

1 **CONSUMER TICKET PROTECTION MODIFICATIONS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen G. Handy**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts provisions related to the Division of Consumer Protection and the sale
10 of event tickets.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ addresses the process related to a request to review a citation issued by the Division
15 of Consumer Protection;
- 16 ▶ requires a person who resells event tickets to provide certain disclosures on the
17 person's website, including a statement that the ticket website is a secondary market
18 and an itemized breakdown of the price of each ticket;
- 19 ▶ prohibits a person who resells event tickets from representing that the person is the
20 primary, rather than a secondary, ticket seller;
- 21 ▶ provides that the provisions of this bill do not apply to a religious organization or an
22 individual consumer; and
- 23 ▶ addresses enforcement of the provisions of this bill.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides a coordination clause.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **13-2-1**, as last amended by Laws of Utah 2018, Chapters 252 and 290

31 **13-2-6**, as last amended by Laws of Utah 2018, Chapter 276

32 ENACTS:

33 **13-54-101**, Utah Code Annotated 1953

34 **13-54-102**, Utah Code Annotated 1953

35 **13-54-103**, Utah Code Annotated 1953

36 **13-54-201**, Utah Code Annotated 1953

37 **13-54-202**, Utah Code Annotated 1953

38 **13-54-301**, Utah Code Annotated 1953

39 **Utah Code Sections Affected by Coordination Clause:**

40 **13-2-1**, as last amended by Laws of Utah 2018, Chapters 252 and 290

41 **13-54-101**, Utah Code Annotated 1953



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

44 Section 1. Section **13-2-1** is amended to read:

45 **13-2-1. Consumer protection division established -- Functions.**

46 (1) There is established within the Department of Commerce the Division of Consumer
47 Protection.

48 (2) The division shall administer and enforce the following:

49 (a) Chapter 5, Unfair Practices Act;

50 (b) Chapter 10a, Music Licensing Practices Act;

51 (c) Chapter 11, Utah Consumer Sales Practices Act;

52 (d) Chapter 15, Business Opportunity Disclosure Act;

53 (e) Chapter 20, New Motor Vehicle Warranties Act;

54 (f) Chapter 21, Credit Services Organizations Act;

55 (g) Chapter 22, Charitable Solicitations Act;

- 56 (h) Chapter 23, Health Spa Services Protection Act;
- 57 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 58 (j) Chapter 26, Telephone Fraud Prevention Act;
- 59 (k) Chapter 28, Prize Notices Regulation Act;
- 60 (l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;
- 61 (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- 62 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 63 (o) Chapter 39, Child Protection Registry;
- 64 (p) Chapter 41, Price Controls During Emergencies Act;
- 65 (q) Chapter 42, Uniform Debt-Management Services Act;
- 66 (r) Chapter 49, Immigration Consultants Registration Act;
- 67 (s) Chapter 51, Transportation Network Company Registration Act;
- 68 (t) Chapter 52, Residential Solar Energy Disclosure Act; [~~and~~]
- 69 (u) Chapter 53, Residential, Vocational and Life Skills Program Act[-]; and
- 70 (v) Chapter 54, Ticket Website Sales Act.

71 Section 2. Section **13-2-6** is amended to read:

72 **13-2-6. Enforcement powers.**

73 (1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the
74 division shall have authority to convene administrative hearings, issue cease and desist orders,
75 and impose fines under all the chapters identified in Section **13-2-1**.

76 (2) Any person who intentionally violates a final cease and desist order entered by the
77 division of which the person has notice is guilty of a third degree felony.

78 (3) If the division has reasonable cause to believe that any person has violated or is
79 violating any chapter listed in Section **13-2-1**, the division may promptly issue the alleged
80 violator a citation signed by the division's director or the director's designee.

81 (a) Each citation shall be in writing and shall:

82 (i) set forth with particularity the nature of the violation, including a reference to the

83 statutory or administrative rule provision violated;

84 (ii) state that any request for review of the citation shall be made in writing and be
85 received by the division no more than 20 calendar days following issuance;

86 (iii) state the consequences of failing to make a timely request for review; and

87 (iv) state all other information required by Subsection 63G-4-201(2).

88 (b) In computing any time period prescribed by this section, the following days may
89 not be included:

90 (i) the day on which the division issues a citation; and

91 (ii) the day on which the division receives a request for review of a citation.

92 ~~[(c) If the recipient of a citation makes a timely request for review, within 20 calendar~~
93 ~~days after receiving the request, the division shall initiate an adjudicative proceeding in~~
94 ~~accordance with Title 63G, Chapter 4, Administrative Procedures Act.]~~

95 ~~[(d)]~~ (c) (i) If the presiding officer finds that there is not substantial evidence that the
96 recipient violated a chapter listed in Section 13-2-1, the citation may not become final, and the
97 division shall immediately vacate the citation and promptly notify the recipient in writing.

