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HOUSE BILL 2921

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Kloba, Kirby, McBride, and Appleton

Read first time 01/24/18. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to ticket sales over the internet; amending RCW  
2 19.345.005 and 19.345.010; adding new sections to chapter 19.345 RCW;  
3 and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) No person, firm, or corporation may  
6 resell or engage in the business of reselling any tickets to a place  
7 of entertainment without having first procured from the department a  
8 license for each location at which business will be conducted.

9 (2) No person, firm, or corporation may operate an internet web  
10 site or any other electronic service that provides a mechanism for  
11 two or more parties to participate in a resale transaction or that  
12 facilitates resale transactions by the means of an auction, or own,  
13 conduct, or maintain any office, branch office, bureau, agency, or  
14 subagency for such a business without having first procured from the  
15 department a license for each location at which business will be  
16 conducted.

17 (3) Any operator or manager of a web site that serves as a  
18 platform to facilitate resale, or resale by way of a competitive  
19 bidding process, solely between third parties and does not in any  
20 other manner engage in resales of tickets to places of entertainment  
21 is exempt from the licensing requirements of this section.

1 (4) The department shall issue and deliver to an applicant a  
2 license to conduct such a business and to own, conduct, or maintain a  
3 bureau, agency, subagency, office, or branch office for the conduct  
4 of such a business on the premises stated in the application upon the  
5 payment by or on behalf of the applicant of a fee of five thousand  
6 dollars and shall be renewed upon the payment of a like fee annually.  
7 The license may not be transferred or assigned, except by permission  
8 of the department.

9 (a) The license runs to the following January 1st unless revoked  
10 by the department prior to that date.

11 (b) The license must be granted upon a written application  
12 setting forth that information as the department may require in order  
13 to enable the licensee to carry into effect the provisions of this  
14 chapter and must be accompanied by proof satisfactory to the  
15 department of the moral character of the applicant.

16 (5) If any licensee under this section demonstrates that their  
17 business provides a service to facilitate ticket transactions without  
18 charging any fees, surcharges, or service charges above the  
19 established price, on every transaction, except a reasonable and  
20 actual charge for the delivery of tickets, then the fees for  
21 licensing under this section must be waived.

22 NEW SECTION. **Sec. 2.** (1) Immediately upon the receipt of the  
23 license issued pursuant to this chapter by the department, the  
24 licensee must at all times post and display the license in a  
25 conspicuous place in the principal office of the business for which  
26 it is issued, and cause the license for each branch office, bureau,  
27 agency, or subagency to be posted and at all times displayed in a  
28 conspicuous place in such a branch office, bureau, agency, or  
29 subagency for which it is issued, so that all persons visiting the  
30 principal office, branch office, bureau, agency, or subagency may  
31 readily see the same, and if the licensee does business on the  
32 internet, to provide a hyperlink displayed in a conspicuous manner to  
33 a scanned copy of the license. The license is subject to inspection  
34 by the department or the designee of the department at all reasonable  
35 times.

36 (2) It is unlawful for any person, firm, partnership, or  
37 corporation holding a license to post the license or to permit the  
38 license to be posted upon any premises other than those described  
39 therein or to which the license has been transferred pursuant to the

1 provisions of this chapter or unlawfully to alter, deface, or destroy  
2 such a license.

3 NEW SECTION. **Sec. 3.** (1) The department shall require the  
4 applicant for a license to file with the license application a bond  
5 to the department in a penal sum of twenty-five thousand dollars,  
6 with two or more sufficient sureties or a duly authorized surety  
7 company, which bond must be approved by the department.

8 (2) Each bond must be conditioned that the obligor will not be  
9 guilty of any fraud or extortion, will not violate directly or  
10 indirectly any of the provisions of this chapter or any of the  
11 provisions of the license provided for in this chapter, will comply  
12 with the provisions of this chapter and will pay all damages  
13 occasioned to any person by reason of any misstatement,  
14 misrepresentation, fraud, or deceit or any unlawful act or omission  
15 of such obligor, agents, or employees of the obligor, while acting  
16 within the scope of their employment, made, committed, or omitted in  
17 connection with the provisions of this chapter in the business  
18 conducted under such a license or caused by any other violation of  
19 this chapter in carrying on the business for which such a license is  
20 granted.

