

STATE OF NEW YORK

1534

2019-2020 Regular Sessions

IN ASSEMBLY

January 15, 2019

Introduced by M. of A. ABINANTI, PRETLOW, JAFFEE, GALEF, COLTON, GUNTHER, MOSLEY, STECK, GOTTFRIED, CAHILL -- Multi-Sponsored by -- M. of A. COOK, SIMON -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development

AN ACT to amend the arts and cultural affairs law, in relation to resale of tickets to places of entertainment; and to repeal article 25 of such law relating thereto

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

Section 1. Article 25 of the arts and cultural affairs law is REPEALED and a new article 25 is added to read as follows:

ARTICLE 25

TICKETS TO PLACES OF ENTERTAINMENT

Section 25.01. Legislative findings.

25.03. Definitions.

25.05. Ticket speculators.

25.07. Ticket prices.

25.09. Additional printing on tickets.

25.11. Resales of tickets within buffer zone.

25.13. Licensing of ticket resellers.

25.15. Bond.

25.17. Supervision and regulation.

25.19. Posting of license or certificate.

25.21. Change of office location.

25.23. Posting of price lists; information to purchaser.

25.24. Automated ticket purchasing software.

25.25. Records of purchases and sales.

25.27. Commissions to employees of places of entertainment.

25.29. Unlawful charges in connection with tickets.

25.30. Operator prohibitions.

25.31. Suspension or revocation of licenses.

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

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25.33. Enforcement.25.35. Criminal penalties.

§ 25.01. Legislative findings. The legislature finds and declares that transactions involving tickets for admission to places of entertainment are a matter of public interest and subject to the supervision of New York and the appropriate political subdivisions of the state for the purpose of safeguarding the public against fraud, extortion, and similar abuses.

The legislature further finds that many ticket resellers advertise and sell tickets to places of entertainment within the boundaries of New York state often from locations outside the state, without adhering to the provisions of this article. The legislature objects to any claim that businesses domiciled outside New York state are exempted from this statute when selling tickets to events occurring in New York state, regardless of the territories of origin of both the buyer and seller. It is the legislature's intent that all governmental bodies charged with enforcement of this article, including the attorney general of New York state have the authority to regulate the activities of all persons reselling tickets to venues located within this state to the full extent of the state's powers under the federal and state constitutions and that this article be construed in light of this purpose.

§ 25.03. Definitions. As used in this article the term:

1. "Entertainment" 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.

2. "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.

3. "Maximum premium price" means any premium or price in excess of the established price printed or endorsed on the ticket pursuant to section 25.07 of this article, plus lawful taxes, so that the ultimate price of the purchase of any such ticket to a place of entertainment shall not exceed the sum of the established price plus twenty percent of the established price.

4. "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.

1 5. "Operator" means any person who owns, operates, or controls a place
2 of entertainment or who promotes or produces an entertainment.

3 6. "Place of entertainment" means any privately or publicly owned and
4 operated entertainment facility such as a theatre, stadium, arena, race-
5 track, museum, amusement park, or other place where performances,
6 concerts, exhibits, athletic games or contests are held for which an
7 entry fee is charged.

8 7. "Physical structure" means the place of entertainment, or in the
9 case where a structure either partially or wholly surrounds the place of
10 entertainment, such surrounding structure.

11 8. "Resale" means any sale of a ticket for entrance to a place of
12 entertainment located within the boundaries of the state of New York
13 other than a sale by the operator or the operator's agent who is
14 expressly authorized to make first sales of such tickets. Resale shall
15 include sales by any means, including in person, or by means of tele-
16 phone, mail, delivery service, facsimile, internet, email or other elec-
17 tronic means, where the venue for which the ticket grants admission is
18 located in New York state. Except as provided in sections 25.11 and
19 25.27 of this article, the term "resale" shall not apply to any person,
20 firm or corporation which purchases any tickets solely for their own use
21 or the use of their invitees, employees and agents or which purchases
22 tickets on behalf of others and resells such tickets to such invitees,
23 employees and agents or others at or less than the established price.
24 Similarly, the term "resale" shall not apply to any not-for-profit
25 organization, or person acting on behalf of such not-for-profit organ-
26 ization, as long as any profit realized from ticket reselling is wholly
27 dedicated to the purposes of such not-for-profit organization.

