STATE OF NEW YORK

6716--B

2021-2022 Regular Sessions

IN SENATE

May 12, 2021

Introduced by Sens. SKOUFIS, KRUEGER, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- 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 instituting civil penalties for utilizing ticket purchasing software (Part A); to amend the arts and cultural affairs law, in relation to establishing an annual professional reseller renewal fee and requiring professional ticket resellers to provide their New York state ticket reseller license number (Part B); to amend the arts and cultural affairs law, in relation to providing criteria for when a purchaser may obtain a full refund of the amount paid for a ticket (Part C); to amend the arts and cultural affairs law, in relation to requiring online resale marketplaces to post the established ticket price as part of each advertisement or offer for the resale of tickets (Part D); to amend the arts and cultural affairs law, in relation to resale requirements for tickets (Part E); 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 F); to amend the arts and cultural affairs law, in relation to unlawful charges in connection with tickets (Part G); 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 H); to amend the arts and cultural affairs law, in relation to the availability of tickets for sale to the general public (Part I); to amend the arts and cultural affairs law, in relation to minimum seating capacity requirements for a professional sports organization membership pass (Part J); to amend the general obligations law, in relation to prohibiting exclusivity clauses in contracts between operators of places of

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

LBD11376-12-2

entertainment and primary ticket vendors (Part K); to amend the arts and cultural affairs law, in relation to the resale of tickets included in a subscription or season ticket package (Part L); 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 M)

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 M. 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.

PART A

Section 1. Paragraph (a) of subdivision 3, and subdivisions 4, 5, 6 and 10 of section 25.24 of the arts and cultural affairs law, paragraph (a) of subdivision 3, and subdivisions 4, 5 and 6 as amended by chapter 472 of the laws of 2016 and subdivision 10 as added by chapter 110 of the laws of 2018, 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.

10. [~~Any person, firm, corporation or other entity who is a licensee under this article who is adjudicated guilty of the following acts may lose their license and may be barred from licensure under this article for a period not to exceed three years to be determined by the department of state pursuant to section 25.31 of this article if such licensee: (a) knowingly utilized ticket purchasing software in order to purchase tickets; (b) knowingly resold or offered to resell a ticket that such licensee knew was obtained using ticket purchasing software; or (c) intentionally maintained any interest in or maintained any control of the operation of ticket purchasing software to purchase tickets.~~] (a) Any person, firm, corporation, or other entity who is a licensee under this article who is adjudicated guilty of the following acts shall lose their license and shall be permanently barred from licensure under this article pursuant to section 25.31 of this article if such licensee: (i) knowingly utilized ticket purchasing software in order to purchase tickets; (ii) knowingly resold or offered to resell a ticket that such licensee knew was obtained using ticket purchasing software; or (iii) intentionally maintained any interest in or maintained any control of the operation of ticket purchasing software to purchase tickets.

(b) Failure to notify the attorney general of such acts pursuant to this article shall result in a violation and such person, firm, corporation or other entity who fails to make such notification shall be subject to a civil penalty in an amount of no less than five hundred dollars and no more than one thousand dollars per ticket purchased or resold utilizing such ticket purchasing software.

(c) Any person, firm, corporation or other entity who notifies the attorney general of such acts pursuant to this article, where the attorney general takes action pursuant to the notification which results in a monetary penalty assessed under a violation pursuant to this article, shall be entitled to five percent of the final penalty collected as a result of such violation.

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

PART B

Section 1. Section 25.03 of the arts and cultural affairs law is amended by adding a new subdivision 11 to read as follows:

11. "Professional reseller" means a reseller, also referred to as a ticket broker, and includes any person, firm, corporation or other entity that is involved in the business of the resale of tickets. Individuals who do not regularly engage in the business of reselling tickets, who resell fewer than thirty tickets per year and who obtain the tickets for such individual's personal use or the use of friends and family, are not deemed professional resellers for the purposes of this article.

