

LEGISLATIVE RESEARCH UNIT

PATRICK D. O'GRADY, EXECUTIVE DIRECTOR

April 3, 2008

LAWS ON TICKET RESELLERS

Your district office asked whether other states have laws to prohibit ticket resellers from buying large blocks of tickets for resale at higher prices. We used information provided by the National Conference of State Legislatures and Connecticut's Office of Legislative Research, and searched the laws of the states in our 18-state survey list (the 10 most populous states other than Illinois; neighboring states; and regional representatives)¹ by computer.² None of these laws appears to ban buying of large blocks of tickets; an approach used more often is banning their resale for more than the prices printed on them. We describe below what we found, starting with a summary of an Illinois law. The final section of this letter describes some economic analyses of reasons for the existence of a ticket resale industry.

Illinois

The Ticket Sale and Resale Act imposes a general prohibition on charging more for a ticket than the price shown on it—which it says “shall correspond with the same price shown at the box office or the office of original distribution.”³ But that general prohibition has numerous and complex exceptions, which we summarize on the following pages.

- A ticket seller, with the consent of an event's sponsor, may add to the printed ticket price a “reasonable service charge . . . in return for service actually rendered.”⁴ The phrase “for service actually rendered” presumably applies to acts such as transmitting tickets to buyers, accepting payment by credit card, and the like.

LRU

- Tickets to several kinds of events may be resold for more than their printed prices by a "ticket broker" that registers with the Secretary of State and meets standards stated in the Act. Those standards require that the broker, among other things,
 - (a) engage in the regular and continuing resale of tickets from at least one permanent location in Illinois;
 - (b) have such resales as its principal business activity at each such location;
 - (c) maintain a toll-free telephone number dedicated to Illinois for taking complaints and inquiries;
 - (d) have a "standard refund policy" and provides refunds, when due, without charge except "reasonable delivery fees for the return of the tickets";
 - (e) have adopted a procedure for binding resolution of complaints by a disinterested third party and submits to the jurisdiction of Illinois; and
 - (f) have a rebate fund with over \$100,000 available for immediate disbursement to satisfy valid complaints.⁵

In lieu of meeting those requirements, a ticket broker can certify its membership in a professional association that is organized or authorized to conduct business in Illinois; had existed at least 3 years before the broker registered with the Secretary of State; and is "specifically dedicated . . . to provide and maintain the consumer protection requirements" just summarized.⁶

A ticket broker may not sell tickets while sitting or standing near the facility where the event is to take place, except on property that the broker owns, leases, or has permission to occupy.⁷ A broker must comply with the Retailers' Occupation (sales) Tax Act and other applicable tax laws.⁸ An advertisement by a ticket broker of tickets for resale in Illinois must give the broker's name and registration number.⁹

- A reseller may resell tickets to events for more than their printed prices through an Internet auction listing service that is registered with the Department of Financial and Professional Regulation under the Auction License Act, and with the Secretary of State under this Act, if the operator of that service meets standards stated in the Act.¹⁰ Those standards require that the operator, among other things,
 - (a) maintain a listing of its corporate officers' names and addresses;

- (b) comply with all federal, state, and local laws relating to ticket selling, and its officers and directors not have been convicted of violating the Act in the last 12 months;
 - (c) provide a toll-free number for complaints;
 - (d) have a "standard refund policy" and provide a full refund (including fees—except for delivery if so stated in the guarantee) if an event is cancelled; the ticket is invalid; the ticket does not match its description on the Internet auction listing service; or the buyer did not receive the ticket;
 - (e) adopt a procedure for complaint resolution by a disinterested third party, which requires resellers and buyers to submit to the jurisdiction of Illinois courts regarding events held in Illinois;
 - (f) do one of the following: (i) comply with the Retailers' Occupation Tax Act and collect all federal, state, and local taxes that apply; or (ii) post a notice on the Web site, informing ticket resellers that they may have a legal obligation to pay any local amusement tax in connection with their sales of tickets, and disclose to tax or law enforcement officials, on request, information on any identified reseller or buyer; and
 - (g) either (i) have a rebate fund with over \$100,000 available for immediate disbursement, or (ii) have "errors and omissions" insurance providing at least \$100,000 in coverage, and file the policy with the Department of Financial and Professional Regulation.¹¹
- Resellers may sell tickets through a Web site at prices above those printed on them and charged at the box office, if the Web site's operator meets requirements (a) through (g) just listed, and also
- (h) has a street address in Illinois, and conspicuously posts it on the site;
 - (i) is registered with the Secretary of State; and
 - (j) has a toll-free number for complaints and inquiries about ticket resales through the Web site.¹²

