

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/HB 1057	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Economic Development & Tourism Subcommittee; Brodeur	116 Y's	0 N's
<b>COMPANION BILLS:</b>	CS/SB 1142	<b>GOVERNOR'S ACTION:</b>	Approved

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**SUMMARY ANALYSIS**

CS/HB 1057 passed the House on April 30, 2014, as CS/SB 1142. The bill amends s. 817.355, F.S., to provide that a person commits a third degree felony when they engage in a second or subsequent violation of the statutory provisions relating to the fraudulent creation or possession of admission tickets. The same criminal penalty applies to a person who counterfeits, forges, alters, clones, or possesses ten or more tickets with intent to defraud a facility that host sports, amusements, concerts, or other events open to the public.

The bill amends s. 817.361, F.S., to define the terms "issuer," "multiuse ticket," and "theme park complex" relating to the sale or transfer of a multiuse ticket. The bill provides that a multiuse ticket is nontransferable unless otherwise specifically indicated on the ticket or on the ticket issuer's website. The bill increases the criminal penalties for a first time violation of the provisions related to using a multiuse ticket that has already been used for admission from a second degree misdemeanor to first degree misdemeanor. The criminal penalties for a second or subsequent violation are increased from a first degree misdemeanor to a third degree felony.

The bill has no fiscal impact on state or local government revenues.

The bill was approved by the Governor on June 13, 2014, ch. 2014-95, L.O.F., and will become effective on July 1, 2014.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Present Situation**

##### Tickets – Definition and Use

A “ticket” is a slip of paper containing a certificate that the person to whom it is issued, or the holder, is entitled to some right or privilege.<sup>1</sup> In the absence of a statute to the contrary, an event or admission ticket is considered to be a license to witness the performance, which may be revoked by the owner or proprietor at will, before or after admission of the ticketholder.<sup>2</sup> Florida law does not currently address whether an event or admission ticket is deemed to be a license or a property interest.

Without a statutory definition, a ticket is generally considered a license, and the ticket seller is able to place restrictions upon the use of that ticket. For example, a common restriction placed on an event or admission ticket by the seller is the inability to reenter the venue facility upon leaving. In addition to manner of use restrictions, the ticket seller is also able to place conditions and restrictions upon the resale or transferability of the ticket.

##### Penalties for Counterfeiting Admission Tickets

Section 817.355, F.S., provides that a person who counterfeits, forges, alters, or possesses any ticket, token, or paper that is designed for admission to any sports, amusement, concert, or other facility offering services to the general public is guilty of a first degree misdemeanor.<sup>3</sup>

The statutory language does not provide any increased criminal or civil penalties for subsequent violations. There is also no criminal or civil penalty for a person who counterfeits, forges, alters, or possesses more than one of such tickets, with the intent to defraud the event or amusement facility.

##### Resale of Multiday or Multievent Tickets

Section 817.361, F.S., defines a “nontransferable ticket or other nontransferable medium” as one on which the following phrase is clearly printed, “Nontransferable; must be used by the same person on all days,” or words of similar meaning.

The statute further provides that it is a violation to sell, offer for sale, or otherwise transfer in connection with a commercial transaction, any nontransferable ticket or medium designed for admission to more than one amusement location or other facility offering entertainment to the general public, or for admission for more than one day thereto, after said ticket has been used at least once for admission. A person who violates this provision is guilty of a second degree misdemeanor, punishable as provided in ss. 775.082 or 775.083, F.S.<sup>4</sup>

Moreover, the statute provides that upon a subsequent violation of the section, such person is guilty of a first degree misdemeanor, punishable as provided in ss. 775.082 or 775.083, F.S.<sup>5</sup>

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<sup>1</sup> Black’s Law Dictionary, Online Legal Dictionary, 2<sup>nd</sup> Ed., <http://thelawdictionary.org/ticket/> (Last visited March 7, 2014.).

<sup>2</sup> 27A Am. Jur. 2d Entertainment and Sports Law § 42.

