

HB5011



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5011

Introduced 2/18/2020, by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

815 ILCS 414/1.5

was 720 ILCS 375/1.5

Amends the Ticket Sale and Resale Act. Provides that service fees and shipping fees may not exceed 10% of the cost of the ticket being resold.

LRB101 17871 JLS 67306 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Ticket Sale and Resale Act is amended by
5 changing Section 1.5 as follows:

6 (815 ILCS 414/1.5) (was 720 ILCS 375/1.5)

7 Sec. 1.5. Sale of tickets at more than face value
8 prohibited; exceptions.

9 (a) Except as otherwise provided in subsections (b), (c),
10 (d), (e), and (f-5) of this Section and in Section 4, it is
11 unlawful for any person, persons, firm or corporation to sell
12 tickets for baseball games, football games, hockey games,
13 theatre entertainments, or any other amusement for a price more
14 than the price printed upon the face of said ticket, and the
15 price of said ticket shall correspond with the same price shown
16 at the box office or the office of original distribution.

17 (b) This Act does not apply to the resale of tickets of
18 admission to a sporting event, theater, musical performance, or
19 place of public entertainment or amusement of any kind for a
20 price in excess of the printed box office ticket price by a
21 ticket broker who meets all of the following requirements:

22 (1) The ticket broker is duly registered with the
23 Office of the Secretary of State on a registration form

1 provided by that Office. The registration must contain a
2 certification that the ticket broker:

3 (A) engages in the resale of tickets on a regular
4 and ongoing basis from one or more permanent or fixed
5 locations located within this State;

6 (B) maintains as the principal business activity
7 at those locations the resale of tickets;

8 (C) displays at those locations the ticket
9 broker's registration;

10 (D) maintains at those locations a listing of the
11 names and addresses of all persons employed by the
12 ticket broker;

13 (E) is in compliance with all applicable federal,
14 State, and local laws relating to its ticket selling
15 activities, and that neither the ticket broker nor any
16 of its employees within the preceding 12 months have
17 been convicted of a violation of this Act; and

18 (F) meets the following requirements:

19 (i) the ticket broker maintains a toll free
20 number specifically dedicated for Illinois
21 consumer complaints and inquiries concerning
22 ticket sales;

23 (ii) the ticket broker has adopted a code that
24 advocates consumer protection that includes, at a
25 minimum:

26 (a-1) consumer protection guidelines;

1 (b-1) a standard refund policy. In the
2 event a refund is due, the ticket broker shall
3 provide that refund without charge other than
4 for reasonable delivery fees for the return of
5 the tickets; and

6 (c-1) standards of professional conduct;

7 (iii) the ticket broker has adopted a
8 procedure for the binding resolution of consumer
9 complaints by an independent, disinterested third
10 party and thereby submits to the jurisdiction of
11 the State of Illinois; and

12 (iv) the ticket broker has established and
13 maintains a consumer protection rebate fund in
14 Illinois in an amount in excess of \$100,000, which
15 must be cash available for immediate disbursement
16 for satisfaction of valid consumer complaints.

17 Alternatively, the ticket broker may fulfill the
18 requirements of subparagraph (F) of this paragraph (1) if
19 the ticket broker certifies that he or she belongs to a
20 professional association organized under the laws of this
21 State, or organized under the laws of any other state and
22 authorized to conduct business in Illinois, that has been
23 in existence for at least 3 years prior to the date of that
24 broker's registration with the Office of the Secretary of
25 State, and is specifically dedicated, for and on behalf of
26 its members, to provide and maintain the consumer

1 protection requirements of subparagraph (F) of this
2 paragraph (1) to maintain the integrity of the ticket
3 brokerage industry.

4 (2) (Blank).

5 (3) The ticket broker and his employees must not engage
6 in the practice of selling, or attempting to sell, tickets
7 for any event while sitting or standing near the facility
8 at which the event is to be held or is being held unless
9 the ticket broker or his or her employees are on property
10 they own, lease, or have permission to occupy.

11 (4) The ticket broker must comply with all requirements
12 of the Retailers' Occupation Tax Act and collect and remit
13 all other applicable federal, State and local taxes in
14 connection with the ticket broker's ticket selling
15 activities.

16 (5) Beginning January 1, 1996, no ticket broker shall
17 advertise for resale any tickets within this State unless
18 the advertisement contains the name of the ticket broker
19 and the Illinois registration number issued by the Office
20 of the Secretary of State under this Section.

21 (6) Each ticket broker registered under this Act shall
22 pay an annual registration fee of \$100.

23 (c) This Act does not apply to the sale of tickets of
24 admission to a sporting event, theater, musical performance, or
25 place of public entertainment or amusement of any kind for a
26 price in excess of the printed box office ticket price by a

1 reseller engaged in interstate or intrastate commerce on an
2 Internet auction listing service duly registered with the
3 Office of the Secretary of State on a registration form
4 provided by that Office. This subsection (c) applies to both
5 sales through an online bid submission process and sales at a
6 fixed price on the same website or interactive computer service
7 as an Internet auction listing service.

