

BILL ANALYSIS

C.S.H.B. 2444
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

While bots provide legitimate benefits in our everyday lives, they can also run automated tasks to do things like install spyware, steal sensitive data, or bypass the purchasing processes for ticket marketplaces. The latter has become a widespread issue when tickets for well-known artists, Broadway shows, or sporting events are announced. Time and time again we see tickets go on sale for major artists being mass purchased by bots and then resold at a high markup to consumers desperate to see their favorite artist. Not only do these bots overpurchase tickets for resale on the secondary market, the overwhelming traffic to sites from both bots and legitimate customers cause technical failures for ticket sale platforms. C.S.H.B. 2444 seeks to address this issue by prohibiting the creation or use of bots for certain purposes relating to online ticket sales.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2444 amends the Business & Commerce Code to prohibit a person from using or creating a bot to do the following:

- purchase tickets in excess of posted limits for an online ticket sale;
- use multiple Internet Protocol (IP) addresses, multiple purchaser accounts, or multiple email addresses to purchase tickets in excess of posted limits for an online ticket sale;
- circumvent or disable an electronic queue, waiting period, presale code, or other sales volume limitation system associated with an online ticket sale; or
- circumvent or disable a security measure, access control system, or other control or measure that is used to facilitate authorized entry to an event.

C.S.H.B. 2444 authorizes the attorney general to investigate a claim that a person violated these prohibitions and, if the attorney general concludes that a person is violating or about to violate the prohibitions, to bring an action in the name of the state to restrain or enjoin the person from violating the prohibitions. The bill authorizes the attorney general, in addition to bringing an action for injunctive relief, to seek restitution and petition a district court for the assessment of a civil penalty capped at \$10,000 for each violation a person knowingly commits, and sets the maximum amount of a civil penalty for a violation of a court order or injunction issued to enforce the prohibition at \$100,000. The bill establishes that every ticket transaction in which a ticket is acquired to be sold in violation of the prohibition constitutes a separate violation for purposes of assessing a civil penalty. The bill authorizes the attorney general to recover all reasonable

costs of bringing such an action, including court costs, reasonable attorney's fees, and investigation costs.

C.S.H.B. 2444 defines the following terms for purposes of its provisions:

- "bot" as any automated software program that performs automatic and repetitive tasks and is designed to impersonate or replicate human activity online;
- "event" as a concert, theatrical performance, sporting event, exhibition, show, or similar scheduled activity that is open to the public, is held in a public or private venue, and requires payment of an admission fee to attend the activity; and
- "ticket" as a physical or electronic certificate, voucher, document, token, or other evidence of a right for admission to enter a place of entertainment for one or more events at one or more specified dates and times.

The bill applies only to a purchase that occurs on or after the bill's effective date, regardless of whether a ticket for an event was issued before that date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2444 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While both the substitute and introduced prohibited specified actions regarding online event ticket activity, the substitute revises the prohibition in the introduced as follows:

- prohibits a person from using or creating a bot, defined as any automated software program that performs automatic and repetitive tasks and is designed to impersonate or replicate human activity online, to take the prohibited actions set out in the substitute, whereas the introduced prohibited a person from using or causing to be used any method, technology, device, or software in the sale or resale of event tickets on a ticket issuer's or resale ticket agent's website that take the prohibited actions set out in the introduced;
- includes the following actions that did not appear in the introduced among those prohibited:
 - using multiple IP addresses, multiple purchaser accounts, or multiple email addresses to purchase tickets in excess of posted limits for an online ticket sale; and
 - circumventing or disabling an electronic queue, waiting period, presale code, or other sales volume limitation system associated with an online ticket sale; and
- omits the prohibited actions that appeared in the introduced of functioning as a bypass in the ticket purchasing process, disguising the identity of the ticket purchaser; and
- changes the prohibited action in the introduced of circumventing a security measure, access control system, or other control, authorization, or measure in the ticket purchasing process to circumventing or disabling a security measure, access control system, or other control or measure that is used to facilitate authorized entry to an event.

The substitute omits the provision in the introduced prohibiting a person from decoding, decrypting, modifying, or reverse engineering an event ticket or an underlying algorithm or barcode used in the ticket's production or on any website in the sale or resale of a ticket.

The substitute omits the definitions that appeared in the introduced for "resale" and "resale ticket agent." Whereas the introduced defined "event ticket" as a 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, the substitute

defines instead "ticket" as such evidence of only a right for admission to enter a place of entertainment for one or more events at one or more specified dates and times.

The substitute changes the trigger for the authorization for the attorney general to bring an action to restrain or enjoin a violation of the bill's provisions from the attorney general's belief that a person is violating or about to violate those provisions, as in the introduced, to the attorney general's conclusion that a person is violating or about to violate those provisions. The substitute includes provisions that were not in the introduced authorizing the attorney general to seek restitution and petition a district court for the assessment of a civil penalty capped at \$10,000 for each violation, not to exceed \$100,000 for a violation of a court order or injunction issued to enforce the bill's prohibition. Finally, whereas the introduced entitled the attorney general to recover all reasonable costs of bringing an action under the bill's provisions, the substitute authorizes the attorney general to do so.