28 9. "Ticket" means any evidence of the right of entry to any place of
29 entertainment.

30 10. "Ticket office" means a building or other structure located other
31 than at the place of entertainment, at which the operator or the opera-
32 tor's agent offers tickets for first sale to the public.

33 § 25.05. Ticket speculators. Any person who:

34 1. Conducts on or in any street in a city or in the county of Nassau
35 the business of selling or offering for sale any ticket of admission or
36 any other evidence of the right of entry to any performance or exhibi-
37 tion in or about the premises of any theatre or concert hall, place of
38 public amusement, circus or common show; or

39 2. Solicits on or in any street in a city or in the county of Nassau
40 by words, signs, circulars or other means any person to purchase any
41 such ticket or other evidence of the right of entry; or

42 3. In or from any building, store, shop, booth, yard, garden or in or
43 from any opening, window, door, hallway, corridor or in or from any
44 place of ingress or egress to or from any building, place of business,
45 store, shop, booth, yard or garden in a city or in the county of Nassau
46 indicates, holds out or offers for sale to any person or persons on or
47 in the street by word of mouth, crying, calling, shouting or other means
48 that such ticket or other evidence of the right of entry may be
49 purchased in such building, store, shop, booth, yard, garden or any
50 other place; or

51 4. In or from any such place or places in a city or in the county of
52 Nassau solicits by word of mouth, crying, calling, shouting or other
53 means any person on or in the street to purchase any such ticket or
54 other evidence of the right of entry, is guilty of a misdemeanor.

55 § 25.07. Ticket prices. 1. Every operator of a place of entertainment
56 shall, if a price be charged for admission thereto, print or endorse on

1 the face of each such ticket the established price. Such operator shall
2 likewise be required to print or endorse on each ticket the maximum
3 premium price at which such ticket or other evidence of the right of
4 entry may be resold or offered for resale. It shall be unlawful for any
5 person, firm or corporation to resell or offer to resell any ticket to
6 any place of entertainment for more than the maximum premium price.

7 2. Notwithstanding any other provision of law, any person, firm or
8 corporation, regardless of whether or not licensed under this article,
9 that resells tickets or facilitates the resale or resale auction of
10 tickets between independent parties by any means, must guarantee to each
11 purchaser of such resold tickets that the person, firm or corporation
12 will provide a full refund of the amount paid by the purchaser (includ-
13 ing, but not limited to, all fees, regardless of how characterized) if
14 any of the following occurs: (a) the event for which such ticket has
15 been resold is cancelled, provided that if the event is cancelled then
16 actual handling and delivery fees need not be refunded as long as such
17 previously disclosed guarantee specifies that such fees will not be
18 refunded; (b) the ticket received by the purchaser does not grant the
19 purchaser admission to the event described on the ticket, for reasons
20 that may include, without limitation, that the ticket is counterfeit or
21 that the ticket has been cancelled by the issuer due to non-payment, or
22 that the event described on the ticket was cancelled for any reason
23 prior to purchase of the resold ticket, unless the ticket is cancelled
24 due to an act or omission by such purchaser; or (c) the ticket fails to
25 conform to its description as advertised unless the buyer has pre-ap-
26 proved a substitution of tickets.

27 3. Prior to the payment of a refund it shall be the obligation of the
28 seller and purchaser to first make a good faith effort to remedy any
29 disputes where the seller and purchaser have agreed to terms established
30 by the licensee or website manager for the disposition of disputes as a
31 condition to facilitate the transaction.

32 § 25.09. Additional printing on tickets. Every operator of a place of
33 entertainment having a permanent seating capacity in excess of five
34 thousand persons shall, if a price be charged for admission thereto,
35 print or endorse in a clear and legible manner on each ticket, "This
36 ticket may not be resold within one thousand five hundred feet from the
37 physical structure of this place of entertainment under penalty of law".

38 § 25.11. Resales of tickets within buffer zone. 1. No person, firm,
39 corporation or not-for-profit organization, whether or not domiciled,
40 licensed or registered within the state, shall resell, offer to resell
41 or solicit the resale of any ticket to any place of entertainment having
42 a permanent seating capacity in excess of five thousand persons within
43 one thousand five hundred feet from the physical structure of such place
44 of entertainment, or a ticket office.

