

STATE OF NEW YORK

6716

2021-2022 Regular Sessions

IN SENATE

May 12, 2021

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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 entertainment and primary ticket vendors (Part K); 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

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

LBD11376-04-1

cultural affairs law relating to resale of tickets of places of entertainment, in relation to extending the effectiveness thereof (Part L)

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 L. 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

1 resale by way of a competitive bidding process, solely between third
2 parties and does not in any other manner engage in resales of tickets to
3 places of entertainment shall be exempt from the licensing requirements
4 of this section. The department of state shall issue and deliver to such
5 applicant a certificate or license to conduct such business and to own,
6 conduct or maintain a bureau, agency, sub-agency, office or branch
7 office for the conduct of such business on the premises stated in such
8 application upon the payment by or on behalf of the applicant of a fee
9 of five thousand dollars and shall be renewed upon the payment of [~~a~~
10 ~~like fee annually.~~] an annual renewal fee pursuant to paragraph (b) of
11 this subdivision. Such license or certificate shall not be transferred
12 or assigned, except by permission of the secretary of state. Such
13 license or certificate shall run to the first day of January next ensu-
14 ing the date thereof, unless sooner revoked by the secretary of state.
15 Such license or certificate shall be granted upon a written application
16 setting forth such information as the secretary of state may require in
17 order to enable him or her to carry into effect the provisions of this
18 article and shall be accompanied by proof satisfactory to the secretary
19 of state of the moral character of the applicant.

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

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

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

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

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

33 § 25.19. Posting of license or certificate. 1. For the purposes of
34 this section, "online resale marketplace" means any operator or manager
35 of a website or other electronic service that resells tickets or serves
36 as a platform to facilitate resale, or resale by way of a competitive
37 bidding process.

38 2. Immediately upon the receipt of the license or certificate issued
39 pursuant to this article by the secretary of state, the licensee named
40 therein shall cause such license to be posted and at all times displayed
41 in a conspicuous place in the principal office of such business for
42 which it is issued, and shall cause the certificate for each branch
43 office, bureau, agency or sub-agency to be posted and at all times
44 displayed in a conspicuous place in such branch office, bureau, agency
45 or sub-agency for which it is issued, so that all persons visiting such
46 principal office, branch office, bureau, agency or sub-agency may readi-
47 ly see the same, and if such licensee does business on the internet,
48 including via a retail ticket purchasing platform, to provide a license
49 number displayed in a conspicuous manner or a hyperlink displayed in a
50 conspicuous manner to a scanned copy of such license. Such license or
51 certificate shall at all reasonable times be subject to inspection by
52 the secretary of state or his or her authorized inspectors. It shall be
53 unlawful for any person, firm, partnership or corporation holding such
54 license or certificate to post such license or certificate or to permit
55 such certificate to be posted upon premises other than those described
56 therein or to which it has been transferred pursuant to the provisions

1 of this article or unlawfully to alter, deface or destroy any such
2 license or certificate. For purposes of this section, the term "retail
3 ticket purchasing platform" shall mean a retail ticket purchasing
4 website, application, phone system, or other technology platform used to
5 sell tickets.

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

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

13 § 4. This act shall take effect on the sixtieth day after it shall
14 have become a law; provided, however, that the amendments to sections
15 25.03, 25.13 and 25.19 of the arts and cultural affairs law made by
16 sections one, two and three of this act shall not affect the repeal of
17 such article and shall be deemed repealed therewith.

