

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE DRH11066-SV-2 (09/07)

Short Title: Admission Ticket Reform Act. (Public)

Sponsors: Representatives LaRoque, Guice, Tolson, and Glazier (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REFORM THE PROCESS OF TICKETING, SELLING, AND RESELLING
3 ADMISSION TICKETS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 66 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 45.

8 "Admission Ticket Sales and Resales.

9 "**§ 66-390. Definitions.**

10 As used in this Article, the following definitions apply:

- 11 (1) Admission ticket. – Any physical, electronic, or other form of a certificate,
12 document, voucher, token, or other evidence indicating that the bearer,
13 possessor, or person entitled to possession through purchase or otherwise has
14 either of the following:
15 a. A revocable or irrevocable right, privilege, or license to enter a venue
16 or occupy a particular seat or area in a venue with respect to one or
17 more events.
18 b. An entitlement to purchase such a right, privilege, or license with
19 respect to one or more future events.
20 (2) Event. – Any concert, theatrical performance, sporting event, exhibition,
21 show, or similar scheduled activity taking place in this State that meets all of
22 the following conditions:
23 a. It is open to the general public.
24 b. An admission fee is charged.
25 c. It is held in a venue accommodating more than 1,000 persons,
26 including venues for which public funding has been provided for the
27 construction, maintenance, or operation of the venue or any
28 infrastructure related thereto, or which is located on property owned
29 by a municipality or other government entity.
30 (3) On-sale date and time. – The date and time when tickets will first be made
31 available for sale to the general public, including fan clubs, businesses, and
32 for promotional activities.
33 (4) Person. – Any natural person, partnership, corporation, association, or other
34 legal entity.



- 1 (5) Public funding. – The provision, by the State, a county, municipality, or
2 other subdivision of this State, or by a local development corporation or
3 similar instrumentality whose creation was authorized by the State or by a
4 county, municipality, or other subdivision of this State, of funding, grants,
5 payments, or financial support, through or from the use of the issuance of
6 tax-exempt bonds, payments in lieu of taxes, property tax abatements,
7 lotteries, sales taxes, or levies on parking, hotels, alcohol, car rentals,
8 cigarettes, or other goods or services.
- 9 (6) Resale. – The Internet resale of an admission ticket in accordance with
10 G.S. 14-344.1. Resale does not include the initial sale of an admission ticket
11 by the ticket issuer.
- 12 (7) Ticket issuer. – Any person other than the operator of an Internet resale
13 marketplace that makes admission tickets available for initial sale, directly
14 or indirectly, to the general public, and may include the operator of a venue;
15 the sponsor or promoter of an event; a sports team participating in an event
16 or a league whose teams are participating in an event; a theater company,
17 musical group, or similar participant in an event; or an agent of any such
18 person.
- 19 (8) Venue. – Any theater, stadium, field, hall, or other facility where an event
20 takes place.

21 **"§ 66-391. Public notice obligations of ticket issuers.**

22 (a) Advance Notice Requirement. – A ticket issuer shall provide advance public notice
23 of its ticket policies for each event subject to this Article. The notice, which shall be posted
24 conspicuously on the issuer's Web site and at physical locations where tickets are issued to the
25 public, shall include the following information:

- 26 (1) Identification of the event, including the date, time, and location.
27 (2) The total number of admission tickets to be issued for the event, whether by
28 public sale or otherwise, and the number of tickets for every class, tier, or
29 level of admission offered.
- 30 (3) The total number of admission tickets to the event that will be made
31 available for purchase by members of the general public as public sale
32 tickets subject to this section, and the number of tickets for every class, tier,
33 or level of admission offered.
- 34 (4) The established price for each class, tier, or level of admission offered which
35 will be designated as public sale tickets, including the amount of any
36 premium, service charge, or other fee applicable to the sale of a ticket.
- 37 (5) The on-sale date and time.
38 (6) A complete list of the outlets at which the public sale admission tickets will
39 be made available for sale to the general public on the date and at the time
40 specified, including a list of all Internet Web sites at which such tickets will
41 be made available.

42 (b) Certification. – Each public notice of admission ticket practices under this section
43 shall be accompanied by a certification stating all of the following:

- 44 (1) That the party submitting the notice is, or is authorized to act on behalf of, a
45 ticket issuer within the meaning of this Article.
- 46 (2) That the ticket issuer is in compliance with the consumer protection
47 minimum standards set out in G.S. 66-393.
- 48 (3) That all admission tickets designated as public sale admission tickets will be
49 made available for sale to the general public as stated in the notice.
- 50 (4) That all the information contained in the notice is true and correct to the best
51 of the knowledge and belief of the party submitting the notice.

