

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
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As Engrossed: H3/27/23 H3/30/23

A Bill

HOUSE BILL 1650

By: Representatives M. Shepherd, *Achor, Brooks, Dalby, Ennett, Eubanks, D. Ferguson, K. Ferguson, C. Fite, D. Hodges, Lynch, McAlindon, McGrew, McNair, Painter, Perry, Richmond, Scott, Tosh, D. Whitaker, Wooten, Beaty Jr.*
By: Senators Hester, Crowell, J. Petty, Stone

For An Act To Be Entitled

*AN ACT CONCERNING THE SALE OF EVENT TICKETS; TO
CREATE THE EVENT TICKETING AND RESALE CONSUMER
PROTECTION ACT; TO DECLARE AN EMERGENCY; AND FOR
OTHER PURPOSES.*

Subtitle

*CONCERNING THE SALE OF EVENT TICKETS; TO
CREATE THE EVENT TICKETING AND RESALE
CONSUMER PROTECTION ACT; AND TO DECLARE
AN EMERGENCY.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 4, Chapter 88, is amended to add an additional subchapter to read as follows:

Subchapter 11 – Event Ticketing and Resale Consumer Protection Act

4-88-1101. Title.

This subchapter shall be known and may be cited as the "Event Ticketing and Resale Consumer Protection Act".

4-88-1102. Definitions.

As used in this subchapter:

(1) "Character strings" means a linear sequence of characters



that are typically stored in or processed by a computer;

(2) "Event" means a theatrical or musical production, concert, show, sporting event, competition, tournament, festival, dance performance, rodeo, pageant, speaker, exhibition, or other entertainment open to the public in this state for which tickets are normally sold;

(3) "Internet domain name" means a globally unique, hierarchical reference to an internet host or service, that:

(A) Is assigned through centralized internet naming authorities;

(B) Is comprised of a series of character strings separated by periods; and

(C) Has the right most character strings specifying the top of the hierarchy;

(4) "Legislative body" means the quorum court of a county or the city council, board of directors, board of commissioners, or similar elected governing body of local government;

(5) "Local government" means:

(A) A county;

(B) A city of the first class, a city of the second class, or an incorporated town; or

(C) Any other state entity or political subdivision of the state or an agency, board, or commission of the state entity or political subdivision of the state;

(6) "Ordinance" means an ordinance, resolution, or other appropriate legislative enactment of a legislative body;

(7) "Platform operator" means an individual, organization, group, association, partnership, or corporation owning, operating, managing, licensing, or controlling a ticketing platform for an event scheduled at a venue in this state;

(8) "Ticket" means a printed, electronic, or other type of evidence of the right, option, or opportunity to occupy space at or enter a venue, or to attend an event, even if not evidenced by any physical manifestation of the right, option, or opportunity;

(9) "Ticket issuer" means an individual, public or private entity, organization, group, association, partnership, or corporation that originally makes tickets available, directly or indirectly, to an event, and

may include without limitation:

- (A) A platform operator;
- (B) An operator of a venue;
- (C) A sponsor or promoter of an event;
- (D) A sports team participating in an event or a conference or league whose teams are participating in an event;
- (E) A dance company, musical group, theater company, or a similar participant in an event;
- (F) An institution of higher education; or
- (G) An agent of the individual, organization, group, association, partnership, or corporation;

(10) "Ticketing platform" means a physical or virtual marketplace that enables a consumer to purchase and sell tickets, including without limitation a kiosk, mobile phone application, portal, or website advertising the sale of tickets, offering the sale of tickets, or offering tickets for resale to an event at a venue in this state;

(11) "Uniform resource location" or "URL" means an internet website's name that may include a domain or subdomain name, or both; and

(12) "Venue" means an amphitheater, arena, camp, fair, or festival ground, coliseum, concert or performance hall, conference center, performing arts center, stadium, theater, or any other type of venue used for events in this state.

4-88-1103. Prohibitions by local government – Resale of tickets.

