

By: Oliveira

H.B. No. 3041

A BILL TO BE ENTITLED

AN ACT

relating to the sale of event tickets; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 13, Occupations Code, is amended by adding Chapter 2158 to read as follows:

CHAPTER 2158. SALE OF EVENT TICKETS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2158.001. DEFINITIONS. In this chapter:

(1) "Event" means a concert, theatrical performance, sporting event, exhibition, show, or similar scheduled activity that:

(A) is open to the general public;

(B) is held in a public or private venue accommodating more than 1,000 persons; and

(C) requires payment of an admission fee to attend the activity.

(2) "Event ticket" means any physical or electronic certificate, document, voucher, token, or other evidence of a right to enter an event, an entitlement to purchase a right to enter an event, or a right to occupy a specified seat at an event.

(3) "Resale" includes any form of transfer or alienation of possession or an offer of transfer or alienation of possession, including an offer of transfer or alienation of the entitlement to possession, of an event ticket, made by any means,

1 with or without consideration, from a person other than the ticket
2 issuer.

3 (4) "Ticket issuer" means a person who directly or
4 indirectly makes event tickets available for initial sale to the
5 general public, and may include the operator of a venue, the sponsor
6 or promoter of an event, a sports team participating in an event, a
7 league whose teams are participating in the event, a theater
8 company, a musical group or similar participant in an event, or an
9 authorized agent of those persons. The term does not include a
10 person involved in or facilitating an event ticket resale.

11 (5) "Venue" means the theater, stadium, field, hall,
12 or other facility where an event takes place.

13 Sec. 2158.002. APPLICABILITY. This chapter does not apply
14 to the resale of event tickets issued:

15 (1) for an event for which any proceeds are intended
16 solely to benefit charity; or

17 (2) free of charge to students, faculty, staff
18 members, alumni, booster club members, or substantial financial
19 contributors of an institution of higher education as defined in
20 Section 61.003, Education Code.

21 Sec. 2158.003. RESTRICTIONS ON TICKET ISSUERS. A ticket
22 issuer may not:

23 (1) prohibit or restrict the resale of an event
24 ticket;

25 (2) print terms and conditions on an event ticket that
26 purport to restrict the resale of that ticket;

27 (3) impose a penalty on a person who resells or offers

1 to resell an event ticket or treat the person in any material way
2 less favorably than a similarly situated purchaser who does not
3 resell, offer to resell, or violate a restriction on the resale of
4 the event ticket imposed by a ticket issuer in violation of this
5 section;

6 (4) prevent resale of event tickets by limiting the
7 form of the event tickets to only a nontransferable electronic form
8 or by requiring a person to present the original purchaser's credit
9 card or state-issued identification card to gain admission to the
10 event; or

11 (5) impose a minimum or maximum price on the resale of
12 an event ticket or otherwise restrict or limit the price of the
13 event ticket on resale.

14 SUBCHAPTER B. PENALTIES

15 Sec. 2158.051. ATTORNEY GENERAL POWERS; INVESTIGATION;
16 INJUNCTION; CIVIL ACTION. (a) For the protection of consumers, the
17 attorney general may:

18 (1) investigate a claim made by any person that a
19 ticket issuer failed to post notice for an event in the manner
20 required by Section 2158.052;

21 (2) bring an action in district court to enjoin a
22 person from violating this chapter;

23 (3) sue for money damages on behalf of a consumer who
24 purchased an event ticket, is a resident of this state, and is
25 injured by a violation of this chapter;

26 (4) bring an action to recover a civil penalty imposed
27 under Section 2158.102; or

1 (5) recover reasonable expenses incurred in obtaining
2 injunctive relief or civil penalties under this section.

3 (b) If the consumer prevails in a suit under this section,
4 the consumer may recover court costs and attorney's fees and:

5 (1) actual damages; or

6 (2) the lesser of \$100,000 or \$100 for each violation
7 of this chapter that occurred.

8 (c) For purposes of calculating damages under Subsection
9 (b)(2), each event ticket sold, resold, or offered for sale in a
10 manner other than a manner authorized by this chapter or rules
11 adopted under this chapter is a violation of this chapter.

12 (d) Notwithstanding Subsection (b)(2), on a finding by the
13 trier of fact that the defendant has violated this chapter on one or
14 more previous occasions, the trier of fact may award an amount not
15 to exceed three times the amount available under Subsection (b).

16 (e) A complaint under this section must be filed not later
17 than the first anniversary of the date the violation occurs.

18 Sec. 2158.052. CIVIL PENALTY. A ticket issuer who
19 knowingly violates Section 2158.052 is liable for a civil penalty
20 of not less than \$100 or more than \$500 for each violation.

21 Sec. 2158.053. OFFENSE. (a) A person commits an offense if
22 the person knowingly or recklessly makes a materially false or
23 misleading statement on behalf of a ticket issuer in the advance
24 public notice required under Section 2158.052.

25 (b) An offense under this section is a Class C misdemeanor.

26 SECTION 2. Chapter 2158, Occupations Code, as added by this
27 Act, applies to the sale or resale of an event ticket for an event

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1 subject to that chapter that occurs on or after January 1, 2014,
2 regardless of whether any event tickets were issued before that
3 date.

4 SECTION 3. This Act takes effect September 1, 2013.