

[First Reprint]

**SENATE, No. 875**

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**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Senator ROBERT W. SINGER**

**District 30 (Monmouth and Ocean)**

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**SYNOPSIS**

Revises law concerning ticket sales.

**CURRENT VERSION OF TEXT**

As reported by the Senate Commerce Committee on October 15, 2012, with amendments.



**(Sponsorship Updated As Of: 10/5/2012)**

1 AN ACT concerning ticket sales, amending and supplementing  
2 P.L.1983, c.135, amending P.L.2001, c.394 and repealing  
3 various parts of statutory law.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 1 of P.L.1983, c.135 (C.56:8-26) is amended to read  
9 as follows:

10 1. As used in this act:

11 a. "Director" means the director of the Division of Consumer  
12 Affairs in the Department of Law and Public Safety.

13 b. "Division" means the Division of Consumer Affairs in the  
14 Department of Law and Public Safety.

15 c. "Person" means corporations, companies, associations,  
16 societies, firms, partnerships and joint stock companies as well as  
17 individuals.

18 d. "Place of entertainment" means any privately owned and  
19 operated entertainment facility or publicly owned and operated  
20 entertainment facility within this State, such as a theater, stadium,  
21 museum, arena, racetrack or other place where performances,  
22 concerts, exhibits, games or contests are held and for which an  
23 entry fee is charged. A facility owned by a school, college,  
24 university, or house of worship is a place of entertainment only  
25 when an event is held for which an entry fee is charged, provided  
26 that the event is conducted by a third party independent of the  
27 owner of the facility.

28 e. "Ticket" means any **[**piece of paper which indicates that the  
29 bearer has paid for entry or other**]** evidence **[**which permits**]** of the  
30 right of entry to a place of entertainment.

31 f. **[**"Ticket broker" means any person situated in and operating  
32 in this State who is involved in the business of reselling tickets of  
33 admission to places of entertainment and who charges a premium in  
34 excess of the price, plus taxes, printed on the tickets. For the  
35 purposes of this act, the term "ticket broker" shall not include an  
36 individual not regularly engaged in the business of reselling tickets,  
37 who resells less than 30 tickets during any one-year period, and  
38 who obtained the tickets for his own use, or the use of his family,  
39 friends, or acquaintances.**]** (Deleted by amendment, P.L. , c. )  
40 (pending before the Legislature as this bill)

41 g. "Resale" means a sale, other than a pre-sale, of a ticket by a  
42 person other than the owner or operator of a place of entertainment  
43 or of the entertainment event or an agent of any such person acting

**EXPLANATION** – Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCM committee amendments adopted October 15, 2012.

1 in that capacity. Resale shall include the sale of a ticket to an event  
2 at a place of entertainment by any means, including, but not limited  
3 to, in person, or by means of a telephone or any other  
4 communications device or technology, mail, delivery service,  
5 facsimile, the Internet, or other electronic means. Resale shall not  
6 include an initial sale.

7 h. "Resell" means to offer for resale or to consummate a resale.

8 i. "Digger" means a person temporarily hired for the purpose  
9 of securing tickets by intimidating a purchaser waiting in line to  
10 procure event tickets.

11 j. "Reseller" means any person other than a place of  
12 entertainment or its agent or an online marketplace, acting in that  
13 capacity, who resells a ticket, including a season ticket holder or an  
14 insider.

15 k. "Advertisement" or "advertising" means any direct or  
16 indirect attempt, by publication, dissemination, solicitation,  
17 endorsement, circulation, posting, or in any other manner, through  
18 any means of communication or technology, to cause or induce any  
19 person to purchase or offer to purchase a ticket. An offer of tickets  
20 for resale made on an Internet website or by means of any other  
21 communications device or technology shall be deemed an  
22 advertisement.

23 l. "Affinity group" means an identifiable group of people who  
24 are members of the same organization, or who are customers of the  
25 same person, and who enjoy special privileges. Customers of a  
26 reseller shall not constitute an affinity group.

27 m. "Initial sale" means the first sale of a ticket for a specific  
28 entertainment event by the owner or operator of a place of  
29 entertainment, or of the entertainment event, or an agent of any  
30 such person. The term "initial sale" also shall include the  
31 distribution of tickets to insiders by a producer, promoter, or place  
32 of entertainment, under an agreement for the presentation of an  
33 entertainment event.

