

SB0138S01 compared with SB0138

~~{deleted text}~~ shows text that was in SB0138 but was deleted in SB0138S01.

inserted text shows text that was not in SB0138 but was inserted into SB0138S01.

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Senator Scott D. Sandall proposes the following substitute bill:

FRAUDULENT TICKET SALES MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to the Ticket Website Sales Act and the Ticket Transferability Act.

Highlighted Provisions:

This bill:

- ▶ makes out-of-state online ticket resellers subject to the Ticket Website Sales Act;
- ▶ amends requirements for online ticket sale disclosures;
- ▶ prohibits the use of certain intellectual property without written authorization;

~~{ } → adds provisions regulating the sale of speculative tickets;~~

~~{ } ▶ prohibits the knowing sale of more than one copy of the same ticket;~~

~~{ } → limits the number of tickets a reseller may purchase from a primary ticket seller or venue;~~

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- ‡ ▶ adds requirements related to refunds for tickets sold on the secondary market online;
- ~~{ → amends provisions related to restricted tickets donated to underserved populations;~~
- ‡ ▶ prohibits the use of ticket purchasing software in certain circumstances;
- ~~{ → repeals requirements related to reporting of restricted ticket sales;~~
- ‡ ▶ defines terms; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-54-102, as enacted by Laws of Utah 2019, Chapter 115

~~{ → 13-54-103, as enacted by Laws of Utah 2019, Chapter 115~~

‡ 13-54-201, as enacted by Laws of Utah 2019, Chapter 115

13-54-202, as last amended by Laws of Utah 2021, Chapter 154

~~{ → 13-56-201, as enacted by Laws of Utah 2019, Chapter 423~~

‡ ENACTS:

13-54-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-54-102** is amended to read:

13-54-102. Definitions.

(1) "Consumer" means a person who purchases a ticket for use by the person or the person's invitee.

(2) "Division" means the Division of Consumer Protection in the Department of Commerce.

(3) "Domain" means the portion of text in a URL that is to the left of the top-level domain.

(4) "Event" means a single, specific occurrence of one of the following, that takes place at a venue:

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- (a) a concert;
- (b) a game;
- (c) a performance;
- (d) a show; or
- (e) an occasion similar to the occasions described in Subsections (4)(a) through (d).

(5) "Event participant" means any of the following persons who is associated with an event or on behalf of whom a person sells a ticket to an event:

- (a) an artist;
- (b) a league;
- (c) a team;
- (d) a tour group;
- (e) a venue; or
- (f) any person similar to the persons described in Subsections (5)(a) through (e).
- (6) "Person" does not include a government entity.

~~{ (7) "Pop-up ad" means a graphical user interface display window in the foreground of a website's visual interface.~~

‡ ~~{(7)}{ (8)}~~ "Primary ticket seller" means the person who first sells a particular ticket.

~~{(8)}{ (9)}~~ (a) "Reseller" means a person who sells or offers for sale a ticket after it is sold by a primary ticket seller.

(b) "Reseller" includes a person who engages in conduct described in Subsection ~~{(8)}{ (9)}{ (a)}~~, regardless of whether the person is also the primary ticket seller of the ticket or the primary ticket seller of another ticket to the same event.

(c) "Reseller" does not include a person who transfers a ticket to another person without reimbursement or consideration.

~~{ (10) "Speculative ticket" means a ticket that, at the time of the sale, is not in the possession of the person offering the ticket for sale.~~

‡ ~~{(9)}{ (11)}~~ "Ticket" means evidence of an individual's right of entry to an event.

~~{(10)}{ (12)}~~ "Ticket aggregator" means a person who aggregates the prices for which other persons offer tickets for sale or resale.

~~{(13)}{ 11}~~ "Ticket purchasing software" means software that is primarily designed for the purpose of interfering with the sale of tickets by circumventing controls or measures on a

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ticket website to ~~ensure an equitable ticket buying process~~ bypass posted event ticket purchasing limits or to maintain the integrity of posted online ticket purchasing order rules.

[(11)] ~~(14)~~ 12 "Ticket website" means:

(a) with respect to a reseller, a website on which the reseller sells or offers for sale or resale one or more tickets; or

(b) with respect to a ticket aggregator, a website on which the ticket aggregator aggregates the prices for which other persons offer tickets for sale or resale.

[(12)] ~~(15)~~ 13 "Top-level domain" includes .com, .net, and .org.

[(13)] ~~(16)~~ 14 "URL" means the uniform resource locator for a website on the Internet.

[(14)] ~~(17)~~ 15 (a) "Venue" means real property located in the state where one or more persons host a concert, game, performance, show, or similar occasion.

(b) "Venue" includes an arena, a stadium, a theater, a concert hall, an amphitheater, a fairground, a club, a convention center, a public assembly facility, or a mass gathering location.

