

REPEAL BAN ON TICKET RESALE

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House Bill 4224 (H-1) as adopted by committee

Sponsor: Rep. Tim Kelly

Committee: Commerce and Trade

Complete to 9-24-18

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY:

House Bill 4224 would amend the Michigan Penal Code to do all of the following:

- Eliminate the current ban on reselling a ticket for an event at a price higher than face value without the express permission of the event's venue.
- Prohibit the use, distribution, or possession with intent to distribute of software designed to interfere with the ticket sale operations of an event venue.
- Prohibit the use of certain website domain or subdomain names for a ticket website.
- Increase the penalty for an event venue that fails to comply with certain ticket printing requirements.

DETAILED SUMMARY:

House Bill 4224 would eliminate the prohibition on the resale of tickets at above face value. Specifically, the bill would delete a provision that prohibits a venue or a ticketholder from selling a ticket to an event at a theatre, circus, athletic game, or place of public entertainment or amusement at a price in excess of the advertised general admission price unless the venue's owner or manager permitted the excess charge in writing.

Also eliminated would be:

- A provision prohibiting a person from establishing an agency or suboffice for the sale of a seat ticket to a theatre, circus, athletic grounds, or place of public entertainment or amusement at a price greater than at the box office of the venue for that ticket.
- A provision making the owner or manager of a venue who allowed a person to sell tickets on the grounds of that venue for an inflated price other than lawfully allowed as liable and guilty as the person selling the tickets.
- A provision prohibiting a person from selling a nontransferable ticket that contains the name of the person who originally bought the ticket.

The bill would add a provision to prohibit a person from knowingly selling, distributing, using, or possessing with intent to distribute software intended to interfere with the ticket sale operations of a theatre, circus, athletic grounds, or place of public entertainment or amusement over the internet by circumventing any measures on the seller's website that are instituted to ensure an equitable sales process.

The bill would also prohibit the owner or operator of a *ticket website* for an event scheduled at a *venue* in Michigan from using a domain or subdomain name in the ticket website's URL that contains, or is substantially similar to, either of the following:

- All or part of the name of the venue.
- All or part of the name of the event, including the name of a person or entity scheduled to perform or appear at the event.

Ticket website would mean a website advertising or offering the sale of tickets or facilitating a secondary ticket exchange.

Venue would include a sports venue, concert venue, theatrical venue, convention center, fairgrounds, public assembly facility, or mass gathering location.

However, the above prohibition would not apply to an owner or operator of a ticket website who is acting on behalf of the venue.

Under current law, a violation of this section of the Penal Code is a misdemeanor, but no specific penalty is listed. In such a case, the default penalty is a maximum term of imprisonment of 90 days and/or a fine of up to \$500.

The bill would retain the misdemeanor classification and the maximum fine amount of \$500, but would increase the maximum term of imprisonment to 93 days.

This increased penalty would also apply to a provision of current law, which the bill would retain, that requires each ticket to be printed with certain specified information such as ticket price, seat number, and ticket surcharge, if any.

MCL 750.465

FISCAL IMPACT:

Retaining the requirement that certain information be printed on tickets, and increasing the maximum jail time for noncompliance, could result in future misdemeanor convictions, as could the new prohibitions regarding sale-interference software and acceptable domain and subdomain names. Future convictions could increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries.

In addition, the bill would likely have no significant fiscal impact on state and local law enforcement agencies. The Michigan State Police does not have data on the number of arrests for violating any facets of MCL 750.465, suggesting that any such violations (where the law is enforced) might have been written under local ordinance rather than state law or under other related laws, such as those for disorderly conduct. Anecdotally, it does not

appear that the prohibition against selling tickets for higher than face value (especially in cases where the tickets are initially obtained through legitimate means) is enforced to any great degree. Such sale of tickets obtained through illegitimate means (i.e., stolen) would still involve an illegal act and could still be prosecuted under separate statutory provisions.

The bill also increases the penalties for violating the section to a 93-day misdemeanor. This change would trigger certain fingerprinting requirements under 1925 PA 289 (MCL 28.243), requiring fingerprints and other biometric data to be taken by local law enforcement and forwarded to the Michigan State Police. Those data are then forwarded by MSP to the FBI. This provision would likely have no material fiscal impact on MSP. As noted above, MSP does not have any records of violations of MCL 750.465.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.