



Sen. Don Harmon

Filed: 4/11/2005

09400SB0092sam002

LRB094 06238 RLC 44951 a

1 AMENDMENT TO SENATE BILL 92

2 AMENDMENT NO. _____. Amend Senate Bill 92 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Ticket Scalping Act is amended by changing
5 Sections 0.01, 1, and 1.5 as follows:

6 (720 ILCS 375/0.01) (from Ch. 121 1/2, par. 157.30)

7 Sec. 0.01. Short title. This Act may be cited as the Ticket
8 Sale and Resale ~~Scalping~~ Act.

9 (Source: P.A. 86-1324.)

10 (720 ILCS 375/1) (from Ch. 121 1/2, par. 157.31)

11 Sec. 1. Sale of tickets other than at box office
12 prohibited; exceptions.

13 (a) It is unlawful for any person, firm or corporation,
14 owner, lessee, manager, trustee, or any of their employees or
15 agents, owning, conducting, managing or operating any theater,
16 circus, baseball park, place of public entertainment or
17 amusement where tickets of admission are sold for any such
18 places of amusement or public entertainment to sell or permit
19 the sale, barter or exchange of such admission tickets at any
20 other place than in the box office or on the premises of such
21 theater, circus, baseball park, place of public entertainment
22 or amusement, but nothing herein prevents such theater, circus,
23 baseball park, place of public entertainment or amusement from

1 placing any of its admission tickets for sale at any other
2 place at the same price such admission tickets are sold by such
3 theater, circus, baseball park or other place of public
4 entertainment or amusement at its box office or on the premises
5 of such places, at the same advertised price or printed rate
6 thereof.

7 (b) Any term or condition of the original sale of a ticket
8 to any theater, circus, baseball park, or place of public
9 entertainment or amusement where tickets of admission are sold
10 that purports to limit the terms or conditions of resale of the
11 ticket (including but not limited to the resale price of the
12 ticket) is unenforceable, null, and void if the resale
13 transaction is carried out by any of the means set forth in
14 subsections (b), (c), (d), and (e) of Section 1.5 of this Act.
15 This subsection shall not apply to a term or condition of the
16 original sale of a ticket to any theater, circus, baseball
17 park, or place of public entertainment or amusement where
18 tickets of admission are sold that purports to limit the terms
19 or conditions of resale of a ticket specifically designated as
20 seating in a special section for a person with a physical
21 disability.

22 (Source: Laws 1923, p. 322.)

23 (720 ILCS 375/1.5) (from Ch. 121 1/2, par. 157.32)

24 Sec. 1.5. Sale of tickets at more than face value
25 prohibited; exceptions.

26 (a) Except as otherwise provided in subsections (b), (c),
27 (d), and (e) ~~subsection (b)~~ of this Section and in Section 4,
28 it is unlawful for any person, persons, firm or corporation to
29 sell tickets for baseball games, football games, hockey games,
30 theatre entertainments, or any other amusement for a price more
31 than the price printed upon the face of said ticket, and the
32 price of said ticket shall correspond with the same price shown
33 at the box office or the office of original distribution.

1 (b) This Act does not apply to the resale ~~sale~~ of tickets
2 of admission to a sporting event, theater, musical performance,
3 or place of public entertainment or amusement of any kind for a
4 price in excess of the printed box office ticket price by a
5 ticket broker who meets all of the following requirements:

6 (1) The ticket broker is duly registered with the
7 Office of the Secretary of State on a registration form
8 provided by that Office. The registration must contain a
9 certification that the ticket broker:

10 (A) engages in the resale of tickets on a regular
11 and ongoing basis from one or more permanent or fixed
12 locations located within this State;

13 (B) maintains as the principal business activity
14 at those locations the resale of tickets;

15 (C) displays at those locations the ticket
16 broker's registration;

17 (D) maintains at those locations a listing of the
18 names and addresses of all persons employed by the
19 ticket broker;

