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SECOND REPRINT

S.B. 131

SENATE BILL NO. 131—SENATOR WOODHOUSE

FEBRUARY 6, 2019

JOINT SPONSOR: ASSEMBLYMAN YEAGER

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the resale of tickets to an athletic contest or live entertainment event. (BDR 52-64)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to trade practices; establishing additional requirements related to the resale of tickets to an athletic contest or live entertainment event; revising provisions governing civil actions for a violation of certain requirements related to the resale of tickets to an athletic contest or live entertainment event; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a number of deceptive trade practices, including, without limitation, knowing violations of requirements related to the resale of tickets to athletic contests and live entertainment events. (NRS 598.09223, 598.397-598.3984) Under existing law, the Attorney General, the Commissioner of Consumer Affairs and the Director of the Department of Business and Industry are authorized to investigate deceptive trade practices and take certain actions to penalize persons who commit a deceptive trade practice, which may include, without limitation, criminal prosecution and the imposition of civil penalties. (NRS 598.0903-598.0999) This bill imposes additional requirements related to the sale of tickets to athletic contests and live entertainment events and makes a knowing violation of those requirements a deceptive trade practice.

Section 3 of this bill prohibits a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange from reselling a ticket without disclosing the total amount to be charged for the ticket, including a disclosure of the fees to be charged.



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Section 6 of this bill requires a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange to display within the top 20 percent of each page of his or her website a notice that the website belongs to a reseller, a secondary ticket exchange or an affiliate of a reseller or secondary ticket exchange. **Section 6** also prohibits a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange from advertising or representing on its Internet website that the reseller, secondary ticket exchange or affiliate of the reseller or secondary ticket exchange is a person who has the right to make the initial sale of a ticket to a consumer or who has the initial ownership rights to a ticket before its public sale, without contractual authorization to do so from the person or entity who has the initial ownership rights to the ticket before its public sale.

Section 7 of this bill prohibits a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange from reselling a ticket without first disclosing to the purchaser the location in the entertainment facility of the seat or the general admission area to which the ticket corresponds. **Section 7** also prohibits a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange from reselling a ticket or advertising a ticket for resale unless the reseller has the ticket in his or her possession or constructive possession, or has a written contract to obtain the ticket from a person who has the initial ownership rights to sell a ticket prior to its public sale. **Section 7** also prohibits a primary ticket provider, a reseller, a secondary ticket exchange or any affiliate of a primary ticket provider, a reseller or a secondary ticket exchange from reselling a ticket before the ticket has been made available to the public by the person who has the initial ownership rights to the ticket before its public sale without first obtaining authorization to do so from the person or entity who has initial ownership rights to the ticket before its public sale.

Existing law prohibits a person from using an Internet robot to circumvent any portion of the process for purchasing a ticket on an Internet website or to disguise the identity of a ticket purchaser so as to purchase a number of tickets exceeding the maximum number of tickets allowed for purchase by a person. (NRS 598.398) **Section 8** of this bill prohibits a person from reselling or offering for resale a ticket that was obtained in violation of these provisions on the misuse of Internet robots if the person participated in or had the ability to control the conduct which constituted the violation or knew that the ticket was acquired in violation of the prohibition on the misuse of Internet robots.

Existing law authorizes a person injured by any violation of the requirements related to ticket resales to bring a civil action to seek: (1) declaratory and injunctive relief; and (2) actual damages or \$100, whichever is greater. (NRS 598.3982) **Section 10** of this bill: (1) specifies that such an action may be brought in district court; (2) increases the amount of damages that a person can seek for a first violation of the requirements related to ticket resales; and (3) provides for increasing damages and penalties for each subsequent violation. **Section 10** also specifies the county in which such an action may be brought.

Existing law requires the Bureau of Consumer Protection in the Office of the Attorney General to establish a statewide hotline and Internet website by which a person can file a complaint related to a deceptive trade practice involving ticket resellers and secondary ticket exchanges. (NRS 598.3981) **Section 9** of this bill requires the statewide hotline and Internet website to provide information and directions regarding the preferred method for filing such a complaint. **Section 9** also requires that any form made available by the Bureau of Consumer Protection for receiving such complaints be designed specifically for receiving such complaints.