45 2. No person, firm, corporation or not-for-profit organization, wheth-
46 er or not domiciled, licensed or registered within the state, shall
47 resell, offer to resell or solicit the resale of any ticket to any place
48 of entertainment having a permanent seating capacity of five thousand or
49 fewer persons within five hundred feet from the physical structure or
50 ticket office of such place of entertainment, provided however that
51 current licensees and those seeking a license under this article are
52 exempt from such buffer zone when operating out of a permanent physical
53 structure.

54 3. Notwithstanding subdivisions one and two of this section, an opera-
55 tor may designate an area within the property line of such place of
56 entertainment for the lawful resale of tickets only to events at such

1 place of entertainment by any person, firm, corporation or not-for-pro-
2 fit organization, whether or not domiciled, licensed or registered with-
3 in the state.

4 4. For purposes of this section, "ticket office" means a building or
5 other structure located other than at the place of entertainment, at
6 which the operator or the operator's agent offers tickets for first sale
7 to the public.

8 § 25.13. Licensing of ticket resellers. 1. No person, firm or corpo-
9 ration shall resell or engage in the business of reselling any tickets
10 to a place of entertainment or operate an internet website or any other
11 electronic service that provides a mechanism for two or more parties to
12 participate in a resale transaction or that facilitates resale trans-
13 actions by the means of an auction, or own, conduct or maintain any
14 office, branch office, bureau, agency or sub-agency for such business
15 without having first procured a license or certificate for each location
16 at which business will be conducted from the secretary of state. Any
17 operator or manager of a website that serves as a platform to facilitate
18 resale, or resale by way of a competitive bidding process, solely
19 between third parties and does not in any other manner engage in resales
20 of tickets to places of entertainment shall be exempt from the licensing
21 requirements of this section. The department of state shall issue and
22 deliver to such applicant a certificate or license to conduct such busi-
23 ness and to own, conduct or maintain a bureau, agency, sub-agency,
24 office or branch office for the conduct of such business on the premises
25 stated in such application upon the payment by or on behalf of the
26 applicant of a fee of five thousand dollars and shall be renewed upon
27 the payment of a like fee annually. Such license or certificate shall
28 not be transferred or assigned, except by permission of the secretary of
29 state. Such license or certificate shall run to the first day of January
30 next ensuing the date thereof, unless sooner revoked by the secretary of
31 state. Such license or certificate shall be granted upon a written
32 application setting forth such information as the secretary of state may
33 require in order to enable him or her to carry into effect the
34 provisions of this article and shall be accompanied by proof satisfac-
35 tory to the secretary of state of the moral character of the applicant.

36 2. No operator's agent shall sell or convey tickets to any secondary
37 ticket reseller owned or controlled by the operator's agent.

38 2-a. No ticket seller shall resell any ticket during the first forty-
39 eight hours after such ticket is first available for primary sale;
40 provided that such restriction shall not apply with respect to season
41 tickets or bundled series tickets. No ticket seller shall sell or resell
42 any ticket that such seller does not own at the time of the offer or
43 sale. The provisions of this subdivision shall not apply to venues
44 containing less than six thousand seats.

45 3. The operator or the promoter shall determine whether a seat for
46 which a ticket is for sale has an obstructed view, and shall disclose
47 such obstruction. Every sale or resale of such ticket shall include a
48 disclosure of such obstructed view.

49 4. If any licensee under this section demonstrates that their business
50 provides a service to facilitate ticket transactions without charging
51 any fees, surcharges or service charges above the established price, on
52 every transaction, except a reasonable and actual charge for the deliv-
53 ery of tickets, then the fees for licensing under this section shall be
54 waived.

55 § 25.15. Bond. The secretary of state shall require the applicant for
56 a license to file with the application therefor a bond in due form to