98 (ii) If the presiding officer finds that there is substantial evidence that the recipient
99 violated a chapter listed in Section 13-2-1, the citation shall become final and the division may
100 enter a cease and desist order against the recipient.

101 ~~[(e)]~~ (d) A citation issued under this chapter may be personally served upon any person
102 upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure.
103 A citation also may be served by first-class mail, postage prepaid.

104 ~~[(f)]~~ (e) If the recipient fails to make a ~~[timely]~~ request for review within 20 calendar
105 days after the day on which the division issues the citation, the citation shall become the final
106 order of the division. The period to contest the citation may be extended by the director for
107 good cause shown.

108 ~~[(g)]~~ (f) If the chapter violated allows for an administrative fine, after a citation
109 becomes final, the director may impose the administrative fine.

110 (4) (a) A person who has violated, is violating, or has attempted to violate a chapter
111 identified in Section 13-2-1 is subject to the division's jurisdiction if:

112 (i) the violation or attempted violation is committed wholly or partly within the state;

113 (ii) conduct committed outside the state constitutes an attempt to commit a violation
114 within the state; or

115 (iii) transactional resources located within the state are used by the offender to directly
116 or indirectly facilitate a violation or attempted violation.

117 (b) As used in this section, "transactional resources" means:

118 (i) any mail drop or mail box, regardless of whether the mail drop or mail box is
119 located on the premises of a United States Post Office;

120 (ii) any telephone or facsimile transmission device;

121 (iii) any Internet connection by a resident or inhabitant of this state with a resident- or
122 nonresident-maintained internet site;

123 (iv) any business office or private residence used for a business-related purpose;

124 (v) any account with or services of a financial institution;

125 (vi) the services of a common or private carrier; or

126 (vii) the use of any city, county, or state asset or facility, including any road or
127 highway.

128 (5) The director or the director's designee, for the purposes outlined in any chapter
129 administered by the division, may administer oaths, issue subpoenas, compel the attendance of
130 witnesses, or compel the production of papers, books, accounts, documents, or evidence.

131 (6) (a) An administrative action filed under this chapter or a chapter listed in Section
132 13-2-1 shall be commenced no later than 10 years after the day on which the alleged violation
133 occurs.

134 (b) A civil action filed under this chapter or a chapter listed in Section 13-2-1 shall be
135 commenced no later than five years after the day on which the alleged violation occurs.

136 (c) The provisions of this Subsection (6) control over the provisions of Title 78B,

137 Chapter 2, Statutes of Limitations.

138 Section 3. Section 13-54-101 is enacted to read:

139 **CHAPTER 54. TICKET WEBSITE SALES ACT**

140 **Part 1. General Provisions**

141 **13-54-101. Title.**

142 This chapter is known as the "Ticket Website Sales Act."

143 Section 4. Section 13-54-102 is enacted to read:

144 **13-54-102. Definitions.**

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

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

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

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

153 (a) a concert;

154 (b) a game;

155 (c) a performance;

156 (d) a show; or

157 (e) an occasion similar to the occasions described in Subsections (4)(a) through (d).

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

160 (a) an artist;

161 (b) a league;

162 (c) a team;

163 (d) a tour group;

- 164 (e) a venue; or
- 165 (f) any person similar to the persons described in Subsections (5)(a) through (e).
- 166 (6) "Person" does not include a government entity.
- 167 (7) "Primary ticket seller" means the person who first sells a particular ticket.
- 168 (8) (a) "Reseller" means a person who sells or offers for sale a ticket after it is sold by a
- 169 primary ticket seller.
- 170 (b) "Reseller" includes a person who engages in conduct described in Subsection
- 171 (8)(a), regardless of whether the person is also the primary ticket seller of the ticket or the
- 172 primary ticket seller of another ticket to the same event.
- 173 (c) "Reseller" does not include a person who transfers a ticket to another person
- 174 without reimbursement or consideration.
- 175 (9) "Ticket" means evidence of an individual's right of entry to an event.
- 176 (10) "Ticket aggregator" means a person who aggregates the prices for which other
- 177 persons offer tickets for sale or resale.
- 178 (11) "Ticket website" means:
- 179 (a) with respect to a reseller, a website on which the reseller sells or offers for sale or
- 180 resale one or more tickets; or
- 181 (b) with respect to a ticket aggregator, a website on which the ticket aggregator
- 182 aggregates the prices for which other persons offer tickets for sale or resale.
- 183 (12) "Top-level domain" includes .com, .net, and .org.
- 184 (13) "URL" means the uniform resource locator for a website on the Internet.
- 185 (14) (a) "Venue" means real property located in the state where one or more persons
- 186 host a concert, game, performance, show, or similar occasion.
- 187 (b) "Venue" includes an arena, a stadium, a theater, a concert hall, an amphitheater, a
- 188 fairground, a club, a convention center, a public assembly facility, or a mass gathering location.

