



Rep. Stephanie A. Kifowit

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LRB098 15517 JLS 57791 a

1 AMENDMENT TO HOUSE BILL 3958

2 AMENDMENT NO. _____. Amend House Bill 3958 by replacing
3 everything after the enacting clause with the following:

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), ~~and~~ (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.

1 (b) This Act does not apply to the resale of tickets of
2 admission to a sporting event, theater, musical performance, or
3 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) meets the following requirements:

26 (i) the ticket broker maintains a toll free

1 number specifically dedicated for Illinois
2 consumer complaints and inquiries concerning
3 ticket sales;

4 (ii) the ticket broker has adopted a code that
5 advocates consumer protection that includes, at a
6 minimum:

7 (a-1) consumer protection guidelines;

8 (b-1) a standard refund policy. In the
9 event a refund is due, the ticket broker shall
10 provide that refund without charge other than
11 for reasonable delivery fees for the return of
12 the tickets; and

13 (c-1) standards of professional conduct;

14 (iii) the ticket broker has adopted a
15 procedure for the binding resolution of consumer
16 complaints by an independent, disinterested third
17 party and thereby submits to the jurisdiction of
18 the State of Illinois; and

19 (iv) the ticket broker has established and
20 maintains a consumer protection rebate fund in
21 Illinois in an amount in excess of \$100,000, which
22 must be cash available for immediate disbursement
23 for satisfaction of valid consumer complaints.

24 Alternatively, the ticket broker may fulfill the
25 requirements of subparagraph (F) of this paragraph (1) if
26 the ticket broker certifies that he or she belongs to a

1 professional association organized under the laws of this
2 State, or organized under the laws of any other state and
3 authorized to conduct business in Illinois, that has been
4 in existence for at least 3 years prior to the date of that
5 broker's registration with the Office of the Secretary of
6 State, and is specifically dedicated, for and on behalf of
7 its members, to provide and maintain the consumer
8 protection requirements of subparagraph (F) of this
9 paragraph (1) to maintain the integrity of the ticket
10 brokerage industry.

11 (2) (Blank).

12 (3) The ticket broker and his employees must not engage
13 in the practice of selling, or attempting to sell, tickets
14 for any event while sitting or standing near the facility
15 at which the event is to be held or is being held unless
16 the ticket broker or his or her employees are on property
17 they own, lease, or have permission to occupy.

18 (4) The ticket broker must comply with all requirements
19 of the Retailers' Occupation Tax Act and collect and remit
20 all other applicable federal, State and local taxes in
21 connection with the ticket broker's ticket selling
22 activities.

23 (5) Beginning January 1, 1996, no ticket broker shall
24 advertise for resale any tickets within this State unless
25 the advertisement contains the name of the ticket broker
26 and the Illinois registration number issued by the Office

1 of the Secretary of State under this Section.

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

4 (c) This Act does not apply to the sale of tickets of
5 admission to a sporting event, theater, musical performance, or
6 place of public entertainment or amusement of any kind for a
7 price in excess of the printed box office ticket price by a
8 reseller engaged in interstate or intrastate commerce on an
9 Internet auction listing service duly registered with the
10 Department of Financial and Professional Regulation under the
11 Auction License Act and with the Office of the Secretary of
12 State on a registration form provided by that Office. This
13 subsection (c) applies to both sales through an online bid
14 submission process and sales at a fixed price on the same
15 website or interactive computer service as an Internet auction
16 listing service registered with the Department of Financial and
17 Professional Regulation.

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

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

23 (2) the operator is in compliance with all applicable
24 federal, State, and local laws relating to ticket selling
25 activities, and the operator's officers and directors have
26 not been convicted of a violation of this Act within the

1 preceding 12 months;

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

5 (4) the operator provides consumer protections that
6 include at a minimum:

7 (A) consumer protection guidelines;

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

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

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

1 (iii) the ticket fails to conform to its
2 description on the Internet auction listing
3 service; or

4 (iv) the ticket seller willfully fails to send
5 the ticket or tickets to the purchaser, or the
6 ticket seller attempted to deliver the ticket or
7 tickets to the purchaser in the manner required by
8 the Internet auction listing service and the
9 purchaser failed to receive the ticket or tickets;
10 and

11 (C) standards of professional conduct;

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

19 (6) the operator either:

20 (A) complies with all applicable requirements of
21 the Retailers' Occupation Tax Act and collects and
22 remits all applicable federal, State, and local taxes;
23 or

24 (B) publishes a written notice on the website after
25 the sale of one or more tickets that automatically
26 informs the ticket reseller of the ticket reseller's

1 potential legal obligation to pay any applicable local
2 amusement tax in connection with the reseller's sale of
3 tickets, and discloses to law enforcement or other
4 government tax officials, without subpoena, the name,
5 city, state, telephone number, e-mail address, user ID
6 history, fraud complaints, and bidding and listing
7 history of any specifically identified reseller or
8 purchaser upon the receipt of a verified request from
9 law enforcement or other government tax officials
10 relating to a criminal investigation or alleged
11 illegal activity; and

12 (7) the operator either:

13 (A) has established and maintains a consumer
14 protection rebate fund in Illinois in an amount in
15 excess of \$100,000, which must be cash available for
16 immediate disbursement for satisfaction of valid
17 consumer complaints; or

18 (B) has obtained and maintains in force an errors
19 and omissions insurance policy that provides at least
20 \$100,000 in coverage and proof that the policy has been
21 filed with the Department of Financial and
22 Professional Regulation.