34 n. "Insider" means an employee of a place of entertainment or  
35 of its agent, a producer, promoter, performer, or any other person  
36 associated with an event, who lawfully controls any tickets prior to  
37 their release for sale to the general public.

38 o. "Pre-sale" means a sale of tickets at or below the price  
39 printed on the ticket by an owner or operator of a place of  
40 entertainment, or, with the permission of the owner or operator, by  
41 an insider, prior to their release for sale to the general public,  
42 directly, or indirectly through a third party who is not a reseller, to  
43 members of an affinity group or target market.

44 p. "Producer" means a person who stages entertainment events,  
45 such as a performance, concert, exhibit, game, or contest.

46 q. "Promoter" means a person who organizes financing and  
47 publicity for an entertainment event.

1     r. "Season ticket holder" means a person who purchases a  
2     package of one or more tickets to a series of similar events at a  
3     place of entertainment pursuant to a plan offered by the place of  
4     entertainment or by a ticket agent for the place of entertainment.

5     s. "Ticket issuer" means any person, other than an online  
6     marketplace or reseller, that makes tickets available directly or  
7     indirectly, at an initial sale or pre-sale, to the general public, and  
8     may include the owner or operator of a place of entertainment, the  
9     producer or sponsor of an entertainment event, a sports team or  
10    sports league of teams participating in an entertainment event, a  
11    theater company, musical group or similar participant in an  
12    entertainment event, or an agent of any such person.

13    t. "Public sale tickets" means tickets that are offered for sale to  
14    the general public and not subject to a hold back by a ticket issuer.

15    u. "Online marketplace" means an Internet website that  
16    provides a forum for the buying and selling of tickets, but shall not  
17    include a reseller, ticket issuer, or an agent of an owner or operator  
18    of a place of entertainment.

19    v. "Public funding" means the provision of funding or financial  
20    support in any form by the State or any political subdivision  
21    thereof, or by any authority or similar body created by the State or  
22    any political subdivision thereof. Public funding shall include, but  
23    not be limited to, grants, payments, or financial support, the use of  
24    public funds through the issuance of tax-exempt bonds, payments in  
25    lieu of taxes, property tax abatements, lotteries, sales taxes or levies  
26    on parking, hotels, alcohol, car rentals, cigarettes or other goods or  
27    services.

28    w. "Publicly owned and operated entertainment facility" means  
29    an entertainment facility that accommodates more than 1,000  
30    persons and for which public funding has been provided for the  
31    construction, maintenance, or operation of the entertainment facility  
32    or any infrastructure related thereto, or which is located on property  
33    owned by the State or any political subdivision thereof.

34    (cf: P.L.2008, c.55, s.1)

35  
36    2. Section 8 of P.L.1983, c.135 (C.56:8-33) is amended to read  
37    as follows:

38    8. a. Each owner or operator of a place of entertainment or of  
39    the entertainment event or an agent of any such person shall print or  
40    endorse on the face of each ticket and include in any advertising for  
41    any event the price charged therefor, and taxes, service charges and  
42    fees imposed in connection with the initial sale, each of which shall  
43    be separately stated. The price of a ticket sold by auction through  
44    the owner or operator or its agent shall be the final auction price.

45    b. **[**No person other than a registered ticket broker shall resell  
46    or purchase with the intent to resell a ticket for admission to a place  
47    of entertainment at a maximum premium in excess of 20% of the

1 ticket price or \$3.00, whichever is greater, plus lawful taxes. No  
2 registered ticket broker shall resell or purchase with the intent to  
3 resell a ticket for admission to a place of entertainment at a  
4 premium in excess of 50% of the price paid to acquire the ticket,  
5 plus lawful taxes.】 (Deleted by amendment, P.L. , c. ) (pending  
6 before the Legislature as this bill)

7 c. 【Notwithstanding the provisions of subsection a. or b. of this  
8 section, nothing shall limit the price for the resale or purchase of a  
9 ticket for admission to a place of entertainment sold by any person  
10 other than a registered ticket broker, provided such resale or  
11 purchase is made through an Internet web site.】 (Deleted by  
12 amendment, P.L. , c. ) (pending before the Legislature as this  
13 bill)

14 d. Each owner or operator of a place of entertainment or of the  
15 entertainment event or an agent of any such person shall include in  
16 any advertising for an event the number of tickets offered to the  
17 public in the initial sale when tickets are first offered to the public.  
18 If applicable, advertising shall disclose that additional tickets may  
19 become available for initial sale to the public at a later date.