8 This subsection (c) applies to resales described in this
9 subsection only if the operator of the Internet auction listing
10 service meets the following requirements:

11 (1) the operator maintains a listing of the names and
12 addresses of its corporate officers;

13 (2) the operator is in compliance with all applicable
14 federal, State, and local laws relating to ticket selling
15 activities, and the operator's officers and directors have
16 not been convicted of a violation of this Act within the
17 preceding 12 months;

18 (3) the operator maintains, either itself or through an
19 affiliate, a toll free number dedicated for consumer
20 complaints;

21 (4) the operator provides consumer protections that
22 include at a minimum:

23 (A) consumer protection guidelines;

24 (B) a standard refund policy that guarantees to all
25 purchasers that it will provide and in fact provides a
26 full refund of the amount paid by the purchaser

1 (including, but not limited to, all fees, regardless of
2 how characterized) if the following occurs:

3 (i) the ticketed event is cancelled and the
4 purchaser returns the tickets to the seller or
5 Internet auction listing service; however,
6 reasonable delivery fees need not be refunded if
7 the previously disclosed guarantee specifies that
8 the fees will not be refunded if the event is
9 cancelled;

10 (ii) the ticket received by the purchaser does
11 not allow the purchaser to enter the ticketed event
12 for reasons that may include, without limitation,
13 that the ticket is counterfeit or that the ticket
14 has been cancelled by the issuer due to
15 non-payment, unless the ticket is cancelled due to
16 an act or omission by such purchaser;

17 (iii) the ticket fails to conform to its
18 description on the Internet auction listing
19 service; or

20 (iv) the ticket seller willfully fails to send
21 the ticket or tickets to the purchaser, or the
22 ticket seller attempted to deliver the ticket or
23 tickets to the purchaser in the manner required by
24 the Internet auction listing service and the
25 purchaser failed to receive the ticket or tickets;
26 and

1 (C) standards of professional conduct;

2 (5) the operator has adopted an independent and
3 disinterested dispute resolution procedure that allows
4 resellers or purchasers to file complaints against the
5 other and have those complaints mediated or resolved by a
6 third party, and requires the resellers or purchasers to
7 submit to the jurisdiction of the State of Illinois for
8 complaints involving a ticketed event held in Illinois;

9 (6) the operator either:

10 (A) complies with all applicable requirements of
11 the Retailers' Occupation Tax Act and collects and
12 remits all applicable federal, State, and local taxes;
13 or

14 (B) publishes a written notice on the website after
15 the sale of one or more tickets that automatically
16 informs the ticket reseller of the ticket reseller's
17 potential legal obligation to pay any applicable local
18 amusement tax in connection with the reseller's sale of
19 tickets, and discloses to law enforcement or other
20 government tax officials, without subpoena, the name,
21 city, state, telephone number, e-mail address, user ID
22 history, fraud complaints, and bidding and listing
23 history of any specifically identified reseller or
24 purchaser upon the receipt of a verified request from
25 law enforcement or other government tax officials
26 relating to a criminal investigation or alleged

1 illegal activity; and

2 (7) the operator either:

3 (A) has established and maintains a consumer
4 protection rebate fund in Illinois in an amount in
5 excess of \$100,000, which must be cash available for
6 immediate disbursement for satisfaction of valid
7 consumer complaints; or

8 (B) has obtained and maintains in force an errors
9 and omissions insurance policy that provides at least
10 \$100,000 in coverage.

11 (d) This Act does not apply to the resale of tickets of
12 admission to a sporting event, theater, musical performance, or
13 place of public entertainment or amusement of any kind for a
14 price in excess of the printed box office ticket price
15 conducted at an auction solely by or for a not-for-profit
16 organization for charitable purposes under clause (a)(1) of
17 Section 10-1 of the Auction License Act.

18 (e) This Act does not apply to the resale of a ticket for
19 admission to a baseball game, football game, hockey game,
20 theatre entertainment, or any other amusement for a price more
21 than the price printed on the face of the ticket and for more
22 than the price of the ticket at the box office if the resale is
23 made through an Internet website whose operator meets the
24 following requirements:

25 (1) the operator has a business presence and physical
26 street address in the State of Illinois and clearly and

1 conspicuously posts that address on the website;

2 (2) the operator maintains a listing of the names of
3 the operator's directors and officers, and is duly
4 registered with the Office of the Secretary of State on a
5 registration form provided by that Office;

6 (3) the operator is in compliance with all applicable
7 federal, State, and local laws relating to its ticket
8 reselling activities regulated under this Act, and the
9 operator's officers and directors have not been convicted
10 of a violation of this Act within the preceding 12 months;

11 (4) the operator maintains a toll free number
12 specifically dedicated for consumer complaints and
13 inquiries regarding ticket resales made through the
14 website;

15 (5) the operator either:

16 (A) has established and maintains a consumer
17 protection rebate fund in Illinois in an amount in
18 excess of \$100,000, which must be cash available for
19 immediate disbursement for satisfaction of valid
20 consumer complaints; or

21 (B) has obtained and maintains in force an errors
22 and omissions policy of insurance in the minimum amount
23 of \$100,000 for the satisfaction of valid consumer
24 complaints;

