

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0482.01 Christopher McMichael x4775

SENATE BILL 23-060

SENATE SPONSORSHIP

Rodriguez,

HOUSE SPONSORSHIP

(None),

Senate Committees
Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING CONSUMER PROTECTIONS IN EVENT TICKET SALES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill amends consumer protection law regarding ticket sales and resales for events. **Section 1** of the bill amends definitions related to event ticket sales to:

- Specify that a "reseller" includes an event operator who acts as a reseller of event tickets; and
- Define a "rights holder" as a person with initial ownership rights to sell a ticket to an event.

Current law imposes certain restrictions on the resale of tickets.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

Section 1 exempts from those ticket resale restrictions tickets to events that are initially offered at no charge or as part of a charitable event or for tickets that are offered in compliance with the "Americans with Disabilities Act".

Section 1 also allows an event operator to revoke or restrict tickets that are purchased or sold through deceptive trade practices.

Section 2 specifies that a person engages in deceptive trade practices when, in the course of the person's business, vocation, or occupation, the person:

- Uses computer software or systems that run automated tasks to purchase tickets to events or to circumvent or disable ticket limitation and security measures;
- Displays trademarked, copyrighted, or substantially similar web designs, URLs, or other images and symbols without the consent of the trademark or copyright holder, operator, or rights holder;
- Sells a ticket to an event without disclosing the total cost of the ticket, including the cost of any service charge or other fees that must be paid, or displays service charges and fees less prominently than the total price of the ticket;
- Increases the price of a ticket once the ticket has been selected for purchase, with the exception of adding delivery fees; or
- Advertises, offers for sale, or contracts for the resale of a ticket unless the ticket conforms to its description as advertised, the person has possession or constructive possession of the ticket, and the person has permission from the rights holder.

Section 2 also outlines a civil penalty structure for transactions in which one or more tickets are sold or acquired in a manner that constitutes a deceptive trade practice.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-718, **amend**
3 (1)(a), (1)(d), (1)(e), (1)(f), (1)(g), (2), (3)(b), and (5); and **add** (1)(h) as
4 follows:

5 **6-1-718. Ticket sales and resales - prohibitions - unlawful**
6 **conditions - definitions.** (1) As used in this section, unless the context
7 otherwise requires:

1 (a) (I) "Operator" means a person ~~or entity who~~ THAT:
2 (A) Owns, operates, or controls a place of entertainment or ~~who~~
3 THAT promotes or produces entertainment; and ~~that~~
4 (B) Sells a ticket to an event for original sale. ~~including an~~
5 ~~employee of such person or entity.~~
6 (II) "OPERATOR" INCLUDES:
7 (A) A PERSON THAT HAS BEEN AUTHORIZED BY AN OPERATOR AS
8 DEFINED IN SUBSECTION (1)(a)(I) OF THIS SECTION TO SELL A TICKET TO AN
9 EVENT FOR ORIGINAL SALE; AND
10 (B) AN EMPLOYEE OF AN OPERATOR AS DEFINED IN SUBSECTION
11 (1)(a)(I) OF THIS SECTION.
12 (d) "Purchaser" means a person ~~or entity who~~ THAT purchases a
13 ticket to a place of entertainment.
14 (e) "Resale" or "resold" means a sale, other than the original sale,
15 of a ticket by a person. ~~or entity.~~
16 (f) "Reseller" means a person ~~or entity~~ that offers or sells RESALE
17 tickets ~~for resale after the original sale by the operator~~ OR THAT OPERATES
18 A PLATFORM OR EXCHANGE FOR ADVERTISING, LISTING, OR SELLING
19 RESALE TICKETS, ~~including an entity~~ A PERSON that operates a platform or
20 exchange for the purchase and sale of ORIGINAL SALE tickets to events
21 ~~that also engages in the purchase and resale of the ticket either on behalf~~
22 ~~of the operator, or on its own behalf if a reseller~~ TO THE EXTENT THAT
23 SUCH PERSON ALSO OFFERS OR SELLS RESALE TICKETS.
24 (g) "Ticket" means a license issued by the operator of a place of
25 entertainment for admission to an event at the date and time specified on
26 the ticket, subject to the terms and conditions as specified by the operator.
27 "RIGHTS HOLDER" MEANS ANY PERSON THAT HAS THE INITIAL OWNERSHIP

