

# STATE OF NEW YORK

8501--B

## 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 -- 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,  
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  
13 of the ticket or from a person who has a contractual right to obtain  
14 such ticket; or

15 (c) such licensee or other ticket reseller informs the purchaser in a  
16 clear and conspicuous manner and in plain language at the time of offer-  
17 ing such ticket for sale and in a written notice prior to the completion  
18 of the transaction that such licensee or other ticket reseller does not

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

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1 have possession of the ticket, has no contract to obtain the offered  
2 ticket at a certain price from a person in possession of the ticket or  
3 from a person who has a contractual right to obtain such ticket, may not  
4 be able to supply the ticket at the contracted price or range of prices,  
5 and requires such purchaser to expressly confirm prior to completing the  
6 transaction that the purchaser has read such notice.

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

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

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

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

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

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

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

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

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

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

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

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

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

50 § 25.12. Professional sports organization membership pass. Notwith-  
51 standing section 25.30 of this article, an operator of a place of enter-  
52 tainment or such operator's agent may offer paperless tickets which do  
53 not allow for independent transferability provided that such tickets are  
54 included in a membership pass at a discounted price offered by a profes-  
55 sional sports organization for seating in venues or stadiums with a  
56 fixed capacity of over thirty thousand seats that guarantees entry to a

1 specified number of events in a specified time period with seat assign-  
2 ments assigned no more than four hours prior to the commencement of the  
3 event and such seat assignment must be variable from game to game and  
4 not intended for season ticket holders. Tickets provided under such  
5 membership pass may be restricted from being transferred or resold,  
6 including through the operator or operators' agents, and must be clearly  
7 marked as such prior to initial offering or sale. Such membership pass  
8 shall not mean a subscription or season ticket package offered for sale  
9 and shall not result in the sale of more than five percent of the maxi-  
10 mum amount of all seats that will be made available at a venue for a  
11 particular event to be sold under this section.

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

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

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

22 § 25.34. Ticket websites. 1. As used in this section:

23 (a) "Ticket website" means an internet website advertising the sale of  
24 tickets, offering the sale of such tickets, or facilitating a secondary  
25 ticket exchange.

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

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

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

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

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

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

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

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

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

54 § 9. Section 4 of chapter 704 of the laws of 1991, amending the arts  
55 and cultural affairs law and chapter 912 of the laws of 1920 relating to  
56 the regulation of boxing and wrestling matches relating to tickets to

1 places of entertainment, as amended by chapter 68 of the laws of 2017,  
2 is amended to read as follows:

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

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

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

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

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

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