20 e. An owner or operator of a place of entertainment or of the  
21 entertainment event or an agent of any such person shall not  
22 directly or indirectly make an initial sale of a ticket to itself or to  
23 any corporate affiliate.

24 f. An owner or operator of a place of entertainment or of the  
25 entertainment event or an agent or affiliate of that person shall not  
26 advertise, offer to sell or sell any ticket as a resale that was not  
27 previously sold to the public in an initial sale, whether or not the  
28 resale is for its own account or the account of any corporate  
29 affiliate.

30 (cf: P.L.2008, c.55, s.2)

31  
32 3. Section 9 of P.L.1983, c.135 (C.56:8-34) is amended to read  
33 as follows:

34 9. a. No person shall resell or purchase with the intent to resell  
35 any ticket, in or on any street, highway, driveway, sidewalk,  
36 parking area, or common area owned by a place of entertainment in  
37 this State, or any other area adjacent to or in the vicinity of any  
38 place of entertainment in this State as determined by the director;  
39 except that a person may resell, in an area which may be designated  
40 by a place of entertainment in this State, any ticket or tickets  
41 originally purchased for his own personal or family use at no  
42 greater than the lawful price permitted under this act. This  
43 subsection shall not apply to a business, located in a physical  
44 structure, selling or reselling tickets from that location prior to the  
45 effective date of P.L. , c. (C. ) (pending before the Legislature  
46 as this bill).

1     b. Notwithstanding any other provision of law, any ticket  
2     issuer, reseller or online marketplace shall guarantee to each  
3     purchaser of resold tickets that the ticket issuer, reseller or online  
4     marketplace will provide a full refund of the amount paid by the  
5     purchaser, including, but not limited to, all fees, regardless of how  
6     characterized, if any of the following occurs:

7         (1) The event for which that ticket has been resold is cancelled,  
8         provided that if the event is cancelled then actual handling and  
9         delivery fees need not be refunded as long as that previously  
10        disclosed guarantee specifies that those fees will not be refunded;

11        (2) The ticket received by the purchaser does not grant the  
12        purchaser admission to the event described on the ticket, for reasons  
13        that may include, without limitation, that the ticket is counterfeit or  
14        that the ticket has been cancelled by the issuer due to non-payment,  
15        or that the event described on the ticket was cancelled for any  
16        reason prior to purchase of the resold ticket, unless the ticket is  
17        cancelled due to an act or omission by that purchaser; or

18        (3) The ticket fails to conform to its description as advertised or  
19        guaranteed.

20     c. Every advertisement of tickets for resale shall disclose the  
21     number of tickets offered for sale.

22     d. An insider shall not sell or offer to sell tickets to an event at  
23     a place of entertainment prior to the date and time that tickets for  
24     that event are released for initial sale to the public.

25     (cf: P.L.2001, c.394, s.7)

26  
27     4. Section 10 of P.L.1983, c.135 (C.56:8-35) is amended to  
28     read as follows:

29        10. a. Any person who gives or offers anything of value other  
30        than the price of a ticket printed on the ticket to an [employee of a  
31        place of entertainment] insider in exchange for, or as an  
32        inducement to, special treatment with respect to obtaining tickets,  
33        or any [employee of a place of entertainment] insider who receives  
34        or solicits anything of value other than the price of a ticket printed  
35        on the ticket in exchange for special treatment with respect to  
36        issuing tickets, shall be in violation of this act.

37        b. No reseller shall employ a tentative ticket policy whereby  
38        the reseller sells tickets that are not in the reseller's possession at  
39        the time of sale, unless that policy is disclosed to a ticket purchaser  
40        at the outset of the transaction. That disclosure shall include an  
41        approximate delivery date and the number of tickets that are  
42        guaranteed together. The provision of subsection c. of section 9 of  
43        P.L.1983, c.135 (C.56:8-34) notwithstanding, that disclosure shall  
44        include the zone or section number. If the reseller is unsuccessful  
45        in securing those tickets the reseller shall refund any deposit made  
46        by a purchaser of those tickets within 10 days after the event.