1 RIGHTS TO SELL A TICKET TO AN EVENT FOR WHICH TICKETS FOR ENTRY BY
2 THE PUBLIC ARE REQUIRED.

3 (h) "TICKET" MEANS A LICENSE ISSUED BY THE OPERATOR OF A
4 PLACE OF ENTERTAINMENT FOR ADMISSION TO AN EVENT AT THE DATE
5 AND TIME SPECIFIED ON THE TICKET, SUBJECT TO THE TERMS AND
6 CONDITIONS AS SPECIFIED BY THE OPERATOR.

7 (2) Resellers shall guarantee a full refund to a purchaser OF A
8 TICKET if:

9 (a) The event ~~for which the ticket was resold~~ is canceled;

10 (b) The ticket does not or would not in fact grant the purchaser
11 admission to the event; ~~for which the ticket was resold;~~

12 (c) The ticket is counterfeit; or

13 (d) The ticket fails to conform to its description as advertised ~~or~~
14 ~~as represented~~ to the purchaser by the reseller.

15 (3) (b) Nothing in this section shall be deemed to prohibit an
16 operator from prohibiting the resale of:

17 (I) A contractual right in a season ticket package agreement that
18 gives the original purchaser a priority or other preference to enter into a
19 subsequent season ticket package agreement with the operator; OR

20 (II) ANY TICKET OR OTHER EVIDENCE OF THE RIGHT OF ENTRY TO
21 ANY PLACE OF ENTERTAINMENT IF THE TICKET OR OTHER EVIDENCE WAS
22 INITIALLY OFFERED:

23 (A) AT NO CHARGE, AND ACCESS TO THE TICKET OR OTHER
24 EVIDENCE IS NOT CONTINGENT UPON PROVIDING ANY FORM OF MONETARY
25 CONSIDERATION;

26 (B) AS PART OF A CHARITABLE EVENT; OR

27 (C) IN COMPLIANCE WITH THE FEDERAL "AMERICANS WITH

1 DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AS AMENDED.

2 (5) Nothing in this section shall be construed to prohibit an
3 operator from maintaining and enforcing policies regarding conduct or
4 behavior at or in connection with the operator's venue. An operator may
5 revoke or restrict ~~season~~ tickets for:

6 (a) Reasons relating to a violation of venue policies; ~~and to the~~
7 ~~extent the operator may deem necessary for~~

8 (b) The protection of the safety of patrons; or

9 (c) To address fraud or misconduct, INCLUDING MISCONDUCT
10 THAT CONSTITUTES A DECEPTIVE TRADE PRACTICE AS DESCRIBED IN
11 SECTION 6-1-720.

12 **SECTION 2.** In Colorado Revised Statutes, **amend** 6-1-720 as
13 follows:

14 **6-1-720. Online event ticket sales - deceptive trade practice -**
15 **definitions.** (1) A person engages in a deceptive trade practice when, in
16 the course of the person's business, vocation, or occupation, ~~such~~ THE
17 person:

18 (a) Uses or causes to be used a software application that runs
19 automated tasks over the internet to access a computer, computer
20 network, or computer system, or any part ~~thereof~~ OF A COMPUTER,
21 COMPUTER NETWORK, OR COMPUTER SYSTEM, for the purpose of
22 purchasing tickets; ~~in excess of authorized limits for an online event~~
23 ~~ticket sale with the intent to resell such tickets; or~~

24 (b) Uses or causes to be used a software application that runs
25 automated tasks over the internet, ~~that circumvents or disables~~ OR USES OR
26 CAUSES TO BE USED MULTIPLE ELECTRONIC MAIL ADDRESSES OR INTERNET
27 SERVICE PROVIDERS, TO CIRCUMVENT OR DISABLE any electronic queues,

1 waiting periods, or other sales volume limitation systems associated with
2 an online event ticket sale;

3 (c) USES OR CAUSES TO BE USED A SOFTWARE APPLICATION THAT
4 RUNS AUTOMATED TASKS OVER THE INTERNET TO CIRCUMVENT OR
5 DISABLE A SECURITY MEASURE, ACCESS CONTROL SYSTEM, OR OTHER
6 TECHNOLOGICAL CONTROL OR MEASURE ON AN INTERNET WEBSITE OR
7 ONLINE SERVICE THAT IS USED BY THE OPERATOR TO FACILITATE
8 AUTHORIZED ENTRY INTO AN EVENT;

