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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- TICKET BROKERS

Introduced By: Representatives Carnevale, San Bento, Lima, Slater, and Hull

Date Introduced: February 26, 2014

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-22-26 of the General Laws in Chapter 5-22 entitled "Shows and
2 Exhibitions" is hereby repealed.

3 ~~5-22-26. Ticket speculators. -- No person shall sell, offer for sale, or attempt to sell any~~
4 ~~ticket, privilege, or license of admission to an entertainment event, including, but not limited to,~~
5 ~~any place of public amusement, arena, stadium, theatre, performance, sport, exhibition, or athletic~~
6 ~~contest in this state at a price greater than the price, including tax, printed on the ticket, and a~~
7 ~~reasonable service charge for services actually rendered not to exceed three dollars (\$3.00) or ten~~
8 ~~percent (10%) of the price printed on the ticket, whichever is greater. The owner or operator of~~
9 ~~the property on which an entertainment event is to be held or is being held may authorize, in~~
10 ~~writing, any person to sell a ticket, privilege, or license of admission at a price in excess of that~~
11 ~~authorized under this section. That writing shall specify the price for which the ticket, privilege,~~
12 ~~or license of admission is to be sold. Any person violating any provision of this section is guilty~~
13 ~~of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000) for each~~
14 ~~offense.~~

15 SECTION 2. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"
16 is hereby amended by adding thereto the following chapter:

17 CHAPTER 22.1

18 THE FAIR ACCESS TO TICKETS AND TICKET BROKERS ACT

19 5-22.1-1. Short title. -- This act shall be known and may be cited as "The Fair Access to

1 Tickets and Ticket Brokers Act."

2 **5-22.1-2. Legislative findings and purpose.** -- (a) The purpose of this chapter is to
3 recognize the importance of the sports and entertainment industry in the state of Rhode Island,
4 which attracts paying fans to games, concerts, and performances and generates millions of dollars
5 of economic impact annually.

6 (b) The legislature finds that the free market for tickets in the sports and entertainment
7 industry is often violated by some companies and individuals in the ticket resale market who prey
8 on fans of live entertainment in this state.

9 (c) That professional scalpers routinely purchase as many of the best seats as possible as
10 soon as they go on sale, often using computer software and hiding behind the anonymity of the
11 Internet, for the sole purpose of reselling tickets to make a profit, depriving consumers of the
12 opportunity to purchase tickets at the price set by performers, clubs, theaters, and arenas and
13 depriving artists and sports clubs of the ability to set their own prices for their own performances.

14 (d) That a free market depends on informed consumers, yet professional scalpers rarely
15 inform consumers about original ticket prices, or that the site is a ticket resale platform where
16 prices often exceed face value, or that the seats offered on these websites may not be in the
17 possession of the professional scalpers.

18 (e) It is the intent of the general assembly to ensure that its citizens have access to seats at
19 fair prices, and to prohibit deceptive, anonymous resale and Internet marketing practices.

20 **5-22.1-3. Definitions.** – As used in this chapter:

21 (1) "Affinity group" means an identifiable entity or group of people who are members of
22 the same organization, or who are customers of the same person, and who receive special
23 privileges as members of such group. Customers of a reseller shall not constitute an affinity
24 group;

25 (2) "Athletic contest" means any intercollegiate sporting event; any sporting event staged
26 by any professional club; any sporting event staged by any sanctioning body; or any sporting
27 event organized under the rules and regulations of the Rhode Island Interscholastic League, for
28 which an admission price is charged by a place of entertainment;

29 (3) "Bot", (also known as an internet bot, or a web robot), means a software application
30 that runs automated tasks over the internet;

31 (4) "Director" means the director of the department of business regulation;

32 (5) "Department" means the department of business regulation;

33 (6) "Entertainment event" means any performance of music, comedy, dance, film, lecture,
34 or theater, other live entertainment, show, or any exhibition of art, for which an admission price is

1 charged by a place of entertainment;

2 (7) "Face value" means the face price of a ticket, as determined by the event presenter
3 and printed on the ticket;

4 (8) "Initial sale" means the first sale of a ticket for a specific entertainment event by the
5 owner or operator of a place of entertainment, or of the entertainment event, or an agent of any
6 such person;