(a)(1) A local government shall not enact or adopt an ordinance, policy, regulation, or action that prohibits the sale or resale of a ticket for admission to a legal event at any price or prohibit the charge of any fee in connection with the sale or resale.

(2) This section shall not be construed to prevent the enforcement of an ordinance relating to any criminal activity, consumer fraud, false advertising, or other deceptive business or trade practices.

(b)(1) Unless otherwise permitted by a ticket issuer, if an individual, organization, group, association, partnership, or corporation knowingly purchases from the ticket issuer a quantity of tickets to an event that exceeds the maximum ticket limit quantity posted by, or on behalf of, the ticket issuer at the point of original sale or printed on the tickets,

and intends to resell the tickets in violation of this subchapter is a violation of § 4-88-107.

(2) An individual, organization, group, association, partnership, or corporation is not liable under this section with respect to tickets if that individual or collective is the ticket issuer.

(c)(1) Except as provided in subdivision (c)(2) of this section, an individual, public or private entity, organization, group, association, partnership, or corporation that offers for resale or resells a ticket may charge any amount that the market may reasonably dictate above the admission price charged by the ticket issuer.

(2) For a period of no less than ten (10) days, an institution of higher education or its designee shall place a ticket to a collegiate sporting event held in this state that is available for sale to the general public, at a price no greater than the face value of the ticket, but may include associated transactional fees and costs.

(d) Under this subchapter, a ticket to a collegiate sporting event designated as being "for sale to the general public" shall not include:

(1) Tickets to events issued, hosted, or sold by a third-party vendor;

(2) The ticket reserved by an institution of higher education for fundraising directly or through an affiliated entity;

(3) Tickets for internal or complementary usage; or

(4) Tickets reserved to meet contractual obligations of the institution of higher education or its affiliated entities.

(e) Except as provided in subsection (f) of this section, a platform operator shall not intentionally use an internet domain name, or any subdomain thereof, in a ticketing platform's uniform resource location that contains any of the following:

(1) The name of any specific team, league, or venue where events are held;

(2) The name of the exhibition or performance or of another event described in subsection (f) of this section, including the name of a person, team, performance, group, or entity scheduled to perform at the event or venue;

(3) Any trademark not owned by the platform operator, including

without limitation trademarks owned by authorized agents or partners of the venue or event identified in subdivisions (e)(1) or (e)(2) of this section; or

(4) Any name or names substantially similar to those in subdivisions (e)(1) or (e)(2) of this section, including without limitation any misspellings of any name or names described in subdivisions (e)(1) or (e)(2) of this section.

(f) Subsection (e) of this section does not apply to a platform operator who is authorized by any persons or entities identified in subdivisions (e)(1) or (e)(2) of this section to act on the venue, performer, team, or event's behalf with respect to the sale or resale of tickets.

(g) An individual, organization, group, association, partnership, or corporation shall not knowingly sell, give, transfer, use, distribute, or possess with the intent to sell, give, or distribute software that is primarily designed or produced for the purpose of interfering with the operations of any ticket issuer that sells, through a ticketing platform, tickets for admission to an event by circumventing any security measures on the ticket issuer's ticketing platform, circumventing any access control systems of the ticket issuer's ticketing platform, or circumventing any controls or measures that are instituted by the ticket issuer on the ticketing platform to ensure an equitable ticket purchasing process.

(h) A violation of this section is an unfair or deceptive trade practice as defined in § 4-88-107 and subject to the enforcement and penalty provisions contained therein.

4-88-1104. Ticket sale requirements – Refunds.