189 Section 5. Section **13-54-103** is enacted to read:

190 **13-54-103. Exemptions.**

- 191 (1) This chapter does not apply to:
192 (a) an entity that is owned, controlled, operated, or maintained by a bona fide church or
193 religious organization that is exempt from property taxation under the laws of the state; or
194 (b) a consumer reselling a ticket that the consumer purchased as a consumer.
195 (2) A person who claims an exemption under this section has the burden of proving
196 that the person is entitled to the exemption.

197 Section 6. Section **13-54-201** is enacted to read:

198 **Part 2. Requirements and Prohibited Practices**

199 **13-54-201. Disclosure requirements.**

- 200 (1) A reseller or ticket aggregator shall clearly and conspicuously disclose on each of
201 its ticket websites that:
202 (a) the website is a secondary market and is not the primary ticket seller; and
203 (b) the price of a ticket on the website may be higher than face value.
204 (2) A reseller shall clearly and conspicuously disclose during the checkout process an
205 itemization of the total price for which the reseller is offering the ticket for sale or resale,
206 including taxes and each fee.

207 Section 7. Section **13-54-202** is enacted to read:

208 **13-54-202. Prohibited practices.**

- 209 (1) (a) It is unlawful for any person who is not a primary ticket seller to represent,
210 directly or indirectly, that the person is a primary ticket seller.
211 (b) If a presiding officer or court determines appropriate after considering other
212 relevant factors, the following actions by a person who is not a primary ticket seller establish a
213 presumption that the person is representing that the person is a primary ticket seller in violation
214 of Subsection (1)(a):
215 (i) using the name of an event in the domain of the person's ticket website, unless the
216 person has written authorization from an agent of the event;
217 (ii) using the name of an event participant in the domain of the person's ticket website,

218 unless the person has written authorization from the event participant or an agent of the event
219 participant; or

220 (iii) using, in paid search results, the name of an event or event participant in a manner
221 described in Subsection (1)(b)(i) or (ii).

222 (2) It is unlawful for a person to fail to comply with a provision of Section 13-54-201.

223 (3) Nothing in this section prohibits a person from including the name of an event or an
224 event participant in a URL after the top-level domain.

225 Section 8. Section 13-54-301 is enacted to read:

226 **Part 3. Enforcement**

227 **13-54-301. Enforcement powers.**

228 (1) The division may enforce the provisions of this chapter in accordance with Chapter
229 2, Division of Consumer Protection.

230 (2) (a) In addition to the division's enforcement powers under Chapter 2, Division of
231 Consumer Protection:

232 (i) the division director may impose an administrative fine of up to \$2,500 for each
233 violation of this chapter; and

234 (ii) the division may bring an action in a court of competent jurisdiction to enforce the
235 provisions of this chapter.

236 (b) In a court action by the division to enforce a provision of this chapter, the court
237 may:

238 (i) find that an act or practice violates a provision of this chapter; and

239 (ii) award, for each violation of this chapter:

240 (A) actual damages on behalf of each consumer who complained to the division within
241 a reasonable time after the division initiated the court action; and

242 (B) a fine of up to \$2,500.

243 (c) For any judgment in favor of the division under this section, the court may award:

244 (i) costs, including the costs of investigation; and

245 (ii) reasonable attorney fees.
246 (3) Each ticket sold or offered for sale while a person is in violation of a provision of
247 this chapter constitutes a separate violation of this chapter.

248 (4) Nothing in this chapter affects:
249 (a) a remedy available to a person independent of this chapter; or
250 (b) the division's ability or authority to enforce any other law.

251 Section 9. **Coordinating H.B. 128 with S.B. 69 -- Superseding technical and**
252 **substantive amendments.**

253 If this H.B. 128 and S.B. 69, Consumer Ticket Protection Amendments, both pass and
254 become law, it is the intent of the Legislature that on July 1, 2019, the Office of Legislative
255 Research and General Counsel, in preparing the Utah Code database for publication modify:

256 (1) Subsection 13-2-1(2)(v) in S.B. 69 to read as follows: "Chapter 54, Ticket
257 Transferability Act."; and

258 (2) Section 13-54-101 in S.B. 69 to read as follows: "This chapter is known as the
259 "Ticket Transferability Act.""