The Act also has an exemption for resale of tickets at auction for charitable purposes by a nonprofit organization.¹³

Violating the ban on selling tickets for more than face amount (when not within an exception described above) is a Class A misdemeanor.¹⁴ Such misdemeanors are usually punishable by up

to 364 days in jail and/or a fine up to \$2,500,¹⁵ but the Act allows a fine up to \$5,000.¹⁶

Other States' Laws

A researcher at the National Conference of State Legislatures sent us some summary information updating a 2006 Connecticut Office of Legislative Research report.¹⁷ The report said that 14 of the 18 states in our survey list have laws prohibiting or restricting the resale of tickets for more than the prices printed on them—although some of those states allow brokers to sell tickets above printed prices. We summarize these laws below based on our examination of them.

Arizona

No person may sell any ticket for a theatrical production, concert, sporting event, or other entertainment event at a price higher than is printed on the ticket while within 200 feet of an entrance to the event location or a contiguous parking area. Violation is a petty offense.¹⁸

California

Reselling tickets, without written permission from the event property owner, at a price exceeding that printed on the ticket while on the grounds of or in the stadium, arena, theater, or other event location, is a misdemeanor.¹⁹ All admission tickets to any wrestling, boxing, or martial arts contest must be printed with the purchase price, and no ticket may be sold for more than that price; permission to resell is not specifically mentioned for these types of tickets.²⁰

Florida

Ticket resellers or brokers may not charge more than \$1 over the price charged by the original seller for a ticket to a sporting or entertainment event. Travel agencies that resell tickets are also subject to this requirement. Internet sites that meet detailed requirements stated in the law may resell tickets without price limits.²¹

Georgia

All ticket brokers must be licensed by the Georgia Athletic and Entertainment Commission. They must pay a \$500 annual registration fee, have a permanent office in the state, pay local sales tax, and register for sales and use taxation.²²

Brokers must include their license numbers in any advertising of tickets for resale.²³

No one except a licensed broker may sell tickets to an athletic contest, concert, theater performance, amusement, exhibition, or other entertainment event for more than face value.²⁴ Licensed brokers cannot sell such tickets within 1,500 feet of a venue admitting under 15,000 persons, or within 2,700 feet of a venue admitting at least 15,000.²⁵ A person who buys a ticket for personal use may resell it at any price if the sale does not take place within 2,700 feet of a venue seating or admitting at least 15,000 (there is no restriction on this type of resale at smaller venues).²⁶ Charitable organizations may resell tickets for any price at any location.²⁷

Event sponsors have a right to restrict a buyer's ability to resell a ticket,²⁸ and to allow resale within specified zones despite the statutory restriction just described.²⁹ Counties and municipalities may enact ordinances more restrictively governing ticket brokers that resell tickets for events held no more than once a year.³⁰

Indiana

Admission tickets to any boxing or sparring match must be printed with the purchase price. No ticket may be sold for more than that price.³¹

Massachusetts

Ticket resellers must be licensed to resell tickets to any theatrical exhibition, public show or public amusement, or exhibition that state law requires to be licensed.³² Licensed resellers may not charge more than \$2 over the printed ticket price, unless the fee includes charges for messengers, postage, long distance telephone calls, and extensions of credit.³³ The restrictions do not apply to tickets that benefit nonprofit organizations, veterans' associations, or agricultural fairs.³⁴

Michigan

Tickets may not be sold on the premises where an event will take place for more than their printed or advertised price. Elsewhere, distributors may charge more than printed or advertised prices with the owner's or manager's written permission.³⁵

