

# STATE OF NEW YORK

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6716--A

2021-2022 Regular Sessions

## IN SENATE

May 12, 2021

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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

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

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

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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 L)

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

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

10

## PART A

11 Section 1. Paragraph (a) of subdivision 3, and subdivisions 4, 5, 6  
12 and 10 of section 25.24 of the arts and cultural affairs law, paragraph  
13 (a) of subdivision 3, and subdivisions 4, 5 and 6 as amended by chapter  
14 472 of the laws of 2016 and subdivision 10 as added by chapter 110 of  
15 the laws of 2018, are amended to read as follows:

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

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

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

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

1 10. [~~Any person, firm, corporation or other entity who is a licensee~~  
2 ~~under this article who is adjudicated guilty of the following acts may~~  
3 ~~lose their license and may be barred from licensure under this article~~  
4 ~~for a period not to exceed three years to be determined by the depart-~~  
5 ~~ment of state pursuant to section 25.31 of this article if such licen-~~  
6 ~~see: (a) knowingly utilized ticket purchasing software in order to~~  
7 ~~purchase tickets; (b) knowingly resold or offered to resell a ticket~~  
8 ~~that such licensee knew was obtained using ticket purchasing software;~~  
9 ~~or (c) intentionally maintained any interest in or maintained any~~  
10 ~~control of the operation of ticket purchasing software to purchase tick-~~  
11 ~~ets.] (a) Any person, firm, corporation, or other entity who is a licen-~~  
12 ~~see under this article who is adjudicated guilty of the following acts~~  
13 ~~shall lose their license and shall be permanently barred from licensure~~  
14 ~~under this article pursuant to section 25.31 of this article if such~~  
15 ~~licensee: (i) knowingly utilized ticket purchasing software in order to~~  
16 ~~purchase tickets; (ii) knowingly resold or offered to resell a ticket~~  
17 ~~that such licensee knew was obtained using ticket purchasing software;~~  
18 ~~or (iii) intentionally maintained any interest in or maintained any~~  
19 ~~control of the operation of ticket purchasing software to purchase tick-~~  
20 ~~ets.~~

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

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

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

35 PART B

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

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

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

48 1. (a) No [~~person, firm or corporation~~] professional reseller shall  
49 resell or engage in the business of reselling any tickets to a place of  
50 entertainment or operate an internet website or any other electronic  
51 service that provides a mechanism for two or more parties to participate  
52 in a resale transaction or that facilitates resale transactions by the  
53 means of an auction, or own, conduct or maintain any office, branch  
54 office, bureau, agency or sub-agency for such business without having

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

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

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

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

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

34 (c) "Tickets" shall mean, for purposes of paragraph (b) of this subdi-  
35 vision: (i) each resold ticket not originally purchased by the profes-  
36 sional reseller as part of a season or subscription ticket package; or  
37 (ii) a set of resold tickets originally purchased by the professional  
38 reseller as part of a season or subscription ticket package.

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

41 § 25.19. Posting of license or certificate. 1. For the purposes of  
42 this section, "online resale marketplace" means any operator or manager  
43 of a website or other electronic service that resells tickets or serves  
44 as a platform to facilitate resale, or resale by way of a competitive  
45 bidding process.

46 2. Immediately upon the receipt of the license or certificate issued  
47 pursuant to this article by the secretary of state, the licensee named  
48 therein shall cause such license to be posted and at all times displayed  
49 in a conspicuous place in the principal office of such business for  
50 which it is issued, and shall cause the certificate for each branch  
51 office, bureau, agency or sub-agency to be posted and at all times  
52 displayed in a conspicuous place in such branch office, bureau, agency  
53 or sub-agency for which it is issued, so that all persons visiting such  
54 principal office, branch office, bureau, agency or sub-agency may readi-  
55 ly see the same, and if such licensee does business on the internet,  
56 including via a retail ticket purchasing platform, to provide a license

1 number displayed in a conspicuous manner or a hyperlink displayed in a  
2 conspicuous manner to a scanned copy of such license. Such license or  
3 certificate shall at all reasonable times be subject to inspection by  
4 the secretary of state or his or her authorized inspectors. It shall be  
5 unlawful for any person, firm, partnership or corporation holding such  
6 license or certificate to post such license or certificate or to permit  
7 such certificate to be posted upon premises other than those described  
8 therein or to which it has been transferred pursuant to the provisions  
9 of this article or unlawfully to alter, deface or destroy any such  
10 license or certificate. For purposes of this section, the term "retail  
11 ticket purchasing platform" shall mean a retail ticket purchasing  
12 website, application, phone system, or other technology platform used to  
13 sell tickets.

