

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.