STATE OF NEW YORK

10500

IN ASSEMBLY

May 30, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. O'Donnell) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the arts and cultural affairs law, in relation to instituting civil penalties for utilizing ticket purchasing software (Part A); to amend the arts and cultural affairs law, in relation to requiring ticket prices to be disclosed prior to a customer purchasing such ticket and requiring such price to remain the same during the purchase process (Part B); to amend the arts and cultural affairs law, in relation to prohibiting the resale of a ticket if such ticket was initially offered to the public at no charge (Part C); to amend the arts and cultural affairs law, in relation to requiring online resale marketplaces to clearly and conspicuously disclose the established price charged by the operator of a place of entertainment that is printed or endorsed on the face of each ticket (Part D); to amend the arts and cultural affairs law, in relation to allowing reasonable and actual costs to be charged for the physical delivery of certain tickets (Part E); and 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 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 of places of entertainment, in relation to extending the effectiveness thereof (Part F)

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

Section 1. This act enacts into law components of legislation that relate to live event ticket sales. Each component is wholly contained within a Part identified as Parts A through F. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found, unless noted otherwise.

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

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PART A

Section 1. Paragraph (a) of subdivision 3, and subdivisions 4, 5 and 6 of section 25.24 of the arts and cultural affairs law, as amended by chapter 472 of the laws of 2016, are amended to read as follows:

(a) Any person, firm, corporation or other entity who knowingly utilizes ticket purchasing software in order to purchase tickets shall be subject to a civil penalty in an amount of no less than [~~five hundred~~] one thousand dollars and no more than [~~one~~] two thousand five hundred dollars for each such violation and shall forfeit all profits made from the sale of any such unlawfully obtained tickets.

4. Any person, firm, corporation or other entity who intentionally maintains any interest in or maintains any control of the operation of ticket purchasing software to purchase tickets shall be subject to a civil penalty in an amount of no less than [~~seven hundred fifty~~] one thousand dollars and no more than [~~one~~] two thousand five hundred dollars for each such violation and shall forfeit all profits made from the sale of any such unlawfully obtained tickets.

5. Any person, firm, corporation or other entity who knowingly resells or offers to resell a ticket that such person, firm, corporation or other entity knows was obtained using ticket purchasing software and was not obtained for their own use or the use of their invitees, employees, or agents shall be subject to a civil penalty in an amount of no less than [~~five hundred~~] one thousand dollars and no more than [~~one~~] two thousand five hundred dollars for each such violation and shall forfeit all profits made from the sale of any such unlawfully obtained ticket.

6. Any person who is subject to a civil penalty under this section and has been assessed a penalty under this section in the previous three years shall be guilty of a violation and may be fined no less than [~~one~~] two thousand dollars and no more than [~~five~~] ten thousand dollars for each such violation and shall forfeit all profits from the sale of any such unlawfully obtained tickets. In addition, a person convicted of a violation under this section may be required to forfeit any and all equipment used in the unlawful purchasing of tickets.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law.

PART B

Section 1. Subdivision 4 of section 25.07 of the arts and cultural affairs law, as added by chapter 110 of the laws of 2018, is amended to read as follows:

4. Every operator or operator's agent of a place of entertainment, any licensee or other ticket reseller, or platform that facilitates the sale or resale of tickets shall disclose the total cost of the ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket, and disclose in a clear and conspicuous manner [~~the total price of the ticket and~~] the portion of the ticket price stated in dollars that represents a service charge, or any other fee or surcharge to the purchaser. Such disclosure of the total cost and fees shall be displayed in the ticket listing prior to the ticket being selected for purchase. Disclosures of subtotals, fees, charges, and any other component of the total price shall not be false or misleading, and may not be presented more prominently or in the same or larger size as the total price. The price of the ticket shall not increase during the purchase process, excluding reasonable fees for the delivery of non-electronic tickets

based on the delivery method selected by the purchaser, which shall be disclosed prior to accepting payment therefor. Nothing in this subdivision shall be construed to nullify, expand, restrict, or otherwise amend or modify now existing laws or regulations outside of this article, and nothing in this subdivision shall be construed as making lawful any fraudulent, deceptive, or illegal act or practice that is unlawful pursuant to now existing laws or regulations.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law provided, however, that the amendments to subdivision 4 of section 25.07 of the arts and cultural affairs law made by section one of this act shall not affect the repeal of such section and shall be deemed to repeal therewith.

