

# SENATE, No. 676

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Senator ROBERT W. SINGER**

**District 30 (Monmouth and Ocean)**

**Co-Sponsored by:**

**Senators Scutari, A.R.Bucco, Turner, Allen, Bateman, Van Drew and Cruz-Perez**

**SYNOPSIS**

Revises law concerning ticket sales.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 6/26/2015)**

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

3

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

6

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

9 1. As used in this act:

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

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

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

17 d. "Place of entertainment" means any privately owned and  
18 operated entertainment facility or publicly owned and operated  
19 entertainment facility within this State, such as a theater, stadium,  
20 museum, arena, racetrack or other place where performances,  
21 concerts, exhibits, games or contests are held and for which an  
22 entry fee is charged. A facility owned by a school, college,  
23 university, or house of worship is a place of entertainment only  
24 when an event is held for which an entry fee is charged, provided  
25 that the event is conducted by a third party independent of the  
26 owner of the facility. An entertainment facility that qualifies for tax  
27 exempt status under section 501(c)(3) of the Internal Revenue Code  
28 of 1986 (26 U.S.C. 501(c)(3)) is a place of entertainment only if it  
29 accommodates more than 1200 persons, except that the provisions  
30 of section 7 of P.L. , c. (C. ) (pending before the  
31 Legislature as this bill) shall also apply to a place of entertainment  
32 that qualifies for tax exempt status if it accommodates 1200 persons  
33 or less.

34 e. "Ticket" means any **piece of paper which indicates that the**  
35 **bearer has paid for entry or other** evidence **which permits** of the  
36 right of entry to a place of entertainment.

37 f. **["Ticket broker"** means any person situated in and operating  
38 in this State who is involved in the business of reselling tickets of  
39 admission to places of entertainment and who charges a premium in  
40 excess of the price, plus taxes, printed on the tickets. For the  
41 purposes of this act, the term "ticket broker" shall not include an  
42 individual not regularly engaged in the business of reselling tickets,  
43 who resells less than 30 tickets during any one-year period, and  
44 who obtained the tickets for his own use, or the use of his family,

**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.**

- 1 friends, or acquaintances】 (Deleted by amendment, P.L. , c. )  
2 (pending before the Legislature as this bill).
- 3 g. "Resale" means a sale, other than a pre-sale, of a ticket by a  
4 person other than the owner or operator of a place of entertainment  
5 or of the entertainment event or an agent of any such person acting  
6 in that capacity. Resale shall not 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, who resells a  
13 ticket, including a season ticket holder or an insider.
- 14 k. "Affinity group" means an identifiable group of people who  
15 are members of the same organization, or who are customers of the  
16 same person, and who enjoy special privileges. Customers of a  
17 reseller shall not constitute an affinity group.
- 18 l. "Initial sale" means the first sale of a ticket for a specific  
19 entertainment event by the owner or operator of a place of  
20 entertainment, or of the entertainment event, or an agent of any  
21 such person. The term "initial sale" also shall include the  
22 distribution of tickets to insiders by a producer, promoter, or place  
23 of entertainment, under an agreement for the presentation of an  
24 entertainment event.
- 25 m. "Insider" means an employee of a place of entertainment or  
26 of its agent, a producer, promoter, performer, or any other person  
27 associated with an event, who lawfully controls any tickets prior to  
28 their release for sale to the general public.
- 29 n. "Pre-sale" means a sale of tickets at or below the price  
30 printed on the ticket by an owner or operator of a place of  
31 entertainment, or, with the permission of the owner or operator, by  
32 an insider, prior to their release for sale to the general public,  
33 directly, or indirectly through a third party who is not a reseller, to  
34 members of an affinity group or target market.
- 35 o. "Producer" means a person who stages entertainment events,  
36 such as a performance, concert, exhibit, game, or contest.
- 37 p. "Promoter" means a person who organizes financing and  
38 publicity for an entertainment event.
- 39 q. "Season ticket holder" means a person who purchases a  
40 package of one or more tickets to a series of similar events at a  
41 place of entertainment pursuant to a plan offered by the place of  
42 entertainment or by a ticket agent for the place of entertainment.
- 43 r. "Ticket issuer" means any person, other than an online  
44 marketplace or reseller, that makes tickets available directly or  
45 indirectly, at an initial sale or pre-sale, to the general public, and  
46 may include the owner or operator of a place of entertainment, the  
47 producer or sponsor of an entertainment event, a sports team or

1 sports league of teams participating in an entertainment event, a  
2 theater company, musical group or similar participant in an  
3 entertainment event, or an agent of any such person.

4 s. "Public sale tickets" means tickets that are offered for sale to  
5 the general public and not subject to a hold back by a ticket issuer.

6 t. "Online marketplace" means an Internet website that  
7 provides a forum for the buying and selling of tickets, but shall not  
8 include a reseller, ticket issuer, or an agent of an owner or operator  
9 of a place of entertainment.

10 u. "Public funding" means the provision of funding or financial  
11 support in any form by the State or any political subdivision  
12 thereof, or by any authority or similar body created by the State or  
13 any political subdivision thereof. Public funding shall include, but  
14 not be limited to, grants, payments, or financial support, the use of  
15 public funds through the issuance of tax-exempt bonds, payments in  
16 lieu of taxes, property tax abatements, lotteries, sales taxes or levies  
17 on parking, hotels, alcohol, car rentals, cigarettes or other goods or  
18 services.

19 v. "Publicly owned and operated entertainment facility" means  
20 an entertainment facility that accommodates more than 1,000  
21 persons and for which public funding has been provided for the  
22 construction, maintenance, or operation of the entertainment facility  
23 or any infrastructure related thereto, or which is located on property  
24 owned by the State or any political subdivision thereof.

25 (cf: P.L.2008, c.55, s.1)

26  
27 2. Section 8 of P.L.1983, c.135 (C.56:8-33) is amended to read  
28 as follows:

29 8. a. Each place of entertainment shall print on the face of  
30 each ticket and include in any advertising for any event the price  
31 charged therefor.

32 b. **【No person other than a registered ticket broker shall resell**  
33 **or purchase with the intent to resell a ticket for admission to a place**  
34 **of entertainment at a maximum premium in excess of 20% of the**  
35 **ticket price or \$3.00, whichever is greater, plus lawful taxes. No**  
36 **registered ticket broker shall resell or purchase with the intent to**  
37 **resell a ticket for admission to a place of entertainment at a**  
38 **premium in excess of 50% of the price paid to acquire the ticket,**  
39 **plus lawful taxes】 (Deleted by amendment, P.L. , c. ) (pending**  
40 **before the Legislature as this bill).**

41 c. **【Notwithstanding the provisions of subsection a. or b. of this**  
42 **section, nothing shall limit the price for the resale or purchase of a**  
43 **ticket for admission to a place of entertainment sold by any person**  
44 **other than a registered ticket broker, provided such resale or**  
45 **purchase is made through an Internet web site】 (Deleted by**  
46 **amendment, P.L. , c. ) (pending before the Legislature as this**  
47 **bill).**

1       d. An owner or operator of a place of entertainment or of the  
2 entertainment event or an agent or affiliate of that person shall not  
3 advertise, offer to sell or sell any ticket as a resale that was not  
4 previously sold to the public in an initial sale, whether or not the  
5 resale is for its own account or the account of any corporate  
6 affiliate.

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

8

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

11       9. a. No person shall resell or purchase with the intent to resell  
12 any ticket, in or on any street, highway, driveway, sidewalk,  
13 parking area, or common area owned by a place of entertainment in  
14 this State, or any other area adjacent to or in the vicinity of any  
15 place of entertainment in this State as determined by the director;  
16 except that a person may resell, in an area which may be designated  
17 by a place of entertainment in this State, any ticket or tickets  
18 originally purchased for his own personal or family use at no  
19 greater than the lawful price permitted under this act. This  
20 subsection shall not apply to a business, located in a physical  
21 structure, selling or reselling tickets from that location prior to the  
22 effective date of P.L. , c. (C. ) (pending before the  
23 Legislature as this bill).

24       b. Notwithstanding any other provision of law, any ticket  
25 issuer, reseller or online marketplace shall guarantee to each  
26 purchaser of resold tickets that the ticket issuer, reseller or online  
27 marketplace will provide a full refund of the amount paid by the  
28 purchaser, including, but not limited to, all fees, regardless of how  
29 characterized, if any of the following occurs:

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

34       (2) The ticket received by the purchaser does not grant the  
35 purchaser admission to the event described on the ticket, for reasons  
36 that may include, without limitation, that the ticket is counterfeit or  
37 that the ticket has been cancelled by the issuer due to non-payment,  
38 or that the event described on the ticket was cancelled for any  
39 reason prior to purchase of the resold ticket, unless the ticket is  
40 cancelled due to an act or omission by that purchaser; or

41       (3) The ticket fails to conform to its description as advertised or  
42 guaranteed.

43       c. No reseller shall employ a tentative ticket policy whereby  
44 the reseller sells tickets that are not in the reseller's possession at  
45 the time of sale, unless that policy is disclosed to a ticket purchaser  
46 at the outset of the transaction. That disclosure shall include an  
47 approximate delivery date and the number of tickets that are

1 guaranteed together, including the zone or section number. If the  
2 reseller is unsuccessful in securing those tickets the reseller shall  
3 refund any deposit made by a purchaser of those tickets within 10  
4 days after the event.

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

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

24 (cf: P.L.2001, c.394, s.7)

25

26 4. Section 12 of P.L.1983, c.135 (C.56:8-37) is amended to  
27 read as follows:

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

33 b. In addition to any other penalty provided by law, any person  
34 who violates any provision of this act shall be guilty of a crime of  
35 the fourth degree.

36 (cf: P.L.1983, c.135, s.12)

37

38 5. (New Section) a. No later than 15 days after an  
39 entertainment event, a ticket issuer shall publish on its website a  
40 notice setting forth the following information concerning the sale  
41 and disposition of tickets for the entertainment event:

42 (1) the total number of tickets issued for the entertainment  
43 event, which shall equal the sum of the number of public sale  
44 tickets made available at the general on sale date for the event and  
45 the number of tickets held back at the general on sale date of the  
46 event;

1 (2) the number of public sale tickets made available for the  
2 entertainment event at the general on sale date of the event; and

3 (3) the number of tickets not made available as public sale  
4 tickets for the entertainment event at the general on sale date of the  
5 event due to all pre-sales, initial sales, and holdbacks and for any  
6 other purpose.

7 b. The notice required pursuant to subsection a. of this section  
8 shall add up to 100 percent of the seating capacity for the place of  
9 entertainment in the configuration used for the entertainment event.

10

11 6. (New section) a. Except as otherwise provided in  
12 P.L.1983, c.135 (C.56:8-26 et seq.), no ticket issuer shall:

13 (1) Impose license or contractual terms on the initial sale of  
14 event tickets or any policies including, but not limited to, terms  
15 printed on the ticket that prohibit resale of the ticket, or that restrict  
16 the price or other terms and conditions under which a ticket may be  
17 resold;

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

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

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

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

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

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

34 c. No ticket issuer shall impose any penalty on a ticket  
35 purchaser who resells or offers to resell a ticket without permission  
36 or in violation of a restriction purportedly imposed by the ticket  
37 issuer, or treat that purchaser in any material way less favorably  
38 than a similarly situated purchaser who does not resell or offer to  
39 resell an event ticket, or who complies with resale restrictions  
40 imposed by the ticket issuer in violation of P.L.1983, c.135 (C.56:8-  
41 26 et seq.).

42

43 7. (New section) a. No ticket issuer shall employ a paperless  
44 ticketing system unless the ticket purchaser is given the option to  
45 purchase paperless tickets that the ticket purchaser can transfer at  
46 any price and at any time without additional fees, independent of  
47 the ticket issuer.

1       b. Notwithstanding the provisions of subsection a. of this  
2 section, a ticket issuer may employ a paperless ticketing system that  
3 does not allow for independent transferability of the paperless ticket  
4 only if the ticket purchaser is offered at the time of initial sale the  
5 option to purchase the same ticket or tickets in some other form that  
6 is transferable, at any time, independent of the ticket issuer,  
7 including, but not limited to, paper tickets or paperless tickets. The  
8 established price for any ticket shall be the same regardless of the  
9 form or transferability of the ticket. The ability of a ticket to be  
10 transferred independent of the ticket issuer shall not constitute a  
11 special service for the purpose of imposing a service charge.

12       c. A ticket issuer shall not offer as the only option available to  
13 a ticket purchaser pursuant to this section the requirement to pick  
14 up a ticket at the will-call window or the box office of an  
15 entertainment facility in advance of the entertainment event for  
16 which the ticket is issued. Nothing in this subsection shall prohibit  
17 a ticket issuer from requiring pick up at a will-call window as the  
18 only delivery method for tickets purchased within four days of the  
19 entertainment event for which the ticket is purchased, provided that  
20 the initial sale or pre-sale of the ticket occurred more than four days  
21 prior to the entertainment event.