18 PART C

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

22 2. Notwithstanding any other provision of law, any person, firm or
23 corporation, regardless of whether or not licensed under this article,
24 that sells tickets or facilitates the sale of tickets, resells tickets
25 or facilitates the resale or resale auction of tickets between independ-
26 ent parties by any means, must guarantee to each purchaser of such sold
27 or resold tickets that the person, firm or corporation will provide a
28 full refund of the amount paid by the purchaser (including, but not
29 limited to, all fees, regardless of how characterized), unless the
30 purchaser elects to retain such tickets or a credit equal to or in
31 excess of the full amount paid by the purchaser in lieu of a full refund
32 within thirty days of receiving such notice of an opportunity for a
33 refund, if any of the following occurs: (a) the event for which such
34 ticket has been sold or resold is cancelled, provided that if the event
35 is cancelled then actual handling and delivery fees need not be refunded
36 as long as such previously disclosed guarantee specifies that such fees
37 will not be refunded; (b) the ticket received by the purchaser does not
38 grant the purchaser admission to the event described on the ticket, for
39 reasons that may include, without limitation, that the ticket is coun-
40 terfeit or that the ticket has been cancelled by the issuer due to non-
41 payment, or that the event described on the ticket was cancelled for any
42 reason prior to purchase of the sold or resold ticket, unless the ticket
43 is cancelled due to an act or omission by such purchaser; ~~or~~ (c) the
44 ticket fails to conform to its description as advertised unless the
45 buyer has pre-approved a substitution of tickets; (d) the event for
46 which such ticket has been sold or resold is postponed more than once in
47 a calendar year; (e) the event for which such ticket has been sold or
48 resold has been rescheduled to a subsequent date more than one year from
49 the initial event date; or (f) the event for which such ticket has been
50 sold or resold has been postponed and has not been rescheduled within
51 three months after the initial event date. Upon the occurrence of any
52 of the aforementioned events, the seller or reseller shall notify the
53 purchaser of such tickets and shall provide a thirty-day window during
54 which the purchaser may elect to retain such tickets, receive a credit

1 equal to or in excess of the full amount paid by the purchaser or
2 receive a full refund. If, at the end of the thirty-day window, the
3 purchaser of such tickets does not choose one of the aforementioned
4 options, they shall receive an immediate full refund for the amount paid
5 by the purchaser including but not limited to all fees, regardless of
6 how characterized. The secretary of state shall promulgate rules and
7 regulations regarding notification procedures and shall determine a
8 sufficient refund time period, which shall be no less than thirty days
9 following the occurrence of a triggering event.

10 5. A purchaser shall be entitled to a full refund of the amount paid
11 for such tickets, including, but not limited to, all fees, regardless of
12 how characterized, if such purchaser can demonstrate a medical necessity
13 for abstaining from the event for which the ticket was purchased. The
14 secretary of state shall promulgate rules and regulations regarding how
15 a purchaser shall receive a full refund pursuant to this subdivision.

16 § 2. This act shall take effect on the sixtieth day after it shall
17 have become a law, provided, however, that the amendments to section
18 25.07 of the arts and cultural affairs law made by section one of this
19 act shall not affect the expiration of such section and shall be deemed
20 expired therewith.

PART D

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

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

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

PART E

46 Section 1. Section 25.10 of the arts and cultural affairs law, as
47 added by chapter 110 of the laws of 2018, is amended to read as follows:

48 § 25.10. Ticket resale requirements. 1. It shall be unlawful for a
49 licensee or other ticket reseller to advertise for the sale of tickets,
50 contract for the sale of tickets, contract to obtain tickets for another,
51 or accept consideration for payment in full or for a deposit for the

1 sale of tickets unless [~~such licensee or other ticket reseller meets one~~
2 ~~or more of the following requirements~~] and until:

3 (a) such licensee or other ticket reseller has the offered ticket in
4 its possession or has a written contract to obtain the offered ticket at
5 a certain price from a person or entity in possession of the ticket or
6 from a person or entity who has a contractual right to obtain such tick-
7 et; and

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

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

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

35 ~~3.]~~ tickets to the event have been placed on sale by the venue or
36 entity hosting the event or its authorized agent. For the purposes of
37 this section, "placed on sale" shall mean the date and time when tickets
38 are made available for sale to the general public, excluding any prior
39 sales to fan clubs, businesses, and persons for promotional activities.
40 This paragraph shall not apply to season or subscription ticket holders.