(a) An individual who is in the business of selling or reselling tickets to an event or venue in this state or an organization, group, association, partnership, or corporation that sells or resells a ticket to an event or venue in this state shall:

(1) Guarantee that the consumer will receive their tickets in reasonable time for their event;

(2) Guarantee that the purchased tickets will provide the consumer valid entry into the event or venue;

(3) Maintain a telephone number, e-mail address, live virtual support, provide a physical representative at the venue for the duration of

the event or other evolving means of contact for complaints, customer service, and inquiries; and

(4)(A) Implement a standard refund policy that provides a consumer a full refund or comparable replacement ticket if:

(i) The ticket received by the consumer is counterfeit;

(ii) The ticket has been cancelled by the ticket issuer for nonpayment by the original consumer, or for any reason other than an act or omission of the consumer;

(iii) The ticket fails to conform to the description provided by the ticket issuer or reseller;

(iv) The ticket was not delivered to the consumer before the occurrence of the event, unless the failure of delivery was due to an act or omission of the consumer; or

(v) The ticket does not provide the consumer admission to the event or venue for which it was purchased.

(B) The refund under subdivision (a)(4)(A) of this section shall include the full order value paid by the consumer for the ticket, in addition to all fees charged in connection with that purchase, including without limitation download fees, delivery fees, shipping fees, and sales taxes.

(b) If an event is cancelled and not rescheduled, a consumer is entitled to a refund as provided in subdivision (a)(4)(A) of this section from the ticket issuer, ticketing platform, or reseller from which they directly purchased the ticket.

(c)(1) It is a violation of the Deceptive Trade Practices Act, § 4-88-101 et seq., if a ticket issuer, ticketing platform, or reseller fails to refund according to subdivision (a)(4)(A) of this section.

(2) All available remedies are actionable for a violation of subdivision (c)(1) of this section under § 4-88-107 of the Deceptive Trade Practices Act.

4-88-1105. Counterfeits – Criminal penalties.

(a) An individual, organization, group, association, partnership, or corporation that counterfeits, forges, alters, clones, or possesses a ticket, card, wristband, or other medium that accesses or is associated with a

ticket, or a ticket, token, or paper designed for admission to or the rendering of services by an event or venue offering services to the general public, with the intent to defraud the event or venue, commits a Class A misdemeanor.

(b) An individual, organization, group, association, partnership, or corporation that commits a second or subsequent violation of subsection (a) of this section commits a Class D felony.

4-88-1106. Violations.

(a)(1) An individual, organization, group, association, partnership, or corporation violating this subchapter is guilty of a violation.

(2) Upon conviction, an individual, organization, group, association, partnership, or corporation shall be fined in a sum not less than one hundred dollars (\$100) nor greater than five hundred dollars (\$500).

(b) Every sale or resale, or offer for sale or resale, that violates this subchapter is a separate actionable offense.

(c) An institution of higher education and its officers, agents, employees, volunteers, designees, and affiliated entities shall not be held criminally or civilly liable for a violation of this subchapter.

(d) This subchapter shall not be construed as a waiver of any immunity available under state law or its instrumentalities, officers, agents, employees, or volunteers.

SECTION 2. Arkansas Code § 5-63-201 is repealed.

~~5-63-201. Tickets to certain events—Sale in excess of regular price.~~

~~(a)(1) It is unlawful for any person, corporation, firm, or partnership to resell or offer for resale a ticket to an event for a price higher than the greater of either:~~

~~(A) The price originally charged for the ticket by the venue or entity hosting the event or the venue or entity's authorized agent plus a reasonable charge for handling or credit card use; or~~

~~(B) The price printed on the ticket.~~

~~(2) This subsection does not apply to an institution of higher education that receives funds per ticket above the face value of the ticket.~~

~~(b)(1) Any person, corporation, firm, or partnership violating any provision of this section is guilty of a violation and upon conviction shall~~

~~be fined in any sum not less than twenty five dollars (\$25.00) nor more than five hundred dollars (\$500).~~

~~(2) Every sale or offer for sale is a separate offense.~~

~~(c) As used in this section, "event" means a live entertainment event, athletic event, sporting event, theater performance, musical performance, or an event held for the benefit of charity.~~

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the intercollegiate football ticket selling process will begin soon; that ensuring adequate consumer protection mechanisms are in place is vital to protecting the public peace, health, and safety of consumers in this state; and that this act is immediately necessary to ensure proper consumer protections are in effect for the 2023-2024 school years so that consumers are protected. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/M. Shepherd