

JAN 18 2019

A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the ticket-
2 purchasing process for popular events is frustrating for
3 consumers. According to reports by the Attorney General of the
4 state of New York and the federal Government Accountability
5 Office, event tickets for popular concerts go through one of
6 three channels: holds, pre-sales, and general public sales. Due
7 to event tickets being held or sold through pre-sales, the
8 general public only has access to a fraction of the event
9 tickets, sometimes less than half.

10 Additionally, primary ticket sellers are not transparent
11 with fees and charges. First, a consumer may not be informed of
12 the applicable taxes and charges until the very end of the
13 ticket-purchasing process, shocking a consumer with the
14 additional cost. Second, the amount of the fees or charges do
15 not always appear justified by the proffered reason for the fees
16 or charges.



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1 Further, the legislature finds that popular events held in
2 the State attract secondary market profiteers, commonly known as
3 scalpers, who exacerbate the frustrations of the ticket-
4 purchasing process to the detriment of ordinary consumers.
5 First, scalpers are additional persons with whom consumers must
6 compete for event tickets, thereby increasing the demand for an
7 inelastic supply. Second, scalpers increase the cost of an
8 event to a consumer, but the cost increase is not spent to make
9 the event better for the consumer. Lastly, some scalpers do not
10 compete equally with consumers as some scalpers utilize computer
11 software to navigate a ticket-selling platform and its security
12 measures in a fraction of the time as a human being to purchase
13 multiple tickets and conduct multiple transactions
14 simultaneously.

15 However, the legislature recognizes that the secondary
16 market provides a service to consumers who are willing to pay
17 more for the convenience of purchasing tickets at any time up to
18 the date of the event. Additionally, the secondary market
19 provides an opportunity to obtain tickets for consumers whose
20 schedule and commitments prevented them from purchasing event
21 tickets when the event tickets were initially made available.



1 Due to each position's merits, the legislature finds that
2 states have varied in their approach to ticket scalping. Some
3 states have explicitly allowed the practice of ticket scalping
4 and curbed any attempt to limit the practice. Other states have
5 taken the opposite stance by prohibiting the practice in its
6 entirety. Yet, other states have taken an intermediate approach
7 by placing various limitations such as capping the profit a
8 ticket scalper may make; restricting the time or place of ticket
9 scalping; requiring ticket scalpers to be licensed or
10 registered; or mandating certain business practices to ensure a
11 certain level of consumer protection.

12 Additionally, the legislature finds that today's
13 technology, such as the internet, makes the practice of ticket
14 scalping both substantially easier to accomplish and harder to
15 curb. As such, the legislature finds that an intermediate
16 approach is the most pragmatic at providing consumers with
17 protection and fairness in the ticket-purchasing process.

18 Thus, the purpose of this Act is to regulate event ticket
19 sales by:



1 entertainment, or other place in the State where public
2 exhibitions, games, contests, or performances are held.

3 "Primary ticket seller" means an owner or operator of a
4 venue or sports team, manager or provider of an event, event
5 promoter, a provider of ticketing services or an agent of the
6 owner, operator, manager or provider, that engages in the
7 primary sale of event tickets or retains the authority to
8 otherwise distribute tickets.

9 "Secondary ticket seller" means any person engaged in the
10 business of reselling event tickets at a price greater than the
11 price printed on the ticket.

12 "Website operator" means a person who owns or controls an
13 internet website that advertises the resale of tickets, offers
14 the resale of tickets, or facilitates a secondary ticket
15 exchange.

16 § -2 Sale of event tickets at more than face value
17 prohibited. Except as provided in this chapter, it is unlawful
18 for any person to sell or offer for sale event tickets at a
19 price greater than the price printed on the ticket.

20 § -3 Price cap for event tickets sold by a primary or
21 secondary ticket seller. No event ticket shall be sold or



1 offered for sale by a primary or secondary ticket seller at a
2 price greater than the sum of:

- 3 (1) The price printed on the event ticket;
- 4 (2) Any tax that the seller may lawfully collect on the
5 price printed on the event ticket; and
- 6 (3) Any reasonable charge for services actually rendered
7 and directly related to the cost of selling or
8 offering to sell the event ticket, which charge shall
9 not exceed fifty per cent of the price printed on the
10 event ticket.

11 **§ -4 Charitable organizations and their agents.**

12 Charitable organizations, as defined in section 467B-1, and
13 their employees and volunteers are exempt from the limitations
14 of section -2 for event tickets resold or offered for resale
15 through a raffle, auction, or similar fundraising activity for
16 the benefit of a charitable organization's charitable purposes.