1 the people of New York in the penal sum of twenty-five thousand dollars,
2 with two or more sufficient sureties or a duly authorized surety compa-
3 ny, which bond shall be approved by the secretary of state. Each such
4 bond shall be conditioned that the obligor will not be guilty of any
5 fraud or extortion, will not violate directly or indirectly any of the
6 provisions of this article or any of the provisions of the license or
7 certificate provided for in this article, will comply with the
8 provisions of this article and will pay all damages occasioned to any
9 person by reason of any misstatement, misrepresentation, fraud or deceit
10 or any unlawful act or omission of such obligor, his or her agents or
11 employees, while acting within the scope of their employment, made,
12 committed or omitted in connection with the provisions of this article
13 in the business conducted under such license or caused by any other
14 violation of this article in carrying on the business for which such
15 license is granted. One or more recoveries or payments upon such bond
16 shall not vitiate the same but such bond shall remain in full force and
17 effect, provided, however, that the aggregate amount of all such recov-
18 eries or payments shall not exceed the penal sum thereof. Before the
19 secretary shall draw upon such bond, the secretary shall issue a deter-
20 mination in writing which shall include the basis of such action. The
21 secretary shall notify in writing the licensee of any such determination
22 and shall afford the licensee an opportunity to respond within twenty
23 days of the receipt of such determination. In no event may the bond be
24 drawn upon in less than twenty-five days after the service of a determi-
25 nation to the licensee. Such written notice may be served by delivery
26 thereof personally to the licensee, or by certified mail to the last
27 known business address of such licensee. Only upon such determination of
28 the secretary shall moneys be withdrawn from the bond. Upon the
29 commencement of any action or actions against the surety upon any such
30 bond for a sum or sums aggregating or exceeding the amount of such bond
31 the secretary of state shall require a new and additional bond in like
32 amount as the original one, which shall be filed with the department of
33 state within thirty days after the demand therefor. Failure to file
34 such bond within such period shall constitute cause for the revocation
35 of the license pursuant to section 25.31 of this article theretofore
36 issued to the licensee upon whom such demand shall have been made. Any
37 suit or action against the surety on any bond required by the provisions
38 of this section shall be commenced within one year after the cause of
39 action shall have accrued.

40 § 25.17. Supervision and regulation. The secretary of state shall have
41 power, upon complaint of any person or on his or her own initiative, to
42 investigate the business, business practices and business methods of any
43 such licensee which relates to this state's or any other state's ticket
44 resale law, or in regards to ticket resale practices generally. Each
45 such licensee shall be obliged, on the reasonable request of the secre-
46 tary of state, to supply such information as may be required concerning
47 his or her business, business practices or business methods provided
48 that the information requested is related to the complaint which forms
49 the basis of such investigation. Each operator of any place of enter-
50 tainment shall also be obliged, on request of the secretary of state, to
51 supply such information as may be required concerning the business,
52 business practices or business methods of any licensee provided that the
53 information requested is related to the complaint which forms the basis
54 of such investigation. The secretary of state shall have the power to
55 promulgate such rules and regulations as may be deemed necessary for the
56 enforcement of this article.

1 § 25.19. Posting of license or certificate. Immediately upon the
2 receipt of the license or certificate issued pursuant to this article by
3 the secretary of state, the licensee named therein shall cause such
4 license to be posted and at all times displayed in a conspicuous place
5 in the principal office of such business for which it is issued, and
6 shall cause the certificate for each branch office, bureau, agency or
7 sub-agency to be posted and at all times displayed in a conspicuous
8 place in such branch office, bureau, agency or sub-agency for which it
9 is issued, so that all persons visiting such principal office, branch
10 office, bureau, agency or sub-agency may readily see the same, and if
11 such licensee does business on the internet, to provide a hyperlink
12 displayed in a conspicuous manner to a scanned copy of such license.
13 Such license or certificate shall at all reasonable times be subject to
14 inspection by the secretary of state or his or her authorized inspec-
15 tors. It shall be unlawful for any person, firm, partnership or corpo-
16 ration holding such license or certificate to post such license or
17 certificate or to permit such certificate to be posted upon premises
18 other than those described therein or to which it has been transferred
19 pursuant to the provisions of this article or unlawfully to alter,
20 deface or destroy any such license or certificate.

21 § 25.21. Change of office location. In the event of a change in the
22 location of the premises covered by license or certificate issued under
23 this article, the department of state shall be duly notified in writing
24 of such change within twenty-four hours thereafter. The secretary of
25 state shall cause to be written or stamped across the face of such
26 license or certificate a statement to the effect that the holder of such
27 license has removed on the date stated in such written notice such prin-
28 icipal office, branch office, bureau, agency or sub-agency from the place
29 originally described in such license or certificate to the place
30 described in such written notice, and such license or certificate with
31 the endorsement thereon shall be returned to the licensee named therein.
32 No tickets shall be sold at any place other than places for which a
33 license or certificate provided for by this article has been issued and
34 posted.