Sections 1.5, 2, 4, 5, 11 and 12 of this bill define terms and make conforming changes.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5, 2 and 3 of this act.

Sec. 1.5. *“Primary ticket provider” means any person or entity who is authorized by a written contract with a rights holder to make the initial sale to a consumer of a ticket to an athletic contest or live entertainment event.*

Sec. 2. *“Rights holder”:*

1. Means any person or entity who has the initial ownership rights to sell a ticket to an athletic contest or live entertainment event for which tickets for entry by the public are required.

2. Does not include a primary ticket provider, unless the primary ticket provider is also the rights holder.

Sec. 3. *A reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange shall not resell a ticket, in person or remotely, without first disclosing to the purchaser the total amount that the purchaser will be charged for the ticket, including any fees which represent a portion of the total amount to be charged.*

Sec. 4. NRS 598.09223 is hereby amended to read as follows:
598.09223 A person engages in a “deceptive trade practice” when, in the course of his or her business or occupation, he or she knowingly violates a provision of NRS 598.397 to 598.3984, inclusive ~~H~~, *and sections 1.5, 2 and 3 of this act.*

Sec. 5. NRS 598.397 is hereby amended to read as follows:
598.397 As used in NRS 598.397 to 598.3984, inclusive, *and sections 1.5, 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 598.3971 to 598.3977, inclusive, *and sections 1.5 and 2 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 598.3978 is hereby amended to read as follows:
598.3978 1. The Internet website of a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange must not display a trademarked or copyrighted URL, title, designation, image or mark or other symbol without the written consent of the trademark or copyright holder.

2. The Internet website of a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange must not use any combination of text, images, web designs or Internet addresses, or any combination thereof, which is substantially similar to the Internet website of an entertainment facility, athletic contest or live entertainment event without permission.



3. *The Internet website of a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange must prominently display a notice identifying the Internet website as belonging to a reseller, a secondary ticket exchange or an affiliate of a reseller or secondary ticket exchange and must not, without contractual authorization from the rights holder, advertise or represent that the reseller, secondary ticket exchange or affiliate of the reseller or secondary ticket exchange is a rights holder or primary ticket provider. The notice required by this subsection must be displayed within the top 20 percent of each page of the Internet website in a font size that is not smaller than the font size used for the majority of text on that page.*

4. This section does not prohibit the use of text containing the name of the venue, artist, athletic contest or live entertainment event if such use is necessary to describe the athletic contest, the live entertainment event or the location of the athletic contest or live entertainment event.

~~[4.]~~ 5. As used in this section:

(a) "Substantially similar" means that a reasonable person would believe that the Internet website is that of the entertainment facility, athletic contest or live entertainment event.

(b) "URL" means the Uniform Resource Locator associated with an Internet website.

Sec. 7. NRS 598.3979 is hereby amended to read as follows:

598.3979 ~~[A]~~

1. *In addition to any other restrictions imposed by the rights holder, a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange shall not:*

~~[1.]~~ (a) Resell more than one copy of the same ticket to an athletic contest or live entertainment event.

~~[2.]~~ (b) Employ another person directly or indirectly to wait in line to purchase tickets for the purpose of reselling the tickets if the practice is prohibited by the sponsor, organizer or promoter of the athletic contest or live entertainment event or if the venue at which the athletic contest or live entertainment event will occur has posted a policy prohibiting the practice.