14 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.

15 (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.

21 § 4. This act shall take effect on the sixtieth day after it shall  
22 have become a law; provided, however, that the amendments to sections  
23 25.03, 25.13 and 25.19 of the arts and cultural affairs law made by  
24 sections one, two and three of this act shall not affect the repeal of  
25 such article and shall be deemed repealed therewith.

26

## PART C

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

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

1 a calendar year; (e) the event for which such ticket has been sold or  
2 resold has been rescheduled to a subsequent date more than one year from  
3 the initial event date; or (f) the event for which such ticket has been  
4 sold or resold has been postponed and has not been rescheduled within  
5 three months after the initial event date. Upon the occurrence of any  
6 of the aforementioned events, the seller or reseller shall notify the  
7 purchaser of such tickets and shall provide a thirty-day window during  
8 which the purchaser may elect to retain such tickets, receive a credit  
9 equal to or in excess of the full amount paid by the purchaser or  
10 receive a full refund. If, at the end of the thirty-day window, the  
11 purchaser of such tickets does not choose one of the aforementioned  
12 options, they shall receive an immediate full refund for the amount paid  
13 by the purchaser including but not limited to all fees, regardless of  
14 how characterized. The secretary of state shall promulgate rules and  
15 regulations regarding notification procedures and shall determine a  
16 sufficient refund time period, which shall be no less than thirty days  
17 following the occurrence of a triggering event.

18 5. Notwithstanding any other provision of law, any person, firm or  
19 corporation, regardless of whether or not licensed under this article or  
20 designated as a professional reseller or an online resale marketplace,  
21 that resells tickets or facilitates the resale or resale auction of  
22 tickets between independent parties by any means, shall guarantee with-  
23 out restriction to each purchaser of such resold tickets that the  
24 person, firm or corporation will honor, communicate and facilitate, if  
25 so requested by such purchaser, all opportunities for refunds,  
26 exchanges, credits or other remedies due to event cancellation or post-  
27 ponement that are publicly offered by a primary ticket seller, as  
28 defined in subdivision twelve of section 25.03 of this article, to  
29 original purchasers of such tickets.

30 § 2. This act shall take effect on the sixtieth day after it shall  
31 have become a law, provided, however, that the amendments to section  
32 25.07 of the arts and cultural affairs law made by section one of this  
33 act shall not affect the expiration of such section and shall be deemed  
34 expired therewith.

35 PART D

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

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

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

6 PART E

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

9 § 25.10. Ticket resale requirements. 1. It shall be unlawful for a  
10 licensee or other ticket reseller to advertise for the sale of tickets,  
11 contract for the sale of tickets, contract to obtain tickets for another,  
12 or accept consideration for payment in full or for a deposit for the  
13 sale of tickets unless [~~such licensee or other ticket reseller meets one~~  
14 ~~or more of the following requirements~~] and until:

15 (a) such licensee or other ticket reseller has the offered ticket in  
16 its possession or has a written contract to obtain the offered ticket at  
17 a certain price from a person or entity in possession of the ticket or  
18 from a person or entity who has a contractual right to obtain such tick-  
19 et; and

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

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

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

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

53 2. Nothing in this section shall be construed to nullify, expand,  
54 restrict, or otherwise amend or modify now existing laws or regulations

1 outside of this article, and nothing in this section shall be construed  
2 as making lawful any fraudulent, deceptive, or illegal act or practice  
3 that is unlawful pursuant to now existing laws or regulations.