20 (E) is in compliance with all applicable federal,
21 State, and local laws relating to its ticket selling
22 activities, and that neither the ticket broker nor any
23 of its employees within the preceding 12 months have
24 been convicted of a violation of this Act; and

25 (F) ~~that the ticket broker~~ meets the following
26 requirements:

27 (i) the ticket broker maintains a ~~statewide~~
28 toll free number specifically dedicated for
29 Illinois ~~for~~ consumer complaints and inquiries
30 concerning ticket sales;

31 (ii) the ticket broker has adopted a code that
32 advocates consumer protection that includes, at a
33 minimum:

34 (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, ~~at~~
15 ~~least 50% of~~ which must be cash available for
16 immediate disbursement for satisfaction of valid
17 consumer complaints.

18 Alternatively, the ticket broker may fulfill the
19 requirements of subparagraph (F) of this paragraph (1)
20 ~~subsection (b)~~ if the ticket broker certifies that he or
21 she belongs to a professional association organized under
22 the laws of this State, or organized under the laws of any
23 other state and authorized to conduct business in Illinois,
24 that has been in existence for at least 3 years prior to
25 the date of that broker's registration with the Office of
26 the Secretary of State, and is specifically dedicated, for
27 and on behalf of its members, to provide and maintain the
28 consumer protection requirements of subparagraph (F) of
29 this paragraph (1) ~~subsection (b)~~ to maintain the integrity
30 of the ticket brokerage industry.

31 (2) (Blank).

32 (3) The ticket broker and his employees must not engage
33 in the practice of selling, or attempting to sell, tickets
34 for any event while sitting or standing near the facility

1 at which the event is to be held or is being held unless
2 the ticket broker or his or her employees are on property
3 they own, lease, or have permission to occupy.

4 (4) The ticket broker must comply with all requirements
5 of the Retailers' Occupation Tax Act and collect and remit
6 all other applicable federal, State and local taxes ~~laws~~ in
7 connection with the ticket broker's ~~his~~ ticket selling
8 activities.

9 (5) Beginning January 1, 1996, no ticket broker shall
10 advertise for resale any tickets within this State unless
11 the advertisement contains the name of the ticket broker
12 and the Illinois registration number issued by the Office
13 of the Secretary of State under this Section.

14 (6) Each ticket broker registered under this Act shall
15 pay an annual registration fee of \$100.

16 (c) This Act does not apply to the sale 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 by a
20 reseller engaged in interstate or intrastate commerce on an
21 Internet auction listing service duly registered with the
22 Department of Financial and Professional Regulation under the
23 Auction License Act and with the Office of the Secretary of
24 State on a registration form provided by that Office. This
25 subsection (c) applies to both sales through an online bid
26 submission process and sales at a fixed price on the same
27 website or interactive computer service as an Internet auction
28 listing service registered with the Department of Financial and
29 Professional Regulation.

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

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

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

6 (3) the operator maintains, either itself or through an
7 affiliate, a toll free number dedicated for consumer
8 complaints;

9 (4) the operator provides consumer protections that
10 include at a minimum:

11 (A) consumer protection guidelines;

12 (B) a standard refund policy that guarantees to all
13 purchasers that it will provide and in fact provides a
14 full refund of the amount paid by the purchaser
15 (including, but not limited to, all fees, regardless of
16 how characterized) if the following occurs:

17 (i) the ticketed event is cancelled and the
18 purchaser returns the tickets to the seller or
19 Internet auction listing service; however,
20 reasonable delivery fees need not be refunded if
21 the previously disclosed guarantee specifies that
22 the fees will not be refunded if the event is
23 cancelled;

24 (ii) the ticket received by the purchaser does
25 not allow the purchaser to enter the ticketed event
26 for reasons that may include, without limitation,
27 that the ticket is counterfeit or that the ticket
28 has been cancelled by the issuer due to
29 non-payment, unless the ticket is cancelled due to
30 an act or omission by such purchaser;

31 (iii) the ticket fails to conform to its
32 description on the Internet auction listing
33 service; or

