

BILL ANALYSIS

Senate Research Center

S.B. 1639
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A "bot"—short for robot and also called an Internet bot—is a software application that automatically completes programmed tasks in the same manner as humans would have done. Normally bots are created to do repetitive tasks to increase efficiency. Some bots, however, called "scalper" or "scalping" bots, use automated methods to obtain event tickets quicker than any legitimate customer could. In 2015 and 2016, for example, one person using scalping bots obtained more than 1,000 tickets to a U2 concert in less than a minute. The tickets are then re-sold by the bot's operator in either a private transaction or on a third-party platform, often for an exorbitant markup.

This practice not only negatively impacts consumers and concert-holders, but it also is pervasive, with up to 40 percent of all event ticket traffic generated by scalping bots. Although the 2016 federal Stop BOTS Act outlawed ticket scalping bots, the Federal Trade Commission has only brought one action under the law against persons using scalping bots.

To address this lack of enforcement at the federal level, S.B. 1639 would prohibit the use of any method, technology, device, or software that bypasses ticketing purchasing processes to purchase a quantity of event tickets that exceeds the maximum number of tickets allowed per legitimate buyer. The attorney general would enforce the provisions under this bill. The changes would prevent ticket scalping from causing market distortion via inflated prices and unfair access to tickets for the general public.

As proposed, S.B. 1639 amends current law relating to prohibitions in connection with event ticket sales or resales on an Internet website.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 10, Business and Commerce Code, by adding Chapter 328, as follows:

CHAPTER 328. ONLINE SALE OR RESALE OF EVENT TICKETS

Sec. 328.001. DEFINITIONS. Defines "event," "event ticket," "resale," "resale ticket agent," and "ticket issuer."

Sec. 328.002. PROHIBITIONS REGARDING ONLINE EVENT TICKET SALES OR RESALES. (a) Prohibits a person from selling, 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 Internet website that:

- (1) functions as a bypass in the ticket purchasing process;
- (2) disguises the identity of the ticket purchaser;

(3) permits the purchase of a quantity of event tickets in a number that exceeds the maximum number of tickets that is authorized to be sold to one purchaser as specified by the event owner or operator on the website; or

(4) circumvents a security measure, access control system, or other control, authorization, or measure in the ticket purchasing process.

(b) Prohibits 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 Internet website in the sale or resale of the ticket.

Sec. 328.003. ENFORCEMENT BY ATTORNEY GENERAL; INJUNCTION. (a) Authorizes the attorney general to investigate a claim that a person violated this chapter.

(b) Authorizes the attorney general, if the attorney general believes that a person is violating or is about to violate this chapter, to bring an action in the name of the state to restrain or enjoin the person from violating this chapter.

(c) Entitles the attorney general to recover all reasonable costs of bringing an action under this section, including court costs, reasonable attorney's fees, and investigation costs.

SECTION 2. Makes application of Section 328.002, Business and Commerce Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2023.