23 (d) This Act does not apply to the resale 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

1 conducted at an auction solely by or for a not-for-profit
2 organization for charitable purposes under clause (a)(1) of
3 Section 10-1 of the Auction License Act.

4 (e) This Act does not apply to the resale of a ticket for
5 admission to a baseball game, football game, hockey game,
6 theatre entertainment, or any other amusement for a price more
7 than the price printed on the face of the ticket and for more
8 than the price of the ticket at the box office if the resale is
9 made through an Internet website whose operator meets the
10 following requirements:

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

14 (2) the operator maintains a listing of the names of
15 the operator's directors and officers, and is duly
16 registered with the Office of the Secretary of State on a
17 registration form provided by that Office;

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

23 (4) the operator maintains a toll free number
24 specifically dedicated for consumer complaints and
25 inquiries regarding ticket resales made through the
26 website;

1 (5) the operator either:

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

7 (B) has obtained and maintains in force an errors
8 and omissions policy of insurance in the minimum amount
9 of \$100,000 for the satisfaction of valid consumer
10 complaints;

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

18 (7) the operator either:

19 (A) complies with all applicable requirements of
20 the Retailers' Occupation Tax Act and collects and
21 remits all applicable federal, State, and local taxes;
22 or

23 (B) publishes a written notice on the website after
24 the sale of one or more tickets that automatically
25 informs the ticket reseller of the ticket reseller's
26 potential legal obligation to pay any applicable local

1 amusement tax in connection with the reseller's sale of
2 tickets, and discloses to law enforcement or other
3 government tax officials, without subpoena, the name,
4 city, state, telephone number, e-mail address, user ID
5 history, fraud complaints, and bidding and listing
6 history of any specifically identified reseller or
7 purchaser upon the receipt of a verified request from
8 law enforcement or other government tax officials
9 relating to a criminal investigation or alleged
10 illegal activity; and

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

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

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

1 ticket is cancelled due to an act or omission by the
2 purchaser;

3 (C) the ticket fails to conform to its description
4 on the website; or

5 (D) the ticket seller willfully fails to send the
6 ticket or tickets to the purchaser, or the ticket
7 seller attempted to deliver the ticket or tickets to
8 the purchaser in the manner required by the website
9 operator and the purchaser failed to receive the ticket
10 or tickets.

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

15 (f) The provisions of subsections (b), (c), (d), and (e) of
16 this Section apply only to the resale of a ticket after the
17 initial sale of that ticket. No reseller of a ticket may refuse
18 to sell tickets to another ticket reseller solely on the basis
19 that the purchaser is a ticket reseller or ticket broker
20 authorized to resell tickets pursuant to this Act.

21 (f-5) In addition to the requirements imposed under
22 subsections (b), (c), (d), (e), and (f) of this Section, ticket
23 brokers and resellers must comply with the requirements of this
24 subsection. Before accepting any payment from a purchaser,
25 ticket brokers and resellers must disclose to the purchaser in
26 a clear, conspicuous, and readily noticeable manner the

1 following information:

2 (1) the identity of the event venue box office;

3 (2) the contact information for the event venue box
4 office; and

5 (3) that the ticket broker or reseller is not the event
6 venue box office, but is, instead, a ticket broker or
7 reseller.

8 Before offering ticket for resale, a ticket broker or
9 reseller must purchase the ticket from the event venue box
10 office. The price at which the ticket broker or reseller offers
11 the ticket for resale may not exceed 3 times the original
12 ticket price established by the venue box office.

13 Before selling and accepting payment for a ticket, a ticket
14 broker or reseller must require the purchaser to acknowledge by
15 an affirmative act (i) each of the disclosures required under
16 this subsection and (ii) each additional term and condition of
17 the transaction.

18 This subsection (f-5) does not apply to an Internet auction
19 listing service registered with the Department of Financial and
20 Professional Regulation as required under the Auction License
21 Act.

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

24 (h) The provisions of this amendatory Act of the 94th
25 General Assembly are severable under Section 1.31 of the
26 Statute on Statutes.

1 (Source: P.A. 94-20, eff. 6-14-05.)".