1     c. No person shall use or cause to be used any means, method  
2     or technology that is designed, intended or functions to disguise the  
3     identity of the purchaser with the purpose of purchasing or  
4     attempting to purchase via online sale a quantity of tickets to a  
5     place of entertainment in excess of authorized limits established by  
6     the owner or operator of a place of entertainment or of the  
7     entertainment event or an agent of any such person.

8     d. No person shall use or cause to be used software, or other  
9     technology or device, that is designed, intended or functions to  
10    interfere with a computer, computer network, or computer system,  
11    or any part thereof, for the purpose of purchasing or attempting to  
12    purchase via online sale a quantity of tickets to a place of  
13    entertainment in excess of authorized limits established by the  
14    owner or operator of a place of entertainment or of the  
15    entertainment event or an agent of any such person, or that is  
16    designed, intended or functions to circumvent or disable any access  
17    control systems, electronic queues, waiting periods or other sales  
18    volume limitation systems to ensure the equitable distribution of  
19    tickets instituted on the website of the ticket seller.

20    (cf: P.L.1983, c.220, s.5)

21  
22    5. Section 8 of P.L.2001, c.394 (C.56:8-35.1) is amended to  
23    read as follows:

24    8. a. It shall be an unlawful practice for a person, who has  
25    access to tickets to an event prior to the tickets' release for sale to  
26    the general public, to withhold those tickets from sale to the general  
27    public in an amount exceeding 5% of all available seating for the  
28    event.

29    b. Every owner or operator of a place of entertainment or of the  
30    entertainment event or an agent of any such person shall place a  
31    code or legend on each ticket so that it can be traced back to the  
32    original sale and shall keep complete and accurate records of ticket  
33    sales and maintain those records for five years.

34    c. Every owner or operator of a place of entertainment or of the  
35    entertainment event or an agent of any such person shall provide  
36    written certification to the director attesting to compliance with this  
37    section.

38    (cf: P.L.2001, c.394, s.8)

39  
40    6. Section 12 of P.L.1983, c.135 (C.56:8-37) is amended to  
41    read as follows:

42    12. **Any** a. A violation of P.L.1983, c.135 (C.56:8-26 et seq.)  
43    shall constitute an unlawful practice and a violation of P.L.1960,  
44    c.39 (C.56:8-1 et seq.), and any person who violates P.L.1983,  
45    c.135 (C.56:8-26 et seq.) shall be subject to all remedies and  
46    penalties available pursuant to P.L.1960, c.39 (C.56:8-1 et seq.).

1       b. In addition to any other penalty provided by law, any person  
2 who violates any provision of 【this act】 P.L.1983, c.135 (C.56:8-26  
3 et seq.) shall be guilty of a crime of the fourth degree.  
4 (cf: P.L.1983, c.135, s.12)

5  
6       7. (New section) a. A ticket issuer shall provide advance public  
7 notice of its ticket policies for each entertainment event subject to  
8 P.L.1983, c.135 (C.56:8-26 et seq.), which shall include:

9       (1) The identification of the specific entertainment event,  
10 including date, time, and location;

11       (2) The total number of tickets to be issued for the entertainment  
12 event, including tickets that are public sale tickets and tickets that  
13 are not public sale tickets, and the number of those tickets for every  
14 class, tier or level of admission offered;

15       (3) The total number of tickets to the event that will be made  
16 available for purchase by members of the general public as public  
17 sale tickets subject to this section, and the number of those tickets  
18 for every class, tier or level of admission offered;

19       (4) The established price for each class, tier or level of ticket  
20 offered which will be designated as public sale tickets, including  
21 the amount of any premium, service charge or other fee applicable  
22 to the sale of that ticket;

23       (5) The date and time of the initial sale at which public sale  
24 tickets will first be made available for sale to any member of the  
25 general public including, but not limited to, fan clubs, businesses,  
26 and for promotional activities; and

27       (6) A complete list of the outlets at which public sale tickets  
28 will be made available for sale to the general public on the date and  
29 at the time specified, including a list of all Internet websites at  
30 which those tickets will be made available.