1 (c) Material False Statements. – A ticket issuer who knowingly makes a material false
2 or misleading statement, or in reckless disregard of its falsity, in connection with a public
3 notice under this section has engaged in a violation of this Article.

4 (d) Savings. – Nothing in this section shall be construed to impose any restrictions on
5 the sale or resale, or the offer to sell or to resell, any admission ticket that has not been
6 identified in a public notice as a public sale admission ticket in compliance with this section.

7 **"§ 66-392. Limits on restrictions of ticket resales.**

8 Except as otherwise provided in this Article or in G.S. 14-344.1, it is unlawful for a ticket
9 issuer to engage in any of the following activities:

10 (1) Purporting to impose license or contractual terms on the initial sale of
11 admission tickets, including by terms printed on the back of a physical
12 ticket, that prohibit the resale of the ticket or that restrict the price or other
13 terms and conditions under which a ticket may be resold or transferred.

14 (2) Requiring the purchaser of a ticket, whether for a single event or for a series
15 or season of events, to agree not to resell the ticket, or to resell the ticket
16 only through a specific channel approved by the ticket issuer.

17 (3) Bringing legal action, based on an unlawful prohibition or restriction on
18 resale of an admission ticket, against any of the following:

19 a. A purchaser who resells or offers to resell an admission ticket
20 without permission of the ticket issuer, or in violation of a restriction
21 purportedly imposed by the ticket issuer.

22 b. Persons who facilitate or provide services for the resale of admission
23 tickets without such permission or in alleged violation of such a
24 restriction.

25 c. The operator of a physical or electronic marketplace in which a ticket
26 is offered for resale without permission or in alleged violation of a
27 restriction.

28 (4) Imposing any penalty on a ticket purchaser who resells or offers to resell a
29 ticket without permission or in violation of a restriction purportedly imposed
30 by the ticket issuer, or treating such a purchaser in any material way less
31 favorably than a similarly situated purchaser who does not resell or offer to
32 resell an admission ticket, or who complies with resale restrictions
33 purportedly imposed by the ticket issuer.

34 (5) Employing technological means for the purpose or with the foreseeable
35 effect of prohibiting or restricting the resale of admission tickets, including,
36 but not limited to, issuing admission tickets in an electronic form that is not
37 readily transferable to a subsequent purchaser, or conditioning entry into the
38 venue on presentation of a token, such as the original purchaser's credit card
39 or state-issued identification card, that cannot be readily transferred to a
40 subsequent purchaser.

41 (6) Seeking to limit or restrict the price, or to impose a minimum or maximum
42 price, at which an admission ticket may be resold.

43 **"§ 66-393. Consumer protection minimum standards.**

44 (a) Scope. – This section applies to a person engaged in any of the trades or businesses
45 listed in this subsection. A person who resells 120 admission tickets or less in any 12-month
46 period is not considered to be engaged in the trade or business of reselling admission tickets for
47 purposes of this section. The trades or businesses are any of the following:

48 (1) Acting as a ticket issuer.

49 (2) Engaging in the resale of admission tickets.

50 (3) Providing a physical or electronic marketplace for the sale or resale of
51 admission tickets by other persons.

1 **(b) Minimum Standards.** – A person who is subject to the provisions of this section
2 must comply with the following consumer protection minimum standards:

3 **(1) Maintain a toll-free telephone number for the handling of customer issues**
4 regarding the sale or resale of admission tickets.

5 **(2) Implement and reasonably publicize a standard refund policy that meets the**
6 minimum standards stated in subsection (c) of this section.

7 **(c) Refund Policy.** – A refund policy for the resale of admission tickets shall meet all of
8 the following requirements:

9 **(1) Provide a consumer who purchases an admission ticket a full refund if any**
10 of the following apply:

11 a. Event is cancelled before the scheduled occurrence of the event, and
12 is not rescheduled.

13 b. Admission ticket received by the purchaser is counterfeit.

14 c. Admission ticket has been cancelled by the ticket issuer for
15 nonpayment by the original purchaser, or for any reason other than
16 an act or omission of the consumer.

17 d. Admission ticket materially and to the detriment of the consumer
18 fails to conform to the description provided by the seller or reseller.

19 e. Admission ticket was not delivered to the consumer prior to the
20 occurrence of the event, unless such failure of delivery was due to
21 any act or omission of the consumer.

22 **(2) Include in a full refund the full price paid by the consumer for the admission**
23 ticket, together with any fees charged in connection with that purchase,
24 including, but not limited to, convenience fees, processing fees, at-home
25 printing charges, shipping and handling charges, or delivery fees.

26 **(3) May condition entitlement to a refund upon timely return of the ticket**
27 purchased, and may include reasonable safeguards against abuse of the
28 policy.

