
SUBSTITUTE SENATE BILL 5321

State of Washington

66th Legislature

2019 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Carlyle, Palumbo, Wellman, Mullet, Pedersen, Billig, Hunt, Liiias, and Van De Wege)

READ FIRST TIME 02/18/19.

1 AN ACT Relating to ticket sales over the internet; amending RCW
2 19.345.005, 19.345.010, and 18.235.020; adding new sections to
3 chapter 19.345 RCW; prescribing penalties; and providing an effective
4 date.

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

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

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

19 (3) Any operator or manager of a web site that serves as a
20 platform to facilitate resale, or resale by way of a competitive
21 bidding process, solely between third parties and does not in any

1 other manner engage in resales of tickets to places of entertainment
2 is exempt from the licensing requirements of this chapter.

3 (4) The department shall issue and deliver to an applicant who
4 qualifies under this section a ticket reseller license to conduct
5 such a business and to own, conduct, or maintain a bureau, agency,
6 subagency, office, or branch office for the conduct of such a
7 business on the premises stated in the application upon the payment
8 by or on behalf of the applicant according to RCW 43.24.086. Ticket
9 reseller licenses may not be transferred or assigned, except by
10 permission of the department.

11 (5) A ticket reseller license expires one year from issuance,
12 unless revoked by the department.

13 (6) A ticket reseller license must be granted upon a written
14 application setting forth information the department may require in
15 order to carry into effect the provisions of this chapter.

16 (7) If an applicant or licensee under this section demonstrates
17 that their business provides a service to facilitate ticket
18 transactions without charging any fees, surcharges, or service
19 charges above the established price on every transaction, except a
20 reasonable and actual charge for the delivery of tickets, then the
21 fees for licensing under this section are not required.

22 (8) This section does not apply to ticket sales by an operator.

23 NEW SECTION. **Sec. 2.** (1) Immediately upon the receipt of the
24 license issued pursuant to this chapter by the department, the
25 licensee named therein shall cause the license to be posted and at
26 all times displayed in a conspicuous place in the principal office of
27 the business for which it is issued. It shall also cause the license
28 for each branch office, bureau, agency, or subagency to be posted and
29 at all times displayed in a conspicuous place in such a branch
30 office, bureau, agency, or subagency for which it is issued. If a
31 licensee does business on the internet, including via a retail ticket
32 purchasing platform, it shall provide a license number displayed in a
33 conspicuous manner or a hyperlink displayed in a conspicuous manner
34 to a scanned copy of the license. The license is subject to
35 inspection by the department or the designee of the department at all
36 reasonable times.

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

1 therein or to which the license has been transferred pursuant to the
2 provisions of this chapter or unlawfully to alter, deface, or destroy
3 such a license.

4 NEW SECTION. **Sec. 3.** (1) Any licensee that facilitates the
5 resale of tickets shall disclose in a clear and conspicuous manner
6 the total price of the ticket and the portion of the ticket price
7 stated in dollars that represents a service charge, or any other fee,
8 or surcharge prior to accepting payment.

9 (2) Any licensee utilizing an online resale marketplace shall
10 post a clear and conspicuous notice on the web site that the web site
11 is for the secondary sale of a ticket, that the price of such a
12 ticket offered for sale may exceed the established price and shall
13 also state the refund policy of the platform in connection with the
14 cancellation or postponement of an event. An online resale
15 marketplace shall require that the user confirm having read such a
16 notice before completing any transaction.

17 NEW SECTION. **Sec. 4.** (1) It is unlawful for any licensee to
18 mislead or deceive, own, operate, or control a ticket web site for an
19 event scheduled at a place of entertainment and use a subdomain or
20 domain name in a ticket web site's URL that contains:

21 (a) The name of the place of entertainment, provided that this
22 subsection (1)(a) does not preclude the use of general terms to
23 depict a geographical location or venue category;

24 (b) The name of the specific event, including the name of a
25 person or entity scheduled to perform or appear at the event; or

26 (c) A name substantially similar to those in (a) or (b) of this
27 subsection.