41 2. Nothing in this section shall be construed to nullify, expand,
42 restrict, or otherwise amend or modify now existing laws or regulations
43 outside of this article, and nothing in this section shall be construed
44 as making lawful any fraudulent, deceptive, or illegal act or practice
45 that is unlawful pursuant to now existing laws or regulations.

46 [~~4.]~~ 3. The attorney general shall have jurisdiction to enforce the
47 provisions of this section in accordance with the powers granted to him
48 or her by section sixty-three of the executive law.

49 § 2. This act shall take effect on the sixtieth day after it shall
50 have become a law; provided, however, that the amendments to section
51 25.10 of the arts and cultural affairs law made by section one of this
52 act shall not affect the repeal of such section and shall be deemed
53 repealed therewith.

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

4 4. Every operator or operator's agent of a place of entertainment, any
5 licensee or other ticket reseller, or platform that facilitates the sale
6 or resale of tickets shall, in all advertisements and ticket sales list-
7 ings, display the total cost of the ticket, inclusive of all ancillary
8 fees that must be paid in order to purchase a ticket and disclose in a
9 clear and conspicuous manner [~~the total price of the ticket and~~] the
10 portion of the ticket price stated in dollars that represents a service
11 charge, or any other fee or surcharge to the purchaser. Such disclosures
12 shall occur at the beginning of a transaction before a ticket is
13 selected for purchase. The price of the ticket shall not change during
14 the purchase process, excluding reasonable fees for the delivery of
15 non-electronic tickets based on the delivery method selected by the
16 purchaser that shall be disclosed prior to accepting payment therefor.

17 § 2. This act shall take effect on the sixtieth day after it shall
18 have become a law provided, however, that the amendments to subdivision
19 4 of section 25.07 of the arts and cultural affairs law made by section
20 one of this act shall not affect the repeal of such section and shall be
21 deemed to repeal therewith.

22 PART G

23 Section 1. Section 25.03 of the arts and cultural affairs law is
24 amended by adding two new subdivisions 11 and 12 to read as follows:

25 11. "Primary ticket seller" means an owner or operator of a venue or
26 sports team, a manager or provider of an event, or a provider of ticket-
27 ing services or an agent of such owner, operator, manager, or provider
28 that engages in the primary sale of tickets for an event or retains the
29 authority to otherwise distribute tickets.

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

33 § 2. Section 25.29 of the arts and cultural affairs law, as amended by
34 chapter 61 of the laws of 2007 and subdivision 1 as amended by chapter
35 151 of the laws of 2010, is amended to read as follows:

36 § 25.29. Unlawful charges in connection with tickets. 1. No operator
37 of any place of entertainment, or his or her agent, representative,
38 employee or licensee shall, if a price be charged for admission thereto,
39 exact, demand, accept or receive, directly or indirectly, any premium or
40 price in excess of the established price plus lawful taxes whether
41 designated as price, gratuity or otherwise; provided, however: (a) noth-
42 ing in this article shall be construed to prohibit a reasonable service
43 charge [~~by the operator or agents of the operator~~] any person, firm or
44 corporation, regardless of whether or not licensed under this article,
45 that sells tickets or facilitates the sale of tickets, resells tickets
46 or facilitates the resale or resale auction of tickets between independ-
47 ent parties by any means for special services[~~, including but not limit-~~
48 ~~ed to,~~] actually rendered or otherwise in connection to customer
49 support, technological and software infrastructure, and actual opera-
50 tional costs for sales away from the box office[~~, credit card sales or~~
51 ~~delivery~~]; (b) it shall be an unlawful act for a primary ticket seller
52 that also engages in the resale or facilitates the resale of tickets
53 from charging any fee whatsoever to resell tickets originally purchased
54 from such seller; and [~~(b)~~] (c) nothing in this article shall be

1 construed to prohibit an operator or its agent from offering for initial
2 sale tickets by means of an auction.

