

Regular Session, 2010

HOUSE BILL NO. 1447

BY REPRESENTATIVE ELLINGTON

AMUSEMENTS/TICKETS: Enacts the Event Tickets Reform Act

1 AN ACT

2 To enact Chapter 12 of Title 4 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 4:801 through 807, and to repeal R.S. 4:1, relative to event ticket sales; to
4 provide for definitions; to provide for the resale of event tickets; to provide for
5 refunds; to provide for enforcement; to provide for remedies; to provide for a statute
6 of limitations on actions; to provide for preemption; to provide for exceptions; to
7 provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 12 of Title 4 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 4:801 through 807, is hereby enacted to read as follows:

11 CHAPTER 12. EVENT TICKET SALES

12 §801. Short title

13 This Chapter may be cited as the "Event Tickets Reform Act of 2010".

14 §802. Definitions

15 As used in this Chapter:

16 (1) "Event" means any concert, theatrical performance, sporting event,
17 exhibition, show, or similar scheduled activity taking place in this state where all of
18 the following applies:

19 (a) It is open to the general public.

20 (b) An admission fee is charged.

1 (c) It is held in a venue accommodating more than one thousand persons, for
2 which public funding has been provided for its construction, maintenance, or
3 operation.

4 (2) "Event ticket" means any physical, electronic, or other form of a
5 certificate, document, voucher, token, or other evidence indicating that the bearer,
6 possessor, or person entitled to possession through purchase or otherwise has the
7 following:

8 (a) A revocable or irrevocable right, privilege, or license to enter an event
9 venue or occupy a particular seat or area in an event venue with respect to one or
10 more events.

11 (b) An entitlement to purchase such a right, privilege, or license with respect
12 to one or more future events.

13 (3) "Person" means any natural person, partnership, corporation, association,
14 or other legal entity.

15 (4) "Public funding" means the provision, by this state, any parish,
16 municipality, or other political subdivision of this state, or by any local development
17 corporation or similar instrumentality whose creation was authorized by this state or
18 by any parish, municipality, or other political subdivision of this state, of funding,
19 grants, payments, or financial support, including the use of public funds through or
20 from the use of the issuance of tax exempt bonds, payments in lieu of taxes, property
21 tax abatements, lotteries, sales taxes, or levies on parking, hotels, alcohol, car rentals,
22 cigarettes, or other goods or services.

23 (5) "Resale" means any form of transfer or alienation, or offering for transfer
24 or alienation, of possession or entitlement to possession of an event ticket from one
25 person to another, with or without consideration, whether in person or by means of
26 telephone, mail, delivery service, facsimile, Internet, email, or other electronic
27 means. "Resale" shall not include the initial sale of an event ticket by the ticket
28 issuer.

1 (6) "Ticket issuer" means any person that makes event tickets available,
2 directly or indirectly, to the general public, and may include the following:

3 (a) The operator of a venue.

4 (b) The sponsor or promoter of an event.

5 (c) A sports team participating in an event or a league whose teams are
6 participating in an event.

7 (d) A theater company, musical group, or similar participant in an event.

8 (e) An agent of any such person.

9 (7) "Venue" means the theater, stadium, field, hall, or other facility where an
10 event takes place.

11 §803. Resale of event tickets

12 A. Except as otherwise provided for in this Chapter, it shall be unlawful for
13 any ticket issuer to prohibit or restrict the resale or offering for resale of an event
14 ticket by a lawful possessor thereof.

15 B. Ticket issuers shall be prohibited from activities that include but are not
16 limited to any of the following:

17 (1) Purporting to impose license or contractual terms on the initial sale of
18 event tickets, including but not limited to terms printed on the back of a physical
19 ticket, that prohibit resale of the ticket, or that restrict the price or other terms and
20 conditions under which a ticket may be resold.

21 (2) Requiring the purchaser of a ticket, whether for a single event or for a
22 series or season of events, to agree not to resell the ticket, or to resell the ticket only
23 through a specific channel approved by the ticket issuer.

24 (3) Bringing legal action, based on an unlawful prohibition or restriction on
25 resale of an event ticket, against any of the following:

26 (a) A purchaser who resells or offers to resell an event ticket without
27 permission of the ticket issuer, or in violation of a restriction purportedly imposed
28 by the ticket issuer.

1 (b) Persons who facilitate or provide services for the resale of event tickets
2 without such permission or in alleged violation of such a restriction.