28 (2) Subsection (1) of this section does not apply if the licensee
29 is acting on behalf of or with the consent of the place of
30 entertainment, event, artist, or sports team for which the web site
31 is being created.

32 (3) Any licensee that owns, operates, or controls such a ticket
33 web site is subject to a civil penalty in an amount of no more than
34 one thousand five hundred dollars for each violation.

35 (4) Any licensee that is subject to a civil penalty under this
36 section and that licensee has been assessed a penalty under this
37 section in the previous three years must be assessed a civil penalty
38 of no more than five thousand dollars for each violation.

1 NEW SECTION. **Sec. 5.** (1) A ticket issued by the operator of a
2 place of entertainment allows for admission to the place of
3 entertainment at the date and time specified on the ticket, subject
4 to the terms and conditions as specified by the operator. It is
5 unlawful for an operator of a place of entertainment, or the
6 operator's agent, to employ a paperless ticketing system unless the
7 consumer is given an option to purchase paperless tickets that the
8 consumer can transfer at any price, and at any time, and without
9 additional fees, independent of the operator or operator's agent.
10 Notwithstanding the provisions of this subsection, an operator or
11 operator's agent may employ a paperless ticketing system that does
12 not allow for independent transferability of paperless tickets only
13 if the consumer is offered an option at the time of initial sale to
14 purchase the same tickets in some other form that is transferable
15 independent of the operator or operator's agent including, but not
16 limited to, paper tickets or e-tickets. The established price for any
17 given ticket must be the same regardless of the form or
18 transferability of the ticket.

19 (2) Additionally, nothing in this section may be construed to
20 prohibit an operator of a place of entertainment from maintaining and
21 enforcing any policies regarding conduct or behavior at or in
22 connection with their venue. Further, nothing in this section may be
23 construed to prohibit an operator of a place of entertainment or the
24 operator's agent, from restricting the resale of tickets that are
25 offered as part of a targeted promotion, at a discounted price, or
26 for free, to specific individuals or groups of individuals because of
27 their status as, or membership in, a specific community or group,
28 including, but not limited to, persons with disabilities, students,
29 religious or civic organizations, or persons demonstrating economic
30 hardship. However, tickets offered promotionally to the general
31 public are not considered tickets offered to specific individuals or
32 groups of individuals. Any promotional discounted or free tickets for
33 which the operator or operator's agent restricts resale must be
34 clearly marked. An operator is permitted to revoke or restrict season
35 tickets for reasons relating to violations of venue policies
36 including, but not limited to, attempts by two or more persons to
37 gain admission to a single event with both the canceled tickets
38 originally issued to a season ticket holder and those tickets
39 reissued as part of a resale transaction, and to the extent the

1 operator may deem necessary for the protection of the safety of
2 patrons or to address fraud or misconduct.

3 (3) The operator or the promoter must determine whether a seat
4 for which a ticket is for sale has an obstructed view, and must
5 disclose the obstruction. If the operator or promoter discloses that
6 a seat for which a ticket is for sale has an obstructed view, it is
7 the responsibility of the secondary ticket reseller to disclose the
8 obstruction upon the resale of the ticket. The obstruction may not
9 include: An obstruction of view caused by a person, or persons,
10 seated or standing in an adjacent seat, or seats, or occupying an
11 aisle; an obstruction of view caused by an object or objects placed
12 upon an adjacent seat or seats, or in an aisle; or an obstruction of
13 view that is de minimus or transitory in nature.

14 (4) An operator or its agent may not transfer a prospective
15 ticket purchaser through any means to an unaffiliated licensee or
16 secondary ticket reseller without providing a clear and conspicuous
17 disclosure that informs the prospective purchaser that the ticket is
18 not being offered by the operator or its agent, but rather by a
19 licensee or other ticket reseller in the secondary market.

