

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WITHDRAWN	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: Regulatory Affairs  
 2 Committee

3 Representative Ingoglia offered the following:

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

6 Remove everything after the enacting clause and insert:  
 7 Section 1. Section 817.36, Florida Statutes, is amended to  
 8 read:

9 817.36 Ticket sales ~~Resale of tickets.~~-

10 (1) As used in this section, the term:

11 (a) "Department" means the Department of Agriculture and  
 12 Consumer Services.

13 (b) "Face value" means the face price of a ticket, as  
 14 determined by the event presenter and printed or displayed on  
 15 the ticket when originally offered for sale.

16 (c) "Online marketplace" means a website, software  
 17 application for a mobile device, or any other digital platform

Amendment No. 1

18 that provides an online forum for the buying and selling of  
19 tickets in transactions between ticket resellers and purchasers.

20 (d) "Place of entertainment" means a privately owned and  
21 operated entertainment facility or publicly owned and operated  
22 entertainment facility in this state, such as a theater,  
23 stadium, museum, arena, racetrack, or other place where  
24 performances, concerts, exhibits, games, athletic events, or  
25 contests are held and for which an entry fee is charged. A  
26 facility owned by a school, college, university, or house of  
27 worship is a place of entertainment only when an event is held  
28 for which an entry fee is charged.

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

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

37 (2)-(1) A person or entity that offers for resale or  
38 resells any ticket may charge only \$1 above the face value  
39 ~~admission price~~ charged therefor by the original ticket seller  
40 of the ticket for the following transactions:

41 (a) Passage or accommodations on any common carrier in  
42 this state. However, this paragraph does not apply to travel  
43 agencies that have an established place of business in this

## Amendment No. 1

44 state and are required to pay state, county, and city  
45 occupational license taxes.

46 (b) Multiday or multievent tickets to a park or  
47 entertainment complex or to a concert, entertainment event,  
48 permanent exhibition, or recreational activity within such a  
49 park or complex, including an entertainment/resort complex as  
50 defined in s. 561.01(18).

51 (c) Event tickets originally issued by a charitable  
52 organization exempt from taxation under s. 501(c)(3) of the  
53 Internal Revenue Code for which no more than 3,000 tickets are  
54 issued per performance. The charitable organization must issue  
55 event tickets with the following statement conspicuously printed  
56 or displayed on the face or back of the ticket: "Pursuant to s.  
57 817.36, Florida Statutes, this ticket may not be resold for more  
58 than \$1 over the face value ~~original admission price~~." This  
59 paragraph does not apply to tickets issued or sold by a third  
60 party contractor ticketing services provider on behalf of a  
61 charitable organization otherwise included in this paragraph  
62 unless the required disclosure is printed or displayed on the  
63 ticket.

64 (d) Any tickets, other than the tickets in paragraph (a),  
65 paragraph (b), or paragraph (c), that are resold or offered  
66 through a resale ~~an Internet~~ website or online marketplace,  
67 unless such resale website or online marketplace is authorized  
68 by the original ticket seller to sell such tickets or makes and  
69 posts the following guarantees and disclosures on ~~through~~

Amendment No. 1

70 ~~Internet~~ web pages on which are visibly posted, or links to web  
71 pages on which are posted, text to which a prospective purchaser  
72 is directed before completion of the resale transaction:

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

77 a. The ticketed event is canceled and the purchaser  
78 requests a refund;

79 b. The purchaser is denied admission to the ticketed  
80 event, unless such denial is due to the action or omission of  
81 the purchaser; or

82 c. The ticket is not delivered to the purchaser ~~in the~~  
83 ~~manner requested and~~ pursuant to any delivery guarantees made by  
84 the reseller and such failure results in the purchaser's  
85 inability to attend the ticketed event.

86 2. The resale website or online marketplace operator  
87 discloses that it is not the issuer, or original seller, ~~or~~  
88 ~~reseller of the ticket or items and does not control the pricing~~  
89 ~~of the ticket or items and, the prices of tickets which may be~~  
90 ~~resold for more than their~~ often exceed face ~~original~~ value.