25 (6) the operator has adopted an independent and
26 disinterested dispute resolution procedure that allows

1 resellers or purchasers to file complaints against the
2 other and have those complaints mediated or resolved by a
3 third party, and requires the resellers or purchasers to
4 submit to the jurisdiction of the State of Illinois for
5 complaints involving a ticketed event held in Illinois;

6 (7) the operator either:

7 (A) complies with all applicable requirements of
8 the Retailers' Occupation Tax Act and collects and
9 remits all applicable federal, State, and local taxes;
10 or

11 (B) publishes a written notice on the website after
12 the sale of one or more tickets that automatically
13 informs the ticket reseller of the ticket reseller's
14 potential legal obligation to pay any applicable local
15 amusement tax in connection with the reseller's sale of
16 tickets, and discloses to law enforcement or other
17 government tax officials, without subpoena, the name,
18 city, state, telephone number, e-mail address, user ID
19 history, fraud complaints, and bidding and listing
20 history of any specifically identified reseller or
21 purchaser upon the receipt of a verified request from
22 law enforcement or other government tax officials
23 relating to a criminal investigation or alleged
24 illegal activity; and

25 (8) the operator guarantees to all purchasers that it
26 will provide and in fact provides a full refund of the

1 amount paid by the purchaser (including, but not limited
2 to, all fees, regardless of how characterized) if any of
3 the following occurs:

4 (A) the ticketed event is cancelled and the
5 purchaser returns the tickets to the website operator;
6 however, reasonable delivery fees need not be refunded
7 if the previously disclosed guarantee specifies that
8 the fees will not be refunded if the event is
9 cancelled;

10 (B) the ticket received by the purchaser does not
11 allow the purchaser to enter the ticketed event for
12 reasons that may include, without limitation, that the
13 ticket is counterfeit or that the ticket has been
14 cancelled by the issuer due to non-payment, unless the
15 ticket is cancelled due to an act or omission by the
16 purchaser;

17 (C) the ticket fails to conform to its description
18 on the website; or

19 (D) the ticket seller willfully fails to send the
20 ticket or tickets to the purchaser, or the ticket
21 seller attempted to deliver the ticket or tickets to
22 the purchaser in the manner required by the website
23 operator and the purchaser failed to receive the ticket
24 or tickets.

25 Nothing in this subsection (e) shall be deemed to imply any
26 limitation on ticket sales made in accordance with subsections

1 (b), (c), and (d) of this Section or any limitation on sales
2 made in accordance with Section 4.

3 (f) The provisions of subsections (b), (c), (d), and (e) of
4 this Section apply only to the resale of a ticket after the
5 initial sale of that ticket. The provisions of subsections (b),
6 (c), and (e) only apply if the service fees and shipping fees
7 do not exceed 10% of the cost of the ticket being resold. No
8 reseller of a ticket may refuse to sell tickets to another
9 ticket reseller solely on the basis that the purchaser is a
10 ticket reseller or ticket broker authorized to resell tickets
11 pursuant to this Act.

12 (f-5) In addition to the requirements imposed under
13 subsections (b), (c), (d), (e), and (f) of this Section, ticket
14 brokers and resellers must comply with the requirements of this
15 subsection. Before accepting any payment from a purchaser, a
16 ticket broker or reseller must disclose to the purchaser in a
17 clear, conspicuous, and readily noticeable manner the
18 following information:

- 19 (1) the registered name and city of the event venue;
- 20 (2) that the ticket broker or reseller is not the event
21 venue box office or its licensed ticket agent, but is,
22 instead, a ticket broker or reseller and that lost or
23 stolen tickets may be reissued only by ticket brokers or
24 resellers;
- 25 (3) whether it is registered under this Act; and
- 26 (4) its refund policy, name, and contact information.

1 Before selling and accepting payment for a ticket, a ticket
2 broker or reseller must require the purchaser to acknowledge by
3 an affirmative act the disclosures required under this
4 subsection. The disclosures required by this subsection must be
5 made in a clear and conspicuous manner, appear together, and be
6 preceded by the heading "IMPORTANT NOTICE" which must be in
7 bold face font that is larger than the font size of the
8 required disclosures.

9 Ticket brokers and resellers must guarantee a full refund
10 of the amount paid by the purchaser, including handling and
11 delivery fees, if any of the following occurs:

12 (1) the ticket received by the purchaser does not grant
13 the purchaser admission to the event described on the
14 ticket, unless it is due to an act or omission by the
15 purchaser;

16 (2) the ticket fails to conform substantially to its
17 description as advertised; or

18 (3) the event for which the ticket has been resold is
19 cancelled and not rescheduled.

20 This subsection (f-5) does not apply to an Internet auction
21 listing service.

22 (g) The provisions of Public Act 89-406 are severable under
23 Section 1.31 of the Statute on Statutes.

24 (h) The provisions of this amendatory Act of the 94th
25 General Assembly are severable under Section 1.31 of the
26 Statute on Statutes.

1 (Source: P.A. 99-431, eff. 1-1-16; 100-534, eff. 9-22-17.)