New Jersey

Ticket sellers or brokers must be registered and licensed by the state. All tickets for places of entertainment must have the price, along with any "premium," printed on them. Tickets cannot be sold for more than the price and premium plus lawful taxes. The "premium" is limited to the greater of \$3 or 20% of the ticket price.³⁶

New York

Every reseller of tickets to entertainment events must be licensed. The licensing fee is \$200 for each selling location.³⁷

Every licensee must keep records showing the prices at which all tickets were bought and sold by the licensee and the names and addresses of the entity from which they were bought. The records must be kept for 10 years and made available to the state Attorney General, Secretary of State, or other governmental authority.³⁸ Each location owner or event promoter must print the price on each ticket, including the maximum premium at which it may be offered for resale.³⁹ Ticket resellers may charge a service fee for special services, such as sales away from the box office, credit card sales, or delivery.⁴⁰ Licensed ticket resellers must post at each ticket selling location the box office price and resale price of tickets being resold.⁴¹

North Carolina

A person, firm, or corporation selling or reselling tickets may not charge more than the combined face value of the ticket plus an authorized service fee printed or written on the ticket itself. Selling tickets for more than the face value plus service fee is a Class 2 misdemeanor.⁴²

Ohio

Municipalities can regulate ticket resale for theatrical events and other licensed amusements.⁴³

Pennsylvania

A person may sell tickets at a price greater than is printed on the tickets only if licensed by the county or city to resell tickets.⁴⁴ Tickets to places of amusement must have the price printed on them, along with the maximum premium—which cannot exceed the greater of 25% of the price or \$5, plus lawful taxes.⁴⁵

Virginia

Any locality by ordinance may prohibit the resale for profit of any ticket for admission to a sporting event, theatrical production, lecture, motion picture, or other public event. An exception applies if a religious, charitable, or educational organization sponsors the event; all or part of the admission price goes to that organization; and the sponsor of the event and facility owner authorizes resale for profit.⁴⁶

Wisconsin

A law applying only to events at the State Fair Park (amusements, games, contests, exhibitions, and performances) prohibits their sale for more than face value. Violation is punishable by a fine of \$10 to \$100, or up to 60 days in jail.⁴⁷ A separate law prohibits local governments, and the University of Wisconsin system, from banning the resale of entertainment or sporting event tickets for their face value or less.⁴⁸

Iowa, Missouri, Texas, Washington

We found no restrictions in these states on the prices that ticket distributors may charge.

Economics of Ticket Resale

The academic literature on ticket resale focuses on finding an explanation for a seemingly inexplicable fact: Event promoters commonly offer all the tickets for an event at prices that turn out to be below what a considerable number of buyers will be willing to pay. Various writers offer a range of explanations for this seemingly irrational behavior by promoters. The inability of the commentators to find a single, fully persuasive explanation suggests that promoters' practice of "underpricing" tickets has multiple causes. But an initial point needs to be made that "sellouts" of *some* events do not prove that promoters are systematically underpricing tickets. It is entirely possible that promoters of many events price tickets at their best prediction of the "market-clearing" price (the highest price at which all tickets can be sold). The popularity of an event is hard to predict, and can change based on factors such as media "buzz" about it and even the weather on the day of the event—which cannot be predicted when the promoter is setting the ticket price.

Thus a promoter must weigh the possibility that it could get more total revenue from an event by charging a high price, against the risk that a high price would *reduce* revenues by

causing many tickets to go unsold. For a major act costing hundreds of thousands of dollars (or more) to book, the risk of having many unsold tickets may cause the promoter to err on the side of caution by setting moderate ticket prices. This idea is consistent with an argument by ticket brokers that is reported in an enclosed article: that brokers "provide a form of insurance for the event promoter by buying tickets early"⁴⁹ and thus ensuring that the promoter will not lose money on the event. Brokers, of course, do this in the hope of reselling the tickets at higher prices near the time of the event.