91 (3)-(2) This section does not authorize any individual or  
92 entity to sell or purchase tickets at any price on property or  
93 place of entertainment where an event is being held without the  
94 prior express written consent of the owner of the property or  
95 place of entertainment.

393821 - h0463-strike.docx

Published On: 4/13/2015 9:46:29 PM

Amendment No. 1

96 (4)~~(3)~~ Any sales tax due for resales under this section  
97 shall be remitted to the Department of Revenue in accordance  
98 with s. 212.04.

99 (5) (a) A person may not sell, use, or cause to be used by  
100 any technology, devices, or software that is designed, intended,  
101 or functions to bypass portions of the ticket-buying process or  
102 circumvent a security measure, an access control system, or  
103 other control, authorization, or measure on a ticket issuer's or  
104 resale ticket agent's website, software application for a mobile  
105 device, or digital platform for the purpose of purchasing  
106 tickets for commercial resale.

107 (b) A person may not use or cause to be used any  
108 technology that is designed or intended to disguise the identity  
109 of the purchaser with the purpose of purchasing tickets for  
110 resale or attempting to purchase tickets for resale via online  
111 sale a quantity of tickets to a place of entertainment in excess  
112 of authorized limits established by the owner or operator of a  
113 place of entertainment or of the entertainment event or an agent  
114 of any such person.

115 (c) A person who knowingly violates this subsection  
116 commits a misdemeanor of the second degree, punishable as  
117 provided in s. 775.082 or s. 775.083. Each ticket purchase,  
118 sale, or violation of this subsection constitutes a separate  
119 offense.

120 (d) A party that has been injured by wrongful conduct in  
121 violation of this subsection may bring an action to recover all

Amendment No. 1

122 actual damages suffered as a result of any of such wrongful  
123 conduct. The court in its discretion may award damages up to  
124 three times the amount of actual damages.

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

129 (6) A reseller selling tickets on a resale website or  
130 online marketplace must clearly and conspicuously disclose to a  
131 prospective ticket resale purchaser on the resale website or  
132 online marketplace, before a resale:

133 (a) The refund policy of the reseller, resale website, or  
134 online marketplace in connection with the cancellation or  
135 postponement of an entertainment event.

136 (b) That the ticket is being sold on a resale website or  
137 online marketplace and that the price of tickets can often  
138 exceed face value.

139 (c)1. If the ticket is in the actual physical possession  
140 of the reseller, the general location of the seat offered for  
141 sale, including the section and a range of not greater than 5  
142 rows, or an area specifically designated as accessible seating;  
143 or

144 2. If the ticket is not in the actual physical possession  
145 of the reseller:

146 a. That the ticket offered for sale is not in the actual  
147 physical possession of the reseller.

393821 - h0463-strike.docx

Published On: 4/13/2015 9:46:29 PM

Amendment No. 1

148 b. The period of time when the reseller reasonably expects  
149 to have the ticket in actual physical possession and available  
150 for delivery.

151 c. Whether the reseller is actively making an offer to  
152 procure the ticket.

153 3. A resale website or online marketplace is not liable  
154 for any representations made by a reseller using their platform  
155 to offer a ticket for sale; however, a resale website or online  
156 marketplace may not permit a reseller to use the resale website  
157 or online marketplace to offer a ticket for sale if the above  
158 disclosures are not provided by the reseller.

159 (7) (a) A resale website or online marketplace shall not  
160 make any representation of affiliation or endorsement with a  
161 venue or artist without the express consent of the venue or  
162 artist, except when it constitutes fair use or is consistent  
163 with applicable laws.

164 (b) A person who knowingly violates this subsection  
165 commits a misdemeanor of the second degree, punishable as  
166 provided in s. 775.082 or s. 775.083.

