

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 852
Finance

(Senator Gile, *et al.*)

Commercial Law - Consumer Protection - Ticket Sales (Event-Goer Rights and Accountable Sales (ERAS) Act)

This bill establishes specified customer service requirements and the circumstances under which the cost for a ticket to an entertainment event must be refunded. The provisions apply to a ticket issuer, a ticket seller, a primary ticket sales platform, and a secondary ticket exchange, as defined by the bill. The bill requires these entities to implement a standard refund policy that provides a full refund in specified circumstances. The bill expands the ability of consumers to transfer, offer for resale, or resell a ticket by limiting the authority of these entities to impose restrictions on the transfer, offer for resale, or resale of a ticket. The bill also establishes several disclosure requirements. Violation of the bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

Fiscal Summary

State Effect: The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. The Office of the Attorney General, Consumer Protection Division, can handle the bill's requirements with existing resources.

Local Effect: The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill defines several terms related to ticket transfers, sales, and resales. As in current law, “ticket” is defined as a ticket for admission to an entertainment event; “entertainment event” is defined as a performance, recreation, amusement, diversion, spectacle, show, or any similar event, and includes a theatrical or musical performance, concert, film, game, ride, or sporting event. The following terms are defined as:

- “primary ticket sales platform” is a marketplace operated by or on behalf of a ticket issuer for consumers to make an initial purchase of tickets from a ticket issuer;
- “resale” means any purchase of a ticket subsequent to the initial purchase from a ticket issuer, regardless of the method of delivery or transfer of the ticket;
- “secondary ticket exchange” means an electronic marketplace that enables consumers to sell, purchase, and resell tickets; and
- “ticket issuer” means a person that, directly or indirectly, issues tickets for an entertainment event, as specified.

Ticket Refunds

The standard refund policy established by the bill requires a ticket issuer, ticket seller, primary ticket sales platform, or secondary ticket exchange to provide a full refund within 30 days from the requested refund date or after the originally scheduled event (whichever is sooner), if:

- the entertainment event is cancelled without being rescheduled;
- the ticket purchaser receives a counterfeit ticket;
- the ticket issuer canceled the ticket for nonpayment of the ticket price by the initial purchaser or for any reason other than an act or omission of the purchaser;
- the ticket fails to conform to the description that the ticket seller provided;
- a performer cancels or withdraws from the event;
- the event was not canceled but a natural disaster was declared by a governmental entity;
- the purchaser did not receive the ticket before the occurrence of the entertainment event (unless the failure of the receipt was due to an act or omission of the purchaser); or
- the ticket did not provide the purchaser admission to the entertainment event for which the ticket was purchased.

The refund must include the full amount the purchaser paid for the ticket as well as all fees charged in connection with the purchase of the ticket (including download fees, delivery

fees, and shipping fees). A ticket seller may satisfy the refund requirements by using a secondary ticket exchange that complies with the established requirements.

Disclosure Requirements

Each ticket issuer, ticket seller, primary ticket sales platform, and secondary ticket exchange must:

- list the ticket purchase price including all fees and taxes;
- establish a maximum markup value of \$0; and
- prominently display notification to a consumer purchasing from a secondary ticket exchange of the consumer's right to a refund.

Additionally, each primary ticket seller must (1) disclose the number, seat location information, and release date for any tickets held for prerelease and (2) display the seat number and row for any tickets available for purchase.

Prohibitions and Restrictions on Ticket Transfers, Resales, or Offers for Resale

A ticket issuer, ticket seller, primary ticket sales platform, or secondary ticket exchange may not:

- prohibit or restrict the transfer, resale, or offer for resale of a ticket;
- require an additional fee for the transfer of a ticket by the purchaser to another person; or
- impose license or contractual terms on the initial sale of a ticket that include specified restrictions.

An operator of a venue (or an agent of the operator) may (1) maintain and enforce any policies regarding conduct or behavior at the venue; (2) establish limits on the quantity of tickets purchased during an initial sale of tickets for an entertainment event; and (3) revoke or restrict season tickets for specified reasons.

An operator of a venue (or agent of the operator) may also restrict the offer for resale or the resale of tickets initially sold or given to individuals or groups as part of a targeted promotion or a discounted price because of the individuals' or groups' status. The restriction includes individuals or groups characterized by a disability, membership in a religious or civic organization, or economic hardship. The restriction also requires that tickets sold to specified individuals or groups (1) not be offered promotionally to the general public and (2) be marked clearly as tickets restricted to the specified individuals or groups.

Current Law: A person may not intentionally sell or use software to circumvent a security measure, an access control system, or any other control or measure on a ticket seller's website that is used to ensure an equitable ticket buying process. A violation is an unfair or deceptive trade practice under MCPA.

Use of Lower-Level Domain Name

A "lower-level domain name" is the portion of text in a Uniform Resource Locator (URL) that is to the left of top-level domains such as ".com," ".net," or ".org." A lower-level domain name includes a second-level, third-level, and any other subdomain name.

A "ticket website" is a website advertising or offering the sale or resale of tickets. It also includes a website facilitating a secondary ticket exchange or electronic marketplace that enables consumers to sell, purchase, and resell tickets to an entertainment event in the State.

A "venue" is a theater, stadium, field, hall, convention center, fairground, or any other facility where an entertainment event takes place.

A person who owns, operates, or controls a ticket website is prohibited from using in the URL of the ticket website a lower-level domain name that contains (or is substantially similar to) the venue name or the event name (including the name of an individual or a group performing or appearing at the event). These restrictions do not apply to a person who is acting on behalf of a venue.

Maryland Consumer Protection Act

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any

person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Small Business Effect: Small businesses that sell tickets to entertainment events and that currently engage in the bill's prohibited practices must alter their ticket sale practices and establish the bill's required refund procedures. On the other hand, small businesses currently engaged in the activities protected under the bill may benefit.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Cross File: HB 795 (Delegate Vogel) - Economic Matters.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Legislative Services

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