§ 2. Subdivision 1 of section 25.13 of the arts and cultural affairs law, as amended by chapter 374 of the laws of 2007, is amended to read as follows:

1. (a) No [~~person, firm or corporation~~] professional reseller shall resell or engage in the business of reselling any tickets to a place of

entertainment or operate an internet website or any other electronic service that provides a mechanism for two or more parties to participate in a resale transaction or that facilitates resale transactions by the means of an auction, or own, conduct or maintain any office, branch office, bureau, agency or sub-agency for such business without having first procured a license or certificate for each location at which business will be conducted from the secretary of state. Any operator or manager of a website that serves as a platform to facilitate resale, or resale by way of a competitive bidding process, solely between third parties and does not in any other manner engage in resales of tickets to places of entertainment shall be exempt from the licensing requirements of this section. The department of state shall issue and deliver to such applicant a certificate or license to conduct such business and to own, conduct or maintain a bureau, agency, sub-agency, office or branch office for the conduct of such business on the premises stated in such application upon the payment by or on behalf of the applicant of a fee of five thousand dollars and shall be renewed upon the payment of [~~a like fee annually.~~] **an annual renewal fee pursuant to paragraph (b) of this subdivision**. Such license or certificate shall not be transferred or assigned, except by permission of the secretary of state. Such license or certificate shall run to the first day of January next ensuing the date thereof, unless sooner revoked by the secretary of state. Such license or certificate shall be granted upon a written application setting forth such information as the secretary of state may require in order to enable him or her to carry into effect the provisions of this article and shall be accompanied by proof satisfactory to the secretary of state of the moral character of the applicant.

(b) The annual professional reseller renewal fee shall be:

(i) for a professional reseller that resells more than thirty tickets but less than one hundred tickets per year, an annual renewal fee of two thousand dollars to maintain a professional reseller license;

(ii) for a professional reseller that resells one hundred or more tickets but less than two hundred tickets per year, an annual renewal fee of three thousand dollars to maintain a professional reseller license; and

(iii) for a professional reseller that resells two hundred or more tickets per year, an annual renewal fee of four thousand dollars to maintain a professional reseller license.

(c) "Tickets" shall mean, for purposes of paragraph (b) of this subdivision: (i) each resold ticket not originally purchased by the professional reseller as part of a season or subscription ticket package; or (ii) a set of resold tickets originally purchased by the professional reseller as part of a season or subscription ticket package.

§ 3. Section 25.19 of the arts and cultural affairs law, as amended by chapter 110 of the laws of 2018, is amended to read as follows:

§ 25.19. Posting of license or certificate. **1. For the purposes of this section, "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. Immediately upon the receipt of the license or certificate issued pursuant to this article by the secretary of state, the licensee named therein shall cause such license to be posted and at all times displayed in a conspicuous place in the principal office of such business for which it is issued, and shall cause the certificate for each branch office, bureau, agency or sub-agency to be posted and at all times

displayed in a conspicuous place in such branch office, bureau, agency or sub-agency for which it is issued, so that all persons visiting such principal office, branch office, bureau, agency or sub-agency may readily see the same, and if such licensee does business on the internet, including via a retail ticket purchasing platform, to provide a license number displayed in a conspicuous manner or a hyperlink displayed in a conspicuous manner to a scanned copy of such license. Such license or certificate shall at all reasonable times be subject to inspection by the secretary of state or his or her authorized inspectors. It shall be unlawful for any person, firm, partnership or corporation holding such license or certificate to post such license or certificate or to permit such certificate to be posted upon premises other than those described therein or to which it has been transferred pursuant to the provisions of this article or unlawfully to alter, deface or destroy any such license or certificate. For purposes of this section, the term "retail ticket purchasing platform" shall mean a retail ticket purchasing website, application, phone system, or other technology platform used to sell tickets.

3. (a) An online resale marketplace shall require professional resellers to provide their New York state ticket reseller license number as a condition of utilizing an online resale marketplace to resell tickets.

(b) An online resale marketplace shall disclose in a clear and conspicuous manner a notice on the advertisement or offer of a ticket or tickets that such ticket or tickets being purchased are being resold by a licensed New York state professional reseller.

§ 4. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that the amendments to sections 25.03, 25.13 and 25.19 of the arts and cultural affairs law made by sections one, two and three of this act shall not affect the repeal of such article and shall be deemed repealed therewith.