35 § 25.23. Posting of price lists; information to purchaser. 1. In
36 every principal office or branch office, bureau, agency or sub-agency of
37 any licensee under this article, there shall be conspicuously posted and
38 at all times displayed a price list showing the established price
39 charged by the operator of the place of entertainment for which a ticket
40 is being sold by such licensee, together with the price being charged by
41 such licensee for the resale of such ticket, so that all persons visit-
42 ing such place may readily see the same. The licensee shall also on
43 request furnish each purchaser of a ticket with a receipt showing the
44 same information. Further, if the licensee conducts business through the
45 use of the internet, the same price list, or hyperlink to the same,
46 shall be conspicuously displayed on the internet page on which tickets
47 are accessed. In addition the licensee shall publish in a conspicuous
48 place, or hyperlink to on the internet a statement clearly detailing the
49 required guarantees required by section 25.07 of this article.

50 2. (a) An online resale marketplace shall post a clear and conspicuous
51 notice on the website of such online resale marketplace that the website
52 is for the secondary sale of tickets and shall require that the user
53 confirm having read such notice before starting any transaction. No
54 operator or its agent shall transfer a prospective ticket purchaser
55 through any means to a secondary seller without providing a clear and
56 conspicuous disclosure appropriate for the selling platform that informs

1 the prospective purchaser that the ticket offered is in the secondary
2 market.

3 (b) No operator or operator's agent or any person who is employed by
4 such operator or operator's agent shall resell or engage in the business
5 of reselling any tickets of admission or any other evidence of the right
6 of entry to a theatre, place of amusement or entertainment, or other
7 places where public exhibitions, games, contests or performances are
8 held. The provisions of this paragraph shall not apply to donations made
9 by the operator or operator's agent, when there is no compensation
10 provided, to individuals or charitable organizations where the tickets
11 are for personal use or charitable purposes.

12 § 25.24. Automated ticket purchasing software. 1. The term "automated
13 ticket purchasing software" shall mean, any machine, device, computer
14 program or computer software that navigates or runs automated tasks on
15 retail ticket purchasing websites in order to bypass security measures
16 to purchase tickets.

17 2. It shall be unlawful for any person to utilize automated ticket
18 purchasing software to purchase tickets.

19 3. Any person who knowingly utilizes automated ticket purchasing soft-
20 ware in order to bypass security measures to purchase tickets shall be
21 subject to a civil penalty in an amount of no less than five hundred
22 dollars and no more than one thousand dollars for each such violation
23 and shall forfeit all profits made from the sale of any such unlawfully
24 obtained tickets.

25 4. Any person who intentionally maintains any interest in or maintains
26 any control of the operation of automated ticket purchasing software to
27 bypass security measures to purchase tickets shall be subject to a civil
28 penalty in an amount of no less than seven hundred fifty dollars and no
29 more than one thousand five hundred dollars for each such violation and
30 shall forfeit all profits made from the sale of any such unlawfully
31 obtained tickets.

32 5. Any person who is subject to a civil penalty under this section and
33 has been assessed a penalty under this section in the previous five
34 years shall be guilty of a violation and may be fined no less than one
35 thousand dollars and no more than five thousand dollars for each such
36 violation and shall forfeit all profits from the sale of any such unlaw-
37 fully obtained tickets. In addition, a person convicted of a violation
38 under this section may be required to forfeit any and all equipment used
39 in the unlawful purchasing of tickets.

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

43 7. In addition to the power given to the attorney general to enforce
44 the provisions of this section, any place of entertainment, as defined
45 by section 23.03 of this chapter, or any aggrieved party that has been
46 injured by wrongful conduct prescribed by this section may bring an
47 action to recover all actual damages suffered as a result of any of such
48 wrongful conduct. The court in its discretion may award damages up to
49 three times the amount of actual damages. The court may enjoin the
50 respondent from any and all activity prohibited under this section. The
51 court may also award reasonable attorney's fees and costs. Any penalty
52 or recovery authorized by this section may be recovered in a class
53 action.