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

7 § 2. This act shall take effect on the sixtieth day after it shall  
8 have become a law; provided, however, that the amendments to section  
9 25.10 of the arts and cultural affairs law made by section one of this  
10 act shall not affect the repeal of such section and shall be deemed  
11 repealed therewith.

12 PART F

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

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

29 § 2. This act shall take effect on the sixtieth day after it shall  
30 have become a law provided, however, that the amendments to subdivision  
31 4 of section 25.07 of the arts and cultural affairs law made by section  
32 one of this act shall not affect the repeal of such section and shall be  
33 deemed to repeal therewith.

34 PART G

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

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

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

45 § 2. Section 25.29 of the arts and cultural affairs law, as amended by  
46 chapter 61 of the laws of 2007 and subdivision 1 as amended by chapter  
47 151 of the laws of 2010, is amended to read as follows:

48 § 25.29. Unlawful charges in connection with tickets. 1. No operator  
49 of any place of entertainment, or his or her agent, representative,  
50 employee or licensee shall, if a price be charged for admission thereto,  
51 exact, demand, accept or receive, directly or indirectly, any premium or  
52 price in excess of the established price plus lawful taxes whether

1 designated as price, gratuity or otherwise; provided, however: (a) nothing  
2 in this article shall be construed to prohibit a reasonable service  
3 charge by ~~[the operator or agents of the operator]~~ any person, firm or  
4 corporation, regardless of whether or not licensed under this article,  
5 that sells tickets or facilitates the sale of tickets, resells tickets  
6 or facilitates the resale or resale auction of tickets between independ-  
7 ent parties by any means for special services~~[, including but not limit-~~  
8 ~~ed to,]~~ actually rendered or otherwise in connection to customer  
9 support, technological and software infrastructure, and actual opera-  
10 tional costs for sales away from the box office~~[, credit card sales or~~  
11 ~~delivery];~~ (b) it shall be an unlawful act for a primary ticket seller  
12 that also engages in the resale or facilitates the resale of tickets  
13 from charging any fee whatsoever to resell tickets originally purchased  
14 from such seller; and ~~[(b)]~~ (c) nothing in this article shall be  
15 construed to prohibit an operator or its agent from offering for initial  
16 sale tickets by means of an auction.

17 2. A reasonable and actual cost for the physical delivery of tickets  
18 may be charged by the seller or reseller based on the method of delivery  
19 selected by the purchaser; provided, however, no delivery fee shall be  
20 separately charged for electronic tickets or tickets that may be printed  
21 at home.

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

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

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

44 § 3. This act shall take effect on the sixtieth day after it shall  
45 have become a law; provided, however, that the amendments to sections  
46 25.03 and 25.29 of the arts and cultural affairs law made by sections  
47 one and two of this act shall not affect the repeal of such sections and  
48 shall be deemed repealed therewith.

49 PART H

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

52 § 25.06. Resale of tickets issued at no charge. Notwithstanding an  
53 individual's ability to transfer a ticket to another party, it shall be  
54 unlawful for any person, firm or corporation to resell or offer to

1 resell any ticket or other evidence of right of entry to any place of  
2 entertainment if such ticket was initially offered to the public at no  
3 charge.

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

9 PART I

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

12 § 25.04. Tickets withheld from sale to general public. 1. Primary  
13 ticket sellers shall disclose and display on the website, at the box  
14 office and any other method of ticket distribution of such primary tick-  
15 et seller, the total number of tickets offered for sale to the general  
16 public by such primary ticket seller not less than seven days before the  
17 date on which tickets shall be available for primary sale. The total  
18 number shall be periodically updated by the primary ticket seller if and  
19 when additional tickets are subsequently released for sale to the gener-  
20 al public. This subdivision shall not apply to: (i) venues with a seat-  
21 ing capacity of less than six thousand five hundred guests; or (ii)  
22 places of entertainment such as fair grounds, amusement parks, museums,  
23 observatories, ski resorts, ice skating rinks and other recreational  
24 facilities or events wherein rides, exhibits and displays, games or  
25 activities of skill or chance or the sale of food, beverages, toys and  
26 souvenirs constitute the main uses.