20 NEW SECTION. **Sec. 6.** (1) It is unlawful for any licensee to
21 contract for the sale of tickets, contract to obtain tickets for
22 another, or accept consideration for payment in full or for a deposit
23 for the sale of tickets unless the licensee meets one or more of the
24 following requirements:

25 (a) The licensee has the offered tickets in its possession;

26 (b) The licensee has a written contract to obtain the offered
27 ticket at a certain price from a person in possession of the ticket
28 or from a person who has a contractual right to obtain such a ticket;
29 or

30 (c) The licensee informs the purchaser in a clear and conspicuous
31 manner and in plain language at the time of offering such a ticket
32 for sale and in a written notice prior to the completion of the
33 transaction that the licensee does not have possession of the ticket,
34 has no contract to obtain the offered ticket at a certain price from
35 a person in possession of the ticket or from a person who has a
36 contractual right to obtain such ticket, may not be able to supply
37 the ticket at the contracted price or range of prices, and requires
38 such a purchaser to expressly confirm prior to completing the
39 transaction that the purchaser has read such a notice.

1 (2) Nothing in this section prohibits a licensee from accepting a
2 deposit from a prospective purchaser for a resale pursuant to
3 subsection (1)(c) of this section, provided that the licensee informs
4 the purchaser in writing prior to receipt of consideration of the
5 terms of the deposit agreement, and includes in the written notice
6 the disclosures otherwise required by this section. If a licensee has
7 entered into a contract with or received consideration from a
8 prospective purchaser for the sale of a ticket or tickets and cannot
9 supply such a ticket or tickets at the contracted prices range, the
10 licensee shall refund any moneys paid by the prospective purchaser
11 within ten days of receipt of request for refund from the purchaser.

12 (3) Nothing in this section may be construed to nullify, expand,
13 restrict, or otherwise amend or modify laws, rules, or regulations in
14 effect on the effective date of this section, and nothing in this
15 section may be construed as making lawful any fraudulent, deceptive,
16 or illegal act or practice that is unlawful pursuant to laws, rules,
17 or regulations in effect on the effective date of this section.

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

25 (2) Records required to be kept under this section must be made
26 available upon request to the attorney general, the department, or
27 other governmental body with the express authority to enforce any
28 section of this chapter. These records must be retained for a period
29 of not less than five years.

30 (3) Twice annually, on June 30th and December 31st, every
31 licensee that resells tickets or facilitates the resale or resale
32 auction of tickets between independent parties by any and all means
33 shall report to the department the total number of, and average
34 resale or average final resale auction price of, all tickets to each
35 ticketed event, provided, however, that repeat performances of a
36 single event, and multiple events that are part of a season long
37 performance, must be treated as a single event for the purposes of
38 the reporting requirement of this subsection.

1 NEW SECTION. **Sec. 8.** The department may issue an order to cease
2 and desist the unlicensed practice of ticket selling, deny an
3 application for a ticket seller license, refuse to renew a license,
4 revoke or suspend a license, impose a fine not exceeding one thousand
5 dollars per violation, issue a reprimand, or order restitution upon
6 proof to the satisfaction of the department that a person, applicant,
7 or licensee has violated any provision of this chapter, the uniform
8 regulation of business and professions act, chapter 18.235 RCW, or
9 any rule adopted under this chapter.

10 NEW SECTION. **Sec. 9.** A licensee may lose its license and may be
11 barred from licensure for a period not to exceed three years to be
12 determined by the department if such a licensee:

13 (1) Knowingly utilized ticket purchasing software in order to
14 purchase tickets;

15 (2) Knowingly resold or offered to resell a ticket that the
16 licensee knew was obtained using ticket purchasing software; or

17 (3) Intentionally maintained any interest in or maintained any
18 control of the operation of ticket purchasing software to purchase
19 tickets.

20 NEW SECTION. **Sec. 10.** (1) The department has the power, upon
21 complaint of any person or on its own initiative, to investigate the
22 business, business practices, or business methods of any licensee
23 that are related to the licensee's obligations under this chapter.