54 § 25.25. Records of purchases and sales. 1. Every licensee shall at
55 all times keep full and accurate sets of records showing: (a) the prices
56 at which all tickets have been bought and sold by such licensee; and (b)

1 the names and addresses of the person, firm or corporation from whom
2 they were bought. Operators offering for initial sale tickets by means
3 of an auction shall maintain a record of the price when known and the
4 number of tickets and types of seats offered through auction. These
5 records shall be made available upon request to the state attorney
6 general, the secretary of state, or other governmental body with the
7 express authority to enforce any section of this article; provided,
8 however, that the records required to be maintained by this section
9 shall be considered proprietary in nature and shall be governed by the
10 protections set forth in subdivision five of section eighty-nine of the
11 public officers law. These records shall be retained for a period of not
12 less than ten years.

13 2. Twice annually, on June thirtieth and December thirty-first, every
14 licensee that resells tickets or facilitates the resale or resale
15 auction of tickets between independent parties by any and all means
16 shall report to the department of state the total number of, and average
17 resale or average final resale auction price of, all tickets to each
18 ticketed event, provided, however, that repeat performances of a single
19 event, and multiple events that are part of a season-long performance
20 shall be treated as a single event for the purposes of the reporting
21 requirement of this subdivision. The information required to be reported
22 by this section shall be considered proprietary in nature and shall be
23 governed by the protections set forth in subdivision five of section
24 eighty-nine of the public officers law, and shall be used exclusively
25 for analytical purposes by the consumer protection board.

26 3. Every operator of a place of entertainment shall make public the
27 percentage of tickets to a place of entertainment that will be made
28 available to the public. At the time of the initial sale of tickets, the
29 operator shall make public the total number and locations of tickets,
30 and the percentage of tickets sold at such initial public sale.

31 § 25.27. Commissions to employees of places of entertainment. No
32 licensee, other person or entity, whether or not domiciled, licensed or
33 registered within the state, shall pay to any officer or employee of any
34 place of entertainment, any commission, gratuity or bonus in connection
35 with the sale, delivery or payment of tickets or in connection with the
36 business being done by such licensee, other person or entity, whether or
37 not domiciled, licensed or registered within the state, in tickets of
38 admission to such place.

39 § 25.29. Unlawful charges in connection with tickets. 1. No operator
40 of any place of entertainment, or his or her agent, representative,
41 employee or licensee shall, if a price be charged for admission thereto,
42 exact, demand, accept or receive, directly or indirectly, any premium or
43 price in excess of the established price plus lawful taxes whether
44 designated as price, gratuity or otherwise; provided, however: (a) noth-
45 ing in this article shall be construed to prohibit a reasonable service
46 charge by the operator or agents of the operator for special services,
47 including but not limited to, sales away from the box office, credit
48 card sales or delivery; and (b) nothing in this article shall be
49 construed to prohibit an operator or its agent from offering for initial
50 sale tickets by means of an auction.

51 2. In any prosecution under this section the attorney general shall
52 have concurrent jurisdiction with any district attorney and in any such
53 prosecution he or she or his or her deputy shall exercise all the powers
54 and perform all the duties which the district attorney would otherwise
55 be authorized to exercise or perform therein.

1 § 25.30. Operator prohibitions. 1. A ticket is a license, issued by
2 the operator of a place of entertainment, for admission to the place of
3 entertainment at the date and time specified on the ticket, subject to
4 the terms and conditions as specified by the operator. Notwithstanding
5 any other provision of law to the contrary, it shall be prohibited for
6 any operator of a place of entertainment, or operator's agent, to:

7 (a) restrict by any means the resale of any tickets included in a
8 subscription or season ticket package as a condition of purchase, as a
9 condition to retain such tickets for the duration of the subscription or
10 season ticket package agreement, or as a condition to retain any
11 contractually agreed upon rights to purchase future subscription or
12 season ticket packages that are otherwise conferred in the subscription
13 or season ticket agreement;

14 (b) deny access to a ticket holder who possesses a resold subscription
15 or season ticket to a performance based solely on the grounds that such
16 ticket has been resold; or

17 (c) employ a form of paperless ticketing that is not readily transfer-
18 able to another customer through a transaction that is independent of
19 the operator or operator's agent, unless a purchaser is given the option
20 at the time of first public sale to purchase the same tickets at the
21 same established price in some other form, including, but not limited
22 to, paper tickets, that is readily transferable through a transaction
23 that is independent of the operator or operator's agent, provided howev-
24 er, that nothing in this paragraph shall prohibit the operator or opera-
25 tor's agent from imposing a nominal surcharge on paperless tickets.