3 (c) The operator of a physical or electronic marketplace in which a ticket is
4 offered for resale without such permission or in alleged violation of such a
5 restriction.

6 (4) Imposing any penalty on a ticket purchaser who resells or offers to resell
7 an event ticket without permission or in violation of a restriction purportedly
8 imposed by the ticket issuer, or treating such a purchaser in any material way less
9 favorably than a similarly situated purchaser who does not resell or offer to resell an
10 event ticket, or who complies with resale restrictions purportedly imposed by the
11 ticket issuer.

12 (5) Employing technological means for the purpose or with the foreseeable
13 effect of prohibiting or restricting the resale of event tickets, including but not
14 limited to issuing event tickets in an electronic form that is not readily transferrable
15 to a subsequent purchaser, or conditioning entry into the venue on presentation of
16 any form of identification that cannot be readily transferred to a subsequent
17 purchaser.

18 (6) Seeking to limit or restrict the price, or to impose a minimum or
19 maximum price, at which an event ticket may be resold.

20 §804. Consumer protection; refund

21 A. No person shall engage in the primary or secondary market for event
22 ticket sales as a trade or business without complying with the consumer protection
23 standards set forth in this Section.

24 B. A standard refund policy shall provide the following:

25 (1) A consumer who purchases an event ticket a full refund if any of the
26 following occurs:

27 (a) The event is cancelled before the scheduled occurrence of the event, and
28 is not re-scheduled.

29 (b) The event ticket received by the purchaser is counterfeit.

1 (c) The event ticket has been cancelled by the ticket issuer for nonpayment
2 by the original purchaser, or for any reason other than an act or omission of the
3 consumer.

4 (d) The event ticket materially and to the detriment of the consumer fails to
5 conform to the description provided by the seller or reseller.

6 (e) The event ticket was not delivered to the consumer prior to the
7 occurrence of the event, unless such failure of delivery was due to any act or
8 omission of the consumer.

9 (2) Include in a full refund the full price paid by the consumer for the event
10 ticket, together with any fees charged in connection with that purchase, including but
11 not limited to convenience fees, processing fees, at-home printing charges, shipping
12 and handling charges, or delivery fees.

13 (3) Condition entitlement to a refund upon timely return of the ticket
14 purchased, and may include reasonable safeguards against abuse of the policy.

15 C.(1) Persons subject to the provisions of this Section shall comply with the
16 following provisions:

17 (a) Maintain a toll-free telephone number for complaints and inquiries
18 regarding its activities in the sale or resale of event tickets.

19 (b) Implement and reasonably publicize a standard refund policy that meets
20 the criteria set forth in Subsection B of this Section.

21 (c) Make available to consumers who purchase event tickets an independent
22 third-party dispute resolution procedure for resolving disputes with consumers
23 regarding the sale or resale of event tickets.

24 (2) A person subject to the provisions of this Section, by engaging in the
25 resale of event tickets, may satisfy the requirements of this Section by engaging in
26 such resale in a physical or electronic marketplace that fully complies with this
27 Section.

28 D.(1) The provisions of this Section shall apply to all persons engaged in the
29 trade or business of any of the following:

1 (a) Acting as a ticket issuer.

2 (b) Engaging in the resale of event tickets.

3 (c) Providing a physical or electronic marketplace for the sale or resale of
4 event tickets by other persons.

5 (2) An individual who resells no more than eighty event tickets in any
6 twelve-month period shall not be considered to be engaged in the trade or business
7 of reselling event tickets for purposes of this Section.

8 E. Nothing in this Section shall be construed to prohibit any person subject
9 to this Section from implementing consumer protection policies that exceed the
10 standards set forth in this Section, and that are otherwise compliant with this
11 Chapter.

12 §805. Enforcement; remedies; statute of limitations

13 A. The attorney general may bring a civil action for enforcement of any
14 violation of this Section, in the same manner, by the same means, and with the same
15 jurisdiction, powers, and duties, as applied by his office in its enforcement of other
16 laws of this state for the protection of consumers or for the prevention of unfair or
17 deceptive acts or practices.

18 B. Notwithstanding any other provision of law to the contrary, in order to
19 remedy any violation of this Chapter, the attorney general may bring a civil action
20 in a court of competent jurisdiction to enjoin further violation of this Chapter by the
21 defendant or to obtain damages on behalf of residents of the state. The amount of
22 damages shall be in a total amount equal to the greater of the following:

23 (1) The actual monetary loss suffered by such residents.