PART C

Section 1. Subdivision 2 of section 25.07 of the arts and cultural affairs law, as amended by chapter 61 of the laws of 2007, is amended and a new subdivision 5 is added to read as follows:

2. Notwithstanding any other provision of law, any person, firm or corporation, regardless of whether or not licensed under this article, that **sells tickets or facilitates the sale of tickets,** resells tickets or facilitates the resale or resale auction of tickets between independent parties by any means, must guarantee to each purchaser of such **sold or** resold tickets that the person, firm or corporation will provide a full refund of the amount paid by the purchaser (including, but not limited to, all fees, regardless of how characterized)**, unless the purchaser elects to retain such tickets or a credit equal to or in excess of the full amount paid by the purchaser in lieu of a full refund within thirty days of receiving such notice of an opportunity for a refund,** if any of the following occurs: (a) the event for which such ticket has been **sold or** resold is cancelled, provided that if the event is cancelled then actual handling and delivery fees need not be refunded as long as such previously disclosed guarantee specifies that such fees will not be refunded; (b) the ticket received by the purchaser does not grant the purchaser admission to the event described on the ticket, for reasons that may include, without limitation, that the ticket is counterfeit or that the ticket has been cancelled by the issuer due to nonpayment, or that the event described on the ticket was cancelled for any

reason prior to purchase of the **sold or** resold ticket, unless the ticket is cancelled due to an act or omission by such purchaser; [~~or~~] (c) the ticket fails to conform to its description as advertised unless the buyer has pre-approved a substitution of tickets**; (d) the event for which such ticket has been sold or resold is postponed more than once in a calendar year; (e) the event for which such ticket has been sold or resold has been rescheduled to a subsequent date more than one year from the initial event date; or (f) the event for which such ticket has been sold or resold has been postponed and has not been rescheduled within three months after the initial event date. Upon the occurrence of any of the aforementioned events, the seller or reseller shall notify the purchaser of such tickets and shall provide a thirty-day window during which the purchaser may elect to retain such tickets, receive a credit equal to or in excess of the full amount paid by the purchaser or receive a full refund. If, at the end of the thirty-day window, the purchaser of such tickets does not choose one of the aforementioned options, they shall receive an immediate full refund for the amount paid by the purchaser including but not limited to all fees, regardless of how characterized. The secretary of state shall promulgate rules and regulations regarding notification procedures and shall determine a sufficient refund time period, which shall be no less than thirty days following the occurrence of a triggering event**.

5. Notwithstanding any other provision of law, any person, firm or corporation, regardless of whether or not licensed under this article or designated as a professional reseller or an online resale marketplace, that resells tickets or facilitates the resale or resale auction of tickets between independent parties by any means, shall guarantee without restriction to each purchaser of such resold tickets that the person, firm or corporation will honor, communicate and facilitate, if so requested by such purchaser, all opportunities for refunds, exchanges, credits or other remedies due to event cancellation or postponement that are publicly offered by a primary ticket seller, as defined in subdivision twelve of section 25.03 of this article, to original purchasers of such tickets.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law, provided, however, that the amendments to section 25.07 of the arts and cultural affairs law made by section one of this act shall not affect the expiration of such section and shall be deemed expired 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 require 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 to be clearly and conspicuously posted as part of each advertisement or offer for the resale of tickets.** 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 25.10 of the arts and cultural affairs law, as added by chapter 110 of the laws of 2018, is amended to read as follows:

§ 25.10. Ticket resale requirements. 1. It shall be unlawful for a licensee or other ticket reseller to **advertise for the sale of tickets,** contract for the sale of tickets, contract to obtain tickets for another, or accept consideration for payment in full or for a deposit for the sale of tickets unless [~~such licensee or other ticket reseller meets one or more of the following requirements~~] **and until**:

(a) such licensee or other ticket reseller has the offered ticket in its possession **or has a written contract to obtain the offered ticket at a certain price from a person or entity in possession of the ticket or from a person or entity who has a contractual right to obtain such ticket**; **and**

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

~~(c) such licensee or other ticket reseller informs the purchaser in a clear and conspicuous manner and in plain language at the time of offering such ticket for sale and in a written notice prior to the completion of the transaction that such licensee or other ticket reseller does not have possession of the ticket, has no contract to obtain the offered ticket at a certain price from a person in possession of the ticket or from a person who has a contractual right to obtain such ticket, may not be able to supply the ticket at the contracted price or range of prices, and requires such purchaser to expressly confirm prior to completing the transaction that the purchaser has read such notice.~~

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

~~3.~~] **tickets to the event have been placed on sale by the venue or entity hosting the event or its authorized agent. For the purposes of this section, "placed on sale" shall mean the date and time when tickets are made available for sale to the general public, excluding any prior**

sales to fan clubs, businesses, and persons for promotional activities. This paragraph shall not apply to season or subscription ticket holders.

2. Nothing in this section 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 section shall be construed as making lawful any fraudulent, deceptive, or illegal act or practice that is unlawful pursuant to now existing laws or regulations.