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

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

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

1

## PART J

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

4 § 25.12. Professional sports organization membership pass. Notwith-  
5 standing section 25.30 of this article, an operator of a place of enter-  
6 tainment or such operator's agent may offer paperless tickets which do  
7 not allow for independent transferability provided that such tickets are  
8 included in a membership pass at a discounted price offered by a profes-  
9 sional sports organization for seating in venues or stadiums with a  
10 fixed capacity of over [~~thirty~~] thirteen thousand five hundred seats  
11 that guarantees entry to a specified number of events in a specified  
12 time period with seat assignments assigned no more than four hours prior  
13 to the commencement of the event and such seat assignment must be vari-  
14 able from game to game and not intended for season ticket holders. Tick-  
15 ets provided under such membership pass may be restricted from being  
16 transferred or resold, including through the operator or operators'  
17 agents, and must be clearly marked as such prior to initial offering or  
18 sale. Such membership pass shall not mean a subscription or season tick-  
19 et package offered for sale and shall not result in the sale of more  
20 than five percent of the maximum amount of all seats that will be made  
21 available at a venue for a particular event to be sold under this  
22 section.

23 § 2. This act shall take effect on the sixtieth day after it shall  
24 have become a law; provided, however, that the amendments to section  
25 25.12 of the arts and cultural affairs law made by section one of this  
26 act shall not affect the repeal of such section and shall be deemed  
27 repealed therewith.

28

## PART K

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

31 § 5-338. Agreements between operators of places of entertainment and  
32 primary ticket vendors. 1. For the purposes of this section, the follow-  
33 ing terms shall have the following meanings:

34 (a) "Entertainment" means all forms of entertainment including, but  
35 not limited to, theatrical or operatic performances, concerts, motion  
36 pictures, all forms of entertainment at fairgrounds, amusement parks and  
37 all types of athletic competitions including football, basketball, base-  
38 ball, boxing, tennis, hockey, and any other sport, and all other forms  
39 of diversion, recreation or show.

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

42 (c) "Place of entertainment" means any privately or publicly owned and  
43 operated entertainment facility such as a theatre, stadium, arena, race-  
44 track, museum, amusement park, or other place where performances,  
45 concerts, exhibits, athletic games or contests are held for which an  
46 entry fee is charged.

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

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

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

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

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

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

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

18 PART L

19 Section 1. Section 4 of chapter 704 of the laws of 1991, amending the  
20 arts and cultural affairs law and chapter 912 of the laws of 1920 relat-  
21 ing to the regulation of boxing and wrestling matches relating to tick-  
22 ets to places of entertainment, as amended by chapter 148 of the laws of  
23 2021, is amended to read as follows:

24 § 4. This act shall take effect on the sixtieth day after it shall  
25 have become a law, provided, chapter 61 of the laws of 2007 shall not  
26 take effect with respect to the issuance of licenses or certificates  
27 under this article by the secretary of state or department of state  
28 until January 1, 2008 and regulation under this article by the commis-  
29 sioners of licenses of the political subdivisions of the state shall  
30 continue through December 31, 2007, and shall remain in full force and  
31 effect only until and including June 30, [~~2022~~] 2025 when such act shall  
32 be repealed and when, notwithstanding any other provision of law, the  
33 provisions of article 25 of title G of the arts and cultural affairs  
34 law, repealed by such act, shall be reinstated; provided further that  
35 section 25.11 of the arts and cultural affairs law, as added by section  
36 one of this act, shall survive such repeal date. Provided, however, the  
37 printing on tickets required pursuant to sections 25.07 and 25.08 of  
38 article 25 of the arts and cultural affairs law, as added by this act,  
39 shall not apply to tickets printed prior to enactment of such article so  
40 long as notice of the higher maximum premium price and prohibition of  
41 sales within one thousand five hundred feet from the physical structure  
42 of the place of entertainment, where applicable, is prominently  
43 displayed at the point of sale and at such place of entertainment.

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

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

54 § 3. This act shall take effect immediately.

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

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