24 (2) The amount calculated by multiplying the number of violations by up to
25 one hundred dollars, with each ticket sold, resold, or offered for sale or resale in
26 violation of this Chapter counted as a separate violation. For any violation of this
27 Chapter with respect to any one event, this amount may not exceed one hundred
28 thousand dollars.

1 C. In the case of any successful verdict on behalf of the state, the court, in
2 its discretion, may award the costs of the action and reasonable attorney fees to the
3 state.

4 D. For purposes of bringing a civil action pursuant to this Section, nothing
5 in this Chapter shall be construed to prevent the attorney general from exercising the
6 powers conferred upon it by the laws of this state to do any of the following:

7 (1) Conduct investigations.

8 (2) Administer oaths or affirmations.

9 (3) Compel the attendance of witnesses or the production of documentary
10 and other evidence.

11 E. No action may be brought pursuant to this Section unless such action is
12 filed in a court of competent jurisdiction within one year of the date of the act
13 creating the complaint.

14 §806. Preemption

15 This Chapter shall preempt any law or regulation of a parish, municipality,
16 or other political subdivision of this state that purports to do the following:

17 (1) Limit the price at which an event ticket may be resold.

18 (2) Impose any other restriction on the resale of event tickets inconsistent
19 with this Chapter, or that purport to permit any action prohibited by this Chapter, but
20 only to the extent of such inconsistency.

21 §807. Exceptions

22 Nothing in this Chapter shall be interpreted to invalidate restrictions on the
23 resale of tickets imposed by the following:

24 (1) Sponsors or promoters of events intended solely to benefit charitable
25 endeavors, for which all tickets are distributed free of charge.

26 (2) Not-for-profit educational institutions, with respect to athletic events
27 involving athletes or teams of such institutions, to the extent that such restrictions
28 apply to tickets initially distributed by the institution to any of the following:

29 (a) Students, faculty, staff members, or alumni without charge.

1 (b) Members of bona fide booster organizations consisting of those making
2 substantial financial contributions to the institution.

3 (c) Legislators who receive specially allocated university sports event
4 tickets.

5 Section 2. R.S. 4:1 is hereby repealed in its entirety.

6 Section 3. This Act shall be effective January 1, 2011.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Ellington

HB No. 1447

Abstract: Enacts the Event Tickets Reform Act.

Proposed law provides for the definitions of "event", "event ticket", "person", "public funding", "resale", "ticket issuer", and "venue".

Proposed law provides that it shall be unlawful for any ticket issuer to prohibit or restrict the resale or offering for resale of an event ticket by a lawful possessor thereof.

Proposed law provides that activities prohibited to ticket issuers include, but are not limited to, any of the following:

- (1) Purporting to impose license or contractual terms on the initial sale of event tickets, including but not limited to terms printed on the back of a physical ticket, that prohibit resale of the ticket, or that restrict the price or other terms and conditions under which a ticket may be resold.
- (2) Requiring the purchaser of a ticket, whether for a single event or for a series or season of events, to agree not to resell the ticket, or to resell the ticket only through a specific channel approved by the ticket issuer.
- (3) Bringing legal action, based on an unlawful prohibition or restriction on resale of an event ticket, against any of the following:
 - (a) A purchaser who resells or offers to resell an event ticket without permission of the ticket issuer, or in violation of a restriction purportedly imposed by the ticket issuer.
 - (b) Persons who facilitate or provide services for the resale of event tickets without such permission or in alleged violation of such a restriction.
 - (c) The operator of a physical or electronic marketplace in which a ticket is offered for resale without such permission or in alleged violation of such a restriction.
- (4) Imposing any penalty on a ticket purchaser who resells or offers to resell an event ticket without permission or in violation of a restriction purportedly imposed by the ticket issuer, or treating such a purchaser in any material way less favorably than a

similarly situated purchaser who does not resell or offer to resell an event ticket, or who complies with resale restrictions purportedly imposed by the ticket issuer.

- (5) Employing technological means for the purpose or with the foreseeable effect of prohibiting or restricting the resale of event tickets, including but not limited to issuing event tickets in an electronic form that is not readily transferrable to a subsequent purchaser, or conditioning entry into the venue on presentation of any form of identification that cannot be readily transferred to a subsequent purchaser.
- (6) Seeking to limit or restrict the price, or to impose a minimum or maximum price, at which an event ticket may be resold.