9 (d) USES OR CAUSES TO BE USED AN INTERNET WEBSITE TO
10 DISPLAY A TRADEMARKED OR COPYRIGHTED URL, TITLE DESIGNATION,
11 IMAGE, MARK, OR OTHER SYMBOL WITHOUT THE WRITTEN CONSENT OF THE
12 TRADEMARK OR COPYRIGHT HOLDER;

13 (e) USES OR CAUSES TO BE USED AN INTERNET WEBSITE TO
14 DISPLAY ANY COMBINATION OF TEXT, IMAGES, WEB DESIGNS, OR INTERNET
15 ADDRESSES, WHICH INTERNET WEBSITE IS SUBSTANTIALLY SIMILAR TO THE
16 INTERNET WEBSITE OF AN OPERATOR OR RIGHTS HOLDER, WITHOUT THE
17 WRITTEN CONSENT OF THE OPERATOR OR RIGHTS HOLDER;

18 (f) SELLS A TICKET TO AN EVENT AT A PLACE OF ENTERTAINMENT
19 WITHOUT DISCLOSING THE TOTAL COST OF THE TICKET, INCLUSIVE OF ALL
20 ANCILLARY FEES THAT MUST BE PAID IN ORDER TO PURCHASE THE TICKET,
21 IN THE TICKET LISTING PRIOR TO THE TICKET BEING SELECTED FOR
22 PURCHASE;

23 (g) SELLS A TICKET TO AN EVENT AT A PLACE OF ENTERTAINMENT
24 WITHOUT DISCLOSING THE PORTION OF THE TICKET THAT REPRESENTS A
25 SERVICE CHARGE, OR ANY OTHER FEE OR SURCHARGE FOR THE PURCHASE,
26 IN A CLEAR AND CONSPICUOUS MANNER;

27 (h) MAKES A FALSE OR MISLEADING DISCLOSURE OF SUBTOTALS,

1 FEES, CHARGES, OR ANY OTHER COMPONENT OF THE TOTAL PRICE OF A
2 TICKET OR PRESENTS SUBTOTALS, FEES, CHARGES, OR OTHER COMPONENTS
3 OF THE TOTAL PRICE OF THE TICKET LESS PROMINENTLY OR IN A FONT SIZE
4 THAT IS SMALLER THAN THE FONT SIZE USED TO PRESENT THE TOTAL PRICE
5 OF THE TICKET;

6 (i) INCREASES THE PRICE OF A TICKET AFTER A PURCHASER HAS
7 SELECTED A TICKET FOR PURCHASE; EXCEPT THAT THE PERSON MAY ADD
8 FEES FOR THE DELIVERY OF NONELECTRONIC TICKETS, THE AMOUNT OF
9 WHICH IS BASED UPON THE DELIVERY METHOD SELECTED BY THE
10 PURCHASER, SO LONG AS THE PERSON DISCLOSES THE AMOUNT OF THE
11 DELIVERY FEES PRIOR TO ACCEPTING PAYMENT; OR

12 (j) ADVERTISES, OFFERS FOR SALE, OR CONTRACTS FOR THE RESALE
13 OF A TICKET OR ACCEPTS FULL OR PARTIAL CONSIDERATION FOR THE
14 RESALE OF A TICKET, UNLESS:

15 (I) THE TICKET CONFORMS TO ITS DESCRIPTION AS ADVERTISED;

16 (II) (A) THE PERSON HAS POSSESSION OR CONSTRUCTIVE
17 POSSESSION OF THE TICKET; OR

18 (B) THE PERSON HAS A WRITTEN CONTRACT TO OBTAIN THE TICKET
19 AT A CERTAIN PRICE FROM THE RIGHTS HOLDER OF THE TICKET; AND

20 (III) THE RIGHTS HOLDER:

21 (A) HAS MADE THE TICKET AVAILABLE TO THE PUBLIC, INCLUDING
22 THROUGH A PRESALE, FAN CLUB PRESALE, OR ANY OTHER PROMOTIONAL
23 PRESALE EVENT; OR

24 (B) HAS OTHERWISE PROVIDED PERMISSION TO THE PERSON TO
25 ADVERTISE, OFFER FOR SALE, OR CONTRACT FOR THE RESALE OF A TICKET
26 OR TO ACCEPT FULL OR PARTIAL CONSIDERATION FOR THE RESALE OF A
27 TICKET.