29 **(d) Construction.** – Nothing in this section shall be construed to prohibit a person
30 subject to this section from implementing consumer protection policies that exceed the
31 minimum standards set forth in this section and that are otherwise compliant with this Article.

32 **"§ 66-394. Enforcement.**

33 **(a) Civil Action.** – The Department of Justice may bring a civil action in a court of this
34 State for enforcement of any violation of this Article in the same manner, by the same means,
35 and with the same jurisdiction, powers, and duties, as apply to that office in its enforcement of
36 other laws of this State for the protection of consumers or for the prevention of unfair or
37 deceptive acts or practices.

38 **(b) Remedies.** – The Department of Justice may seek any of the following remedies in a
39 civil action brought under this section:

40 **(1) Injunction to prevent further violation of this Article by the defendant.**

41 **(2) Damages on behalf of residents of the State in an amount equal to the greater**
42 of the following:

43 a. The actual monetary loss suffered by such residents.

44 b. The amount determined under subsection (c) of this section.

45 **(c) Statutory Damages.** – The amount determined under this subsection is calculated by
46 multiplying the number of violations by up to one hundred dollars (\$100.00). Each ticket sold,
47 resold, or offered for sale or resale in violation of this Article is a separate violation.

48 **(1) Limitation.** – For any violation of this Article with respect to any one event,
49 the amount determined under this subsection may not exceed one hundred
50 thousand dollars (\$100,000).

1 (2) Aggravated damages. – Notwithstanding any other provision of this
2 subsection, the court may increase a damage award to an amount equal to
3 not more than three times the amount otherwise available under this
4 subsection if the defendant was previously found to have violated this
5 Article in a civil action.

6 (d) Attorneys' Fees. – In the case of any successful action under this section, the court
7 may, in its discretion, award the costs of the action and reasonable attorneys' fees to the State.

8 (e) Construction. – Nothing in this Article shall be construed to prevent the Department
9 of Justice from exercising the powers conferred upon it by the laws of this State to do any of
10 the following:

11 (1) Conduct investigations.

12 (2) Administer oaths or affirmations.

13 (3) Compel the attendance of witnesses or the production of documentary and
14 other evidence.

15 (f) Statute of Limitations. – No action may be brought under this section unless the
16 action is begun within two years of the date of the act complained of.

17 **"§ 66-395. Exceptions.**

18 Nothing in this Article shall be interpreted to invalidate restrictions on the resale of tickets
19 imposed by any of the following:

20 (1) Sponsors or promoters of events intended solely to benefit charitable
21 endeavors, for which all tickets are distributed free of charge.

22 (2) Not-for-profit educational institutions, with respect to athletic events
23 involving athletes or teams of such institutions, to the extent that such
24 restrictions apply to tickets initially distributed by the institution to any of
25 the following:

26 a. Students, faculty, staff members, or alumni without charge.

27 b. Members of bona fide booster organizations consisting of those
28 making substantial financial contributions to the institution.

29 **"§ 66-396. Preemption and savings.**

30 (a) This Article preempts and supersedes any local ordinance or resolution that purports
31 to do any of the following:

32 (1) Limit the price at which an admission ticket may be resold.

33 (2) Impose any other restriction on the resale of admission tickets inconsistent
34 with this Article.

35 (3) Permit any action prohibited by this Article, but only to the extent of such
36 inconsistency.

37 (b) Savings. – No law of this State or local ordinance or resolution shall be treated as
38 inconsistent with this Article, to the extent that it does any of the following:

39 (1) Regulates or prohibits the sale or resale of admission tickets based on
40 proximity of the sites of sale to the location of a venue, or in a manner that
41 constitutes disorderly conduct or breach of the peace.

42 (2) Empowers the operator of a venue or its agent to deny admission to any
43 person, or to eject any person from an event, in order to preserve public
44 safety or order, or to prevent or restrict the admission of minors.

45 (3) Prohibits fraud, deception, or similar practices in connection with the sale or
46 resale of tickets, or prohibits the sale or resale of counterfeit tickets.

47 (4) Treats a ticket as a license for any purpose other than the prohibition or
48 restriction of resale.

49 (5) Regulates the initial sale of admission tickets by limiting the number of
50 tickets that may be purchased from a ticket issuer by a single person.

1 (6) Prohibits the intentional circumvention of technological means employed by
2 ticket issuers to enforce limitations on the number of admission tickets that
3 may be purchased from a ticket issuer by a single person, or the sale or
4 distribution of devices, computer programs, or other tools for the purpose of
5 such circumvention."

