

SB0138S02 compared with SB0138S01

~~text~~ shows text that was in SB0138S01 but was deleted in SB0138S02.

text shows text that was not in SB0138S01 but was inserted into SB0138S02.

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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;
- ▶ prohibits the knowing sale of more than one copy of the same ticket;
- ▶ adds requirements related to refunds for tickets sold on the secondary market online;
- ▶ prohibits the use of ticket purchasing software in certain circumstances;
- ▶ defines terms; and

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- ▶ 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

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

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

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:

(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:

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- (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) "Primary ticket seller" means the person who first sells a particular ticket.
- (8) (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)(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.

(9) "Ticket" means evidence of an individual's right of entry to an event.

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

(11) "Ticket purchasing software" means software that is primarily designed for the purpose of:

(a) interfering with the sale of tickets by circumventing controls or measures on a ticket website to bypass posted event ticket purchasing limits; or ~~{ to maintain}~~

(b) undermining the integrity of posted online ticket purchasing order rules.

~~[(11)]~~ (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)]~~ (13) "Top-level domain" includes .com, .net, and .org.

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

~~[(14)]~~ (15) (a) "Venue" means real property located in the state where one or more

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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 **13-54-201** is amended to read:

13-54-201. Disclosure requirements.

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

- (a) the website is a secondary market and is not the primary ticket seller; and
- (b) the price of a ticket on the website may be higher than face value.

(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.

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) using on the person's website 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;

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(B) images;

(C) website graphics;

(D) website design; or

(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) 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.

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

~~[(4)]~~ (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 4. Section **13-54-203** is enacted to read:

13-54-203. Resale refund requirements.

A primary ticket seller ~~and a~~ or reseller from which a consumer purchases a ticket shall guarantee a full refund, including handling fees, if:

(1) the event for which the primary ticket seller or reseller sold ~~for~~ the ticket is canceled;

(2) the ticket does not grant the purchaser admission to the event;

(3) the ticket is counterfeit; or

(4) the ticket fails to conform to the description that the primary ticket seller or reseller

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advertised to the purchaser.