

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Business & Professions
 2 Subcommittee

3 Representative Ingoglia offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove lines 53-254 and insert:

7 (e) "Resale website" means a website, software application
 8 for a mobile device, any other digital platform, or portion
 9 thereof, whose primary purpose is to facilitate the resale of
 10 tickets to consumers, but excludes an online marketplace.

11 (f) "Ticket" means a printed, electronic, or other type of
 12 evidence of the right, option, or opportunity to occupy space at
 13 or to enter or attend an entertainment event even if not
 14 evidenced by any physical manifestation of such right.

15 (2)-(1) A person or entity that offers for resale or
 16 resells any ticket may charge only \$1 above the face value

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17 ~~admission price~~ charged therefor by the original ticket seller
18 of the ticket for the following transactions:

19 (a) Passage or accommodations on any common carrier in
20 this state. However, this paragraph does not apply to travel
21 agencies that have an established place of business in this
22 state and are required to pay state, county, and city
23 occupational license taxes.

24 (b) Multiday or multievent tickets to a park or
25 entertainment complex or to a concert, entertainment event,
26 permanent exhibition, or recreational activity within such a
27 park or complex, including an entertainment/resort complex as
28 defined in s. 561.01(18).

29 (c) Event tickets originally issued by a charitable
30 organization exempt from taxation under s. 501(c)(3) of the
31 Internal Revenue Code for which no more than 3,000 tickets are
32 issued per performance. The charitable organization must issue
33 event tickets with the following statement conspicuously printed
34 or displayed on the face or back of the ticket: "Pursuant to s.
35 817.36, Florida Statutes, this ticket may not be resold for more
36 than \$1 over the ~~original admission price~~ face value." This
37 paragraph does not apply to tickets issued or sold by a third
38 party contractor ticketing services provider on behalf of a
39 charitable organization otherwise included in this paragraph
40 unless the required disclosure is printed or displayed on the
41 ticket.

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42 (d) Any tickets, other than the tickets in paragraph (a),
43 paragraph (b), or paragraph (c), that are resold or offered
44 through a ~~an Internet~~ resale website, or online marketplace
45 unless such resale website or online marketplace is authorized
46 by the original ticket seller to sell such tickets or makes and
47 posts the following guarantees and disclosures on ~~through~~
48 ~~Internet~~ web pages on which are visibly posted, or links to web
49 pages on which are posted, text to which a prospective purchaser
50 is directed before completion of the resale transaction:

51 1. The resale website or online marketplace operator
52 guarantees a full refund of the amount paid for the ticket
53 including any servicing, handling, or processing fees, if such
54 fees are not disclosed, when:

55 a. The ticketed event is canceled; or

56 b. The purchaser is denied admission to the ticketed
57 event, unless such denial is due to the action or omission of
58 the purchaser~~;~~.

59 c. The ticket is not delivered to the purchaser ~~in the~~
60 ~~manner requested and~~ pursuant to any delivery guarantees made by
61 the reseller and such failure results in the purchaser's
62 inability to attend the ticketed event.

63 2. The resale website or online marketplace operator
64 discloses that it is not the issuer, original seller, or
65 reseller of the ticket or items and does not control the pricing
66 of the ticket or items, which may be resold for more than their
67 face ~~original~~ value.

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68 (3)~~(2)~~ This section does not authorize any individual or
69 entity to sell or purchase tickets at any price on property or
70 place of entertainment where an event is being held without the
71 prior express written consent of the owner of the property or
72 place of entertainment.

73 (4)~~(3)~~ Any sales tax due for resales under this section
74 shall be remitted to the Department of Revenue in accordance
75 with s. 212.04.

76 (5) (a) A person may not sell, use, or cause to be used by
77 any means, method, technology, devices, or software that is
78 designed, intended, or functions to bypass portions of the
79 ticket-buying process or disguise the identity of the ticket
80 purchaser or circumvent a security measure, an access control
81 system, or other control, authorization, or measure on a ticket
82 issuer's or resale ticket agent's website, software application
83 for a mobile device, or digital platform.

84 (b) A person may not use or cause to be used any means,
85 method, or technology that is designed, intended, or functions
86 to disguise the identity of the purchaser with the purpose of
87 purchasing or attempting to purchase via online sale a quantity
88 of tickets to a place of entertainment in excess of authorized
89 limits established by the owner or operator of a place of
90 entertainment or of the entertainment event or an agent of any
91 such person.

