

# SENATE BILL REPORT

## SB 5321

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As Reported by Senate Committee On:  
Environment, Energy & Technology, February 14, 2019

**Title:** An act relating to ticket sales over the internet.

**Brief Description:** Concerning ticket sales over the internet.

**Sponsors:** Senators Carlyle, Palumbo, Wellman, Mullet, Pedersen, Billig, Hunt, Liias and Van De Wege.

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 1/22/19, 2/14/19 [DPS-WM, w/ oRec, DNP].

**Brief Summary of First Substitute Bill**

- Requires businesses reselling event tickets to be licensed by the Department of Licensing and to meet certain disclosure requirements.
- Requires consumers to confirm understanding the terms of a sale prior to completing a transaction.
- Prescribes penalties.

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Majority Report:** That Substitute Senate Bill No. 5321 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Palumbo, Vice Chair; Sheldon, Assistant Ranking Member, Energy & Technology; Billig, Das, Hobbs, Liias, McCoy, Nguyen and Wellman.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Fortunato, Assistant Ranking Member, Environment; Brown, Rivers and Short.

**Minority Report:** Do not pass.

Signed by Senator Ericksen, Ranking Member.

**Staff:** Angela Kleis (786-7469)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** Washington Consumer Protection Act. The Washington Consumer Protection Act (CPA) declares that unfair and deceptive practices in trade or commerce are illegal. The CPA allows a person injured by an unfair or deceptive practice to bring a private cause of action for damages. The Office of the Attorney General may investigate and prosecute claims under the CPA on behalf of the state or individuals in the state.

Department of Licensing. The Department of Licensing (DOL) licenses certain businesses and professions, and may investigate complaints or reports of unprofessional conduct, hold administrative hearings, discipline, and fine licensees. In 2002, the Legislature consolidated disciplinary procedures for licensed businesses and professions under DOL in the Uniform Regulation of Business and Professions Act (URBP). The URBP provides standardized procedures for the regulation of businesses and professions and the enforcement of laws.

Ticket Sellers. Current ticket seller laws prohibit the use of software or sale of software that is advertised for profit with the express purpose to circumvent, thwart, interfere with, or evade a security measure, access control system, or other control or measure on a ticket seller's website.

**Summary of Bill (First Substitute):** Ticket Reseller License. Businesses reselling event tickets must be licensed by DOL, although certain exceptions apply. Licenses must be renewed annually. Licensees must post licenses in principle locations and on business websites at all times.

Disclosure and Consent. Licensees must disclose the total price of the ticket and the portion of the ticket price associated with a service charge, or any other fee, prior to accepting payment. In addition, any licensee using an online resale marketplace must post a notice on its website stating certain disclaimers such as the refund policy in the event of a cancellation or postponement. Consumers must expressly confirm that they understand the terms of the purchase prior to completing a transaction.

Records. Licensees are required to keep full and accurate records for a period not less than five years. Twice annually, licensees must report to DOL the number of, and average resale or average final resale auction price of, all tickets to each ticketed event.

Operators. A ticket is a license subject to the terms and conditions specified by the operator. It is unlawful for an operator of a place of entertainment to take certain actions such as restricting the resale of any tickets, including season tickets or denying access to a ticket holder because they possess a resold ticket. An operator must disclose whether a seat for which a ticket is for sale has an obstructed view. If an operator is going to transfer a ticket purchaser to a secondary ticket reseller, the operator must provide a clear and conspicuous disclosure of the transfer.

Penalties and Enforcement. Any licensee that operates a website with the intent to mislead a consumer is subject to a civil penalty of no more than \$1,500 per violation. The assessed civil penalty increases to no more than \$5,000 per violation if a licensee is assessed more than one civil penalty within a three year period.

DOL may take certain actions against a person, applicant, or licensee that violates ticket reseller laws and has the authority to investigate licensee business practices. A licensee may lose their license and be barred from licensure as a ticket reseller for up to three years under certain conditions, such as knowingly using ticket purchasing software.

The Office of the Attorney General may bring an action on behalf of the state, or individuals in the state, under the CPA. In addition, any person who has been injured by a licensee may bring a civil action and seek no less than \$5,000 per violation or actual damage, whichever is greater.

Account. The ticket reseller licensing account is created. Expenditures from the account may only be authorized by the director, or the director's designee, of DOL.

**EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):**

- Changes the ticket reseller license expiration date to one year from issuance.
- Clarifies that it is unlawful for a licensee to own or operate a misleading website and that any licensee that owns or operates ticket bots is subject to a civil penalty.
- Adds provisions regarding operators of event venues and resold tickets.
- Clarifies this act regulates persons engaged in ticket resale who are not operators or agents of operators.
- Eliminates the restrictions on operator's ability to control tickets.
- Changes the effective date.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on June 30, 2020.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: There are increasing problems in the secondary ticket market. Consumers are hurt by companies that use ticket bots and unregulated ticket resellers. We will provide language to address our concern regarding establishing ticket reseller intent.

CON: Current ticket reseller practices make this regulation unnecessary. This bill will have a negative impact on business and is disproportionately burdensome for small businesses.

OTHER: A provision needs to be added that permits a person to resale their tickets without first obtaining a license.

**Persons Testifying:** PRO: Senator Reuven Carlyle, Prime Sponsor; Shannon Smith, Attorney General's Office; Victoria Contreras, Seattle Theatre Group.

CON: James Kimmel, Chief Executive Officer, Epic Seats.

OTHER: Scott Hazlegrove, eBay and Stubhub.

**Persons Signed In To Testify But Not Testifying:** No one.