6 **SECTION 2.** G.S. 1-53 reads as rewritten:

7 **"§ 1-53. Two years.**

8 Within two years -

- 9 (1) An action against a local unit of government upon a contract, obligation or
10 liability arising out of a contract, express or implied. Unless otherwise
11 provided by law, if the preceding sentence of this subsection would bar
12 commencement of a cause of action arising out of a contract to improve real
13 property: (i) such an action may be brought no later than 90 days after
14 substantial completion, provided proper notice of the claim has been given if
15 required by contract, or (ii) if prior to substantial completion the contract
16 was terminated by either party, such an action may be brought no later than
17 90 days after the date of termination of the contract. As used in this
18 subdivision, "substantial completion" has the same meaning as in
19 G.S. 1-50(a)(5)c. This subdivision shall not apply to actions based upon
20 bonds, notes and interest coupons or when a different period of limitation is
21 prescribed by this Article.
- 22 (2) An action to recover the penalty for usury, including an action regarding the
23 financing of usurious points, usurious fees, or other usurious charges; the
24 two-year period shall accrue with each payment made and accepted on the
25 loan.
- 26 (3) The forfeiture of all interest for usury.
- 27 (4) Actions for damages on account of the death of a person caused by the
28 wrongful act, neglect or fault of another under G.S. 28A-18-2; the cause of
29 action shall not accrue until the date of death. Provided that, whenever the
30 decedent would have been barred, had he lived, from bringing an action for
31 bodily harm because of the provisions of G.S. 1-15(c) or 1-52(16), no action
32 for his death may be brought.
- 33 (5) An action under G.S. 66-394 relating to the sale or resale of admission
34 tickets."

35 **SECTION 3.** G.S. 14-344.1 reads as rewritten:

36 **"§ 14-344.1. Internet sale of admission tickets in excess of printed price.**

37 (a) Internet Resale. – A person may resell an admission ticket under this section on the
38 Internet at a price greater than the price on the face of the ticket only if all of the following
39 conditions are met:

- 40 (1) The venue where the event will occur has not prohibited the Internet ticket
41 resale as provided under subsection (b) of this section.
- 42 (2) The person reselling the ticket offers the ticket for resale on a Web site with
43 a ticket guarantee that meets the requirements of subsection (c) of this
44 section. A prospective purchaser must be directed to the guarantee before
45 completion of the resale transaction.
- 46 (3) The person reselling the ticket collects and remits to the State the privilege
47 tax in accordance with G.S. 105-37.1.

48 (b) Resale Prohibited. – The venue where an event will occur may prohibit the resale of
49 admission tickets for the event at a price greater than the price on the face of the ticket. To
50 prohibit the resale of tickets under this section, the venue must file a notice of prohibition of the
51 resale of admission tickets for a specified event with the Secretary of State and must post the

1 notice of prohibition conspicuously on its Web site. The primary ticket seller for the event must
2 also post the notice conspicuously on its Web site. A prohibition under this subsection may not
3 become valid until 30 days after the notice is posted on the venue's Web site. The prohibition
4 expires on December 31 of each year unless the prohibition is renewed. To renew a prohibition,
5 a venue must renew its notice of prohibition filed with the Secretary of State and must post the
6 notice as required under this subsection. A venue who files a notice of prohibition must pay a
7 fee in the amount set in G.S. 55-1-22 for filing articles of incorporation. A venue that renews a
8 notice of prohibition must pay a fee in the amount set in G.S. 55-1-22 for filing a paper annual
9 report.

10 (c) Ticket Guarantee. – A person who resells or offers to resell admission tickets under
11 this section must comply with the requirements of G.S. 66-393. ~~guarantee to the purchaser a full~~
12 ~~refund of the amount paid for the ticket under each of the following conditions:~~

- 13 (1) ~~The ticketed event is cancelled. Reasonable handling and delivery fees may~~
14 ~~be withheld from the refund price of a cancelled ticketed event if the ticket~~
15 ~~guarantee on the Web site specifically informs the purchaser that handling~~
16 ~~and delivery fees will be withheld from the refunded amount.~~
17 (2) ~~The purchaser is denied admission to the ticketed event. This subdivision~~
18 ~~does not apply if admission to the ticketed event is denied to the purchaser~~
19 ~~because of an action or omission of the purchaser.~~
20 (3) ~~The ticket is not delivered to the purchaser in the manner described on the~~
21 ~~Web site or pursuant to the delivery guarantee made by the reseller, and the~~
22 ~~failure results in the purchaser's inability to attend the ticketed event.~~

23 (d) Student and Charitable Tickets. – This section does not apply to ~~student admission~~
24 ~~tickets issued by institutions of higher education in North Carolina for sporting events~~.
25 restricted under G.S. 66-395.

26 (e) Repealed by Session Laws 2010-31, s. 31.7(c), effective June 30, 2010."

27 **SECTION 4.** This act becomes effective January 1, 2012, and applies to the sale or
28 resale of admission tickets on or after that date.