26 2. Additionally, nothing in this article shall be construed to prohib-
27 it an operator of a place of entertainment from maintaining and enforc-
28 ing any policies regarding conduct or behavior at or in connection with
29 their venue. Further, nothing in this article shall be construed to
30 prohibit an operator of a place of entertainment of six thousand seats
31 or less, or such operator's agent, from restricting the resale of tick-
32 ets that are offered at a promotional or discounted price, for free, or
33 for persons with disabilities. An operator shall be permitted to revoke
34 or restrict season tickets for reasons relating to violations of venue
35 policies, including but not limited to, attempts by two or more persons
36 to gain admission to a single event with both the cancelled tickets
37 originally issued to a season ticket holder and those tickets re-issued
38 as part of a resale transaction, and to the extent the operator may deem
39 necessary for the protection of the safety of patrons or to address
40 fraud or misconduct.

41 3. No operator or operator's agent or any person who is employed by
42 such operator or operator's agent shall resell or engage in the business
43 of reselling any tickets of admission or any other evidence of the right
44 of entry to a theatre, place of amusement or entertainment, or other
45 places where public exhibitions, games, contests or performances are
46 held. This provision shall not apply to donations made by the operator
47 or operator's agent, when there is no compensation provided, to individ-
48 uals or charitable organizations where the tickets are for personal use
49 or charitable purposes.

50 4. The operator or the promoter shall determine whether a seat for
51 which a ticket is for sale has an obstructed view, and shall disclose
52 such obstruction. If the operator or promoter discloses that a seat for
53 which a ticket is for sale has an obstructed view, it shall be the
54 responsibility of the secondary ticket reseller to disclose such
55 obstruction upon the resale of such ticket. Such obstruction shall not
56 include an obstruction of view caused by a person, or persons, seated in

1 an adjacent seat, or seats, or occupying an aisle; or an obstruction of
2 view caused by an object or objects placed upon an adjacent seat or
3 seats, or in an aisle; or an obstruction of view that is de minimus or
4 transitory in nature.

5 § 25.31. Suspension or revocation of licenses. 1. Powers of department
6 of state. The department of state may deny an application or may revoke
7 or suspend a license issued pursuant to this article, impose a fine not
8 exceeding one thousand dollars per violation payable to the department
9 of state, issue a reprimand and order restitution upon proof to the
10 satisfaction of the secretary of state that the holder thereof has: (a)
11 violated any provision of this article or any rule or regulation adopted
12 hereunder; (b) made a material misstatement in the application for such
13 license; (c) engaged in fraud or fraudulent practices; (d) demonstrated
14 untrustworthiness or incompetency; or (e) been convicted of a serious
15 offense or misdemeanor which, in the discretion of the secretary, bears
16 such a relationship to licensure as to constitute a bar to licensure or
17 renewal.

18 2. Determination of department of state. In the event that the depart-
19 ment of state shall revoke or suspend any such license, or impose any
20 fine or reprimand on the holder thereof, its determination shall be in
21 writing and officially signed. The original of such determination, when
22 so signed, shall be filed with the department of state and copies there-
23 of shall be served personally or by certified mail upon the licensee or
24 applicant and addressed to the principal place of business of such
25 licensee.

26 3. No license shall be suspended or revoked nor shall any fine or
27 reprimand be imposed, nor shall any application be denied, until after
28 an opportunity for a hearing had before an officer or employee of the
29 department of state designated for such purpose by the secretary of
30 state upon notice to the licensee or applicant of at least ten days. The
31 notice shall be served by certified mail and shall state the date and
32 place of hearing and set forth the ground or grounds constituting the
33 charges against the licensee or the reasons for the proposed denial of
34 the application. The licensee or applicant shall have the opportunity to
35 be heard in his or her defense either in person or by counsel and may
36 produce witnesses and testify on his or her behalf. A stenographic
37 record of the hearing shall be taken and preserved. The hearing may be
38 adjourned from time to time. The person conducting the hearing shall
39 make a written report of his or her findings and a recommendation to the
40 secretary of state for decision. The secretary of state shall review
41 such findings and the recommendation and, after due deliberation, shall
42 issue an order accepting, modifying or rejecting such recommendation and
43 dismissing the charges or suspending or revoking the license or imposing
44 a fine or reprimand upon the licensee. For the purpose of this article,
45 the secretary of state or any officer or employee of the department of
46 state designated by him or her, may administer oaths, take testimony,
47 subpoena witnesses and compel the production of books, papers, records
48 and documents deemed pertinent to the subject of investigation.