17 **§ -5 Credit card; fees; cancellations. (a) No**

18 secondary ticket seller shall charge a fee for the use of a
19 credit card to purchase event tickets without first disclosing
20 that a fee will be charged and the fee amount.



1 (b) A secondary ticket seller shall refund any and all
2 service fees charged for the purchase of an event ticket when
3 the public exhibition, game, contest, or performance for which
4 the event ticket was purchased is canceled.

5 § -6 Website operators. For event tickets resold or
6 offered for resale by or through an internet website, the
7 website operator shall:

8 (1) Guarantee a full refund of the amount paid for the
9 event ticket, and any applicable taxes and servicing,
10 handling, or processing fees, if:

11 (A) The ticketed event is cancelled;

12 (B) The purchaser is denied admission to the ticketed
13 event, unless the denial is due to the action or
14 omission of the purchaser; or

15 (C) The event ticket is not delivered to the
16 purchaser in time for the purchaser to attend the
17 event; and

18 (2) Disclose that:

19 (A) The internet website is not the primary ticket
20 seller;



1 (B) The person selling the ticket is not the primary
2 ticket seller; and

3 (C) The price of the event ticket listed on that
4 internet website may be higher than the ticket's
5 original face value.

6 § -7 **Speculative tickets prohibited.** No person shall
7 intentionally resell or offer for resale an event ticket if:

8 (1) The event ticket is not in the seller's possession; or

9 (2) The seller does not have a written contract to obtain
10 the offered ticket at a certain price from a person in
11 possession of the ticket or from a person who has a
12 contractual right to obtain such event ticket.

13 § -8 **Circumvention of online ticket purchase processes**

14 **prohibited.** (a) No person shall intentionally use or sell
15 computer software to circumvent a security measure, access
16 control system, or other control or measure on a ticket seller's
17 website that is used to ensure an equitable process for
18 purchasing event tickets.

19 (b) A person found in violation of this section shall be
20 guilty of a misdemeanor.



1 § -9 Ability to restrict or deny. Nothing in this
2 chapter shall be construed to prevent a primary ticket seller
3 from contractually imposing restrictions on or denying a
4 consumer's ability to resell event tickets.

5 § -10 Remedies; prohibited contractual agreements. (a)
6 Any violation of this chapter shall constitute unfair methods of
7 competition and unfair and deceptive acts or practices in the
8 conduct of any trade or commerce under section 480-2. Each
9 sale, offer for sale, resale, or offer for resale in violation
10 of this chapter shall constitute a separate violation.

11 (b) Any agreement entered into by a consumer for the
12 purchase of an event ticket that waives, limits, or disclaims
13 any of the rights set forth in this chapter shall be void as
14 contrary to public policy.

15 (c) Any penalty issued pursuant to subsection (a) shall be
16 in addition to any other remedies provided by law.

17 § -11 Rules. The director may adopt rules pursuant to
18 chapter 91 to effectuate the purpose and to enforce the
19 requirements of this chapter."

20 SECTION 3. Section 440-17, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§440-17 Admission tickets. All tickets of admission to~~
2 ~~any boxing contest for which admission fees are charged and~~
3 ~~received shall have printed clearly upon the face thereof the~~
4 ~~purchase price of same, and no ticket shall be sold for more~~
5 ~~than the price as printed thereon."]~~

6 SECTION 4. Section 440E-13, Hawaii Revised Statutes, is
7 repealed.

8 ~~["§440E-13 Admission tickets. All tickets of admission~~
9 ~~to any mixed martial arts contest for which admission fees are~~
10 ~~charged and received shall have printed clearly upon the face~~
11 ~~thereof the purchase price of same, and no ticket shall be sold~~
12 ~~for more than the price as printed thereon."]~~

13 SECTION 5. Section 481B-15, Hawaii Revised Statutes, is
14 repealed.

15 ~~["§481B-15 Ticket brokers; fees; cancellation. (a) No~~
16 ~~ticket broker shall charge a fee for the use of a credit card to~~
17 ~~purchase tickets without first disclosing that a fee will be~~
18 ~~charged.~~

19 ~~(b) A ticket broker shall refund any and all service fees~~
20 ~~charged for the purchase of a ticket when the public exhibition,~~



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Report Title:

Event Ticket Sales Practices; Ticket Scalping

Description:

Caps the service charges for a primary and secondary ticket seller. Requires website operators to guarantee refunds in certain circumstances and disclose that the website is not the primary ticket seller. Prohibits speculative tickets and the usage of bots. Makes conforming amendments.

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