

HB3103



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3103

by Rep. Stephanie A. Kifowit

SYNOPSIS AS INTRODUCED:

815 ILCS 414/1.5

was 720 ILCS 375/1.5

Amends the Ticket Sale and Resale Act. Imposes disclosure requirements and price limits on the resale of tickets. Provides that a ticket broker or reseller must disclose the identity and contact information for the event venue box office or its licensed ticket agent and disclose that the ticket broker or reseller is not the event venue box office or its licensed ticket agent. Requires the disclosure to be clear, conspicuous, and readily noticeable.

LRB099 10338 JLS 30565 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), ~~and (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 Department of Financial and Professional Regulation under the
4 Auction License Act and with the Office of the Secretary of
5 State on a registration form provided by that Office. This
6 subsection (c) applies to both sales through an online bid
7 submission process and sales at a fixed price on the same
8 website or interactive computer service as an Internet auction
9 listing service registered with the Department of Financial and
10 Professional Regulation.

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

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

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

21 (3) the operator maintains, either itself or through an
22 affiliate, a toll free number dedicated for consumer
23 complaints;

24 (4) the operator provides consumer protections that
25 include at a minimum:

26 (A) consumer protection guidelines;

1 (B) a standard refund policy that guarantees to all
2 purchasers that it will provide and in fact provides a
3 full refund of the amount paid by the purchaser
4 (including, but not limited to, all fees, regardless of
5 how characterized) if the following occurs:

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

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

20 (iii) the ticket fails to conform to its
21 description on the Internet auction listing
22 service; or

23 (iv) the ticket seller willfully fails to send
24 the ticket or tickets to the purchaser, or the
25 ticket seller attempted to deliver the ticket or
26 tickets to the purchaser in the manner required by

1 the Internet auction listing service and the
2 purchaser failed to receive the ticket or tickets;
3 and

4 (C) standards of professional conduct;

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

12 (6) the operator either:

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

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

1 purchaser upon the receipt of a verified request from
2 law enforcement or other government tax officials
3 relating to a criminal investigation or alleged
4 illegal activity; and

5 (7) the operator either:

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

11 (B) has obtained and maintains in force an errors
12 and omissions insurance policy that provides at least
13 \$100,000 in coverage and proof that the policy has been
14 filed with the Department of Financial and
15 Professional Regulation.

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

23 (e) This Act does not apply to the resale of a ticket for
24 admission to a baseball game, football game, hockey game,
25 theatre entertainment, or any other amusement for a price more
26 than the price printed on the face of the ticket and for more

1 than the price of the ticket at the box office if the resale is
2 made through an Internet website whose operator meets the
3 following requirements:

4 (1) the operator has a business presence and physical
5 street address in the State of Illinois and clearly and
6 conspicuously posts that address on the website;

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

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

16 (4) the operator maintains a toll free number
17 specifically dedicated for consumer complaints and
18 inquiries regarding ticket resales made through the
19 website;

20 (5) the operator either:

21 (A) has established and maintains a consumer
22 protection rebate fund in Illinois in an amount in
23 excess of \$100,000, which must be cash available for
24 immediate disbursement for satisfaction of valid
25 consumer complaints; or

26 (B) has obtained and maintains in force an errors

1 and omissions policy of insurance in the minimum amount
2 of \$100,000 for the satisfaction of valid consumer
3 complaints;

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

11 (7) the operator either:

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

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

1 law enforcement or other government tax officials
2 relating to a criminal investigation or alleged
3 illegal activity; and

4 (8) the operator guarantees to all purchasers that it
5 will provide and in fact provides a full refund of the
6 amount paid by the purchaser (including, but not limited
7 to, all fees, regardless of how characterized) if any of
8 the following occurs:

9 (A) the ticketed event is cancelled and the
10 purchaser returns the tickets to the website operator;
11 however, reasonable delivery fees need not be refunded
12 if the previously disclosed guarantee specifies that
13 the fees will not be refunded if the event is
14 cancelled;

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

22 (C) the ticket fails to conform to its description
23 on the website; or

24 (D) the ticket seller willfully fails to send the
25 ticket or tickets to the purchaser, or the ticket
26 seller attempted to deliver the ticket or tickets to

1 the purchaser in the manner required by the website
2 operator and the purchaser failed to receive the ticket
3 or tickets.

4 Nothing in this subsection (e) shall be deemed to imply any
5 limitation on ticket sales made in accordance with subsections
6 (b), (c), and (d) of this Section or any limitation on sales
7 made in accordance with Section 4.

8 (f) The provisions of subsections (b), (c), (d), and (e) of
9 this Section apply only to the resale of a ticket after the
10 initial sale of that ticket. No reseller of a ticket may refuse
11 to sell tickets to another ticket reseller solely on the basis
12 that the purchaser is a ticket reseller or ticket broker
13 authorized to resell tickets pursuant to this Act.

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

21 (1) the registered name and city of the event venue box
22 office or its licensed ticket agent;

23 (2) that the ticket broker or reseller is not the event
24 venue box office or its licensed ticket agent, but is,
25 instead, a ticket broker or reseller and that lost or
26 stolen tickets may be reissued only by ticket brokers or

1 resellers;

2 (3) whether it is licensed;

3 (4) its refund policy, name, and contact information;

4 and

5 (5) whether it has procured the physical possession of
6 the specifically designated ticket at the time that the
7 ticket is advertised for resale on its site.

8 Before selling and accepting payment for a ticket, a ticket
9 broker or reseller must require the purchaser to acknowledge by
10 an affirmative act the disclosures required under this
11 subsection. The disclosures required by this subsection must be
12 made in a clear and conspicuous manner, appear together, and be
13 preceded by the heading "IMPORTANT NOTICE" which must be in
14 bold face font that is 2 points larger than the font size of
15 the required disclosures.

16 This subsection (f-5) does not apply to an Internet auction
17 listing service registered with the Department of Financial and
18 Professional Regulation as required under the Auction License
19 Act.

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

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

25 (Source: P.A. 94-20, eff. 6-14-05.).