Section 2. Section ~~{13-54-103}~~ 13-54-201 is amended to read:

~~{~~ ~~13-54-103.~~ **Exemptions.**

~~_____ (1) This chapter does not apply to:~~

~~_____ (a) an entity that is owned, controlled, operated, or maintained by a bona fide church or religious organization that is exempt from property taxation under the laws of the state; or~~

~~_____ (b) a consumer reselling a ticket that the consumer purchased as a consumer.~~

~~_____ (2) A person who claims an exemption under this section has the burden of proving that the person is entitled to the exemption.~~

~~_____ (3) Notwithstanding Subsection (1), or anything to the contrary in Utah law, the following are subject to this chapter:~~

~~_____ (a) a business domiciled outside of Utah, when selling tickets for events held in Utah, regardless of where the buyer and seller are domiciled; and~~

~~_____ (b) a reseller offering tickets via a classified advertisement on the secondary market online, who is not the primary ticket seller.~~

~~_____ Section 3. Section 13-54-201 is amended to read:~~

~~†~~ **13-54-201. Disclosure requirements.**

(1) A reseller or ticket aggregator shall clearly and conspicuously disclose on each of

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its ticket websites ~~{}~~ that ~~{}~~:

(a) ~~{that}~~ the website is a secondary market and is not the primary ticket seller;

~~{}~~ and ~~{}~~

(b) ~~{that}~~ the price of a ticket on the website may be higher than face value ~~{.}~~;

~~—— (c) that the ticket buyer should visit the primary seller's ticket website to verify face value, if the reseller is not the primary ticket seller;~~

~~—— (d) an estimated delivery date for the ticket; and~~

~~—— (e) the number of tickets the reseller or ticket aggregator guarantees to be adjacent, including the:~~

~~—— (i) zone or section number;~~

~~—— (ii) row number; and~~

~~—— (iii) seat number.~~

~~—— (2) A reseller or ticket aggregator shall provide the disclosures described in Subsections (1)(a) and (b):~~

~~—— (a) on each page of the ticket website, including during the checkout process:~~

~~—— (i) in a pop-up ad within the top 20% of each page; and~~

~~—— (ii) in a font size that is not smaller than the font size used for the majority of the text on that page; and~~

~~—— (b) in paid search results.~~

~~—— (3) A disclosure described in Subsection (1)(c) shall include a conspicuous link to the primary seller's ticket website:~~

~~—— (4) For a speculative ticket, a reseller shall clearly and conspicuously disclose on each of the reseller's ticket websites that the reseller is not in possession of the ticket at the time of sale.~~

~~—— (2) (5) During the checkout process:~~

~~—— (a) [A] a };~~

(2) A primary ticket seller and a reseller shall clearly and conspicuously disclose ~~{}~~ during the checkout process ~~{}~~ an itemization of the total price for which the primary ticket seller or reseller is offering the ticket for sale or resale, including taxes and each fee ~~{.}~~; and

—— (b) a reseller shall obtain by affirmative action of the purchaser acknowledgment of the following disclosures:

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- ~~_____ (i) the venue's state registered name;~~
- ~~_____ (ii) the venue's city;~~
- ~~_____ (iii) that the reseller is not the venue's ticket office or licensed ticketing agent;~~
- ~~_____ (iv) the reseller's refund policy; and~~
- ~~_____ (v) the reseller's contact information;~~
- ~~_____ (6) If provided by a venue, a reseller shall provide notice to a purchaser of the following related to an event for which the reseller sells a ticket:~~
 - ~~_____ (a) event safety protocols;~~
 - ~~_____ (b) event cancellations;~~
 - ~~_____ (c) rescheduled performances; or~~
 - ~~_____ (d) event entry protocols.~~
- ~~_____ Section 4}.~~

Section 3. Section 13-54-202 is amended to read:

13-54-202. Prohibited practices.

(1) (a) It is unlawful for any person who is not a primary ticket seller to represent, directly or indirectly, that the person is a primary ticket seller.

(b) If a presiding officer or court determines appropriate after considering other relevant factors, the following actions by a person who is not a primary ticket seller establish a presumption that the person is representing that the person is a primary ticket seller in violation of Subsection (1)(a):

(i) using the name of an event in the domain of the person's ticket website, unless the person has written authorization from an agent of the event;

(ii) using the name of an event participant in the domain of the person's ticket website, unless the person has written authorization from the event participant or an agent of the event participant; [or]

(iii) using, in paid search results, the name of an event or event participant in a manner described in Subsection (1)(b)(i) or (ii)[-];

~~{ _____ (iv) without the written authorization of the trademark or copyright holder, using anywhere on the person's ticket website or on a domain to which the website redirects, a trademarked or copyrighted:~~

~~_____ (A) URL;~~

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~~— (B) title;~~

~~— (C) designation;~~

~~— (D) image;~~

~~— (E) mark; or~~

~~— (F) other symbol; or~~

‡ ~~(iv)~~ using on the person's website ~~{ or on a domain to which the website redirects }~~

any of the following that individually or in combination is substantially similar to a primary ticket seller's, venue's, or event's website, with the intent to mislead a potential purchaser,

without written authorization:

(A) text;

(B) images;

(C) website graphics;

~~{C}~~ (D) website design; or

~~{D}~~ (E) Internet address.

