

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 539
Finance

(Senator Gile, *et al.*)

Economic Matters

Commercial Law – Consumer Protection – Sale and Resale of Tickets

This bill establishes numerous consumer protections and disclosure requirements relating to the sale and resale of tickets. The bill also requires the Office of the Attorney General (OAG) to conduct a review of the event ticket market in the State. By December 1, 2024, OAG must report its findings and recommendations from the review to specified committees of the General Assembly. 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. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$200,000 in FY 2025 for OAG’s Consumer Protection Division to hire a consultant to conduct the review required by the bill. General fund expenditures likely further increase beginning in FY 2025, at least minimally, for OAG enforcement efforts, as discussed below. The bill’s imposition of existing penalty provisions is not anticipated to have a material impact on State revenues.

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: A “secondary ticket exchange” means an electronic marketplace that enables a person to sell, purchase, and resell tickets. A “ticket issuer” means a person that,

directly or indirectly, issues initial tickets for an entertainment event. The bill expands the definition of “speculative ticket” to mean a ticket that is not in the actual or constructive possession of a reseller at the time of sale, *advertisement, or listing*.

The listing for a ticket (and each step of a transaction to purchase a ticket) must (1) clearly and conspicuously disclose the total price of the ticket, including all fees and taxes other than shipping costs that are not determinable at a step in the transaction; (2) provide an itemized listing of all charges that comprise the total price of the ticket, including all fees and taxes; and (3) identify the seat number and zone or section of the ticket, to the extent applicable to the seat and venue. These requirements apply only to secondary ticket exchanges, ticket issuers, and resellers.

The total price of a ticket may be increased in a noninitial step of a transaction by the amount of reasonable shipping costs for physically delivered tickets. The shipping costs may vary with the purchaser’s location relative to the shipment’s location of origin and the delivery method selected by the purchaser. The total price of the ticket, including all fees, taxes, and shipping costs, must be clearly and conspicuously disclosed prior to final purchase of the ticket.

A secondary ticket exchange may not provide a marketplace for the sale or resale of a ticket that violates the bill’s provisions.

A ticket issuer, secondary ticket exchange, or reseller who directly engages in a sales transaction with a purchaser for the purchase of a ticket must provide the purchaser with a full refund of the total amount paid (including the price of the ticket and any fees and taxes), if (1) the ticket purchased is counterfeit; (2) the event for which the ticket is purchased is canceled; or (3) the ticket fails to conform to the description as advertised or represented to the purchaser by the seller.

Finally, the bill repeals several exceptions to the prohibition against a reseller selling (or offering to sell) speculative tickets and provisions relating to required refunds; as a result, a reseller may not sell or offer to sell speculative tickets under the bill.

Review of the Event Ticket Market by the Office of the Attorney General

The bill requires OAG’s Consumer Protection Division, with input from relevant stakeholders, to conduct a review of the event ticket market in the State. The review must include, to the extent feasible, an assessment of:

- how event tickets are obtained for resale by professional resellers and brokers;

- the cost of event tickets offered to (and purchased by) consumers on the resale market when compared with the face values and total event ticket prices for tickets offered to (and purchased by) consumers in the primary event ticket market;
- factors contributing to the cost of event tickets sold and offered for sale on the resale market;
- problems consumers are encountering relating to the purchase of event tickets sold and offered for sale on the resale market including (1) the fraudulent sale of event tickets; (2) the sale of counterfeit tickets; (3) the denial of entry to events for which tickets were purchased by consumers; and (4) the use of bots to purchase for resale tickets for in-demand events;
- the impact of any measures taken in other states to protect consumers in the event ticket market, such as through resale price caps, limits on fees and charges by secondary market resale platforms, requiring the transferability of event tickets, and restrictions on the use of bots to purchase tickets for resale; and
- any other matters identified as relevant to the protection of consumers in the event ticket market.

Current Law: A “speculative ticket” is a ticket that is not in the actual or constructive possession of the reseller at the time of sale. A speculative ticket includes a ticket sold by a reseller that, at the time of resale, is not (1) in the physical possession of the reseller; (2) owned by the reseller; or (3) under contract to be transferred to the reseller.

A “resale” is the second or subsequent sale of a ticket. A “reseller” is a person who offers a ticket for resale. A “ticket” means physical, electronic, or other evidence that grants the possessor permission to enter a place of entertainment for one or more events at a specified date and time.

Disclosure and Refund Requirements

A ticket reseller is prohibited from selling (or offering to sell) a speculative ticket (a ticket that is not in the actual or constructive possession of the reseller at the time of sale) unless the reseller discloses specified information to a prospective purchaser at the outset of the sales transaction. Specifically, the reseller must clearly and conspicuously disclose (1) that the tickets are speculative tickets, and the reseller is not in possession of the tickets; (2) that the reseller is making an offer to procure the tickets for the prospective purchaser; (3) an approximate date on which the tickets will be delivered to the purchaser; (4) the name or a description of the event for which the tickets will permit entry; (5) the total number of tickets included in the transaction; (6) the number of tickets for seats that are together; (7) the zone or section number of the tickets (if applicable to the venue); and (8) the seat numbers of any reserved seat tickets or, if applicable, that the reseller cannot guarantee the specific seats because the tickets are speculative tickets.

A ticket reseller must refund any consideration or deposit paid for tickets if the reseller fails to obtain the tickets (1) within 24 hours after the approximate date of specified delivery but before the commencement of the event or (2) in conformity with the disclosures noted above. A reseller must make required refunds within 10 days after the final day of the event for which the tickets were sold.

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.

State Expenditures: In fiscal 2025 only, OAG advises that it requires a consultant to assist with the required study of the event ticket market. Thus, general fund expenditures increase by approximately \$200,000 for that purpose.

General fund expenditures likely further increase, at least minimally, for OAG to handle enforcement under the bill. OAG advises that it may require as many as three additional positions (one full-time assistant Attorney General, one investigator, and one mediator) with corresponding general fund expenditures of up to \$309,100 in fiscal 2025, which reflects a 90-day start-up delay from the bill's July 1, 2024 effective date, and \$417,900 by fiscal 2029.

However, the Department of Legislative Services advises that the extent of ongoing resources potentially needed by OAG is dependent on the number of complaints filed under the bill and the level of effort involved in each case. While generally acknowledging that expenditures likely increase at least minimally for enforcement efforts, without experience

under the bill, the need for additional staff is unclear. To the extent that additional staffing resources are required, OAG may request them through the annual budget process.

Small Business Effect: Any ticket issuers or resellers that are small businesses are subject to additional requirements under the bill (*e.g.*, disclosure requirements, limitations on fees that may be charged, required refunds, etc.) and may be meaningfully affected by the bill's requirements.

Additional Information

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

Cross File: HB 701 (Delegate Wilson) - Economic Matters.

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

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