

**SB2834**



**99TH GENERAL ASSEMBLY**

**State of Illinois**

**2015 and 2016**

**SB2834**

Introduced 2/17/2016, by Sen. Emil Jones, III

**SYNOPSIS AS INTRODUCED:**

815 ILCS 414/1.5

was 720 ILCS 375/1.5

Amends the Ticket Sale and Resale Act. In the requirements for exemptions from the prohibition against reselling tickets for a price that is more than the price on the face of the ticket and more than the price of the ticket at the box office, requires an operator of an Internet auction listing service or an Internet website to comply with all applicable requirements of the Retailers' Occupation Tax Act and collect and remit all applicable federal, State, and local taxes including, but not limited to, local amusement taxes (instead of requiring an operator to either: comply with all applicable requirements of the Retailers' Occupation Tax Act and collect and remit all applicable federal, State, and local taxes; or publish a notice on the website that automatically informs the ticket reseller of the ticket reseller's potential legal obligation to pay any applicable local amusement tax in connection with the reseller's sale of tickets). Also changes provisions concerning the disclosure of certain information about resellers to law enforcement or other government tax officials upon request.

LRB099 19331 JLS 43723 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 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: (A)~~ complies with all  
13 applicable requirements of the Retailers' Occupation Tax  
14 Act and collects and remits all applicable federal, State,  
15 and local taxes including, but not limited to, local  
16 amusement taxes; ~~or (B) publishes a written notice on the~~  
17 ~~website after the sale of one or more tickets that~~  
18 ~~automatically informs the ticket reseller of the ticket~~  
19 ~~reseller's potential legal obligation to pay any~~  
20 ~~applicable local amusement tax in connection with the~~  
21 ~~reseller's sale of tickets,~~ and discloses to law  
22 enforcement or other government tax officials, without  
23 subpoena, the name, city, state, telephone number, e-mail  
24 address, user ID history, fraud complaints, and bidding and  
25 listing history of any specifically identified reseller or  
26 purchaser upon the receipt of a verified request from law



1 enforcement or other government tax officials relating to  
2 an ~~a criminal~~ investigation concerning the failure to pay  
3 or collect any tax or other alleged illegal activity; and

4 (7) the operator either:

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

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

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

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

1 made through an Internet website whose operator meets the  
2 following requirements:

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

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

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

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

19 (5) the operator either:

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

25 (B) has obtained and maintains in force an errors  
26 and omissions policy of insurance in the minimum amount

1 of \$100,000 for the satisfaction of valid consumer  
2 complaints;

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

10 (7) the operator ~~either: (A)~~ complies with all  
11 applicable requirements of the Retailers' Occupation Tax  
12 Act and collects and remits all applicable federal, State,  
13 and local taxes including, but not limited to, local  
14 amusement taxes; ~~or (B) publishes a written notice on the~~  
15 ~~website after the sale of one or more tickets that~~  
16 ~~automatically informs the ticket reseller of the ticket~~  
17 ~~reseller's potential legal obligation to pay any~~  
18 ~~applicable local amusement tax in connection with the~~  
19 ~~reseller's sale of tickets,~~ and discloses to law  
20 enforcement or other government tax officials, without  
21 subpoena, the name, city, state, telephone number, e-mail  
22 address, user ID history, fraud complaints, and bidding and  
23 listing history of any specifically identified reseller or  
24 purchaser upon the receipt of a verified request from law  
25 enforcement or other government tax officials relating to  
26 an a criminal investigation concerning the failure to pay

1       or collect any tax or other alleged illegal activity; and

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

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

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

20           (C) the ticket fails to conform to its description  
21 on the website; or

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

1           or tickets.

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

6           (f) The provisions of subsections (b), (c), (d), and (e) of  
7           this Section apply only to the resale of a ticket after the  
8           initial sale of that ticket. No reseller of a ticket may refuse  
9           to sell tickets to another ticket reseller solely on the basis  
10          that the purchaser is a ticket reseller or ticket broker  
11          authorized to resell tickets 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 registered with the Department of Financial and  
22 Professional Regulation as required under the Auction License  
23 Act.

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

26 (h) The provisions of this amendatory Act of the 94th

1 General Assembly are severable under Section 1.31 of the  
2 Statute on Statutes.

3 (i) The provisions of this amendatory Act of the 99th  
4 General Assembly are severable under Section 1.31 of the  
5 Statute on Statutes.

6 (Source: P.A. 99-431, eff. 1-1-16.)