
SUBSTITUTE HOUSE BILL 2921

State of Washington

65th Legislature

2018 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Kloba, Kirby, McBride, and Appleton)

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 prescribing penalties; and providing an effective date.

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 one 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 (c) Upon a finding by the department that a fee increase is
17 necessary to defray the cost of administering this chapter, the
18 director may by rule adjust the fees specified in this section upward
19 by no more than twenty-five percent.

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

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

1 (2) It is unlawful for any person, firm, partnership, or
2 corporation holding a license to post the license or to permit the
3 license to be posted upon any premises other than those described
4 therein or to which the license has been transferred pursuant to the
5 provisions of this chapter or unlawfully to alter, deface, or destroy
6 such a license.

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

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

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

34 (4) In no event may the bond be drawn upon in less than twenty-
35 five days after the service of a determination to the licensee. Such
36 written notice may be served by delivery thereof personally to the
37 licensee, or by certified mail to the last known business address of
38 the licensee. Only upon such a determination of the department may
39 moneys be withdrawn from the bond. Upon the commencement of any

1 action or actions against the surety upon any such bond for a sum or
2 sums aggregating or exceeding the amount of such a bond, the
3 department shall require a new and additional bond in like amount as
4 the original one, which must be filed with the department within
5 thirty days after the demand therefor. Failure to file such a bond
6 within such a period constitutes cause for the revocation of the
7 license issued to the licensee upon whom such demand shall have been
8 made. Any suit or action against the surety on any bond required by
9 the provisions of this section must be commenced within one year
10 after the cause of action has accrued.

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

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

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

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

37 (a) Violated any provision of this chapter or any rule or
38 regulation adopted under this chapter;

1 (b) Made a material misstatement in the application for such a
2 license;

3 (c) Engaged in fraud or fraudulent practices;

4 (d) Demonstrated untrustworthiness or incompetency; or

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

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

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 9.** The ticket reseller licensing account is
2 created in the custody of the state treasurer. All receipts collected
3 under this chapter must be deposited into the account. Expenditures
4 from the account may be used only for implementation and enforcement
5 of this chapter. Only the director of the department of licensing or
6 the director's designee may authorize expenditures from this account.
7 The account is subject to allotment procedures under chapter 43.88
8 RCW, but an appropriation is not required for expenditures.

9 NEW SECTION. **Sec. 10.** The director or the director's designee
10 has the authority to adopt, amend, and rescind rules as deemed
11 necessary to carry out this chapter.

12 **Sec. 11.** RCW 19.345.005 and 2015 c 129 s 1 are each amended to
13 read as follows:

14 (1) The legislature finds and declares that transactions
15 involving tickets for admission to places of entertainment are a
16 matter of public interest and subject to the supervision of the state
17 and the appropriate political subdivisions of the state for the
18 purpose of safeguarding the public and generating transparency in
19 ticket reselling.

20 (2) It is the intent of the legislature to protect consumers and
21 ticket sellers from software that simulates the action of a human
22 being purchasing tickets from a ticket seller in order to evade
23 controls and measures on a ticket seller's web site. The legislature
24 is concerned by the use of software, commonly referred to as BOTs
25 (web robots), to interfere with the operation of ticket sales over
26 the internet, gaining unauthorized priority access to purchasing
27 tickets, and thereby reducing access to the general public of online
28 ticket sales at the intended original price. In order to protect
29 consumers and ticket sellers, the legislature intends to prohibit
30 acts and practices of persons that use or sell software to
31 circumvent, thwart, interfere with, or evade a security measure,
32 access control system, or other control or measure on a ticket
33 seller's internet web site. It is not the intent of the legislature
34 to interrupt the online ticket buying process established by the
35 authorized ticket seller, including the distribution of tickets to
36 season ticket holders.

1 **Sec. 12.** RCW 19.345.010 and 2015 c 129 s 2 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

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

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

13 (4) "Initial sale" means the first sale of an admission ticket by
14 the ticket seller. "Initial sale" also includes the distribution of
15 admission tickets under an agreement between the ticket seller and
16 the recipient.

17 (5) "Person" means any individual, partnership, corporation,
18 limited liability company, other organization, or any combination
19 thereof.

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

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

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

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

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

39 (11) "Director" means the director of the department of
40 licensing.

1 (12) "Established price" means the price fixed at the time of
2 sale by the operator of any place of entertainment for admission to a
3 place of entertainment in Washington.

4 (13) "Operator" means any person who owns, operates, or controls
5 a place of entertainment or who promotes or produces an
6 entertainment.

7 (14) "Resale" means any sale of a ticket for more than the
8 established price for admission to a place of entertainment in
9 Washington other than a sale by the operator. Resale includes sales
10 by any means, including in person, or by means of telephone, mail,
11 delivery service, facsimile, internet, email, or other electronic
12 means, where the venue for which the ticket grants admission is
13 located in Washington state.

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

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

21 NEW SECTION. Sec. 13. Sections 1 through 10 of this act are
22 each added to chapter 19.345 RCW.

23 NEW SECTION. Sec. 14. This act takes effect April 1, 2019.

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