
SENATE BILL 5321

State of Washington

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By Senators Carlyle, Palumbo, Wellman, Mullet, Pedersen, Billig, Hunt, Lias, and Van De Wege

Read first time 01/17/19. Referred to Committee on Environment, Energy & Technology.

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 reselling any tickets to a place
8 of entertainment without having first procured a ticket reseller
9 license for each location at which business will be conducted from
10 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 at midnight on December
12 31st of every year, 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 NEW SECTION. **Sec. 2.** (1) Immediately upon the receipt of the
23 license issued pursuant to this chapter by the department, the
24 licensee named therein shall cause the license to be posted and at
25 all times displayed in a conspicuous place in the principal office of
26 the business for which it is issued. It shall also cause the license
27 for each branch office, bureau, agency, or subagency to be posted and
28 at all times displayed in a conspicuous place in such a branch
29 office, bureau, agency, or subagency for which it is issued. If a
30 licensee does business on the internet, including via a retail ticket
31 purchasing platform, it shall provide a license number displayed in a
32 conspicuous manner or a hyperlink displayed in a conspicuous manner
33 to a scanned copy of the license. The license is subject to
34 inspection by the department or the designee of the department at all
35 reasonable times.

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

1 provisions of this chapter or unlawfully to alter, deface, or destroy
2 such a license.

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

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

16 NEW SECTION. **Sec. 4.** (1) It is unlawful for any licensee to,
17 with the intent to mislead or deceive, own, operate, or control a
18 ticket web site for an event scheduled at a place of entertainment
19 and use a subdomain or domain name in a ticket web site's URL that
20 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 intentionally owns, operates, or controls
33 such a ticket web site is subject to a civil penalty in an amount of
34 no more than 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) It is unlawful for any licensee to
2 contract for the sale of tickets, contract to obtain tickets for
3 another, or accept consideration for payment in full or for a deposit
4 for the sale of tickets unless the licensee meets one or more of the
5 following requirements:

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

7 (b) The licensee has a written contract to obtain the offered
8 ticket at a certain price from a person in possession of the ticket
9 or from a person who has a contractual right to obtain such a ticket;
10 or

11 (c) The licensee informs the purchaser in a clear and conspicuous
12 manner and in plain language at the time of offering such a ticket
13 for sale and in a written notice prior to the completion of the
14 transaction that the licensee does not have possession of the ticket,
15 has no contract to obtain the offered ticket at a certain price from
16 a person in possession of the ticket or from a person who has a
17 contractual right to obtain such ticket, may not be able to supply
18 the ticket at the contracted price or range of prices, and requires
19 such a purchaser to expressly confirm prior to completing the
20 transaction that the purchaser has read such a notice.

21 (2) Nothing in this section prohibits a licensee from accepting a
22 deposit from a prospective purchaser for a resale pursuant to
23 subsection (1)(c) of this section, provided that the licensee informs
24 the purchaser in writing prior to receipt of consideration of the
25 terms of the deposit agreement, and includes in the written notice
26 the disclosures otherwise required by this section. If a licensee has
27 entered into a contract with or received consideration from a
28 prospective purchaser for the sale of a ticket or tickets and cannot
29 supply such a ticket or tickets at the contracted prices range, the
30 licensee shall refund any moneys paid by the prospective purchaser
31 within ten days of receipt of request for refund from the purchaser.

32 (3) Nothing in this section may be construed to nullify, expand,
33 restrict, or otherwise amend or modify laws, rules, or regulations in
34 effect on the effective date of this section, and nothing in this
35 section may be construed as making lawful any fraudulent, deceptive,
36 or illegal act or practice that is unlawful pursuant to laws, rules,
37 or regulations in effect on the effective date of this section.

38 NEW SECTION. **Sec. 6.** (1) Every licensee shall at all times keep
39 full and accurate sets of records showing: (a) The prices at which

1 all tickets have been bought and sold by the licensee; and (b) the
2 names and addresses of the person, firm, or corporation from whom
3 they were bought. Licensees offering for initial sale tickets by
4 means of an auction shall maintain a record of the price when known
5 and the number of tickets and types of seats offered through auction.

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

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

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

29 NEW SECTION. **Sec. 8.** A licensee may lose its license and may be
30 barred from licensure for a period not to exceed three years to be
31 determined by the department if such a licensee:

32 (1) Knowingly utilized ticket purchasing software in order to
33 purchase tickets;

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

36 (3) Intentionally maintained any interest in or maintained any
37 control of the operation of ticket purchasing software to purchase
38 tickets.

1 NEW SECTION. **Sec. 9.** (1) The department has the power, upon
2 complaint of any person or on its own initiative, to investigate the
3 business, business practices, or business methods of any licensee
4 that are related to the licensee's obligations under this chapter.

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

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

16 NEW SECTION. **Sec. 10.** The department may adopt rules as deemed
17 necessary for the implementation and enforcement of this act.

18 NEW SECTION. **Sec. 11.** (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. 12.** 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 at least five thousand dollars per violation, or
36 actual damages, whichever is greater. The court may award reasonable
37 attorneys' fees to a prevailing plaintiff.