1 (2) As used in this section, unless the context otherwise requires:

2 (a) ~~"In excess of authorized limits", with regard to an online~~
3 ~~purchase of tickets, means exceeding a restriction on the number of~~
4 ~~individual tickets that can be purchased by any single person or~~
5 ~~circumventing any other terms and conditions of access to an online event~~
6 ~~ticket sale established by the event sponsor or promoter.~~

7 (b) "Online event ticket sale" means an electronic system utilized
8 by the OPERATOR, sponsor, or ~~promoter~~ RIGHTS HOLDER of a sporting or
9 entertainment event to sell tickets to such event to the public over the
10 internet.

11 (c) "OPERATOR" HAS THE SAME MEANING AS SET FORTH IN
12 SECTION 6-1-718 (1)(a).

13 (d) "PLACE OF ENTERTAINMENT" HAS THE SAME MEANING AS SET
14 FORTH IN SECTION 6-1-718 (1)(c).

15 (e) "RIGHTS HOLDER" HAS THE SAME MEANING AS SET FORTH IN
16 SECTION 6-1-718 (1)(g).

17 (f) "TICKET" HAS THE SAME MEANING AS SET FORTH IN SECTION
18 6-1-718 (1)(h).

19 (g) "URL" MEANS THE UNIFORM RESOURCE LOCATOR ASSOCIATED
20 WITH AN INTERNET WEBSITE.

21 (3) EXCEPT AS PROVIDED IN SUBSECTION (1) OF THIS SECTION, this
22 section ~~shall~~ DOES not prohibit the resale of tickets in a secondary market
23 by a person other than the event OPERATOR, sponsor, or ~~promoter~~ RIGHTS
24 HOLDER.

25 (4) (a) Every ~~ticket~~ TRANSACTION IN WHICH ONE OR MORE TICKETS
26 IS acquired OR SOLD in violation of this section ~~shall constitute~~
27 CONSTITUTES a separate violation for purposes of assessing a civil penalty

1 under section 6-1-112 (1)(a) and (1)(b) AND SUBSECTION (4)(b) OF THIS
2 SECTION.

3 (b) NOTWITHSTANDING THE CIVIL PENALTIES SPECIFIED IN SECTION
4 6-1-112 (1)(a) AND (1)(b):

5 (I) THE CIVIL PENALTY FOR A VIOLATION OF THIS SECTION IS AS
6 FOLLOWS:

7 (A) A FINE IN AN AMOUNT OF AT LEAST TEN THOUSAND DOLLARS
8 BUT NOT MORE THAN TWENTY THOUSAND DOLLARS FOR A FIRST
9 VIOLATION;

10 (B) A FINE IN AN AMOUNT OF AT LEAST TWENTY-FIVE THOUSAND
11 DOLLARS BUT NOT MORE THAN FIFTY THOUSAND DOLLARS FOR A SECOND
12 VIOLATION;

13 (C) A FINE IN AN AMOUNT OF AT LEAST ONE HUNDRED THOUSAND
14 DOLLARS BUT NOT MORE THAN TWO HUNDRED THOUSAND DOLLARS FOR
15 A THIRD VIOLATION; AND

16 (D) A FINE IN AN AMOUNT OF AT LEAST ONE MILLION DOLLARS BUT
17 NOT MORE THAN TWO MILLION DOLLARS FOR A FOURTH OR SUBSEQUENT
18 VIOLATION.

19 (II) THE CIVIL PENALTY FOR A VIOLATION OF A COURT ORDER OR
20 INJUNCTION ISSUED TO ENFORCE THIS SECTION SHALL NOT EXCEED ONE
21 HUNDRED THOUSAND DOLLARS FOR EACH VIOLATION.

22 **SECTION 3. Applicability.** This act applies to conduct occurring
23 on or after the effective date of this act.

24 **SECTION 4. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety.