

HOUSE No. 4276

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, January 25, 2024.

The committee on Consumer Protection and Professional Licensure to whom was referred the petition (accompanied by bill, House, No. 259) of Daniel R. Carey and others relative to ensuring transparent ticket pricing, the petition (accompanied by bill, House, No. 373) of Michael J. Moran and Sean Garballey relative to the issuance and sale of sports and entertainment tickets, and the petition (accompanied by bill, House No. 3975) of Tackey Chan relative to certain ticket transactions reports recommending that the accompanying bill (House, No. 4276) ought to pass.

For the committee,

TACKEY CHAN.

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The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to secure while improving fans' tickets.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 182A of Chapter 140 of the General Laws, as appearing in the
2 2022 Official Edition, is hereby amended by adding at the end thereof the following 3
3 paragraphs:-

4 No person, firm, corporation, or other entity shall employ a paperless ticketing system
5 unless the consumer is given an option at the time of initial sale to purchase the same paperless
6 tickets in transferable form that the consumer can transfer at any price, and at any time, and
7 without additional fees, independently. The established price for any given ticket shall be the
8 same regardless of the form or transferability of such ticket. The ability for a ticket to be
9 transferred independently shall not constitute a special service for the purpose of imposing a
10 service charge subject to section one hundred and eighty-five D. It shall be unlawful to penalize,
11 discriminate against, or deny access to a ticket buyer on the basis that the ticket was transferred
12 or resold, including if the ticket was transferred or resold independent from the initial sale
13 ticketing system.

14 Notwithstanding the above paragraph, an operator of any such theatrical exhibition,
15 public show or public amusement or exhibition, or such operator's agent, may offer paperless
16 tickets which do not allow for independent transferability provided that such tickets are included
17 in a membership pass at a discounted price offered by a professional sports organization for
18 seating in venues or stadiums with a fixed capacity of over 19,000 seats that guarantees entry to a
19 specified number of events in a specified time period with seat assignments assigned no more
20 than four hours prior to the commencement of the event and such seat assignment must be
21 variable from game to game and not intended for season ticket holders. Tickets provided under
22 such membership pass may be restricted from being transferred or resold, including through the
23 operator or operators' agents, and must be clearly marked as such prior to initial offering or sale.
24 Such membership pass shall not mean a subscription or season ticket package offered for sale
25 and shall not result in the sale of more than five per cent of the maximum amount of all seats that
26 will be made available at a venue for a particular event to be sold under this section.

27 Venue operators, or agents of such operators, may maintain and enforce policies with
28 respect to conduct, behavior, public health and safety, or age at the venue or event; and establish
29 limits on the quantity of tickets that may be purchased.

30 SECTION 2. Chapter 140 of the General Laws, as so appearing, is hereby amended by
31 striking out section 185A, and inserting in place thereof the following section:-

32 Section 185A. No person shall engage in the business of reselling, or facilitating a
33 mechanism for two or more parties to participate in the resale of, any ticket or tickets of
34 admission or other evidence of right of entry to any theatrical exhibition, public show or public
35 amusement or exhibition required to be licensed under sections one hundred and eighty-one and

36 one hundred and eighty-two of this chapter or under chapter one hundred and twenty-eight A,
37 whether such business is conducted on or off the premises on which such ticket or other evidence
38 is to be used, without being licensed therefor by the commissioner of the division of occupational
39 licensure, in this and the six following sections called the commissioner. Any operator or
40 manager of a website that serves as a platform to facilitate resale, or resale by way of a
41 competitive bidding process, solely between third parties and does not in any other manner
42 engage in reselling of tickets shall be exempt from said licensing requirements.

43 A license shall be granted only upon a written application setting forth such information
44 as the commissioner may require. Each license issued under this section shall be in force until
45 the first day of January next after its date, unless sooner revoked. No such license may be
46 transferred or assigned except upon written permission of the commissioner. The sale of a ticket
47 or pass, entitling the holder thereof to admission to any such theatrical exhibition, public show or
48 public amusement or exhibition upon payment either of nothing or a sum less than that
49 demanded of the public generally, shall be deemed to be a resale thereof within the meaning of
50 this section.

51 No person shall engage in or have any interest, as a stockholder or otherwise, in any such
52 business in the conduct of which is or are resold any ticket or tickets of admission or other
53 evidence or evidences of right of entry to any theatrical exhibition, public show or public
54 amusement or exhibition of which said person is the owner or in which he has any interest, as a
55 stockholder or otherwise.

56 SECTION 3. Section 185B of said chapter, as so appearing, is hereby amended by
57 adding at the end thereof the following:- If any licensee demonstrates that their business

58 provides a service to facilitate ticket transactions without charging any fees or surcharges above
59 the established face value ticket price, on every transaction, except a reasonable and actual
60 service charge for the delivery of tickets, then the fees for licensing shall be waived.

61 The applicant for a license shall file with the application a bond in the penal sum of
62 25,000 dollars, which bond shall be approved by the commissioner. Each such bond shall be
63 conditioned that the obligor will not be guilty of any fraud or extortion, will not violate directly
64 or indirectly any of the provisions of sections one hundred and eighty-five A through one
65 hundred and eighty-five F, inclusive, or any of the provisions of the license provided for in said
66 sections, will comply with the provisions of said sections and will pay all damages occasioned to
67 any person by reason of any misstatement, misrepresentation, fraud or deceit or any unlawful act
68 or omission of such obligor, his or her agents or employees, while acting within the scope of
69 their employment, made, committed or omitted in connection with the provisions of said section
70 in the business conducted under such license or caused by any other violation in carrying on the
71 business for which such license is granted. One or more recoveries or payments upon such bond
72 shall not vitiate the same but such bond shall remain in full force and effect, provided, however,
73 that the aggregate amount of all such recoveries or payments shall not exceed the penal sum
74 thereof. Before the commissioner shall draw upon such bond, the commissioner shall issue a
75 determination in writing which shall include the basis of such action. The commissioner shall
76 notify in writing the licensee of any such determination and shall afford the licensee an
77 opportunity to respond within 20 days of the receipt of such determination. In no event may the
78 bond be drawn upon in less than 25 days after the service of a determination to the licensee.
79 Such written notice may be served by delivery thereof personally to the licensee, or by certified
80 mail to the last known business address of such licensee. Only upon such determination of the

81 commissioner shall moneys be withdrawn from the bond. The commencement of any action or
82 actions against the surety upon any such bond for a sum or sums aggregating or exceeding the
83 amount of such bond shall require a new and additional bond in like amount as the original one,
84 which shall be filed within 30 days after the demand therefor. Failure to file such bond within
85 such period shall constitute cause for the revocation of the license theretofore issued to the
86 licensee upon whom such demand shall have been made.

87 Any suit or action against the surety on any bond required by the provisions of this
88 section shall be commenced within one year after the cause of action shall have accrued.

89 SECTION 4. Section 185C of said chapter, as so appearing, is hereby amended by
90 adding at the end thereof the following two paragraphs:-

91 No person, firm, corporation, or other entity shall utilize or sell ticket purchasing
92 software to purchase tickets. For the purpose of this paragraph, "ticket purchasing software"
93 shall mean any machine, device, computer program or computer software that, on its own or with
94 human assistance, bypasses security measures or access control systems on a retail ticket
95 purchasing platform, or other controls or measures on a retail ticket purchasing platform that
96 assist in implementing a limit on the number of tickets that can be purchased, to purchase tickets.
97 Any person, firm, corporation, or other entity who knowingly utilizes ticket purchasing software
98 in order to purchase tickets shall be subject to a civil penalty in an amount not less than 500
99 dollars per violation and shall forfeit all profits made from the sale of any such unlawfully
100 obtained tickets. Any person, firm, corporation or other entity who is a licensee who is
101 adjudicated guilty of the following acts may lose their license and may be barred from licensure
102 for a period not to exceed three years if such licensee: (i) knowingly utilized ticket purchasing

103 software in order to purchase tickets; (ii) knowingly resold or offered to resell a ticket that such
104 licensee knew was obtained using ticket purchasing software; or (iii) intentionally maintained
105 any interest in or maintained any control of the operation of ticket purchasing software to
106 purchase tickets.

107 Any person, firm, corporation, or other entity that has knowledge of the use of ticket
108 purchasing software in violation of this chapter and fails to notify the office of the Attorney
109 General within 30 days shall be subject to a civil penalty in the amount of 500 dollars per
110 violation.

111 SECTION 5. Section 185D of said chapter, as so appearing, is hereby amended by
112 striking out the first paragraph, and inserting in place thereof the following:-

113 Section 185D. No licensee under section one hundred and eighty-five A shall sell tickets,
114 facilitate the sale, resell, or facilitate the resale of, any ticket or other evidence of right of entry to
115 any theatrical exhibition, public show or public amusement or exhibition of any description
116 without a guarantee to each purchaser of such sold or resold tickets that they will provide a full
117 refund of the amount paid by the purchaser, including, but not limited to all service charges if
118 any of the following occurs: (i) the event for which such ticket has been sold or resold is
119 cancelled; (ii) the ticket received by the purchaser does not grant the purchaser admission to the
120 event described on the ticket; (iii) the ticket was not delivered to the purchaser prior to the
121 occurrence of the event, unless such failure of delivery was due to an act or omission of the
122 purchaser; or (iv) the ticket fails to conform to its description as advertised unless the purchaser
123 has pre-approved a substitution of tickets. Provision of a replacement ticket to the same event

124 that is in a comparable location, where applicable, and at no additional cost to the consumer,
125 shall be considered providing a full refund for the purposes of this chapter.

126 A licensee shall disclose in a clear and conspicuous manner the portion of the ticket price
127 stated in dollars that represents a service charge, or any other fee or surcharge to the purchaser.
128 Such a disclosure of the total cost and fees shall be displayed in the ticket listing prior to the
129 ticket being selected for purchase. Disclosures of subtotals, fees, charges, and any other
130 component of the total price shall not be false or misleading and may not be presented more
131 prominently or in the same or larger size as the total price. The price of the ticket shall not
132 increase during the purchase process, excluding reasonable fees for delivery of non-electronic
133 tickets based on the delivery method selected by the purchaser, which shall be disclosed prior to
134 accepting payment therefor.

135 For the purpose of this section, service charges are defined as costs incurred by said
136 licensee related solely to the procuring and selling of such ticket or other evidence of right of
137 entry and not related to the general business operation of said licensee. Service charges include,
138 but are not limited to, charges for messengers, postage, and long distance telephone calls,
139 extensions of credit and costs attributable thereto.

140 SECTION 6. Section 185E of said chapter, as so appearing, is hereby amended by
141 inserting after the second sentence, the following new sentence:- A licensee shall keep full and
142 accurate sets of records showing: (i) the prices at which all tickets have been bought and sold by
143 such licensee; and (ii) the names and addresses of the person, firm or corporation from whom
144 they were bought.