21 (3) One or more recoveries or payments upon such a bond does not  
22 vitiate the bond but such a bond remains in full force and effect.  
23 However, the aggregate amount of all such recoveries or payments may  
24 not exceed the penal sum thereof. Before the department shall draw  
25 upon such a bond, the department shall issue a determination in  
26 writing that includes the basis of such an action. The department  
27 shall notify the licensee in writing of any such determination and  
28 afford the licensee an opportunity to respond within twenty days of  
29 the receipt of such a determination.

30 (4) In no event may the bond be drawn upon in less than twenty-  
31 five days after the service of a determination to the licensee. Such  
32 written notice may be served by delivery thereof personally to the  
33 licensee, or by certified mail to the last known business address of  
34 the licensee. Only upon such a determination of the department may  
35 moneys be withdrawn from the bond. Upon the commencement of any  
36 action or actions against the surety upon any such bond for a sum or  
37 sums aggregating or exceeding the amount of such a bond, the  
38 department shall require a new and additional bond in like amount as  
39 the original one, which must be filed with the department within

1 thirty days after the demand therefor. Failure to file such a bond  
2 within such a period constitutes cause for the revocation of the  
3 license issued to the licensee upon whom such demand shall have been  
4 made. Any suit or action against the surety on any bond required by  
5 the provisions of this section must be commenced within one year  
6 after the cause of action has accrued.

7 NEW SECTION. **Sec. 4.** (1) Every licensee shall at all times keep  
8 full and accurate sets of records showing: (a) The prices at which  
9 all tickets have been bought and sold by the licensee; and (b) the  
10 names and addresses of the person, firm, or corporation from whom  
11 they were bought. Operators offering for initial sale tickets by  
12 means of an auction shall maintain a record of the price when known  
13 and the number of tickets and types of seats offered through auction.

14 (2) These records must be made available upon request to the  
15 attorney general, the department, or other governmental body with the  
16 express authority to enforce any section of this chapter. These  
17 records must be retained for a period of not less than ten years.

18 (3) Twice annually, on June 30th and December 31st, every  
19 licensee that resells tickets or facilitates the resale or resale  
20 auction of tickets between independent parties by any and all means  
21 shall report to the department the total number of, and average  
22 resale or average final resale auction price of, all tickets to each  
23 ticketed event. However, repeat performances of a single event, and  
24 multiple events that are part of a season long performance must be  
25 treated as a single event for the purposes of the reporting  
26 requirement of this subsection.

27 NEW SECTION. **Sec. 5.** (1) The department may deny an application  
28 or may revoke or suspend a license issued pursuant to this chapter,  
29 impose a fine not exceeding one thousand dollars per violation  
30 payable to the department, issue a reprimand and order restitution  
31 upon proof to the satisfaction of the department that the holder  
32 thereof has:

33 (a) Violated any provision of this chapter or any rule or  
34 regulation adopted under this chapter;

35 (b) Made a material misstatement in the application for such a  
36 license;

37 (c) Engaged in fraud or fraudulent practices;

38 (d) Demonstrated untrustworthiness or incompetency; or

1 (e) Been convicted of a serious offense or misdemeanor which, in  
2 the discretion of the department, bears such a relationship to  
3 licensure as to constitute a bar to licensure or renewal.

4 (2) In the event that the department revokes or suspends any such  
5 license, or imposes any fine or reprimand on the holder of the  
6 license, the department's determination must be in writing and  
7 officially signed. The original of such a determination, when so  
8 signed, must be filed with the department and copies must be served  
9 personally or by certified mail upon the licensee or applicant and  
10 addressed to the principal place of business of such a licensee.