That article, by an assistant professor of economics at the London Business School, also gives its author's own economic explanation for promoters' pricing of tickets below market-clearing levels. Although his economic analysis is complex, he basically concludes that promoters could not make any more money if they set prices higher. His reasoning (in simplified form) is this:

- (1) Most ticket buyers plan ahead and buy when tickets go on sale. But some potential buyers do not know their interest in, and/or ability to attend, an event until shortly before it occurs—and are willing to pay high prices at that time if necessary.
- (2) To sell tickets to most of its potential customers (those in the first group), a promoter must price tickets at moderate levels.
- (3) In theory, a promoter could sell most tickets at an initial moderate price, then later charge more for any remaining tickets if late buyers are willing to pay more. However, the author "assume[d] that the promoter first chooses the late price for tickets, and then brokers choose their prices." Based on that assumption, his model showed that a promoter that raised its "late market" prices could be undercut by brokers, who could charge less than the promoter's late price and still make some money if the price they charged was even slightly above what they originally paid.⁵⁰

Later in the article, the author discussed some then-recent cases in which promoters (including a subsidiary of the Tribune Company, which also owned the Chicago Cubs and Wrigley Field) had entered the "secondary" market for tickets, selling them for market-based prices shortly before games. He admitted that such actions by promoters would likely "limit brokers to the extent that tickets are traded until close to the event date" ⁵¹

That author's assumptions probably limit the applicability of his conclusions. But his main insight—that the free-market price for tickets to an event can change over time because the kinds of persons buying tickets shortly before the event are

different from those who bought tickets earlier—can help explain promoters' pricing policies and the existence of ticket resellers. Promoters *could* set uniformly higher ticket prices than most current early buyers are willing to pay, hoping to collect enough revenue from the small number of buyers who are willing to pay those higher prices; but doing so would likely bring in less total revenue from ticket sales—and definitely would result in less revenue from concessions and other revenue sources related to the event. Instead, promoters set prices for the mass market and sell many tickets quickly. That benefits the many customers who are unable or unwilling to pay high prices—and brings in a large amount of revenue in time to pay the performers without borrowing money. The resale market develops because some of those early tickets are bought by brokers or other intermediaries in the hope of selling them later for higher prices.

One reason why event promoters have not typically entered the resale market (as the Tribune subsidiary did in the situation described above) may be the existence of laws, such as those described above, banning or restricting the sale of tickets for more than the prices shown on them. (Another article reported that the Tribune subsidiary's actions were challenged under Illinois law but upheld by a Cook County trial judge.⁵²) Another likely reason why promoters have typically stayed out of the ticket resale market is that they want to avoid the adverse public reaction that would come if they sold tickets to their events at prices the public would view as unfairly high.

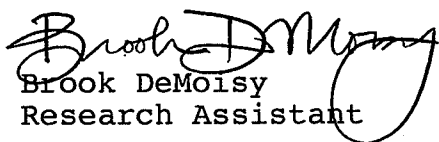
If promoters do set ticket prices at levels low enough to let large numbers of potential buyers get them, it is not clear that banning resales at higher prices can benefit the public. If such bans were effective, they would prevent anyone from buying tickets with intent to resell them, because resale could bring no profit. Promoters would continue to set prices at levels that they predicted would bring them the most net revenue (including revenue from concessions). But effective laws against reselling could harm promoters, and some would-be ticket buyers, in the following ways:

- Promoters would have to risk more of their own money (and do so earlier), because they would no longer get the immediate income that they now get when resellers buy up tickets soon after they go on sale.
- Potential buyers who seek tickets shortly before an event, and would be willing to pay high prices for them, would have great difficulty getting them if all tickets had been sold out and could not profitably be resold. (In such a situation, the only source of last-minute tickets would be persons who bought tickets for personal use but found that they cannot attend, and thus are willing to sell at the price printed on the tickets.)

Another option might be for the law to prohibit anyone except a promoter from selling tickets for more than their initial price (or simply to state that a promoter can print any price it wants on any ticket to an event it promotes, and can sell the ticket for that price; but no ticket may be sold for more than its printed price). If that were the law, promoters might be able to collect more revenue by varying ticket prices for an event based on changes in demand as the event approaches. But whether such a law would benefit the general public is not clear; that would depend on whether promoters' higher revenues from doing that induced them to promote more events, and to offer lower initial prices for some events so they would not have unsold tickets.

