

Legislative Analysis



TICKET SALES AND RESALES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 384 as reported from House committee
Sponsor: Sen. Erika Geiss

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

Senate Bill 385 (H-1) as reported from House committee
Sponsor: Sen. Tom Barrett

House Committee: Judiciary
Senate Committee: Judiciary and Public Safety
Complete to 9-22-20

(Enacted as Public Acts 175 and 176 of 2020)

SUMMARY:

Senate Bills 384 and 385 would together amend the Michigan Penal Code to eliminate the ban on reselling an event ticket at a price above face value and to make other changes concerning ticket sales and resales. Senate Bill 385 would add and amend substantive provisions, and Senate Bill 384 would add definitions for terms used in the other bill. Senate Bill 385 would 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.
- Require ticket sellers to possess or control a ticket for the resale of that ticket.
- Increase the penalty for violation of the relevant section of the code.

Eliminated provisions

Senate Bill 385 would eliminate the prohibition on the resale of tickets at above face value. Specifically, the bill would delete a provision that now 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 that exceeds 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 prohibition a person from selling a nontransferable ticket if the name of the person who originally bought the ticket is printed on the ticket or if that person is registered with the venue office as the ticket holder.

Prohibited software

Senate Bill 385 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 enforce event ticket purchasing limits or to maintain the integrity of online purchasing order rules.

Ticket websites and sellers

Senate Bill 385 also would prohibit the owner or operator of a *ticket website* for an event scheduled at a *venue* in Michigan from using an *internet domain name* or subdomain name in the ticket website's *URL* that contains, or is substantially similar to, either of the following:

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

However, the above prohibition would not apply to an owner or operator of a ticket website who is acting on behalf of the venue, event, person, or entity scheduled to perform or appear at the event.

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

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

Internet domain name would mean a globally unique, hierarchical reference to an internet host or server, which is assigned through a centralized internet naming authority, and which is composed of a series of character strings separated by periods with the rightmost string specifying the top of the hierarchy.

URL would mean the uniform resource locator for a website on the internet.

Finally, the bill would prohibit a person from making a ticket available for sale that is not in his or her possession or control.

Penalties and remedies

Currently, a violation of section 465 of the Penal Code is a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$500, or both.

Senate Bill 385 would make violation of section 465 a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$1,000, or both. In addition to the provisions described above, this increased penalty would also apply to a provision of current law that requires each ticket to be printed with certain specified information such as ticket price, seat number, and ticket surcharge, if any.

The bill states that it would not alter or affect the remedies available for unfair, unconscionable, or deceptive methods, acts, or practices related to the sale of tickets under the Michigan Consumer Protection Act or for untrue, deceptive, or misleading advertising of tickets under the Michigan Shopping Reform and Modernization Act.

Severability and effectiveness

Senate Bill 385 would declare the act to be severable. (All Michigan laws are severable under section 5 of 1846 RS 1.) Severability means that if a court finds any part of a law or its application to be invalid, that finding does not affect the validity of the rest of the law.

The bills are tie-barred to one another, which means that neither could take effect unless both were enacted.

Each bill would take effect 90 days after its date of enactment.

MCL 750.465 (SB 385)
Proposed MCL 750.464b (SB 384)

HOUSE COMMITTEE ACTION:

The House Judiciary committee reported an H-1 substitute to SB 385, which eliminated certain ticket seller contractual stipulations, including refund requirements, and replaced them with a prohibition on the sale of a ticket not in a seller's possession or control. The substitute also added references to current remedies provided under law and a severability clause.

FISCAL IMPACT:

The number of convictions that would result under provisions of Senate Bill 385 is not known. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The cost of local incarceration in a county jail and local misdemeanor probation supervision, and how those costs are financed, 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 revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Senate Bill 384 would have no fiscal impact on the state or on local units of government.

POSITIONS:

Representatives of the following entities testified in support of the bills (9-9-20):

- Stub Hub
- Sports Fans Coalition
- Fan Freedom
- Net Choice

The National Consumers League indicated support for Senate Bill 385. (9-9-20)

A representative of Vivid Seats testified with a neutral position on the bills. (9-9-20)

Live Nation indicated opposition to Senate Bill 385. (9-9-20)

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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.