

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL 1407  
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Short Title: Resale of Tickets via Internet.

(Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO PROTECT CUSTOMERS WHEN PURCHASING TICKETS VIA THE INTERNET, TO PROHIBIT THE USE OF SOFTWARE TO UNFAIRLY PURCHASE TICKETS OVER THE INTERNET, AND TO IMPOSE A PRIVILEGE TAX ON THE INTERNET SALES OF TICKETS IN EXCESS OF THE PRINTED PRICE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 44 of Chapter 14 of the General Statutes is amended by adding a new section to read:

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

(a) Internet Resale. – A person may resell an admission ticket under this section on the Internet at a price greater than the price on the face of the ticket unless the venue where the event will occur prohibits the Internet ticket resale as provided under subsection (b) of this section. To resell an admission ticket under this section, the person reselling the ticket must offer the ticket for resale on a Web site with a ticket guarantee that meets the requirements of subsection (c) of this section. A prospective purchaser must be directed to the guarantee before completion of the resale transaction. A person who resells an admission ticket under this section acknowledges liability for the tax under G.S. 105-37.1.

(b) Resale Prohibited. – The venue where an event will occur may prohibit the resale of admission tickets for the event at a price greater than the price on the face of the ticket. To prohibit the resale of tickets under this section, the venue must post notice of the prohibition conspicuously on its Web site, and the primary ticket seller for the event must post the notice conspicuously on its Web site. A prohibition under this subsection may not become valid until 30 days after the notice is posted on the Web

1 site. The prohibition expires on December 31 of each year unless the prohibition is  
2 renewed in accordance with this subsection.

3 (c) Ticket Guarantee. – A person who resells or offers to resell admission tickets  
4 under this section must guarantee to the purchaser a full refund of the amount paid for  
5 the ticket under each of the following conditions:

6 (1) The ticketed event is cancelled. Reasonable handling and delivery fees  
7 may be withheld from the refund price of a cancelled ticketed event if  
8 the ticket guarantee on the Web site specifically informs the purchaser  
9 that handling and delivery fees will be withheld from the refunded  
10 amount.

11 (2) The purchaser is denied admission to the ticketed event. This  
12 subdivision does not apply if admission to the ticketed event is denied  
13 to the purchaser because of an action or omission of the purchaser.

14 (3) The ticket is not delivered to the purchaser in the manner described on  
15 the Web site or pursuant to the delivery guarantee made by the reseller,  
16 and the failure results in the purchaser's inability to attend the ticketed  
17 event.

18 (d) Student Tickets. – This section does not apply to student tickets issued by  
19 institutions of higher education in North Carolina for sporting events."

20 **SECTION 2.** Article 44 of Chapter 14 of the General Statutes is amended by  
21 adding a new section to read:

22 **"§ 14-344.2. Prohibition on ticket purchasing software.**

23 (a) Definition. – The term 'ticket seller' means a person who has executed a  
24 written agreement with the management of any venue in North Carolina for a sporting  
25 event, theater, musical performance, or public entertainment of any kind to sell tickets  
26 to the event over the Internet.

27 (b) Unfair Trade Practice. – A person who knowingly sells, gives, transfers, uses,  
28 distributes, or possesses software that is primarily designed or produced for the purpose  
29 of interfering with the operation of a ticket seller who sells, over the Internet, tickets of  
30 admission to a sporting event, theater, musical performance, or public entertainment of  
31 any kind by circumventing any security measures on the ticket seller's Web site,  
32 circumventing any access control systems of the ticket seller's Web site, circumventing  
33 any access control solutions of the ticket seller's Web site, or circumventing any  
34 controls or measures that are instituted by the ticket seller on its Web site to ensure an  
35 equitable ticket buying process shall be in violation of G.S. 75-1.1. The ticket seller and  
36 venue hosting the ticketed event have standing to bring a private right of action under  
37 G.S. 75-1.1 for violation of this section.

38 (c) Original Ticket Seller. – A person or firm is not liable under this section with  
39 respect to tickets for which the person or firm is the original ticket seller."

40 **SECTION 3.** G.S. 14-344 reads as rewritten:

41 **"§ 14-344. Sale of admission tickets in excess of printed price.**

42 Any person, firm, or corporation shall be allowed to add a reasonable service fee to  
43 the face value of the tickets sold, and the person, firm, or corporation which sells or  
44 resells such tickets shall not be permitted to recoup funds greater than the combined

1 face value of the ticket, tax, and the authorized service fee. This service fee may not  
2 exceed three dollars (\$3.00) for each ticket except that a promoter or operator of the  
3 property where the event is to be held and a ticket sales agency may agree in writing on  
4 a reasonable service fee greater than three dollars (\$3.00) for the first sale of tickets by  
5 the ticket sales agent. This service fee may be a pre-established amount per ticket or a  
6 percentage of each ticket. The existence of the service fee shall be made known to the  
7 public by printing or writing the amount of the fee on the tickets which are printed for  
8 the event. Any person, firm or corporation which sells or offers to sell a ticket for a  
9 price greater than the price permitted by this section or as permitted by G.S. 14-344.1  
10 shall be guilty of a Class 2 misdemeanor."

11 **SECTION 4.** G.S. 105-37.1 reads as rewritten:

12 "**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

13 (a) Scope. – A privilege tax is imposed on the gross receipts of a person who is  
14 engaged in any of the following:

- 15 (1) Giving, offering, or managing a dance or an athletic contest for which  
16 an admission fee in excess of fifty cents (50¢) is charged.
- 17 (2) Giving, offering, or managing a form of amusement or entertainment  
18 that is not taxed by another provision of this Article and for which an  
19 admission fee is charged.
- 20 (3) Exhibiting a performance, show, or exhibition, such as a circus or dog  
21 show, that is not taxed by another provision of this Article.
- 22 (4) Reselling or offering to resell admission tickets on the Internet under  
23 G.S. 14-344.1.

24 (b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the  
25 gross receipts from the activities described in subsection (a) of this section. For taxes  
26 imposed under subdivision (a)(4) of this section, gross receipts exclude the price printed  
27 on the face of the ticket. The tax is due when a return is due. A return is due by the 10th  
28 day after the end of each month and covers the gross receipts received during the  
29 previous month.

30 (c) Advance Report. – A person who owns or controls a performance, show, or  
31 exhibition subject to the tax imposed by this section and who plans to bring the  
32 performance to this State from outside the State must file a statement with the Secretary  
33 that lists the dates, times, and places of the performance, show, or exhibition. The  
34 statement must be filed no less than five days before the first performance, show, or  
35 exhibition in this State.

36 (d) Local Taxes. – Cities may levy a license tax on a person taxed under  
37 subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five  
38 dollars (\$25.00). Cities may levy a license tax on a person taxed under subdivision  
39 (a)(3) of this section; however, the tax may not exceed twenty-five dollars (\$25.00) for  
40 each day or part of a day the performance, show, or exhibition is given at each location.

41 Counties may not levy a license tax on a person taxed under subdivision (a)(1) or  
42 (a)(2) of this section. Counties may levy a license tax on a person taxed under  
43 subdivision (a)(3) to the same extent as a city."

1                   **SECTION 5.** This act becomes effective August 1, 2008. Section 3 of this  
2 act applies to offenses committed on or after that date.