92 (c) A person who knowingly violates this subsection
93 commits a felony of the third degree, punishable as provided in

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94 s. 775.082 or s. 775.084 or by a fine not to exceed \$10,000, or
95 both. Each ticket purchase, sale, or violation of this
96 subsection constitutes a separate offense.

97 (d) A party that has been injured by wrongful conduct in
98 violation of this subsection may bring an action to recover all
99 actual damages suffered as a result of any of such wrongful
100 conduct. The court in its discretion may award damages up to
101 three times the amount of actual damages.

102 ~~(4) A person who knowingly resells a ticket or tickets in~~
103 ~~violation of this section is liable to the state for a civil~~
104 ~~penalty equal to treble the amount of the price for which the~~
105 ~~ticket or tickets were resold.~~

106 (6) A person, resale website or online marketplace must
107 clearly and conspicuously disclose to a prospective ticket
108 resale purchaser, whether on the resale website or online
109 marketplace, or in person, before a resale:

110 (a) The refund policy of the person or resale website, or
111 online marketplace in connection with the cancellation or
112 postponement of an entertainment event;

113 (b) That it is a resale website or online marketplace and
114 prices of tickets can often exceed face value; and,

115 (c) If the ticket is in the actual physical possession of
116 the reseller, the face value and exact location of the seat
117 offered for sale, including a section, row, and seat number, or
118 area specifically designated as accessible seating; or,

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119 (d) If the ticket is not in the actual physical possession
120 of the reseller:

121 1. That the ticket offered for sale is not in the actual
122 physical possession of the reseller;

123 2. The period of time when the reseller reasonably expects
124 to have the ticket in actual physical possession and available
125 for delivery; and,

126 3. Whether the reseller is actively making an offer to
127 procure the ticket.

128 (7) (a) A resale website or online marketplace shall not
129 make any representation of affiliation or endorsement with a
130 venue or artist without the express written consent of the venue
131 or artist, except when it constitutes fair use and is consistent
132 with applicable laws.

133 (b) A person who knowingly violates this subsection commits
134 a felony of the third degree, punishable as provided in s.
135 775.082 or s. 775.084 or by a fine not to exceed \$10,000, or
136 both.

137 (8) (a) A person aggrieved by a violation of this section
138 may, without regard to any other remedy or relief to which the
139 person is entitled, bring an action to obtain a declaratory
140 judgment that an act or practice violates this section and to
141 enjoin a person who has violated, is violating, or is otherwise
142 likely to violate this section.

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143 (b) In any action brought by a person who has suffered a
144 loss as a result of a violation of this section, such person may
145 recover actual damages, plus attorney fees and court costs.

146 (9) If the department, by its own inquiry or as a result of
147 complaints, has reason to believe that a violation of this
148 section has occurred or is occurring, the department may conduct
149 an investigation, conduct hearings, subpoena witnesses and
150 evidence, and administer oaths and affirmations. If, as a result
151 of the investigation, the department has reason to believe a
152 violation of this section has occurred, the department with the
153 coordination of the Department of Legal Affairs and any state
154 attorney, if the violation has occurred or is occurring within
155 her or his judicial circuit, shall have the authority to bring a
156 civil or criminal action and to seek other relief, including
157 injunctive relief, as the court deems appropriate. This
158 subsection does not prohibit the department from providing
159 information to any law enforcement agency or to any other
160 regulatory agency and the department may report to the
161 appropriate law enforcement officers any information concerning
162 a violation of this section.

163 (10) Except as otherwise provided in this section a person
164 who knowingly resells a ticket or tickets in violation of this
165 section commits misdemeanor of the second degree, punishable as
166 provided in s. 775.082 or s. 775.083. Each violation of this
167 section constitutes a separate offense.

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T I T L E A M E N D M E N T

Remove lines 3-24 and insert:

F.S.; defining terms; revising provisions to include digital
platforms; revising certain presale disclosure requirements;
revising provisions relating to prohibitions on bypassing
portions of the ticket buying process, disguising the identity
of a buyer, or circumventing security measures; providing
criminal penalties for violations; providing for recovery of
damages up to treble the amount of actual damages for such
violations; providing criminal penalties for knowingly reselling
a ticket in violation of statute; requiring specified
disclosures before resale of a ticket; prohibiting
misrepresentations of affiliation or endorsement by resellers
without consent; providing exceptions; authorizing declaratory
judgments; providing criminal penalties for certain violations;
requiring rulemaking; deleting provisions imposing penalties for
intentionally using or selling software to circumvent certain
ticket seller security measures; providing an effective date.