PART C

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

§ 25.06. Resale of tickets issued at no charge. Notwithstanding an individual's ability to transfer a ticket to another party, 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 such ticket was initially offered to the public at no charge and access to such tickets is not contingent upon providing any form of monetary consideration.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that the amendments to article 25 of the arts and cultural affairs law made by section one of this act shall not affect the repeal of such article and shall be deemed repealed therewith.

PART D

Section 1. Subdivision 2 of section 25.23 of the arts and cultural affairs law, as added by chapter 110 of the laws of 2018, is amended to read as follows:

2. An online resale marketplace shall post a clear and conspicuous notice on the website that the website is for the secondary sale of a ticket, that the price of such ticket offered for sale may exceed the established price and shall also state the refund policy of the platform in connection with the cancellation or postponement of an event. An online resale marketplace shall be required to clearly and conspicuously disclose the established price charged by the operator of a place of entertainment that is printed or endorsed on the face of each ticket in accordance with section 25.07 of this article prior to the user completing any transaction. An online resale marketplace shall require that the user confirm having read such [~~notice~~] notices before completing any transaction. For the purposes of this section, an "online resale marketplace" means any operator or manager of a website or other electronic service that resells tickets or serves as a platform to facilitate resale, or resale by way of a competitive bidding process.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that the amendments to section 25.23 of the arts and cultural affairs law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART E

Section 1. Section 25.29 of the arts and cultural affairs law, as amended by chapter 61 of the laws of 2007 and subdivision 1 as amended by chapter 151 of the laws of 2010, is amended to read as follows:

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

2. **A reasonable and actual cost for the physical delivery of tickets may be charged by a seller or reseller based on the method of delivery selected by the purchaser; provided, however, that no delivery fee shall be charged by a seller or reseller for tickets delivered electronically or tickets that may be printed independently by the purchaser.**

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

§ 2. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that the amendments to section 25.29 of the arts and cultural affairs law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART F

Section 1. Section 4 of 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, as amended by chapter 148 of the laws of 2021, is amended to read as follows:

§ 4. This act shall take effect on the sixtieth day after it shall have become a law, provided, chapter 61 of the laws of 2007 shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and shall remain in full force and effect only until and including June 30, [~~2022~~] **2025** when such act shall be repealed and when, notwithstanding any other provision of law, the provisions of article 25 of title G of the arts and cultural affairs law, repealed by such act, shall be reinstituted; provided further that section 25.11 of the arts and cultural affairs law, as added by section one of this act, shall survive such repeal date. Provided, however, the printing on tickets required pursuant to sections 25.07 and 25.08 of article 25 of the arts and cultural affairs law, as added by this act, shall not apply to tickets printed prior to enactment of such article so

long as notice of the higher maximum premium price and prohibition of sales within one thousand five hundred feet from the physical structure of the place of entertainment, where applicable, is prominently displayed at the point of sale and at such place of entertainment.

§ 2. Section 11 of chapter 151 of the laws of 2010, amending the arts and cultural affairs law relating to resale of tickets to places of entertainment, as amended by chapter 148 of the laws of 2021, is amended to read as follows:

§ 11. Notwithstanding the provisions of article 5 of the general construction law, if this act shall take effect after May 15, 2010, the provisions of article 25 of the arts and cultural affairs law, except section 25.11 are hereby revived and shall continue in full force and effect as they existed on May 15, 2010 through June 30, [~~2022~~] **2025** when upon such date such provisions shall expire and be deemed repealed.

§ 3. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately; provided, however, that the applicable effective date of Parts A through F of this act shall be as specifically set forth in the last section of such Parts.