31       b. The advance public notice required pursuant to this section  
32 shall be made at least 'three days, but not more than' 15 days prior  
33 to the initial sale specified in the advance public notice 'and shall  
34 be based on the most recent information available to the ticket  
35 issuer at that time'. The advance public notice shall be displayed at  
36 each place where public sale tickets are to be sold, and on each  
37 website where those tickets are to be sold. Nothing in this section  
38 shall be construed to prevent a ticket issuer or its authorized agent  
39 from using other methods of public notification in addition to those  
40 methods which are required by this act.

41  
42       8. (New section) a. Except as otherwise provided in this act,  
43 no ticket issuer shall:

44       (1) Impose license or contractual terms on the initial sale of  
45 event tickets, including, but not limited to, terms printed on the  
46 ticket, that prohibit resale of the ticket, or that restrict the price or  
47 other terms and conditions under which a ticket may be resold;

1 (2) Require the purchaser of a ticket, whether for a single event  
2 or for a series or season of events, to agree not to resell the ticket,  
3 or to resell the ticket only through a specific channel approved by  
4 the ticket issuer; or

5 (3) Limit or restrict the price at which a ticket may be resold.

6 b. No ticket issuer shall bring legal action, based on a  
7 prohibition or restriction on the resale of a ticket that is in violation  
8 of P.L.1983, c.135 (C.56:8-26 et seq.) against:

9 (1) A purchaser who resells or offers to resell a ticket without  
10 permission of the ticket issuer, or in violation of a restriction  
11 purportedly imposed by the ticket issuer;

12 (2) Persons who facilitate or provide services for the resale of  
13 tickets without permission or in alleged violation of a restriction; or

14 (3) The operator of a physical or electronic marketplace in  
15 which a ticket is offered for resale without permission or in alleged  
16 violation of such a restriction.

17 c. No ticket issuer shall impose any penalty on a ticket  
18 purchaser who resells or offers to resell a ticket without permission  
19 or in violation of a restriction purportedly imposed by the ticket  
20 issuer, or treating that purchaser in any material way less favorably  
21 than a similarly situated purchaser who does not resell or offer to  
22 resell an event ticket, or who complies with resale restrictions  
23 imposed by the ticket issuer in violation of P.L.1983, c.135 (C.56:8-  
24 26 et seq.).

25 d. No ticket issuer shall employ technological or other means  
26 for the purpose of, or with the foreseeable effect of, prohibiting or  
27 restricting the resale of tickets, which technological or other means  
28 shall include, but are not limited to:

29 (1) The issuance of tickets in an electronic form that is not  
30 readily transferable to a subsequent purchaser;

31 (2) Conditioning entry into the place of entertainment on  
32 presentation of documentation, such as the original purchaser's  
33 credit card or State-issued driver's license or identification card,  
34 that cannot be readily transferred to a subsequent purchaser; or

35 (3) Requiring the purchaser to choose the "will call" window as  
36 the only ticket delivery option or to pick up tickets from a box  
37 office or "will call" window in advance of an entertainment event.

38 Nothing in this subsection shall prohibit a ticket issuer from  
39 requiring pick-up at a "will call" window as the only delivery  
40 method for tickets purchased within four days of the ticketed  
41 entertainment event, so long as the initial sale or pre-sale of tickets  
42 occurred more than four days prior to the entertainment event.

43  
44 9. The following sections are repealed:

45 Section 2 of P.L.1983, c.135 (C.56:8-27);

46 Section 3 of P.L.1983, c.135 (C.56:8-28);

47 Section 4 of P.L.1983, c.135 (C.56:8-29);

1       Section 5 of P.L.1983, c.135 (C.56:8-30);  
2       Section 6 of P.L.1983, c.135 (C.56:8-31);  
3       Section 7 of P.L.1983, c.135 (C.56:8-32);  
4       Section 9 of P.L.2001, c.394 (C.56:8-35.2); and  
5       Section 13 of P.L.1983, c.135 (C.56:8-38).

6

7       10. This act shall take effect on the first day of the ninth month  
8       next following enactment.