secondary ticket reseller
7 without providing a clear and conspicuous disclosure that informs the
8 prospective purchaser that the ticket is not being offered by the opera-
9 tor or its agent, but rather by a licensee or other ticket reseller in
10 the secondary market.

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

13 § 25.34. Ticket websites. 1. As used in this section:

14 (a) "Ticket website" means an internet website advertising the sale of
15 tickets, offering the sale of such tickets, or facilitating a secondary
16 ticket exchange.

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

19 2. (a) It shall be unlawful for any person to, with intent to mislead
20 or deceive, own, operate, or control a ticket website for an event sche-
21 duled at a place of entertainment to use a subdomain or domain name in a
22 ticket website's URL that contains:

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

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

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

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

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

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

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

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

50 § 4. This act shall take effect on the sixtieth day after it shall
51 have become a law, provided, chapter 61 of the laws of 2007 shall not
52 take effect with respect to the issuance of licenses or certificates
53 under this article by the secretary of state or department of state
54 until January 1, 2008 and regulation under this article by the commis-
55 sioners of licenses of the political subdivisions of the state shall
56 continue through December 31, 2007, and shall remain in full force and

1 effect only until and including June 30, [~~2018~~] 2021 when such act shall
2 be repealed and when, notwithstanding any other provision of law, the
3 provisions of article 25 of title G of the arts and cultural affairs
4 law, repealed by such act, shall be reinstituted; provided further that
5 section 25.11 of the arts and cultural affairs law, as added by section
6 one of this act, shall survive such repeal date. Provided, however, the
7 printing on tickets required pursuant to sections 25.07 and 25.08 of
8 article 25 of the arts and cultural affairs law, as added by this act,
9 shall not apply to tickets printed prior to enactment of such article so
10 long as notice of the higher maximum premium price and prohibition of
11 sales within one thousand five hundred feet from the physical structure
12 of the place of entertainment, where applicable, is prominently
13 displayed at the point of sale and at such place of entertainment.

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

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

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

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

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