(2) It is unlawful for a person who lists or offers a ticket for sale to:

(a) accept payment for the ticket; and

(b) fail to deliver to the consumer who purchases the ticket a ticket that reflects the transaction to which the parties agreed.

(3) It is unlawful for a person to:

(a) knowingly sell more than one copy of the same ticket;

~~{ — (b) with the intent to resell, knowingly purchase from a primary ticket seller a quantity of tickets that exceeds the maximum ticket limit quantity that a primary ticket seller posts at the point of sale or prints on the ticket; or~~

‡ ~~{c}~~ (b) use ticket purchasing software to circumvent any portion of the process for purchasing a ticket on a ticket website, including:

(i) circumventing:

(A) security measures;

(B) identity validation measures; or

(C) an access control system; or

(ii) disguising the identity of a ticket purchaser for the purpose of purchasing a number of tickets that exceeds the maximum number of tickets allowed for a person to purchase.

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~~{ (4) A reseller:~~

~~— (a) may not offer a ticket for sale on the reseller's ticket website before the primary ticket seller places the ticket on sale; and~~

~~— (b) shall, within 10 business days after the event takes place, refund to a purchaser any money a purchaser paid for a speculative ticket or a deposit for a speculative ticket, if the reseller fails to deliver the ticket to the purchaser.~~

~~— (5) For a ticket with a face value over \$20, the total amount of fees that a primary ticket seller or reseller collects may not exceed 25% of the face value of the ticket.~~

‡ [(3)] ~~{6}4~~ It is unlawful for a person to fail to comply with a provision of Section 13-54-201.

[(4)] ~~{7}5~~ Nothing in this section prohibits a person from including the name of an event or an event participant in a URL after the top-level domain.

Section ~~{5}4~~. Section **13-54-203** is enacted to read:

13-54-203. Resale refund requirements.

~~{1} A reseller shall establish:~~

~~— (a) a refund policy; and~~

~~— (b) a procedure for binding resolution of consumer complaints by an independent third party.~~

~~— (2) A reseller shall maintain a consumer protection rebate fund in an amount in excess of \$100,000.~~

~~— (3) A reseller shall provide a refund to a ticket purchaser without charge, other than reasonable delivery fees for the return of a ticket.~~

~~— (4) A } A primary ticket seller and a reseller shall guarantee a full refund, including handling fees, if:~~

~~{a}1~~ the event for which the primary ticket seller or reseller sold a ticket is canceled;

~~{b}2~~ the ticket does not grant the purchaser admission to the event;

~~{c}3~~ the ticket is counterfeit; or

~~{d}4~~ the ticket fails to conform to the description that the primary ticket seller or reseller advertised to the purchaser ~~{; or}~~.

~~{ (e) the purchaser requests cancellation of the transaction:~~

~~— (i) within 36 hours after purchase of the ticket; and~~

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~~—— (ii) less than 72 hours before the event.~~

~~—— Section 6. Section 13-56-201 is amended to read:~~

~~—— 13-56-201. Limitations on ticket resale restrictions -- Disclosures:~~

~~—— (1) (a) As used in this section, "underserved or underrepresented community" means a group of people, including a municipality, county, or American Indian tribe, that is economically disadvantaged:~~

~~—— (b) As used in this section, "underserved or underrepresented community" includes an economically disadvantaged community where the people of the community have limited access to or demonstrated low level of use of arts and cultural programs:~~

~~—— (2) Except as provided in Subsection [(2)] (3), each ticket issued for an event shall be a transferrable ticket.~~

~~—— [(2)] (3) (a) (i) Up to 10% of the total number of tickets issued for an event may be restricted tickets.~~

~~—— (ii) The total number of tickets described in Subsection [(2)(a)(i)] (3)(a)(i):~~

~~—— (A) includes each ticket that provides access to the event, regardless of whether the ticket is made available for sale; [and]~~

~~—— (B) does not include a ticket that is part of a youth basketball program associated with a professional sports team where tickets are donated or issued at a reduced rate[.]; and~~

~~—— (C) does not include a ticket that is donated to an underserved or underrepresented community or to an organization that serves an underserved or underrepresented community:~~

~~—— (b) Notwithstanding Subsection [(2)(a)] (3)(a), each calendar year, an unlimited number of restricted tickets may be issued for up to 10% of the total concert and theater events held at the same venue during the calendar year.~~

~~—— [(3)] (4) A person who issues a restricted ticket shall provide the purchaser a clear and conspicuous written notice that states the ticket may not be resold or transferred.~~

~~—— [(4)] (5) A person may not discriminate against an individual or deny an individual admission to an event solely because the individual:~~

~~—— (a) resold a ticket to the event independent of the person who issued the ticket or the person's agent or operator; or~~

~~—— (b) purchased a resold ticket to the event independent of the person who issued the ticket or the person's agent or operator.~~

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~~(6) A ticket donated to an underserved or underrepresented community, or to an organization that serves an underserved or underrepresented community, does not count toward the total number of tickets described in Subsection (3).~~

‡