[~~4.~~] 3. The attorney general shall have jurisdiction to enforce the provisions of this section in accordance with the powers granted to him or her by section sixty-three of the executive law.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that the amendments to section 25.10 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. 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, in all advertisements and ticket sales listings, display the total cost of the ticket, inclusive of all ancillary fees that must be paid in order to purchase a 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 disclosures shall occur at the beginning of a transaction before a ticket is selected for purchase. The price of the ticket shall not change during the purchase process, excluding reasonable fees for the delivery of non-electronic tickets based on the delivery method selected by the purchaser that shall be disclosed prior to accepting payment therefor.

§ 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 G

Section 1. Section 25.03 of the arts and cultural affairs law is amended by adding two new subdivisions 12 and 13 to read as follows:

12. "Primary ticket seller" means an owner or operator of a venue or sports team, a manager or provider of an event, or a provider of ticketing services or an agent of such owner, operator, manager, or provider that engages in the primary sale of tickets for an event or retains the authority to otherwise distribute tickets.

13. "Placed on sale" means the date and time when tickets are made available for sale to the general public, excluding any prior sales to fan clubs, businesses, and persons for promotional activities.

§ 2. 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 **of fifteen or less percent of the price of a ticket prior to the addition of any charges** by [~~the operator or agents of the operator~~] **any person, firm or corporation, regardless of whether or not licensed under this article, that sells tickets or facilitates the sale of tickets, resells tickets or facilitates the resale or resale auction of tickets between independent parties by any means** for special services[~~, including but not limited to,~~] **actually rendered or otherwise in connection to customer support, technological and software infrastructure, and actual operational costs for** sales away from the box office[~~, credit card sales or delivery~~]; **(b) it shall be an unlawful act for a primary ticket seller that earns greater revenue through the primary sale of tickets than the resale of tickets from charging any fee whatsoever to resell tickets originally purchased from such seller;** and [~~(b)~~] **(c)** 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 the seller or reseller based on the method of delivery selected by the purchaser; provided, however, no delivery fee shall be separately charged for electronic tickets or tickets that may be printed at home.**

3. Any person, firm or corporation, regardless of whether or not licensed under this article, that sells tickets or facilitates the sale of tickets is prohibited from requiring a minimum price for the resale of any tickets purchased from a primary ticket seller.

4. Under no circumstances shall any person, firm or corporation, regardless of whether or not licensed under this article, that sells tickets or facilitates the sale of tickets increase displayed prices of tickets while a purchaser: (i) is waiting in a physical or virtual queue, room or similar location or sequence established to await the purchase of tickets; (ii) has the ability to select and review tickets from a physical or virtual list or map but has not yet completed the purchase; or (iii) is completing the physical or virtual checkout process to purchase tickets. Notwithstanding the provisions of this subdivision, any person, firm or corporation that sells tickets or facilitates the sale of tickets may place reasonable and uniform restrictions on the length of time allowed for a purchaser of tickets to review and complete each transaction.

5. 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.

§ 3. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that the amendments to sections 25.03 and 25.29 of the arts and cultural affairs law made by sections one and two of this act shall not affect the repeal of such sections and shall be deemed repealed therewith.

PART H

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.

§ 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 I

Section 1. The arts and cultural affairs law is amended by adding a new section 25.04 to read as follows:

§ 25.04. Tickets withheld from sale to general public. 1. Primary ticket sellers shall disclose and display on the website, at the box office and any other method of ticket distribution of such primary ticket seller, the total number of tickets offered for sale to the general public by such primary ticket seller not less than seven days before the date on which tickets shall be available for primary sale. The total number shall be periodically updated by the primary ticket seller if and when additional tickets are subsequently released for sale to the general public. This subdivision shall not apply to: (i) venues with a seating capacity of less than six thousand five hundred guests; or (ii) places of entertainment such as fair grounds, amusement parks, museums, observatories, ski resorts, ice skating rinks and other recreational facilities or events wherein rides, exhibits and displays, games or activities of skill or chance or the sale of food, beverages, toys and souvenirs constitute the main uses.