49 § 25.33. Enforcement. 1. The attorney general shall establish a toll-
50 free telephone number and accept through its website allegations from
51 the public of improper ticket acquisition, distribution or sales prac-
52 tices, including deceptive practices, corruption, fraud or irregular
53 practices with respect to ticket sales for events in New York state or
54 with respect to tickets sold to residents of the state. The attorney
55 general shall prominently display on its website information regarding
56 the hotline. The attorney general shall investigate as appropriate all

1 credible allegations received regarding improper ticket acquisition,
2 distribution or sales practices.

3 2. Notwithstanding any right of action granted to any governmental
4 body pursuant to this chapter, any person who has been injured by reason
5 of a violation of this article may bring an action in his or her own
6 name to enjoin such unlawful act, an action to recover his or her actual
7 damages or fifty dollars, whichever is greater, or both such actions.
8 The court may award reasonable attorney's fees to a prevailing plain-
9 tiff.

10 § 25.35. Criminal penalties. 1. (a) Any person, firm, corporation or
11 other entity, whether or not domiciled, licensed or registered within
12 the state, which is convicted of violating section 25.27 or 25.29 of
13 this article shall be guilty of a class A misdemeanor punishable by a
14 fine not to exceed two thousand dollars or four times the amount of the
15 defendant's gain, to be determined pursuant to the procedures set forth
16 in section 400.30 of the criminal procedure law, whichever is greater,
17 or by a term of imprisonment not to exceed one year, or by both such
18 fine and imprisonment.

19 (b) Any person, firm, corporation or other entity, whether or not
20 domiciled, licensed, or registered within the state, which is convicted
21 of violating section 25.27 or 25.29 of this article, when the value of
22 the commission, gratuity, bonus, premium or price unlawfully paid or
23 accepted exceeds one thousand dollars for an event as defined in section
24 23.03 of this chapter, whether or not such payment is for tickets to a
25 single performance of that event, shall be guilty of a class E felony,
26 punishable by a term of imprisonment in accordance with the penal law,
27 or by a fine of ten thousand dollars or four times the amount of the
28 defendant's gain, to be determined pursuant to the procedures set forth
29 in section 400.30 of the criminal procedure law, whichever is greater,
30 or by both such fine and imprisonment.

31 2. Any person, firm or corporation which is convicted of violating
32 section 25.05 of this article shall be guilty of a misdemeanor punisha-
33 ble by a term of imprisonment not to exceed one year or by a fine not to
34 exceed one thousand five hundred dollars on the first conviction; three
35 thousand dollars on the second conviction; and four thousand dollars, on
36 each subsequent conviction or by both such fine and imprisonment.

37 3. Any person, firm or corporation which is convicted of knowingly
38 violating subdivision one of section 25.07 or section 25.13 or section
39 25.15 of this article shall be guilty of a misdemeanor punishable by a
40 term of imprisonment not to exceed one hundred eighty days or by a fine
41 not to exceed one thousand dollars on the first conviction; two thousand
42 dollars on the second conviction; and four thousand dollars on each
43 subsequent conviction or by both such fine and imprisonment.

44 4. Notwithstanding any other penalty which may be imposed for any
45 other violation of this article, any person, firm or corporation which
46 is convicted of violating section 25.11 of this article shall be guilty
47 of a violation punishable by a fine not to exceed four hundred dollars
48 on the first conviction; five hundred dollars on the second conviction;
49 and one thousand dollars on each subsequent conviction.

50 5. Any person, firm or corporation which is convicted of violating
51 section 25.05 of this article shall be guilty of a violation punishable
52 by a fine not to exceed one thousand dollars.

53 6. Any person, firm or corporation which is convicted of violating any
54 other section of this article shall be guilty of a violation punishable
55 by a fine not to exceed five hundred dollars.

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

6 § 2. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after July 1, 2019.