(c) *Resell a ticket without first informing the purchaser of the location in the entertainment facility of the seat or, if there is no assigned seat, the general admission area to which the ticket corresponds, including, without limitation, the row and section number of the ticket, as applicable.*

(d) *Resell a ticket or advertise a ticket for resale, unless:*

(1) *The ticket is in the possession or constructive possession of the reseller; or*



(2) *The reseller has a written contract with the rights holder to obtain the ticket.*

2. *A primary ticket provider, a reseller, a secondary ticket exchange or any affiliate of a primary ticket provider, reseller or secondary ticket exchange shall not resell a ticket before the ticket has been made available to the public, including, without limitation, through a presale, fan club presale or any other promotional presale event, by the rights holder without first obtaining permission from the rights holder to do so.*

Sec. 8. NRS 598.398 is hereby amended to read as follows:

598.398 1. A person shall not use an Internet robot to:

~~[1-]~~ (a) Circumvent any portion of the process for purchasing a ticket on an Internet website, including, without limitation, any security or identity validation measures or an access control system; or

~~[2-]~~ (b) Disguise the identity of a ticket purchaser for the purpose of purchasing a number of tickets for admission to an athletic contest or live entertainment event which exceeds the maximum number of tickets allowed for purchase by a person.

2. *A person shall not resell or offer for resale a ticket obtained in violation of subsection 1 if the person:*

(a) *Participated in or had the ability to control the conduct committed in violation of subsection 1; or*

(b) *Knew that the ticket was acquired in violation of subsection 1.*

Sec. 9. NRS 598.3981 is hereby amended to read as follows:

598.3981 1. The Bureau of Consumer Protection in the Office of the Attorney General shall establish a toll-free statewide hotline and an Internet website by which a person may file a complaint relating to a suspected violation of NRS 598.397 to 598.3984, inclusive ~~[1-]~~, *and sections 1.5, 2 and 3 of this act, and obtain information and directions regarding the preferred method for filing such a complaint.*

2. *Any form made available by the Bureau of Consumer Protection for receiving complaints relating to a suspected violation of NRS 598.397 to 598.3984, inclusive, and sections 1.5, 2 and 3 of this act must be designed specifically for receiving such complaints.*

Sec. 10. NRS 598.3982 is hereby amended to read as follows:

598.3982 1. A person injured by a violation of any provision of NRS 598.397 to 598.3984, inclusive, *and sections 1.5, 2 and 3 of this act* may bring a civil action ~~[in a court of competent jurisdiction]~~ against a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange who committed the violation ~~[to seek:]~~ *in a district court in any county:*



- (a) *In which the cause therefor accrued;*
- (b) *In which the defendant resides or may be found;*
- (c) *In which the plaintiff resides; or*
- (d) *In which an athletic contest or live entertainment event to which the ticket pertains occurred or will occur, if the violation relates to the sale, purchase or advertisement of a ticket.*

2. *If the person bringing the action is the prevailing party, the court shall award that person:*

- (a) Declaratory and injunctive relief.
- (b) ~~For \$100,~~ *For the first violation, \$1,000 or actual damages ,* whichever is greater.
- (c) *For the second violation, \$2,500, treble the amount of actual damages and reasonable attorney's fees and costs, if any.*
- (d) *For the third and all subsequent violations, \$5,000, treble the amount of actual damages, reasonable attorney's fees and costs, if any, and punitive damages, which are subject to the provisions of NRS 42.005.*

~~[2.]~~ 3. An action may not be brought pursuant to this section against a natural person employed by a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange.

Sec. 11. NRS 598.3983 is hereby amended to read as follows:
598.3983 Unless a greater penalty is provided in NRS 598.0999 or 598.3984, a person who knowingly violates the provisions of NRS 598.397 to 598.3984, inclusive, *and sections 1.5, 2 and 3 of this act* is guilty of a misdemeanor.

Sec. 12. NRS 598.3984 is hereby amended to read as follows:
598.3984 1. A person who willfully and knowingly violates the provisions of NRS 598.397 to 598.3984, inclusive, *and sections 1.5, 2 and 3 of this act* relating to the sale of a ticket to an entertainment facility which is operated by a governmental entity or a public-private partnership is guilty of a gross misdemeanor.

2. As used in this section:

(a) "Governmental entity" means:

- (1) The government of this State;
- (2) An agency of the government of this State;
- (3) A political subdivision of this State; and
- (4) An agency of a political subdivision of this State.

(b) "Public-private partnership" means a contract entered into by a person and a governmental entity for the support of an entertainment facility.

Sec. 13. This act becomes effective on July 1, 2019.