24 (2) Each licensee is obliged, on request of the department, to
25 supply such information as may be required concerning its business,
26 business practices, or business methods provided that the information
27 requested is related to the complaint that forms the basis of such an
28 investigation.

29 (3) Each operator of any place of entertainment is required, on
30 request of the department, to supply such information as may be
31 required concerning the business, business practices, or business
32 methods of any licensee under this chapter, provided that the
33 information requested is related to the complaint that forms the
34 basis of such an investigation.

35 NEW SECTION. **Sec. 11.** The department may adopt rules as deemed
36 necessary for the implementation and enforcement of this act.

1 NEW SECTION. **Sec. 12.** (1) The attorney general may bring an
2 action in the name of the state, or on behalf of persons residing in
3 the state, to restrain and prevent any act prohibited or declared to
4 be unlawful in this chapter.

5 (2) For actions brought by the attorney general, the legislature
6 finds that the practices covered by this chapter are matters vitally
7 affecting the public interest for the purpose of applying the
8 consumer protection act, chapter 19.86 RCW. For actions brought by
9 the attorney general, a violation of this chapter is not reasonable
10 in relation to the development and preservation of business and is an
11 unfair or deceptive act in trade or commerce and an unfair method of
12 competition for purposes of applying the consumer protection act,
13 chapter 19.86 RCW.

14 NEW SECTION. **Sec. 13.** Notwithstanding any right of action
15 granted to any governmental body pursuant to this chapter, any person
16 who has been injured by reason of a violation of this chapter by a
17 licensee may bring an action in the person's own name to enjoin such
18 an unlawful act, and to seek at least five thousand dollars per
19 violation, or actual damages, whichever is greater. The court may
20 award reasonable attorneys' fees to a prevailing plaintiff.

21 NEW SECTION. **Sec. 14.** The ticket reseller licensing account is
22 created in the custody of the state treasurer. All receipts collected
23 under this chapter must be deposited into the account. Expenditures
24 from the account may be used only for implementation and enforcement
25 of this chapter. Only the director of the department or the
26 director's designee may authorize expenditures from this account. The
27 account is subject to allotment procedures under chapter 43.88 RCW,
28 but an appropriation is not required for expenditures.

29 **Sec. 15.** RCW 19.345.005 and 2015 c 129 s 1 are each amended to
30 read as follows:

31 (1) The legislature finds and declares that transactions
32 involving tickets for admission to places of entertainment are a
33 matter of public interest and subject to the supervision of the state
34 and the appropriate political subdivisions of the state for the
35 purpose of safeguarding the public and generating transparency in
36 ticket reselling.

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

18 **Sec. 16.** RCW 19.345.010 and 2015 c 129 s 2 are each amended to
19 read as follows:

20 The definitions in this section apply throughout this chapter
21 unless the context clearly requires otherwise.

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

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

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

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

34 (5) "Person" means any individual, partnership, corporation,
35 limited liability company, other organization, or any combination
36 thereof.

37 (6) "Place of entertainment" means any privately or publicly
38 owned or operated entertainment facility within this state, such as a
39 theater, stadium, museum, arena, park, racetrack, or other place

1 where concerts, theatrical performances, sporting events,
2 exhibitions, shows, or other similar activities are held and for
3 which an entry fee is charged.

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

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

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

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

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

20 (12) "Online resale marketplace" means any operator or manager of
21 a web site or other electronic service that resells tickets or serves
22 as a platform to facilitate resale, or resale by way of a competitive
23 bidding process.

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

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

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

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

1 (15) "Retail ticket purchasing platform" means a retail ticket
2 purchasing web site, application, phone system, or other technology
3 platform used to sell tickets.

4 (16) "Ticket web site" means an internet web site advertising the
5 sale of tickets, offering the sale of the tickets, or facilitating a
6 secondary ticket exchange.

7 (17) "URL" means the uniform resource locator for a web site on
8 the internet.