1 NEW SECTION. **Sec. 13.** 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 or the
6 director's designee may authorize expenditures from this account. The
7 account is subject to allotment procedures under chapter 43.88 RCW,
8 but an appropriation is not required for expenditures.

9 **Sec. 14.** RCW 19.345.005 and 2015 c 129 s 1 are each amended to
10 read as follows:

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

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

34 **Sec. 15.** RCW 19.345.010 and 2015 c 129 s 2 are each amended to
35 read as follows:

36 The definitions in this section apply throughout this chapter
37 unless the context clearly requires otherwise.

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

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

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

9 (4) "Initial sale" means the first sale of an admission ticket by
10 the ticket seller. "Initial sale" also includes the distribution of
11 admission tickets under an agreement between the ticket seller and
12 the recipient.

13 (5) "Person" means any individual, partnership, corporation,
14 limited liability company, other organization, or any combination
15 thereof.

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

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

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

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

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

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

38 (12) "Online resale marketplace" means any operator or manager of
39 a web site or other electronic service that resells tickets or serves

1 as a platform to facilitate resale, or resale by way of a competitive
2 bidding process.

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

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

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

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

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

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

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

28 **Sec. 16.** RCW 18.235.020 and 2017 c 281 s 37 are each amended to
29 read as follows:

30 (1) This chapter applies only to the director and the boards and
31 commissions having jurisdiction in relation to the businesses and
32 professions licensed under the chapters specified in this section.
33 This chapter does not apply to any business or profession not
34 licensed under the chapters specified in this section.

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

37 (i) Auctioneers under chapter 18.11 RCW;

38 (ii) Bail bond agents and bail bond recovery agents under chapter
39 18.185 RCW;

1 (iii) Camping resorts' operators and salespersons under chapter
2 19.105 RCW;

3 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

4 (v) Cosmetologists, barbers, manicurists, and estheticians under
5 chapter 18.16 RCW;

6 (vi) Court reporters under chapter 18.145 RCW;

7 (vii) Driver training schools and instructors under chapter 46.82
8 RCW;

9 (viii) Employment agencies under chapter 19.31 RCW;

10 (ix) For hire vehicle operators under chapter 46.72 RCW;

11 (x) Limousines under chapter 46.72A RCW;

12 (xi) Notaries public under chapter 42.45 RCW;

13 (xii) Private investigators under chapter 18.165 RCW;

14 (xiii) Professional boxing, martial arts, and wrestling under
15 chapter 67.08 RCW;

16 (xiv) Real estate appraisers under chapter 18.140 RCW;

17 (xv) Real estate brokers and salespersons under chapters 18.85
18 and 18.86 RCW;

19 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
20 metal suppliers under chapter 19.290 RCW;

21 (xvii) Security guards under chapter 18.170 RCW;

22 (xviii) Sellers of travel under chapter 19.138 RCW;

23 (xix) Timeshares and timeshare salespersons under chapter 64.36
24 RCW;

25 (xx) Whitewater river outfitters under chapter 79A.60 RCW;

26 (xxi) Home inspectors under chapter 18.280 RCW;

27 (xxii) Body artists, body piercers, and tattoo artists, and body
28 art, body piercing, and tattooing shops and businesses, under chapter
29 18.300 RCW; (~~and~~)

30 (xxiii) Appraisal management companies under chapter 18.310 RCW;
31 and

32 (xxiv) Ticket resellers under chapter 19.345 RCW.

33 (b) The boards and commissions having authority under this
34 chapter are as follows:

35 (i) The state board for architects established in chapter 18.08
36 RCW;

37 (ii) The Washington state collection agency board established in
38 chapter 19.16 RCW;

1 (iii) The state board of registration for professional engineers
2 and land surveyors established in chapter 18.43 RCW governing
3 licenses issued under chapters 18.43 and 18.210 RCW;

4 (iv) The funeral and cemetery board established in chapter 18.39
5 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

6 (v) The state board of licensure for landscape architects
7 established in chapter 18.96 RCW; and

8 (vi) The state geologist licensing board established in chapter
9 18.220 RCW.

10 (3) In addition to the authority to discipline license holders,
11 the disciplinary authority may grant or deny licenses based on the
12 conditions and criteria established in this chapter and the chapters
13 specified in subsection (2) of this section. This chapter also
14 governs any investigation, hearing, or proceeding relating to denial
15 of licensure or issuance of a license conditioned on the applicant's
16 compliance with an order entered under RCW 18.235.110 by the
17 disciplinary authority.

18 NEW SECTION. **Sec. 17.** The uniform regulation of business and
19 professions act, chapter 18.235 RCW, governs unlicensed practice, the
20 issuance and denial of licenses, and the discipline of licensees
21 under this chapter.

22 NEW SECTION. **Sec. 18.** Sections 1 through 13 and 17 of this act
23 are each added to chapter 19.345 RCW.

24 NEW SECTION. **Sec. 19.** This act takes effect December 31, 2019.

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