

HOUSE No. 248

The Commonwealth of Massachusetts

PETITION OF:

Geoffrey D. Hall
Steven C. Panagiotakos

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO REGULATING THE RESALE OF TICKETS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after Chapter 93G the following chapter:—

• **CHAPTER 93H
REGULATION OF THE RESALE OF TICKETS TO
PLACES OF ENTERTAINMENT**

Section 1. Definitions.
As used in this chapter the following words and phrases shall, unless a different meaning is required by the context, have the following meanings:—
“Attorney General”, the attorney general of the Commonwealth of Massachusetts.
“Certificate”, a copy of a valid and up to date license of a licensed ticket reseller, certified by the director of the office of entertainment ticket resell licensing, enforcement and public protection.
“Director”, the director of the office of entertainment ticket reseller licensing, enforcement and public protection appointed pursuant section 3.
“Entertainment”, all forms of entertainment including, but not limited to, theatrical or operatic performances, concerts, motion pictures, public show or public exhibition, amusement park, all types of athletic competitions including

basketball, baseball, boxing, football, ice hockey, soccer, tennis, wrestling, and any other sport, and all other forms of diversion, recreation, or show.

“Established price”, the original price, printed pursuant to section 6 on the face of a ticket or other evidence of right of entry or admission to a place of entertainment, as sold by the operator thereof.

“Licensed ticket reseller”, a person licensed pursuant to section 8 to resell a ticket to a place of entertainment.

“Maximum resale price,” the maximum price, plus lawful taxes, printed pursuant to section 6 on the face of a ticket or other evidence of the right of entry or admission to a place of entertainment permitted to be charged in excess of the established price, for which any such ticket may be resold by a licensed ticket reseller.

“Office”, the office of entertainment ticket reseller licensing, enforcement and public protection established under section 2.

“Operator”, any person or corporation who owns, operates, or controls a place of entertainment or who promotes or produces an entertainment.

“Person”, any individual, association, corporation, firm, partnership, or other entity, or a subsidiary thereof conducting business in the Commonwealth.

“Place of entertainment”, any privately or publicly owned or leased and operated facility such as an amusement park, arena, casino, convention center, exhibition hall, fairground, museum, racetrack, theater, showboat, stadium, or other place where performances, concerts, exhibits, athletic games or contests are held for which an entry fee is charged.

“Physical structure”, the place of entertainment, or in the case where a structure either partially or wholly surrounds, or is appurtenant to the place of entertainment, such surrounding or appurtenant structure.

“Resale”, the sale of a ticket by any means; including, but not limited to, in person, via a third party transaction, cash, credit card, bank transfer, debit arrangement of any kind, by telephone, electronic mail, internet, mail, commercial messenger, delivery service, facsimile transmission or other electronic means whether or not such sale originates within or without the Commonwealth; to a place of entertainment by any person other than the operator of said place of entertainment for a payment of any kind greater than the established price printed on the face of said ticket.

“Ticket”, any evidence of the right of entry or admission to a place of entertainment.

“Scalping”, the sale of any ticket by an unlicensed person to a place of entertainment for payment of any kind greater than the established price printed thereon, or the resale of any ticket by a licensed ticket reseller to a place of entertainment for payment of any kind greater than the maximum resale price printed on the face of said ticket.

Section 2. Office of Entertainment Ticket Seller and Reseller Licensing,

Entertainment and Public Protection.
 There shall be in the department of the attorney general an office of entertainment ticket reseller licensing, enforcement and public protection which shall, under the direction and control of the attorney general, perform the duties imposed upon him by the provisions of sections 1 through 19, inclusive of this chapter.

Section 3. Director of the Office of Entertainment Ticket Seller and Reseller Licensing, Enforcement and Public Protection.
 The executive and administrative head of the office shall be an assistant attorney general designated by the attorney general to act as the director of the office of entertainment ticket seller and reseller licensing, enforcement and public protection.

Section 4. Appointment of Experts and Assistants.
 The director may appoint and remove, subject to the approval of the attorney general, such legal, investigative, accounting, clerical and other experts as the work of the division may require. Said director may expend for legal, investigative, accounting, clerical and other experts and assistance and expenses such sums as may be appropriated therefor.