11 (3) No license may be suspended or revoked nor may any fine or  
12 reprimand be imposed, nor may any application be denied, until after  
13 an opportunity for a hearing before an officer or employee of the  
14 department designated for such a purpose by the department upon  
15 notice to the licensee or applicant of at least ten days. The notice  
16 must be served by certified mail and state the date and place of the  
17 hearing and set forth the ground or grounds constituting the charges  
18 against the licensee or the reasons for the proposed denial of the  
19 application. The licensee or applicant must have the opportunity to  
20 be heard in his or her defense either in person or by counsel and may  
21 produce witnesses and testify on his or her behalf. A stenographic  
22 record of the hearing must be taken and preserved. The hearing may be  
23 adjourned from time to time. The person conducting the hearing must  
24 make a written report of the person's findings and a recommendation  
25 to the department for decision. The department shall review such  
26 findings and the recommendation and, after due deliberation, shall  
27 issue an order accepting, modifying, or rejecting the recommendation  
28 and dismissing the charges or suspending or revoking the license or  
29 imposing a fine or reprimand upon the licensee. For the purpose of  
30 this chapter, the department or any officer or employee of the  
31 department designated by him or her, may administer oaths, take  
32 testimony, subpoena witnesses, and compel the production of books,  
33 papers, records, and documents deemed pertinent to the subject of an  
34 investigation.

35 NEW SECTION. **Sec. 6.** (1) The department shall have the power,  
36 upon complaint of any person or the initiative of any person, to  
37 investigate the business, business practices, and business methods of  
38 any licensee that relates to this state's or any other state's ticket  
39 resale law, or in regards to ticket resale practices generally.

1 (2) Each licensee is obliged, on the reasonable request of the  
2 department, to supply such information as may be required concerning  
3 his or her business, business practices, or business methods provided  
4 that the information requested is related to the complaint that forms  
5 the basis of such an investigation.

6 (3) Each operator of any place of entertainment must, on request  
7 of the department, supply such information as may be required  
8 concerning the business, business practices, or business methods of  
9 any licensee provided that the information requested is related to  
10 the complaint that forms the basis of such an investigation.

11 (4) The department has the power to adopt rules as may be deemed  
12 necessary for the enforcement of this chapter.

13 NEW SECTION. **Sec. 7.** (1) The attorney general may bring an  
14 action in the name of the state, or on behalf of persons residing in  
15 the state, to restrain and prevent any act prohibited or declared to  
16 be unlawful in this chapter.

17 (2) For actions brought by the attorney general, the legislature  
18 finds that the practices covered by this chapter are matters vitally  
19 affecting the public interest for the purpose of applying the  
20 consumer protection act, chapter 19.86 RCW. For actions brought by  
21 the attorney general, a violation of this chapter is not reasonable  
22 in relation to the development and preservation of business and is an  
23 unfair or deceptive act in trade or commerce and an unfair method of  
24 competition for purposes of applying the consumer protection act,  
25 chapter 19.86 RCW.

26 NEW SECTION. **Sec. 8.** Notwithstanding any right of action  
27 granted to any governmental body pursuant to this chapter, any person  
28 who has been injured by reason of a violation of this chapter may  
29 bring an action in the person's own name to enjoin such an unlawful  
30 act, and to seek up to five hundred dollars per violation, or actual  
31 damages, whichever is greater. The court may award reasonable  
32 attorneys' fees to a prevailing plaintiff.

33 **Sec. 9.** RCW 19.345.005 and 2015 c 129 s 1 are each amended to  
34 read as follows:

35 (1) The legislature finds and declares that transactions  
36 involving tickets for admission to places of entertainment are a  
37 matter of public interest and subject to the supervision of the state

1 and the appropriate political subdivisions of the state for the  
2 purpose of safeguarding the public and generating transparency in  
3 ticket reselling.