7 (9) "Online marketplace" means and refers to an Internet website that provides a forum
8 for the buying and selling of tickets, but shall not include a reseller, ticket issuer, or an agent of an
9 owner or operator of a place of entertainment;

10 (10) "Original purchaser" means a person who buys one or more tickets to an athletic
11 contest or entertainment event with the intention of using the ticket(s) solely for his or her own
12 use, or the use of the original purchaser's invitees or agents;

13 (11) "Performance agent" means an employee of a place of entertainment or of its agent,
14 or a producer, promoter, performer, or any other person associated with an event, who lawfully
15 controls any tickets prior to their release for sale to the general public;

16 (12) "Person" means any individual, partnership, firm, association, corporation, or
17 combination of individuals of whatever form or character;

18 (13) "Place of entertainment" means any entertainment facility within this state, whether
19 publicly or privately owned or operated, such as a theater, stadium, museum, arena, racetrack or
20 other place where performances, concerts, exhibits, or athletic contests are held and for which an
21 entry fee is charged;

22 (14) "Pre-Sale" means a sale of tickets, conducted prior to any sale to an affinity group by
23 a person who is:

24 (i) An owner or operator of a place of entertainment;

25 (ii) Acting with the permission of the owner or operator, or a performance agent; or

26 (iii) Not a reseller;

27 (15) "Producer" means a person who stages entertainment events, such as a performance,
28 concert, exhibit, game, or athletic contest held at a place of entertainment;

29 (16) "Professional club" means any club organized under the rules and regulations of
30 Major League Baseball, Minor League Baseball, the National Football League, the National
31 Basketball Association, the National Hockey League, or the American Hockey League;

32 (17) "Promoter" means a person who organizes financing and publicity for an
33 entertainment event;

34 (18) "Resale" means a sale of a ticket by a person other than the owner or operator of a

1 place of entertainment, or an agent of any such person acting in that capacity. Resale includes the
2 sale of a ticket to an event at a place of entertainment by any means including, but not limited to,
3 in person or by means of telephone or any other communication device or technology, mail,
4 delivery service, facsimile, the Internet or any other electronic means. Resale does not include an
5 initial sale;

6 (19) "Resale website" means an Internet website, or portion of a website, that offers the
7 resale of tickets to consumers;

8 (20) "Resell" means to offer for resale, or to consummate a resale;

9 (21) "Reseller" means any person, other than the owner or operator of a place of
10 entertainment, or such person's agent, who resells a ticket, including a season ticket holder;

11 (22) "Runner" means a person hired for the purpose of securing tickets by intimidating,
12 enticing or otherwise manipulating a prospective ticket purchaser waiting in line to procure event
13 tickets;

14 (23) "Sanctioning body" means any association that organizes and sanctions national
15 sporting competitions, whether professional or amateur, including, but not limited to, the
16 Professional Golf Association, United States Golf Association, NASCAR, the U.S. Tennis
17 Association, World Tennis Association, U.S. Olympic Committee, and Ultimate Fighting
18 Championship; and organizations that sanction individuals or teams for participation in
19 international sporting competition on behalf of the United States;

20 (24) "Season ticket holder" means a person who purchases a package of one or more
21 tickets to a series of similar events at a place of entertainment pursuant to a plan offered by the
22 place of entertainment or by a ticket agent for the place of entertainment;

23 (25) "Ticket" means a physical, electronic, or other form of a certificate, document,
24 voucher, token, or other evidence indicating that the bearer, possessor, or person entitled to
25 possession through purchase or otherwise has:

26 (i) A revocable right, privilege, or license to enter an event venue or occupy a particular
27 area in an event venue with respect to one or more events; or

28 (ii) An entitlement to purchase such a right, privilege, or license with respect to one or
29 more events;

30 (26) "Ticket broker" means a person or persons acting in concert, who are involved in the
31 business of reselling tickets of admission to places of entertainment, and who charges a premium
32 in excess of the price printed on the tickets. "Ticket broker" does not include an individual not
33 regularly engaged in the business of reselling tickets, and who obtained the tickets for the
34 person's own use or the use of the person's family, friends or acquaintances;

1 (27) "Ticket issuer" means any person, other than an online marketplace or reseller, that
2 makes tickets available directly or indirectly, at an initial sale or pre-sale, to the general public,
3 and may include the owner or operator of a place of entertainment, the producer or sponsor of an
4 entertainment event, a sports team or sports league of teams participating in an entertainment
5 event, a theater company, musical group or similar participant in an entertainment event, or an
6 agent of any such person.

7 **5-22.1-4. Ticket as license. --** A ticket represents a revocable license, held by the person
8 in possession of the ticket, to use a seat or standing area in a specific place of an athletic contest
9 or entertainment event for a limited time. The license represented by the ticket may be revoked at
10 any time, with or without cause, by the ticket issuer.

11 **5-22.1-5. Ticket broker's permitted activities. --** (a) To ensure that consumers of tickets
12 for resale are fully informed as to the nature of their transactions, a ticket broker shall:

13 (1) Post at its established place of business, and on any website operated, utilized or
14 employed by the broker, the terms of the purchaser's right to cancel the purchase of a ticket from
15 the ticket broker;

16 (2) Disclose to the purchaser the refund policy of the ticket broker should an athletic
17 contest or entertainment event be canceled;

18 (3) Disclose to any prospective ticket resale purchaser, whether on the ticket broker's
19 resale website or in person, prior to any resale, the difference between the face value of the ticket
20 and the amount the ticket broker is charging the purchaser for such ticket;

21 (4) Refund any payment received by the sale of a ticket, if the athletic contest or
22 entertainment event is canceled and not rescheduled; and

23 (5) Sell tickets only at its permanent office, place of business, or through a resale website,
24 and not prior to the initial sale by the ticket issuer.

25 (b) It shall be a violation of this chapter for a ticket broker to employ, either directly or
26 indirectly, any person as a runner, as defined in this chapter. Provided that, in addition to the
27 penalties and remedies set forth in this chapter, any person who acts as, or employs, a runner,
28 either directly or indirectly, commits an unfair or deceptive act or practice affecting trade or
29 commerce as set forth in chapter 6-13.1.

30 (c) Any ticket broker offering to resell tickets to an athletic contest or entertainment event
31 through any printed, broadcast, or Internet advertising shall include in such offering the
32 registration number issued by the department to such ticket broker.

33 **5-22.1-6. Ticket resale website -- Disclosures. --** (a) Resale websites offering tickets to
34 any live entertainment event or athletic contest shall disclose to any website user the following

1 information:

2 (1) The face value and exact location of the seat offered for sale, including any section,
3 row, and seat number, or area specifically designated as accessible seating that is printed on the
4 ticket;

5 (2) If operated by a ticket broker, the broker's active registration number issued by the
6 department;

7 (3) Whether the ticket offered for sale is in the actual possession of the reseller and
8 immediately available for delivery; and

9 (4) That the resale website is a secondary website, and is not the website of the ticket
10 issuer.

11 (b) Any disclosure required of a retail website by this chapter shall be prominently
12 displayed on the website in bold type, using a font size equal to, or larger than, the largest font
13 size used on the website.

14 (c) No resale website shall offer for sale a ticket which it does not own or physically
15 possess.

16 (d) No resale website shall employ a URL using a trademark rightfully owned by another
17 without the written consent of the trademark owner.

18 **5-22.1-7. Resale of tickets not prohibited.** -- Notwithstanding any other provision of
19 this chapter:

20 (1) No law shall prohibit the resale or offering for resale of a ticket or tickets to an
21 athletic contest or entertainment event covered under this chapter by a resale website, ticket
22 broker or a ticket broker's employees and agents.

23 (2) In order to preserve the rights of consumers to secure tickets to live entertainment
24 events through safe and reliable means, nothing in this chapter shall prevent operators of places of
25 entertainment, event presenters, or their agents from utilizing any ticketing method(s) for the
26 initial sale of tickets, through any medium, whether existing now or in the future.

