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Short Title: Resale of Tickets via Internet.

(Public)

Sponsors:

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A BILL TO BE ENTITLED

AN ACT TO PROTECT CUSTOMERS WHEN PURCHASING TICKETS VIA THE
INTERNET, TO PROHIBIT THE USE OF SOFTWARE TO UNFAIRLY
PURCHASE TICKETS OVER THE INTERNET, AND TO IMPOSE A
PRIVILEGE TAX ON THE INTERNET SALES OF TICKETS IN EXCESS OF
THE PRINTED PRICE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 44 of Chapter 14 of the General Statutes is amended by
adding a new section to read:

"§ 14-344.1. Internet sale of admission tickets in excess of printed price.

(a) Internet Resale. – A person may resell an admission ticket under this section on the Internet at a price greater than the price on the face of the ticket unless the venue where the event will occur prohibits the Internet ticket resale as provided under subsection (b) of this section. To resell an admission ticket under this section, the person reselling the ticket must offer the ticket for resale on a Web site with a ticket guarantee that meets the requirements of subsection (c) of this section. A prospective purchaser must be directed to the guarantee before completion of the resale transaction. A person who resells an admission ticket under this section acknowledges liability for the tax under G.S. 105-37.1.

(b) Resale Prohibited. – The venue where an event will occur may prohibit the resale of admission tickets for the event at a price greater than the price on the face of the ticket. To prohibit the resale of tickets under this section, the venue must post notice of the prohibition conspicuously on its Web site and the primary ticket seller for the event must post the notice conspicuously on its Web site. A prohibition under this subsection may not become valid until 30 days after the notice is posted on the Web site. The prohibition expires on December 31 of each year unless the prohibition is renewed in accordance with this subsection.

1 (c) Ticket Guarantee. – A person who resells or offers to resell admission tickets
2 under this section must guarantee to the purchaser a full refund of the amount paid for
3 the ticket under each of the following conditions:

4 (1) The ticketed event is cancelled. Reasonable handling and delivery fees
5 may be withheld from the refund price of a cancelled ticketed event if
6 the ticket guarantee on the Web site specifically informs the purchaser
7 that handling and delivery fees will be withheld from the refunded
8 amount.

9 (2) The purchaser is denied admission to the ticketed event. This
10 subdivision does not apply if admission to the ticketed event is denied
11 to the purchaser because of an action or omission of the purchaser.

12 (3) The ticket is not delivered to the purchaser in the manner described on
13 the Web site or pursuant to the delivery guarantee made by the reseller
14 and the failure results in the purchaser's inability to attend the ticketed
15 event.

16 (d) Student Tickets. – This section does not apply to student tickets issued by
17 institutions of higher education in North Carolina for sporting events."

18 **SECTION 2.** Article 44 of Chapter 14 of the General Statutes is amended by
19 adding a new section to read:

20 **"§ 14-344.2. Prohibition on ticket purchasing software.**

21 (a) Definition. – The term 'ticket seller' means a person who has executed a
22 written agreement with the management of any venue in North Carolina for a sporting
23 event, theater, musical performance, or public entertainment of any kind to sell tickets
24 to the event over the Internet.

25 (b) Unfair Trade Practice. – A person who knowingly sells, gives, transfers, uses,
26 distributes, or possesses software that is primarily designed or produced for the purpose
27 of interfering with the operation of a ticket seller who sells, over the Internet, tickets of
28 admission to a sporting event, theater, musical performance, or public entertainment of
29 any kind by circumventing any security measures on the ticket seller's Web site,
30 circumventing any access control systems of the ticket seller's Web site, circumventing
31 any access control solutions of the ticket seller's Web site, or circumventing any
32 controls or measures that are instituted by the ticket seller on its Web site to ensure an
33 equitable ticket buying process shall be in violation of G.S. 75-1.1. The ticket seller and
34 venue hosting the ticketed event have standing to bring a private right of action under
35 G.S. 75-1.1 for violation of this section.

36 (c) Original Ticket Seller. – A person or firm is not liable under this section with
37 respect to tickets for which the person or firm is the original ticket seller."

38 **SECTION 3.** G.S. 14-344 reads as rewritten:

39 **"§ 14-344. Sale of admission tickets in excess of printed price.**

40 Any person, firm, or corporation shall be allowed to add a reasonable service fee to
41 the face value of the tickets sold, and the person, firm, or corporation which sells or
42 resells such tickets shall not be permitted to recoup funds greater than the combined
43 face value of the ticket, tax, and the authorized service fee. This service fee may not
44 exceed three dollars (\$3.00) for each ticket except that a promoter or operator of the

1 property where the event is to be held and a ticket sales agency may agree in writing on
2 a reasonable service fee greater than three dollars (\$3.00) for the first sale of tickets by
3 the ticket sales agent. This service fee may be a pre-established amount per ticket or a
4 percentage of each ticket. The existence of the service fee shall be made known to the
5 public by printing or writing the amount of the fee on the tickets which are printed for
6 the event. Any person, firm or corporation which sells or offers to sell a ticket for a
7 price greater than the price permitted by this section or as permitted by G.S. 14-344.1
8 shall be guilty of a Class 2 misdemeanor."

9 **SECTION 4.** G.S. 105-37.1 reads as rewritten:

10 "**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

11 (a) Scope. – A privilege tax is imposed on the gross receipts of a person who is
12 engaged in any of the following:

- 13 (1) Giving, offering, or managing a dance or an athletic contest for which
14 an admission fee in excess of fifty cents (50¢) is charged.
- 15 (2) Giving, offering, or managing a form of amusement or entertainment
16 that is not taxed by another provision of this Article and for which an
17 admission fee is charged.
- 18 (3) Exhibiting a performance, show, or exhibition, such as a circus or dog
19 show, that is not taxed by another provision of this Article.
- 20 (4) Reselling or offering to resell admission tickets on the Internet under
21 G.S. 14-344.1.

22 (b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the
23 gross receipts from the activities described in subsection (a) of this section. For taxes
24 imposed under subdivision (a)(4) of this section, gross receipts exclude the price printed
25 on the face of the ticket. The tax is due when a return is due. A return is due by the 10th
26 day after the end of each month and covers the gross receipts received during the
27 previous month.

28 (c) Advance Report. – A person who owns or controls a performance, show, or
29 exhibition subject to the tax imposed by this section and who plans to bring the
30 performance to this State from outside the State must file a statement with the Secretary
31 that lists the dates, times, and places of the performance, show, or exhibition. The
32 statement must be filed no less than five days before the first performance, show, or
33 exhibition in this State.

34 (d) Local Taxes. – Cities may levy a license tax on a person taxed under
35 subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five
36 dollars (\$25.00). Cities may levy a license tax on a person taxed under subdivision
37 (a)(3) of this section; however, the tax may not exceed twenty-five dollars (\$25.00) for
38 each day or part of a day the performance, show, or exhibition is given at each location.

39 Counties may not levy a license tax on a person taxed under subdivision (a)(1) or
40 (a)(2) of this section. Counties may levy a license tax on a person taxed under
41 subdivision (a)(3) to the same extent as a city."

42 **SECTION 5.** This act becomes effective August 1, 2008. Section 2 of this
43 act applies to offenses committed on or after that date.