167 (c) A person who has previously been convicted two or more  
168 times of a violation of this subsection, and who subsequently  
169 violates this subsection, commits a misdemeanor of the first  
170 degree, punishable as provided in s. 775.082 or s. 775.083.

171 (8) (a) A person aggrieved by a violation of this section  
172 may, without regard to any other remedy or relief to which the  
173 person is entitled, bring an action to obtain a declaratory

Amendment No. 1

174 judgment that an act or practice violates this section and to  
175 enjoin a person who has violated, is violating, or is otherwise  
176 likely to violate this section.

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

180 (9) If the department, by its own inquiry or as a result  
181 of complaints, has reason to believe that a violation of this  
182 section has occurred or is occurring, the department may conduct  
183 an investigation, conduct hearings, subpoena witnesses and  
184 evidence, and administer oaths and affirmations. If, as a result  
185 of the investigation, the department has reason to believe a  
186 violation of this section has occurred, the department with the  
187 coordination of the Department of Legal Affairs and any state  
188 attorney, if the violation has occurred or is occurring within  
189 her or his judicial circuit, may bring a civil or criminal  
190 action and seek other relief, including injunctive relief, as  
191 the court deems appropriate. This subsection does not prohibit  
192 the department from providing information to any law enforcement  
193 agency or to any other regulatory agency and the department may  
194 report to the appropriate law enforcement officers any  
195 information concerning a violation of this section.

196 (10) Except as otherwise provided in this section, a  
197 person who knowingly resells a ticket or tickets in violation of  
198 this section commits a misdemeanor of the second degree,  
199 punishable as provided in s. 775.082 or s. 775.083. Each

Amendment No. 1

200 violation of this section constitutes a separate offense.

201 (11) The department may adopt rules to implement and  
202 enforce this section.

203 ~~(5) A person who intentionally uses or sells software to~~  
204 ~~circumvent on a ticket seller's Internet website a security~~  
205 ~~measure, an access control system, or any other control or~~  
206 ~~measure that is used to ensure an equitable ticket buying~~  
207 ~~process is liable to the state for a civil penalty equal to~~  
208 ~~treble the amount for which the ticket or tickets were sold.~~

209 ~~(6) As used in this section, the term "software" means~~  
210 ~~computer programs that are primarily designed or produced for~~  
211 ~~the purpose of interfering with the operation of any person or~~  
212 ~~entity that sells, over the Internet, tickets of admission to a~~  
213 ~~sporting event, theater, musical performance, or place of public~~  
214 ~~entertainment or amusement of any kind.~~

215 Section 2. This act shall take effect October 1, 2015.

216  
217 -----  
218 **T I T L E A M E N D M E N T**

219 Remove everything before the enacting clause and insert:  
220 An act relating to ticket sales; amending s. 817.36, F.S.;  
221 defining terms; revising provisions to include digital  
222 platforms; revising certain presale requirements related to  
223 ticket refunds; revising ticket resale disclosure requirements;  
224 providing ticket transferability guidelines; revising provisions  
225 relating to prohibitions on bypassing portions of the ticket

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 463 (2015)

Amendment No. 1

226 buying process, disguising the identity of a buyer, or  
227 circumventing security measures; providing for recovery of  
228 damages up to treble the amount of actual damages for such  
229 violations; requiring specified disclosures before resale of a  
230 ticket; providing indemnity for resale websites and online  
231 marketplaces from the representations of resellers; prohibiting  
232 misrepresentations of affiliation or endorsement by resellers  
233 without consent; providing exceptions; authorizing declaratory  
234 judgments; authorizing the Department of Agriculture and  
235 Consumer Services to enforce the ticket resale provisions;  
236 providing criminal penalties for certain violations; requiring  
237 rulemaking; deleting provisions imposing penalties for  
238 intentionally using or selling software to circumvent certain  
239 ticket seller security measures; providing an effective date.

393821 - h0463-strike.docx

Published On: 4/13/2015 9:46:29 PM