2. It shall be an unlawful practice for a primary ticket seller or any person or entity who has access to tickets to an event prior to the tickets' release for sale to the general public to withhold such tickets from sale to the general public in an amount exceeding ten percent of all available seating for the event. Tickets distributed to bona fide charitable groups or initially reserved due to event production holds, including but not limited to pending seating, lighting, or stage configurations, that are subsequently released to the general public shall not be included within this amount. This subdivision shall not apply to places of entertainment such as fair grounds, amusement parks, museums, observatories, ski resorts, ice skating rinks and other recreational facilities or events wherein rides, exhibits and displays, games or activities of skill or chance or the sale of food, beverages, toys and souvenirs constitute the main uses.

3. It shall be an unlawful practice for an individual employee of any venue, primary ticket seller, team, artist, online resale marketplace, box office or any other entity that is involved in hosting, promoting, performing or ticket selling to resell tickets that have been withheld from the general public for a higher price than the primary sale of the ticket or resell tickets to any third party that may have intentions, actually or constructively known by such employee, to resell the ticket for a higher price than the total cost of the ticket, including all ancillary charges.

§ 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 J

Section 1. Section 25.12 of the arts and cultural affairs law, as added by chapter 110 of the laws of 2018, is amended to read as follows:

§ 25.12. Professional sports organization membership pass. Notwithstanding section 25.30 of this article, an operator of a place of entertainment or such operator's agent may offer paperless tickets which do not allow for independent transferability provided that such tickets are included in a membership pass at a discounted price offered by a professional sports organization for seating in venues or stadiums with a fixed capacity of over [~~thirty~~] **thirteen** thousand **five hundred** seats that guarantees entry to a specified number of events in a specified time period with seat assignments assigned no more than four hours prior to the commencement of the event and such seat assignment must be variable from game to game and not intended for season ticket holders. Tickets provided under such membership pass may be restricted from being transferred or resold, including through the operator or operators' agents, and must be clearly marked as such prior to initial offering or sale. Such membership pass shall not mean a subscription or season ticket package offered for sale and shall not result in the sale of more than five percent of the maximum amount of all seats that will be made available at a venue for a particular event to be sold under this section.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that the amendments to section 25.12 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 K

Section 1. The general obligations law is amended by adding a new section 5-338 to read as follows:

§ 5-338. Agreements between operators of places of entertainment and primary ticket vendors. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Entertainment" means all forms of entertainment including, but not limited to, theatrical or operatic performances, concerts, motion pictures, all forms of entertainment at fairgrounds, 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.

(b) "Operator" means any person who owns, operates, or controls a place of entertainment or who promotes or produces an entertainment.

(c) "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.

(d) "Primary ticket seller" means an owner or operator of a venue or sports team, a manager or provider of an event, or a provider of ticketing services or an agent of such owner, operator, manager, or provider that engages in the primary sale of tickets for an event or retains the authority to otherwise distribute tickets.

(e) "Ticket" means any evidence of the right of entry to any place of entertainment.

2. A contract between an operator of places of entertainment and a primary ticket vendor shall not provide for the primary ticket vendor to be the exclusive and sole primary ticket vendor for the operator of places of entertainment.

3. It shall be unlawful to threaten or to seek to enforce a provision made unlawful under this section or to otherwise penalize an operator of a place of entertainment for entering into an agreement with another primary ticket seller.

4. Any waiver of the provisions of this section is contrary to public policy and thus is void and unenforceable.

5. This section shall not require an operator of a place of entertainment to enter into an agreement with a primary ticket seller or require that an operator of a place of entertainment have an agreement with multiple primary ticket sellers.

§ 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, and shall apply to contracts entered into on or after such date.

PART L

Section 1. Paragraph (a) of subdivision 1 of section 25.30 of the arts and cultural affairs law, as amended by chapter 151 of the laws of 2010, is amended to read as follows:

(a) restrict by any means the resale of any tickets included in a subscription or season ticket package to or via a licensee under section 25.13 of this article or via a website that serves as a platform to facilitate resale as defined under section 25.13 of this article as a condition of purchase, as a condition to retain such tickets for the duration of the subscription or season ticket package agreement, or as a condition to retain any [~~contractually agreed upon~~] rights to purchase future subscription or season ticket packages that are otherwise conferred in the subscription or season ticket agreement or extended to subscribers not engaged in the resale market as a general policy of the team, promoter, or venue. Further, it shall be unlawful to charge a different rate to any such subscriber solely because the subscriber has resold or may resell tickets;

§ 2. This act shall take effect on the sixtieth day after it shall have become a law provided, however, that the amendments to paragraph (a) of subdivision 1 of section 25.30 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 be repealed therewith.

PART M

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 M of this act shall be as specifically set forth in the last section of such Parts.