<sup>3</sup> Section 775.082(4)(a), F.S., provides that a person who has been convicted of a first degree misdemeanor may be sentenced to a term of imprisonment not to exceed one year. Section 775.083(1)(d), F.S., provides that a person who has been convicted of a first degree misdemeanor may be sentenced to pay a fine not to exceed \$1,000, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration.

<sup>4</sup>Section 775.082(4)(b), F.S., provides that the penalty for a second degree misdemeanor shall be a term of imprisonment not to exceed sixty days. Section 775.083(1)(e), F.S., provides that a person who has been convicted of a second degree misdemeanor may be sentenced to pay a fine of \$500, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration.

<sup>5</sup> See *supra* note 3.

## Effect of Proposed Changes

### Penalties for Counterfeiting Admission Tickets

The bill establishes criminal penalties for subsequent violations of the law relating to the creation or possession of fraudulent admission tickets. Specifically, a person who counterfeits, forges, alters, clones, or possesses a ticket, card, wristband, or other medium that accesses or is associated with a ticket; or a ticket, token, or paper that is designed for admission to any sports, amusement, concert, or other facility offering services to the general public for a subsequent time commits a third degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.<sup>6</sup>

The bill also imposes a criminal penalty for a person who counterfeits, forges, alters, clones, or possesses ten or more admission tickets, cards, wristbands, or other media that accesses or is associated with a ticket or tickets, tokens, or papers designed for admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to defraud such facility. Such person commits a third degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.<sup>7</sup>

### Sale or Transfer of Multiuse Tickets

The bill creates subsection (1) of s. 817.361, F.S., to retitle a “multiday” or “multievent” ticket as a “multiuse ticket,” and to define several terms related to the use, sale, or transfer of a multiuse ticket. Specifically, the bill defines the terms “issuer,” “multiuse ticket,” and “theme park complex.”

- “Issuer” is defined as the person or entity that created a multiuse ticket and is obligated to allow admission pursuant to that ticket.
- “Multiuse ticket” is defined as a ticket, other medium, or right designed for admission to more than one theme park complex, amusement location or other facility in a theme park complex, or for admission for more than one day or more than once in the same day to one or more such locations or facilities in a theme park complex.
- “Theme park complex” is defined as an area comprised of at least 25 acres owned by the same business entity that contains rides or other recreational activities.

The bill provides that a multiuse ticket is nontransferable, unless the issuer:

- clearly prints on the multiuse ticket that it “may be used by more than one person;” or
- explicitly states on its website that the multiuse ticket may be used by more than one person.

### Enforcement

The bill creates subsection (2) of s. 817.361, F.S., to specify that cards, wristbands, or other mediums associated with a multiuse ticket are included as forms of admission covered by the provisions of the bill and provides that it is a violation to sell, offer to sell, or transfer in connection with a commercial transaction, any nontransferable multiuse ticket, card, wristband, or other medium after that ticket or medium has been used at least once for admission.

The bill creates subsection (3)(a) and (b) of s. 817.361, F.S., to provide that a person who violates subsection (2) commits a first degree misdemeanor, which is punishable as provided in ss. 775.082 or

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<sup>6</sup> Section 775.082(3)(d), F.S., provides that the penalty for a third degree felony may be a term of imprisonment not to exceed five years. Section 775.083(1)(c), F.S., provides that a person who has been convicted of a third degree felony may be sentenced to pay a fine not to exceed \$5,000, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration. Section 775.084, F.S., provides enhanced penalties for habitual felony offenders.

<sup>7</sup> *Id.*

775.083, F.S.,<sup>8</sup> and a second or subsequent violation constitutes a third degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.<sup>9</sup>

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

When purchasing singular-use or multiuse tickets, consumers will likely have increased protections of the authenticity of their tickets.

### D. FISCAL COMMENTS:

None.

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<sup>8</sup> See *supra* note 3.

<sup>9</sup> See *supra* note 6.