34 (iv) the ticket seller fails to send the ticket

1 or tickets to the purchaser, or the ticket seller
2 attempted to deliver the ticket or tickets to the
3 purchaser in the manner required by the Internet
4 auction listing service and the purchaser failed
5 to receive the ticket or tickets; and

6 (C) standards of professional conduct;

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

14 (6) the operator either:

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

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

33 (7) the operator either:

34 (A) has established and maintains a consumer

1 protection rebate fund in Illinois in an amount in
2 excess of \$100,000, which must be cash available for
3 immediate disbursement for satisfaction of valid
4 consumer complaints; or

5 (B) has obtained and maintains in force an errors
6 and omissions insurance policy that provides at least
7 \$100,000 in coverage and proof that the policy has been
8 filed with the Department of Financial and
9 Professional Regulation.

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

17 (e) This Act does not apply to the resale of a ticket for
18 admission to a baseball game, football game, hockey game,
19 theatre entertainment, or any other amusement for a price more
20 than the price printed on the face of the ticket and for more
21 than the price of the ticket at the box office if the resale is
22 made through an Internet website whose operator meets the
23 following requirements:

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

27 (2) the operator maintains a listing of the names of
28 the operator's directors and officers, and is duly
29 registered with the Office of the Secretary of State on a
30 registration form provided by that Office;

31 (3) the operator is in compliance with all applicable
32 federal, State, and local laws relating to its ticket
33 reselling activities regulated under this Act, and the
34 operator's officers and directors have not been convicted

1 of a violation of this Act within the preceding 12 months;

2 (4) the operator maintains a toll free number
3 specifically dedicated for consumer complaints and
4 inquiries regarding ticket resales made through the
5 website;

6 (5) the operator either:

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

12 (B) has obtained and maintains in force an errors
13 and omissions policy of insurance in the minimum amount
14 of \$100,000 for the satisfaction of valid consumer
15 complaints;

16 (6) the operator has adopted an independent and
17 disinterested dispute resolution procedure that allows
18 resellers or purchasers to file complaints against the
19 other and have those complaints mediated or resolved by a
20 third party, and requires the resellers or purchasers to
21 submit to the jurisdiction of the State of Illinois for
22 complaints involving a ticketed event held in Illinois;

23 (7) the operator either:

24 (A) complies with all applicable requirements of
25 the Retailers' Occupation Tax Act and collects and
26 remits all applicable federal, State, and local taxes;
27 or

28 (B) publishes a written notice on the website after
29 the sale of one or more tickets that automatically
30 informs the ticket reseller of the ticket reseller's
31 potential legal obligation to pay any applicable local
32 amusement tax in connection with the reseller's sale of
33 tickets, and discloses to law enforcement or other
34 government tax officials, without subpoena, the name,

1 city, state, telephone number, e-mail address, user ID
2 history, fraud complaints, and bidding and listing
3 history of any specifically identified reseller or
4 purchaser upon the receipt of a verified request from
5 law enforcement or other government tax officials
6 relating to a criminal investigation or alleged
7 illegal activity; and

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

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

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

26 (C) the ticket fails to conform to its description
27 on the website; or

28 (D) the ticket seller fails to send the ticket or
29 tickets to the purchaser, or the ticket seller
30 attempted to deliver the ticket or tickets to the
31 purchaser in the manner required by the website
32 operator and the purchaser failed to receive the ticket
33 or tickets.

34 Nothing in this subsection (e) shall be deemed to imply any

1 limitation on ticket sales made in accordance with subsections
2 (b), (c), and (d) of this Section or any limitation on sales
3 made in accordance with Section 4.

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

10 (g) The provisions of Public Act 89-406 ~~this amendatory Act~~
11 ~~of 1995~~ are severable under Section 1.31 of the Statute on
12 Statutes.

13 (h) The provisions of this amendatory Act of the 94th
14 General Assembly are severable under Section 1.31 of the
15 Statute on Statutes.

16 (Source: P.A. 89-406, eff. 11-15-95.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."