3 2. A reasonable and actual cost for the physical delivery of tickets
4 may be charged by the seller or reseller based on the method of delivery
5 selected by the purchaser; provided, however, no delivery fee shall be
6 separately charged for electronic tickets or tickets that may be printed
7 at home.

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

12 4. Any person, firm or corporation, regardless of whether or not
13 licensed under this article, that sells tickets or facilitates the sale
14 of tickets is prohibited from charging greater prices for tickets in
15 similar sections and rows that are subsequently offered for sale to the
16 general public after the original date they were placed on sale.

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

22 § 3. This act shall take effect on the sixtieth day after it shall
23 have become a law; provided, however, that the amendments to sections
24 25.03 and 25.29 of the arts and cultural affairs law made by sections
25 one and two of this act shall not affect the repeal of such sections and
26 shall be deemed repealed therewith.

27 PART H

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

30 § 25.06. Resale of tickets issued at no charge. Notwithstanding an
31 individual's ability to transfer a ticket to another party, it shall be
32 unlawful for any person, firm or corporation to resell or offer to
33 resell any ticket or other evidence of right of entry to any place of
34 entertainment if such ticket was initially offered to the public at no
35 charge.

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

41 PART I

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

44 11. "Primary ticket seller" means an owner or operator of a venue or
45 sports team, a manager or provider of an event, or a provider of ticket-
46 ing services or an agent of such owner, operator, manager, or provider
47 that engages in the primary sale of tickets for an event or retains the
48 authority to otherwise distribute tickets.

49 § 2. The arts and cultural affairs law is amended by adding a new
50 section 25.04 to read as follows:

51 § 25.04. Tickets withheld from sale to general public. 1. Primary
52 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 venues with a seating capacity of less than six thousand five hundred guests.

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.

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.

§ 3. 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 sections one and two 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, race-track, 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. 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 tick-

1 ets to places of entertainment, as amended by chapter 110 of the laws of
2 2018, is amended to read as follows:

3 § 4. This act shall take effect on the sixtieth day after it shall
4 have become a law, provided, chapter 61 of the laws of 2007 shall not
5 take effect with respect to the issuance of licenses or certificates
6 under this article by the secretary of state or department of state
7 until January 1, 2008 and regulation under this article by the commis-
8 sioners of licenses of the political subdivisions of the state shall
9 continue through December 31, 2007, and shall remain in full force and
10 effect only until and including June 30, [~~2021~~] 2024 when such act shall
11 be repealed and when, notwithstanding any other provision of law, the
12 provisions of article 25 of title G of the arts and cultural affairs
13 law, repealed by such act, shall be reinstituted; provided further that
14 section 25.11 of the arts and cultural affairs law, as added by section
15 one of this act, shall survive such repeal date. Provided, however, the
16 printing on tickets required pursuant to sections 25.07 and 25.08 of
17 article 25 of the arts and cultural affairs law, as added by this act,
18 shall not apply to tickets printed prior to enactment of such article so
19 long as notice of the higher maximum premium price and prohibition of
20 sales within one thousand five hundred feet from the physical structure
21 of the place of entertainment, where applicable, is prominently
22 displayed at the point of sale and at such place of entertainment.

23 § 2. Section 11 of chapter 151 of the laws of 2010, amending the arts
24 and cultural affairs law relating to resale of tickets to places of
25 entertainment, as amended by chapter 110 of the laws of 2018, is amended
26 to read as follows:

27 § 11. Notwithstanding the provisions of article 5 of the general
28 construction law, if this act shall take effect after May 15, 2010, the
29 provisions of article 25 of the arts and cultural affairs law, except
30 section 25.11 are hereby revived and shall continue in full force and
31 effect as they existed on May 15, 2010 through June 30, [~~2021~~] 2024 when
32 upon such date such provisions shall expire and be deemed repealed.

33 § 3. This act shall take effect immediately.

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

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