9 **Sec. 17.** RCW 18.235.020 and 2017 c 281 s 37 are each amended to
10 read as follows:

11 (1) This chapter applies only to the director and the boards and
12 commissions having jurisdiction in relation to the businesses and
13 professions licensed under the chapters specified in this section.
14 This chapter does not apply to any business or profession not
15 licensed under the chapters specified in this section.

16 (2) (a) The director has authority under this chapter in relation
17 to the following businesses and professions:

- 18 (i) Auctioneers under chapter 18.11 RCW;
- 19 (ii) Bail bond agents and bail bond recovery agents under chapter
20 18.185 RCW;
- 21 (iii) Camping resorts' operators and salespersons under chapter
22 19.105 RCW;
- 23 (iv) Commercial telephone solicitors under chapter 19.158 RCW;
- 24 (v) Cosmetologists, barbers, manicurists, and estheticians under
25 chapter 18.16 RCW;
- 26 (vi) Court reporters under chapter 18.145 RCW;
- 27 (vii) Driver training schools and instructors under chapter 46.82
28 RCW;
- 29 (viii) Employment agencies under chapter 19.31 RCW;
- 30 (ix) For hire vehicle operators under chapter 46.72 RCW;
- 31 (x) Limousines under chapter 46.72A RCW;
- 32 (xi) Notaries public under chapter 42.45 RCW;
- 33 (xii) Private investigators under chapter 18.165 RCW;
- 34 (xiii) Professional boxing, martial arts, and wrestling under
35 chapter 67.08 RCW;
- 36 (xiv) Real estate appraisers under chapter 18.140 RCW;
- 37 (xv) Real estate brokers and salespersons under chapters 18.85
38 and 18.86 RCW;

1 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
2 metal suppliers under chapter 19.290 RCW;
3 (xvii) Security guards under chapter 18.170 RCW;
4 (xviii) Sellers of travel under chapter 19.138 RCW;
5 (xix) Timeshares and timeshare salespersons under chapter 64.36
6 RCW;
7 (xx) Whitewater river outfitters under chapter 79A.60 RCW;
8 (xxi) Home inspectors under chapter 18.280 RCW;
9 (xxii) Body artists, body piercers, and tattoo artists, and body
10 art, body piercing, and tattooing shops and businesses, under chapter
11 18.300 RCW; (~~and~~)
12 (xxiii) Appraisal management companies under chapter 18.310 RCW;
13 and
14 (xxiv) Ticket resellers under chapter 19.345 RCW.
15 (b) The boards and commissions having authority under this
16 chapter are as follows:
17 (i) The state board for architects established in chapter 18.08
18 RCW;
19 (ii) The Washington state collection agency board established in
20 chapter 19.16 RCW;
21 (iii) The state board of registration for professional engineers
22 and land surveyors established in chapter 18.43 RCW governing
23 licenses issued under chapters 18.43 and 18.210 RCW;
24 (iv) The funeral and cemetery board established in chapter 18.39
25 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;
26 (v) The state board of licensure for landscape architects
27 established in chapter 18.96 RCW; and
28 (vi) The state geologist licensing board established in chapter
29 18.220 RCW.
30 (3) In addition to the authority to discipline license holders,
31 the disciplinary authority may grant or deny licenses based on the
32 conditions and criteria established in this chapter and the chapters
33 specified in subsection (2) of this section. This chapter also
34 governs any investigation, hearing, or proceeding relating to denial
35 of licensure or issuance of a license conditioned on the applicant's
36 compliance with an order entered under RCW 18.235.110 by the
37 disciplinary authority.

38 NEW SECTION. **Sec. 18.** The uniform regulation of business and
39 professions act, chapter 18.235 RCW, governs unlicensed practice, the

1 issuance and denial of licenses, and the discipline of licensees
2 under this chapter.

3 NEW SECTION. **Sec. 19.** Sections 1 through 14 and 18 of this act
4 are each added to chapter 19.345 RCW.

5 NEW SECTION. **Sec. 20.** This act takes effect June 30, 2020.

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