

# STATE OF NEW YORK

5881

2023-2024 Regular Sessions

## IN ASSEMBLY

March 23, 2023

Introduced by M. of A. CARROLL -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development

AN ACT to amend the arts and cultural affairs law, in relation to 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 resale requirements for tickets (Part D); to amend the arts and cultural affairs law, in relation to unlawful charges in connection with tickets (Part E); to amend the arts and cultural affairs law, in relation to the availability of tickets for sale to the general public (Part F); to amend the arts and cultural affairs law, in relation to minimum seating capacity requirements for a professional sports organization membership pass (Part G); 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 H); and to amend the arts and cultural affairs law, in relation to the resale of tickets included in a subscription or season ticket package (Part I)

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 I. 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.

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

LBD09681-01-3

1

## PART A

2 Section 1. Subdivision 10 of section 25.24 of the arts and cultural  
3 affairs law, as added by chapter 110 of the laws of 2018, is amended to  
4 read as follows:

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

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

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

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

39

## PART B

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

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

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

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

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

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

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

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

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

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

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

46 § 25.19. Posting of license or certificate. 1. For the purposes of  
47 this section, "online resale marketplace" means any operator or manager  
48 of a website or other electronic service that resells tickets or serves  
49 as a platform to facilitate resale, or resale by way of a competitive  
50 bidding process.

51 2. Immediately upon the receipt of the license or certificate issued  
52 pursuant to this article by the secretary of state, the licensee named  
53 therein shall cause such license to be posted and at all times displayed  
54 in a conspicuous place in the principal office of such business for  
55 which it is issued, and shall cause the certificate for each branch  
56 office, bureau, agency or sub-agency to be posted and at all times

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

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

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

26 § 4. This act shall take effect on the sixtieth day after it shall  
27 have become a law; provided, however, that the amendments to sections  
28 25.03, 25.13 and 25.19 of the arts and cultural affairs law made by  
29 sections one, two and three of this act shall not affect the repeal of  
30 such sections and shall be deemed repealed therewith.

31 PART C

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

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

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

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

35 § 2. This act shall take effect on the sixtieth day after it shall  
36 have become a law, provided, however, that the amendments to section  
37 25.07 of the arts and cultural affairs law made by section one of this  
38 act shall not affect the repeal of such section and shall be deemed  
39 repealed therewith.

40 PART D

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

43 § 25.10. Ticket resale requirements. 1. It shall be unlawful for a  
44 licensee or other ticket reseller to advertise for the sale of tickets,  
45 contract for the sale of tickets, contract to obtain tickets for another,  
46 or accept consideration for payment in full or for a deposit for the  
47 sale of tickets unless [~~such licensee or other ticket reseller meets one~~  
48 ~~or more of the following requirements~~] and until:

49 (a) such licensee or other ticket reseller has the offered ticket in  
50 its possession or has a written contract to obtain the offered ticket at  
51 a certain price from a person or entity in possession of the ticket or  
52 from a person or entity who has a contractual right to obtain such tick-  
53 et; 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 E

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.

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

4 § 2. Section 25.29 of the arts and cultural affairs law, as amended by  
5 section 1 of part E of chapter 358 of the laws of 2022, is amended to  
6 read as follows:

7 § 25.29. Unlawful charges in connection with tickets. 1. No operator  
8 of any place of entertainment, or his or her agent, representative,  
9 employee or licensee shall, if a price be charged for admission thereto,  
10 exact, demand, accept or receive, directly or indirectly, any premium or  
11 price in excess of the established price plus lawful taxes whether  
12 designated as price, gratuity or otherwise; provided, however: (a) noth-  
13 ing in this article shall be construed to prohibit a reasonable service  
14 charge of fifteen or less percent of the price of a ticket prior to the  
15 addition of any charges by [~~the operator or agents of the operator~~] any  
16 person, firm or corporation, regardless of whether or not licensed under  
17 this article, that sells tickets or facilitates the sale of tickets,  
18 resells tickets or facilitates the resale or resale auction of tickets  
19 between independent parties by any means for special services[~~, includ-~~  
20 ~~ing but not limited to,~~] actually rendered or otherwise in connection to  
21 customer support, technological and software infrastructure, and actual  
22 operational costs for sales away from the box office[~~, credit card sales~~  
23 ~~or delivery~~]; (b) it shall be an unlawful act for a primary ticket sell-  
24 er that earns greater revenue through the primary sale of tickets than  
25 the resale of tickets from charging any fee whatsoever to resell tickets  
26 originally purchased from such seller; and [~~(b)~~] (c) nothing in this  
27 article shall be construed to prohibit an operator or its agent from  
28 offering for initial sale tickets by means of an auction.