Proposed law prohibits any person from engaging in the primary or secondary market for event ticket sales as a trade or business without complying with the consumer protection standards set forth in proposed law.

Proposed law requires a standard refund policy to provide the following:

- (1) A consumer who purchases an event ticket a full refund if any of the following occurs:
 - (a) The event is cancelled before the scheduled occurrence of the event, and is not re-scheduled.
 - (b) The event ticket received by the purchaser is counterfeit.
 - (c) The event ticket has been cancelled by the ticket issuer for non-payment by the original purchaser, or for any reason other than an act or omission of the consumer.
 - (d) The event ticket materially and to the detriment of the consumer fails to conform to the description provided by the seller or reseller.
 - (e) The event ticket was not delivered to the consumer prior to the occurrence of the event, unless such failure of delivery was due to any act or omission of the consumer.
- (2) Include in a full refund the full price paid by the consumer for the event ticket, together with any fees charged in connection with that purchase, including but not limited to convenience fees, processing fees, at-home printing charges, shipping and handling charges, or delivery fees.
- (3) Condition entitlement to a refund upon timely return of the ticket purchased, and may include reasonable safeguards against abuse of the policy.

Proposed law requires persons subject to the provisions of proposed law to do all of the following:

- (1) Maintain a toll-free telephone number for complaints and inquiries regarding its activities in the sale or resale of event tickets.
- (2) Implement and reasonably publicize a standard refund policy that meets the criteria set forth in proposed law.
- (3) Make available to consumers who purchase event tickets an independent third-party dispute resolution procedure for resolving disputes with consumers regarding the sale or resale of event tickets.

Proposed law provides that a person subject to the provisions of proposed law, by engaging in the resale of event tickets, may satisfy the requirements of proposed law by engaging in such resale in a physical or electronic marketplace that fully complies with proposed law.

Proposed law provides that the provisions of proposed law shall apply to all persons engaged in the trade or business acting as a ticket issuer, engaging in the resale of event tickets, or providing a physical or electronic marketplace for the sale or resale of event tickets by other persons.

Proposed law provides that an individual who resells no more than 80 event tickets in any twelve-month period shall not be considered to be engaged in the trade or business of reselling event tickets.

Proposed law provides that nothing in proposed law shall be construed to prohibit any person from implementing consumer protection policies that exceed the standards set forth in proposed law, and that are otherwise compliant.

Proposed law allows the attorney general to bring a civil action for enforcement of any violation of proposed law, in the same manner, by the same means, and with the same jurisdiction, powers, and duties, as apply to his office in its enforcement of other laws of this state for the protection of consumers or for the prevention of unfair or deceptive acts or practices.

Proposed law provides that in order to remedy any violation, the attorney general may bring a civil action in a court of competent jurisdiction to enjoin further violation by the defendant or to obtain damages on behalf of residents of the state. The amount of damages shall be in a total amount equal to the greater of the actual monetary loss suffered by such residents or the amount calculated by multiplying the number of violations by up to \$100, with each ticket sold, resold, or offered for sale or resale in violation counted as a separate violation. For any violation with respect to any one event, this amount may not exceed \$100,000.

Proposed law provides for attorneys' fees for the state.

Proposed law provides that nothing in proposed law shall be construed to prevent the attorney general from exercising the powers conferred upon it by the laws of this state to conduct investigations, administer oaths or affirmations, or compel the attendance of witnesses or the production of documentary and other evidence.

Proposed law provides that no action may be brought unless such action is filed in a court of competent jurisdiction within one year of the date of the act complained of.

Proposed law provides for preemption over a parish, municipality, or other political subdivision of this state relating to the reselling of event tickets.

Proposed law provides that nothing in proposed law shall be interpreted to invalidate restrictions on the resale of tickets imposed by the following:

- (1) Sponsors or promoters of events intended solely to benefit charitable endeavors, for which all tickets are distributed free of charge.
- (2) Not-for-profit educational institutions, with respect to athletic events involving athletes or teams of such institutions, to the extent that such restrictions apply to tickets initially distributed by the institution to students, faculty, staff members, or alumni without charge, members of bona fide booster organizations consisting of those making substantial financial contributions to the institution, or legislators who receive specially allocated university sports event tickets.

Present law prohibits any person from reselling or offering to resell an admission ticket for an amount in excess of the price printed on the face of the ticket but excludes the resale via Internet.

Proposed law repeals present law.

Effective Jan. 1, 2011.

(Adds R.S. 4:801-807)