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Senate Bills 384 and 385 (as enacted)

**PUBLIC ACTS 175 & 176 of 2020**

Sponsor: Senator Erika Geiss (S.B. 384)

Senator Tom Barrett (S.B. 385)

Senate Committee: Economic and Small Business Development

House Committee: Commerce and Tourism

Judiciary

Date Completed: 2-9-21

**CONTENT**

**Senate Bill 385** amended Chapter 68 (Public Exhibitions and Entertainment) of the Michigan Penal Code to do the following:

- Delete various provisions pertaining to the prohibition of the sale of tickets for admission to a theatre, circus, athletic game, or place of public entertainment or amusement at prices greater than what are printed on the tickets.
- Delete a misdemeanor penalty for violating the provisions described above.
- Prohibit a person from knowingly selling, giving, transferring, using, distributing, or possessing with the intent to distribute software that is primarily designed or produced for the purpose of interfering with the ticket sale operations.
- Prohibit a person owning, operating, or controlling a ticket website for an event scheduled at a venue in Michigan from using an internet domain name or subdomain thereof in the ticket website's URL (uniform resource locator) that contains certain information.
- Prohibit a person from making available for sale a ticket that is not in his or her possession or control.
- Specify that a person who violates the bill is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a maximum fine of \$1,000, or both.

**Senate Bill 384** amended Chapter 68 of the Michigan Penal Code to create definitions for terms used in Senate Bill 385.

The bills took effect December 30, 2020.

**Senate Bill 385**

Previously, under the Penal Code, a person owning, occupying, managing, or controlling a building, room, park, or enclosure for the sale of tickets for a theatre, circus, athletic game, or place of public entertainment or amusement, who asked, demanded, or received from a person for the sale of the ticket to that event or place, a price in excess of that demanded or received from the general public for the same privilege, or in excess of the advertised or printed rate, had to be punished as provided in the Code, unless the request, demand, or

receipt was with the written permission of the owner, lessee, operator, or manager of that place where the event occurred.

The Code prohibited a person from establishing an agency or suboffice for the sale of a seat ticket of admission to those places at a price greater than the sale of a seat ticket at the box office of those places, or in excess of the advertised price of the seat ticket.

Except as otherwise provided, the owner, lessee, operator, or occupant of a building, room, enclosure, or other place open to the public, who permitted a person to sell or exhibit for sale in the building, room, enclosure, or other place open to the public, one or more tickets for a theatre, circus, athletic grounds, or place of public entertainment or amusement, for more than the price printed on the ticket, also was liable and guilty.

If the owner, lessee, operator, or manager of a circus, theatre, athletic grounds, or place of public entertainment or amusement had sold a ticket or admission to a person, under restrictive conditions and at a rate less than the general admission charged, and whose name appeared on the face of the ticket or was registered in the office of the owner, lessee, operator, or managers as the holder of the ticket and if it was printed on the face of the ticket that the ticket was nontransferable and sold only to the person whose name appeared on the face of the ticket or was registered, the ticket holder could not sell it to another person. A person who sold the ticket had to be punished as provided in the Code.

A person who violated these provisions was guilty of a misdemeanor.

The bill deleted these provisions.

#### Software; Ticket Interference

Under the bill, a person may not knowingly sell, give, transfer, use, distribute, or possess with the intent to distribute software that is primarily designed or produced for the purpose of interfering with the ticket sale operations of any owner, lessee, operator, or manager of a theatre, circus, athletic grounds, or place of public entertainment or amusement over the internet by circumventing any measures or controls on the seller's website that are instituted to enforce event ticket purchasing limits or to maintain the integrity of online purchasing order rules.

#### Internet Domain Name; Ticket Website

Except as otherwise provided, a person owning, operating, or controlling a ticket website for an event scheduled at a venue in Michigan may not use an internet domain name or subdomain thereof in the ticket website's URL that contains any 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.
- A name substantially similar to those described above.

This does not apply if the person is acting on behalf of the venue, event, person, or entity scheduled to perform or appear at the event.

#### Sale of Tickets

A person may not make available for sale a ticket that is not in his or her possession or control.

The bill specifies that it does 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 Protections Act or for untrue, deceptive, or misleading advertising of tickets under the Michigan Shopping Reform and Modernization Act.

#### Penalty and Applicability

Under the bill, if any provision of the Act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and, to this end, the provisions of the Act are severable.

A person who violates the bill is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000, or both.

#### **Senate Bill 384**

Under the bill, "ticket website" means a website advertising the sale of tickets, offering the sale of tickets, or facilitating a secondary ticket exchange. "Venue" includes a sports venue, concert venue, theatrical venue, club, convention center, fairgrounds, public assembly facility, or mass gathering location. "Internet domain name" means 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. The bill defines "URL" to mean the uniform resource locator for a website on the internet.

Proposed MCL 750.464b (S.B. 384)  
MCL 750.465 (S.B. 385)

Legislative Analyst: Tyler VanHuyse

#### **FISCAL IMPACT**

#### **Senate Bill 384**

The bill will have no fiscal impact on State or local government.

#### **Senate Bill 385**

The bill will have a negative fiscal impact on State and local government. New misdemeanor arrests and convictions under the bill may increase resource demands on law enforcement, court systems, community supervision, and jails. It is unknown, however, how many people will be prosecuted under the bill's provisions. Any additional revenue from imposed fines will go to local libraries.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.