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

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

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

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

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

6

## PART F

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

9 § 25.04. Tickets withheld from sale to general public. 1. Primary  
10 ticket sellers shall disclose and display on the website, at the box  
11 office and any other method of ticket distribution of such primary tick-  
12 et seller, the total number of tickets offered for sale to the general  
13 public by such primary ticket seller not less than seven days before the  
14 date on which tickets shall be available for primary sale. The total  
15 number shall be periodically updated by the primary ticket seller if and  
16 when additional tickets are subsequently released for sale to the gener-  
17 al public. This subdivision shall not apply to: (i) venues with a seat-  
18 ing capacity of less than six thousand five hundred guests; or (ii)  
19 places of entertainment such as fair grounds, amusement parks, museums,  
20 observatories, ski resorts, ice skating rinks and other recreational  
21 facilities or events wherein rides, exhibits and displays, games or  
22 activities of skill or chance or the sale of food, beverages, toys and  
23 souvenirs constitute the main uses.

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

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

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

52

## PART G

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

3 § 25.12. Professional sports organization membership pass. Notwith-  
4 standing section 25.30 of this article, an operator of a place of enter-  
5 tainment or such operator's agent may offer paperless tickets which do  
6 not allow for independent transferability provided that such tickets are  
7 included in a membership pass at a discounted price offered by a profes-  
8 sional sports organization for seating in venues or stadiums with a  
9 fixed capacity of over [~~thirty~~] thirteen thousand five hundred seats  
10 that guarantees entry to a specified number of events in a specified  
11 time period with seat assignments assigned no more than four hours prior  
12 to the commencement of the event and such seat assignment must be vari-  
13 able from game to game and not intended for season ticket holders. Tick-  
14 ets provided under such membership pass may be restricted from being  
15 transferred or resold, including through the operator or operators'  
16 agents, and must be clearly marked as such prior to initial offering or  
17 sale. Such membership pass shall not mean a subscription or season tick-  
18 et package offered for sale and shall not result in the sale of more  
19 than five percent of the maximum amount of all seats that will be made  
20 available at a venue for a particular event to be sold under this  
21 section.

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

27 PART H

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

30 § 5-338. Agreements between operators of places of entertainment and  
31 primary ticket vendors. 1. For the purposes of this section, the follow-  
32 ing terms shall have the following meanings:

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

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

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

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

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

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

1 be the exclusive and sole primary ticket vendor for the operator of  
2 places of entertainment.

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

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

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

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

16 PART I

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

20 (a) restrict by any means the resale of any tickets included in a  
21 subscription or season ticket package to or via a licensee under section  
22 25.13 of this article or via a website that serves as a platform to  
23 facilitate resale as defined under section 25.13 of this article as a  
24 condition of purchase, as a condition to retain such tickets for the  
25 duration of the subscription or season ticket package agreement, or as a  
26 condition to retain any [~~contractually agreed upon~~] rights to purchase  
27 future subscription or season ticket packages that are otherwise  
28 conferred in the subscription or season ticket agreement or extended to  
29 subscribers not engaged in the resale market as a general policy of the  
30 team, promoter, or venue. Further, it shall be unlawful to charge a  
31 different rate to any such subscriber solely because the subscriber has  
32 resold or may resell tickets;

33 § 2. This act shall take effect on the sixtieth day after it shall  
34 have become a law, provided, however, that the amendments to paragraph  
35 (a) of subdivision 1 of section 25.30 of the arts and cultural affairs  
36 law made by section one of this act shall not affect the repeal of such  
37 section and shall be deemed repealed therewith.

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

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