27 **5-22.1-8. Use of bots prohibited.** -- (a) No person shall sell, use, cause to be used by any
28 means, method, technology, devices or software including, but not limited to, technology based
29 bots, that are designed, intended or function to bypass portions of the ticket buying process, or
30 disguise the identity of the ticket purchaser or circumvent a security measure, an access control
31 system, or other control, authorization or measure on a ticket issuer's or resale ticket agent's
32 Internet website.

33 (b) No person shall use or cause to be used any means, method or technology that is
34 designed, intended or functions to disguise the identity of the purchaser including, but not limited

1 to, bots, with the purpose or purchasing or attempting to purchase via online sale a quantity of
2 tickets to a place of entertainment in excess of authorized limits established by the owner or
3 operator of a place of entertainment or of the entertainment event or any agent of any such
4 person.

5 (c) Any person who violates the provisions of this section shall be guilty of a
6 misdemeanor. Each ticket purchase, sale or violation of this section constitutes a separate offense.
7 Any aggrieved party that has been injured by wrongful conduct prescribed by this section may
8 bring an action to recover all actual damages suffered as a result of any such wrongful conduct.
9 The court, in its discretion, may award damages up to three (3) times the amount of actual
10 damages. The court may also grant injunctive relief from any and all activity prohibited under this
11 section.

12 **5-22.1-9. Registration of ticket brokers.** -- (a) Ticket brokers must register with the
13 department within thirty (30) days of July 1, 2014, or within thirty (30) days of commencing
14 business as a ticket broker in this state, whichever is later, and maintain an active registration with
15 the department. In order to obtain and maintain an effective registration, a ticket broker shall:

16 (1) Maintain a permanent office or place of business in this state, excluding a post office
17 box, for the purpose of engaging in the business of a ticket broker;

18 (2) Submit the ticket broker's business name, Rhode Island business address, and any
19 other information requested by the department on a form designated by the department;

20 (3) Pay an annual registration fee as determined by the department to be sufficient to
21 reimburse the department for the requirements of this chapter;

22 (4) Renew the registration annually; and

23 (5) Register for sales and use tax purposes pursuant to chapter 44-18 of the general laws.

24 (b) Upon registration, the department shall issue each ticket broker a registration number,
25 and publish a list of registered ticket brokers, including registration numbers, on the department's
26 website. No person shall register as a broker, who has been convicted of a felony offense, or who
27 has been held in any court of record to have violated any provision of this chapter. No broker
28 shall employ any other person who has been convicted of a felony offense, or who has been held
29 in any court of record to have violated any provision of this chapter.

30 **5-22.1-10. Procedure for complaints.** -- Any person aggrieved by violation of this
31 chapter may file a written complaint with the department of the attorney general. The attorney
32 general is authorized to investigate and remediate any violation of this chapter, subject to the
33 provisions of chapter 6-13.1.

34 **5-22.1-11. Records of department – Ticket broker's registration.** -- (a) The

1 department shall keep a public record of all applications for registration made pursuant to this
2 chapter.

3 (b) All official records of the department, or affidavits by the director as to the contents
4 of the records, shall be prima facie evidence of all matters required to be kept in the records.

5 (c) Except as otherwise provided by this section, the record kept pursuant to this chapter
6 shall be treated as confidential and may not be disclosed except by order of a court of competent
7 jurisdiction or by permission of the applicant.

8 (d) Any person may file a complaint with the director against a licensee alleging fraud,
9 deceit, gross neglect, incompetence or misconduct by any ticket broker. Complaints shall be made
10 in writing, and shall be available for inspection and copying.

11 (e) The director is authorized and directed to promulgate rules and regulations to
12 effectuate the purposes of this chapter. All such rules and regulations shall be promulgated in
13 accordance with § 42-14-17.

14 **5-22.1-12. Penalties for violations. --** In addition to any other penalties under this
15 chapter, any person who violates the provisions of this chapter shall be guilty of a misdemeanor,
16 punishable by a fine of not more than one thousand dollars (\$1,000), imprisonment for a term not
17 exceeding one year, or both.

18 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- TICKET BROKERS

1 This act would enact the "Fair Access to Tickets and Ticket Brokers Act" which would
2 regulate the sale and resale of event tickets, and would require registration of ticket brokers with
3 the department of business regulation.

4 This act would take effect upon passage.

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