

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 1316

INTRODUCER: Senator Hooper

SUBJECT: Resale of Tickets

DATE: February 4, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 1316 requires any person or entity who offers specified nontransferable tickets for sale to also offer the ticket in a transferrable format. The bill does not address whether a ticket seller can charge an additional fee, or higher price for a transferrable ticket versus a nontransferable ticket.

The bill takes effect on July 1, 2022.

II. Present Situation:

Pricing of Resold Admission Tickets

The resale pricing of certain tickets is governed by Florida law. Section 817.36, F.S., provides that a person or entity that offers for resale or resells any ticket (with the exception of travel agencies under certain conditions¹) may charge only \$1.00 above the admission price charged by the original ticket seller, for the following:

- Passage or accommodations on any common carrier in this state;
- Multiday or multievent tickets to a park or entertainment complex, or to a concert, entertainment event, permanent exhibition, or recreational activity within such a park or complex, including an entertainment/resort complex;² and

¹ To qualify for this exception, travel agencies must have an established place of business in Florida and pay state, county, and city occupational license taxes. *See* s. 817.36(1)(a), F.S.

² An "Entertainment/resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owner(s)/operator(s) of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity shall include an area within a 5-mile radius of the theme park complex. *See* s. 561.01(18), F.S.

- Event tickets originally issued by a tax-exempt charitable organization, when no more than 3,000 tickets are issued per performance. The following must be conspicuously printed on the face or back of each such ticket: “*Pursuant to s. 817.36, Florida Statutes, this ticket may not be resold for more than \$1 over the original admission price.*” This provision does not apply to tickets issued or sold by a third party ticketing service on behalf of a charitable organization, unless the statement is on the ticket.

The limitation of an additional \$1.00 above the original price of a ticket also applies to any tickets that are resold or offered through an Internet website (except those described above), unless the website:

- Is authorized by the original ticket seller; or
- Makes and posts the following guarantees and disclosures through Internet web pages, or links to web pages, in text to which a prospective purchaser is directed before completion of the resale transaction:
 - The website operator guarantees a full refund of the ticket price including any servicing, handling, or processing fees, if such fees are not disclosed, when:
 - The ticketed event is canceled;
 - The purchaser is denied admission to the ticketed event, unless such denial is due to the action or omission of the purchaser;
 - The ticket is not delivered to the purchaser as requested and pursuant to delivery guarantees made by the reseller and such failure results in the purchaser’s being unable to attend the event; and
 - The website operator discloses that it is not the issuer, original seller, or reseller of the ticket and does not control the pricing of the ticket, which may be resold for more than its original value.

Individual or entities are not authorized to sell or purchase tickets at any price on property where an event is being held (i.e., outside a stadium) without the prior express written consent of the owner of the property.³

Sales tax is due on resold tickets.⁴

A person who knowingly resells a ticket or tickets in violation of the requirements in s. 817.36, F.S., is liable to the state for a civil penalty equal to three times the amount of the price for which the ticket or tickets were resold.⁵

Persons who intentionally use or sell software to circumvent a security measure, an access control system, or any other control or measure on a ticket seller’s Internet website which is used to ensure an equitable ticket-buying process, is liable to the state for a civil penalty equal to three times the amount for which any ticket was sold.⁶

³ See s. 817.36(2), F.S.

⁴ See s. 817.36(3), F.S.

⁵ See s. 817.36(4), F.S.

⁶ *Id.* Section 817.36(5), F.S. See also s. 817.36(6), F.S., which defines the term “software” as “computer programs that are primarily designed or produced for the purpose of interfering with the operation of any person or entity that sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind.” Similar federal legislation was enacted in 2016 to prohibit circumvention of ticket website security

Purchasers and resellers of tickets may also be subject to civil penalties under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA).⁷ In the absence of a contract with the original ticket seller to distribute or sell tickets, a person who knowingly purchases from the original ticket seller, with the intent of resale, a quantity of event tickets which exceeds the posted⁸ maximum ticket limit per purchaser, violates FDUTPA.⁹

Effect of Proposed Changes:

The bill requires any person or entity who offers nontransferable tickets for sale to also offer the ticket in a transferrable format.¹⁰ The bill does not address whether a ticket seller can charge an additional fee, or higher price for a transferrable ticket versus a nontransferable ticket.

The bill defines “nontransferable ticket” as a ticket that may not be given away or resold in a method of the ticketholder’s choosing, or requires the ticketholder and the purchaser to facilitate the exchange exclusively through an application program by the original ticket seller.

The bill provides that the original ticket seller may not penalize, discriminate against, or deny access to an event to a person who purchases or resells a ticket in a manner authorized.

The bill takes effect on July 1, 2022.

III. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

or control measures and the subsequent sale of the fraudulently obtained tickets by someone who knew or should have known about the violation. *See* The Better Online Ticket Sales Act, at 15 U.S.C. s. 45c.

⁷ *See* part II of ch. 501, F.S., relating to consumer protection (ss. 501.201-501.213, F.S.).

⁸ Posting of a quantity limit occurs at the point of original sale or is printed on the tickets by or on behalf of the original ticket seller. *See* s. 817.357, F.S.

⁹ *See* s. 817.357, F.S.

¹⁰ The bill provides an exception for passage or accommodations on any common carrier in Florida, multiday or multievent tickets to a park or entertainment complex or to a concert, entertainment event, permanent exhibition, or recreational activity, and event tickets originally issued by a charitable organization exempt from taxation under s. 501(c)(3) or the Internal Revenue Code for which no more than 3,000 tickets are issued per performance.

E. Other Constitutional Issues:

None Identified.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends section 817.36 of the Florida Statutes.

VIII. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.