4 (2) It is the intent of the legislature to protect consumers and  
5 ticket sellers from software that simulates the action of a human  
6 being purchasing tickets from a ticket seller in order to evade  
7 controls and measures on a ticket seller's web site. The legislature  
8 is concerned by the use of software, commonly referred to as BOTs  
9 (web robots), to interfere with the operation of ticket sales over  
10 the internet, gaining unauthorized priority access to purchasing  
11 tickets, and thereby reducing access to the general public of online  
12 ticket sales at the intended original price. In order to protect  
13 consumers and ticket sellers, the legislature intends to prohibit  
14 acts and practices of persons that use or sell software to  
15 circumvent, thwart, interfere with, or evade a security measure,  
16 access control system, or other control or measure on a ticket  
17 seller's internet web site. It is not the intent of the legislature  
18 to interrupt the online ticket buying process established by the  
19 authorized ticket seller, including the distribution of tickets to  
20 season ticket holders.

21 **Sec. 10.** RCW 19.345.010 and 2015 c 129 s 2 are each amended to  
22 read as follows:

23 The definitions in this section apply throughout this chapter  
24 unless the context clearly requires otherwise.

25 (1) "Admission ticket" means evidence of a right of entry to a  
26 venue or an entertainment event.

27 (2) "Affinity group" means an identifiable group of people who  
28 are members of the same organization, or who are customers of the  
29 same person, and who enjoy special privileges.

30 (3) "Event" means a concert, theatrical performance, sporting  
31 event, exhibition, show, or other similar activity held in this  
32 state.

33 (4) "Initial sale" means the first sale of an admission ticket by  
34 the ticket seller. "Initial sale" also includes the distribution of  
35 admission tickets under an agreement between the ticket seller and  
36 the recipient.

37 (5) "Person" means any individual, partnership, corporation,  
38 limited liability company, other organization, or any combination  
39 thereof.

1 (6) "Place of entertainment" means any privately or publicly  
2 owned or operated entertainment facility within this state, such as a  
3 theater, stadium, museum, arena, park, racetrack, or other place  
4 where concerts, theatrical performances, sporting events,  
5 exhibitions, shows, or other similar activities are held and for  
6 which an entry fee is charged.

7 (7) "Presale" means a sale of admission tickets at or below the  
8 price printed on the ticket by, or with the permission of, a ticket  
9 seller, prior to their release to the general public.

10 (8) "Promoter" means a person who organizes financing and  
11 publicity for an entertainment event.

12 (9) "Ticket seller" means a person that makes admission tickets  
13 available, directly or indirectly, at an initial presale or sale to  
14 the general public, and may include an owner or operator of a place  
15 of entertainment, a sponsor or promoter of an event, a sports team  
16 participating in an event, a fan club or affinity group, a theater  
17 company, a musical group, or similar participant in an event, or an  
18 employee or agent of any such person.

19 (10) "Department" means the department of licensing.

20 (11) "Established price" means the price fixed at the time of  
21 sale by the operator of any place of entertainment for admission to a  
22 place of entertainment in Washington.

23 (12) "Operator" means any person who owns, operates, or controls  
24 a place of entertainment or who promotes or produces an  
25 entertainment.

26 (13) "Resale" means any sale of a ticket for more than the  
27 established price for admission to a place of entertainment in  
28 Washington other than a sale by the operator. Resale includes sales  
29 by any means, including in person, or by means of telephone, mail,  
30 delivery service, facsimile, internet, email, or other electronic  
31 means, where the venue for which the ticket grants admission is  
32 located in Washington state.

33 (a) "Resale" does not include any person, firm, or corporation  
34 that sells less than fifty tickets per year above the established  
35 price.

36 (b) "Resale" does not include any not-for-profit organization, or  
37 person acting on behalf of such a not-for-profit organization, as  
38 long as any profit realized from ticket reselling is wholly dedicated  
39 to the purposes of the not-for-profit organization.



1        NEW SECTION.    **Sec. 11.**    Sections 1 through 8 of this act are each  
2    added to chapter 19.345 RCW.

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