22  
23       8. The following sections are repealed:  
24       Section 2 of P.L.1983, c.135 (C.56:8-27);  
25       Section 3 of P.L.1983, c.135 (C.56:8-28);  
26       Section 4 of P.L.1983, c.135 (C.56:8-29);  
27       Section 5 of P.L.1983, c.135 (C.56:8-30);  
28       Section 6 of P.L.1983, c.135 (C.56:8-31);  
29       Section 7 of P.L.1983, c.135 (C.56:8-32);  
30       Section 9 of P.L.2001, c.394 (C.56:8-35.2); and  
31       Section 13 of P.L.1983, c.135 (C.56:8-38).

32  
33       9. This act shall take effect on the first day of the ninth month  
34 next following enactment.

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38

STATEMENT

39       This bill restructures the law regarding ticket sales in New  
40 Jersey, introduces transparency into the market for event tickets,  
41 enhances consumer protections and protects consumers' ability to  
42 buy, sell, and give away tickets.

43       The bill requires ticket issuers to publish on their websites a  
44 notice setting forth the following information concerning the sale  
45 and disposition of tickets for the entertainment event:

46       (1) the total number of tickets issued for the entertainment  
47 event, including the number of public sale tickets made available at



1 the general on sale date for the event and the number of tickets held  
2 back at the general on sale date of the event;

3 (2) the number of public sale tickets made available for the  
4 entertainment event at the general on sale date of the event; and

5 (3) the number of tickets not made available as public sale  
6 tickets for the entertainment event at the general on sale date of the  
7 event.

8 The bill requires the number of tickets disclosed to add up to 100  
9 percent of the seating capacity for the place of entertainment in the  
10 configuration used for the entertainment event.

11 The bill prohibits the use of software or technology that enables  
12 the purchase of tickets in excess of limits set by an issuer.

13 The bill allows the use of paperless tickets, but places some  
14 restrictions on how ticket issuers may issue paperless tickets. The  
15 bill prohibits ticket issuers from employing a paperless ticketing  
16 system unless the ticket purchaser is given the option to purchase  
17 paperless tickets that the ticket purchaser can transfer at any price  
18 and at any time without additional fees, independent of the ticket  
19 issuer. Also, ticket issuers may employ a paperless ticketing system  
20 that does not allow for independent transferability of the paperless  
21 ticket only if the ticket purchaser is offered, at the time of initial  
22 sale, the option to purchase the same ticket or tickets in some other  
23 form that is transferable, at any time, independent of the ticket  
24 issuer, including, but not limited to, paper tickets or paperless  
25 tickets.

26 To meet these requirements, the bill prohibits ticket issuers from  
27 offering as the only option available to a ticket purchaser to pick up  
28 a ticket at the will-call window or the box office of an entertainment  
29 facility, except within four days of the entertainment event for  
30 which the ticket is purchased.

31 This bill will enhance consumer protections by requiring all  
32 ticket issuers, resellers and online marketplaces to provide a full  
33 refund if: (1) an event is cancelled; (2) the ticket does not grant  
34 entry to the event; or (3) the ticket does not match its advertised  
35 description. The bill also prohibits the resale of tickets not in a  
36 reseller's possession or control unless that policy is disclosed in  
37 advance, and a full refund is made within 10 days if the reseller is  
38 unsuccessful in securing tickets. Since the bill imposes consumer  
39 protections on all participants in the secondary market, it also  
40 eliminates separate regulation of, and price limitations that are  
41 currently imposed specifically on, ticket brokers.

42 The bill prohibits ticket issuers from:

43 (1) Imposing license or contractual terms on the initial sale of  
44 event tickets or any policies;

45 (2) Requiring the purchaser of a ticket, whether for a single  
46 event or for a series or season of events, to agree not to resell the

1 ticket, or to resell the ticket only through a specific channel  
2 approved by the ticket issuer; or

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

4 The bill also restricts the ability of ticket issuers to bring legal suits  
5 or impose penalties on consumers for reselling tickets.

6 Current statutes limit the price at which certain tickets can be  
7 resold. The bill removes price limits on the resale of all tickets and  
8 at the same time enhances consumer protections. Concerning the  
9 resale of tickets.

10 The bill repeals certain statutes which are made unnecessary or  
11 obsolete by this restructuring of the law on ticket sales.