We hope this information is helpful. Please let us know if we can be of further assistance.

Sincerely,


 Brook DeMoisy
 Research Assistant



David R. Miller
 Deputy Director for Research

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Enclosure

Courty, "Some Economics of Ticket Resale," *Journal of Economic Perspectives*, vol. 17, no. 2 (Spring 2003), p. 85.

Notes

1. Those states are Arizona, California, Florida, Georgia, Indiana, Iowa, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Virginia, Washington, and Wisconsin.
2. We searched the survey state's laws for "ticket" within 15 words of "price," "sale," or "scalp_".
3. 720 ILCS 375/1.5(a).
4. 720 ILCS 375/4.
5. 720 ILCS 375/1.5(b)(1)(A) to (F).
6. 720 ILCS 375/1.5(b)(1) (last paragraph).
7. 720 ILCS 375/1.5(b)(3).
8. 720 ILCS 375/1.5(b)(4).
9. 720 ILCS 375/1.5(b)(5).
10. 720 ILCS 375/1.5(c).
11. 720 ILCS 375/1.5(c)(1) to (7).
12. 720 ILCS 375/1.5(e).
13. 720 ILCS 375/1.5(d).

14. 720 ILCS 375/2(a).
15. 730 ILCS 5/5-8-3(a)(1) and 5/5-9-1(a)(2).
16. 720 ILCS 375/2(a).
17. Connecticut Office of Legislative Research, "Ticket Scalping" (Report 2006-R-0761, Dec. 18, 2006).
18. Ariz. Rev. Stat., sec. 13-3718.
19. Cal. Penal Code, sec. 346.
20. Cal. Bus. and Prof. Code, sec. 18703.
21. Fla. Stat. Ann., sec. 817.36.
22. Ga. Code, sec. 43-4B-26.
23. Ga. Code, subsec. 43-4B-28(d).
24. Ga. Code, subsec. 43-4B-25(a).
25. Ga. Code, subsec. 43-4B-28(c).
26. Ga. Code, subsec. 43-4B-29(a).
27. Ga. Code, subsec. 43-4B-29(b).
28. Ga. Code, subsec. 43-4B-25(b).
29. Ga. Code, sec. 43-4B-29.1.
30. Ga. Code, sec. 43-4B-30.
31. Ind. Code, sec. 25-9-1-26.
32. Mass. Gen. Laws, ch. 140, sec. 185A.
33. Mass. Gen. Laws, ch. 140, sec. 185D.
34. Mass. Gen. Laws, ch. 140, sec. 185G.
35. Mich. Comp. Laws Ann., subsecs. 750.465(1) to (4).
36. N.J. Stat. Ann., secs. 56:8-26 through 56:8-38.
37. N.Y. Arts & Cult. Aff. Law, sec. 25.03.
38. N.Y. Arts & Cult. Aff. Law, sec. 25.25.
39. N.Y. Arts & Cult. Aff. Law, sec. 25.07.
40. N.Y. Arts & Cult. Aff. Law, sec. 25.29.
41. N.Y. Arts & Cult. Aff. Law, sec. 25.23.
42. N.C. Gen. Stat., sec. 14-344.
43. Ohio Rev. Code, sec. 715.48.
44. Pa. Cons. Stat. Ann., tit. 4, sec. 202.
45. Pa. Cons. Stat. Ann., tit. 4, sec. 211.
46. Va. Code Ann., sec. 15.2-969.
47. Wis. Stat. Ann., sec. 42.07.
48. Wis. Stat. Ann., subsec. 66.0410(2).
49. Courty, "Some Economics of Ticket Resale," *Journal of Economic Perspectives*, vol. 17, no. 2 (Spring 2003), p. 85 at 96.
50. Courty at pp. 92-94.
51. Courty at p. 95.
52. Bell, "Ticket Scalping: Same Old Problem with a Brand New Twist," *Loyola Consumer Law Review*, vol. 18, p. 435 at 454 (2006).