

ASSEMBLY, No. 1981

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

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SYNOPSIS

Revises law concerning ticket sales.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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
48 sports league of teams participating in an entertainment event, a

1 theater company, musical group or similar participant in an
2 entertainment event, or an agent of any such person.

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

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

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

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

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

25
26 2. Section 8 of P.L.1983, c.135 (C.56:8-33) is amended to read
27 as follows:

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

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

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

47 d. An owner or operator of a place of entertainment or of the
48 entertainment event or an agent or affiliate of that person shall not

1 advertise, offer to sell or sell any ticket as a resale that was not
2 previously sold to the public in an initial sale, whether or not the
3 resale is for its own account or the account of any corporate
4 affiliate.

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

6
7 3. Section 9 of P.L.1983, c.135 (C.56:8-34) is amended to read
8 as follows:

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

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

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

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

39 (3) The ticket fails to conform to its description as advertised or
40 guaranteed.

41 c. No reseller shall employ a tentative ticket policy whereby
42 the reseller sells tickets that are not in the reseller's possession at
43 the time of sale, unless that policy is disclosed to a ticket purchaser
44 at the outset of the transaction. That disclosure shall include an
45 approximate delivery date and the number of tickets that are
46 guaranteed together, including the zone or section numbers. If the
47 reseller is unsuccessful in securing those tickets the reseller shall

1 refund any deposit made by a purchaser of those tickets within 10
2 days after the event.

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

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

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

23
24 4. Section 12 of P.L.1983, c.135 (C.56:8-37) is amended to
25 read as follows:

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

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

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

35
36 5. (New Section) a. No later than 15 days after an
37 entertainment event, a ticket issuer shall publish on its website a
38 notice setting forth the following information concerning the sale
39 and disposition of tickets for the entertainment event:

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

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

47 (3) the number of tickets not made available as public sale
48 tickets for the entertainment event at the general on sale date of the

1 event due to all pre-sales, initial sales, and holdbacks and for any
2 other purpose.

3 b. The notice required pursuant to subsection a. of this section
4 shall add up to 100 percent of the seating capacity for the place of
5 entertainment in the configuration used for the entertainment event.
6

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

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

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

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

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

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

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

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

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

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

44 b. Notwithstanding the provisions of subsection a. of this
45 section, a ticket issuer may employ a paperless ticketing system that
46 does not allow for independent transferability of the paperless ticket
47 only if the ticket purchaser is offered at the time of initial sale the
48 option to purchase the same ticket or tickets in some other form that

1 is transferable, at any time, independent of the ticket issuer,
2 including, but not limited to, paper tickets of paperless tickets. The
3 established price for any ticket shall be the same regardless of the
4 form or transferability of the ticket. The ability of a ticket to be
5 transferred independent of the ticket issuer shall not constitute a
6 special service for the purpose of imposing a service charge.

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

17
18 8. The following sections are repealed:

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

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

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

22 Section 5 of P.L.1983, c.135 (C.56:8-30);

23 Section 6 of P.L.1983, c.135 (C.56:8-31);

24 Section 7 of P.L.1983, c.135 (C.56:8-32);

25 Section 9 of P.L.2001, c.394 (C.56:8-35.2); and

26 Section 13 of P.L.1983, c.135 (C.56:8-38).

27
28 9. This act shall take effect on the first day of the ninth month
29 next following enactment.

30 31 32 STATEMENT

33
34 This bill restructures the law regarding ticket sales in New
35 Jersey, introduces transparency into the market for event tickets,
36 enhances consumer protections and protects consumers' ability to
37 buy, sell, and give away tickets.

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

41 (1) the total number of tickets issued for the entertainment
42 event, including the number of public sale tickets made available at
43 the general on sale date for the event and the number of tickets held
44 back at the general on sale date of the event;

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

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

4 The bill requires the number of tickets disclosed to add up to 100
5 percent of the seating capacity for the place of entertainment in the
6 configuration used for the entertainment event.

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

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

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

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

38 The bill prohibits ticket issuers from:

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

41 (2) Requiring the purchaser of a ticket, whether for a single
42 event or for a series or season of events, to agree not to resell the
43 ticket, or to resell the ticket only through a specific channel
44 approved by the ticket issuer; or

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

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

1 Current statutes limit the price at which certain tickets can be
2 resold. The bill removes price limits on the resale of all tickets and
3 at the same time enhances consumer protections. Concerning the
4 resale of tickets.

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