Section 5. Exemptions.
 Except as otherwise provided, this chapter shall not apply to any person which purchases any ticket solely for their own use, the use of their family, the use of their invitees, or employees, or to whoever resells any such ticket for the established price or for less than said established price. Except as otherwise provided, this chapter shall not apply to the resale or auction of any ticket by any boosters club, charitable institution, civic league, educational association, fellowship, fraternal order or society, organizations not organized for profit but operated exclusively for the promotion of social welfare, religious purposes, association of veterans of any wars of the United States, youth club, youth or adult athletic league, or to any person acting on their behalf, so long as all the proceeds of such resale or auction is wholly dedicated and exclusively benefits any of the aforementioned, or to tickets or other evidences of entry to agricultural fairs within the commonwealth, and provided further, that none of the profits realized from such resale or auction are distributed to the stockholders of any such association, institution, organization, or society.

Section 6. Printing of Established Ticket Prices and Maximum Resale Price on Ticket.

Every operator of a place of entertainment shall, if a price is to be charged for admission thereto, print or endorse on the face of each ticket the established price. Said operator shall in likewise manner be required to print or endorse on the face of each ticket the maximum resale price at which said ticket may be resold or offered for resale, and shall cause to be printed or endorsed in a clear, conspicuous and legible manner on each ticket the following words:— “Unless

otherwise provided in Chapter 93H of the Massachusetts General Laws, it is unlawful to resell this ticket for more than the established price as printed hereon.”

Except as provided for in section 5 of this chapter, it shall be unlawful for any person to resell or offer to resell or to auction any ticket to any place of entertainment for more than the maximum resale price. Any person found by the director, to have changed or altered in any way the printed established price or the printed maximum resale price on the face of a ticket to any place of entertainment shall constitute fraud or misrepresentation and shall be punished by said director by a fine of \$2,500 dollars for each ticket found to have been changed or altered, in addition the director shall immediately revoke the license issued to said person pursuant to section 8 of this chapter, and he shall be disqualified to receive another such license for three years after the expiration of the term of the license so revoked, and shall be prohibited from working as an employee of the holder of any such license during his period of revocation and disqualification.

Any person found by said director to have committed a second violation of having changed or altered in any way the printed established price or the printed maximum resale price on the face of such ticket shall be punished by a fine of \$5,000 dollars for each ticket found to have been changed or altered, the immediate revocation of the license issued pursuant to said section 8 to said person, and be disqualified to receive another such license for five years after the expiration of the term of the license so revoked, and said person shall be prohibited from working as an employee or otherwise of the holder of any such license during his period of revocation and disqualification. Any subsequent violation of this section by any such person shall result in a fine of \$10,000 for each ticket found to have been changed or altered, the immediate revocation of his license, a permanent disqualification to receive another such license, and a permanent ban from working as an employee or otherwise of the holder of any such license.

Notwithstanding the penalties set forth herein, nothing in this section shall prohibit the Attorney General from prosecuting a civil or criminal action against any person found by said director to have violated the provisions of this chapter or any other chapter of the General Law.

Section 7. Unlawful Charges in Connection With Tickets. No operator of any place of entertainment, or his employee, agent, representative, or licensee shall, if a price is charged for admission thereto exact, demand, accept or receive, directly or indirectly, a payment of any kind greater than the established price printed on the face of said ticket plus any lawful taxes due thereon whether designated as payment, gratuity or otherwise. Nothing in this section shall be construed to prohibit said operator from charging a service charge on any credit card purchases for any such ticket, provided however the total price of said ticket plus tax plus the service charge on any ticket purchased

by credit card shall not exceed the maximum resale price printed in said ticket.

Section 8. Licensing of Ticket Resellers.

No person shall resell or engage in the business of reselling any tickets to a place of entertainment, or own, conduct or maintain a principal office, branch office, bureau, agency or sub-agency where the resale of any such tickets are conducted without first being a licensed under this section by the director. A license for the resale of tickets shall be granted only upon a written application setting forth such information as the director may require. Each license issued under this section shall be in force until the first day of January next after its date, unless sooner revoked. No such license may be transferred or assigned except upon written permission of the director. A certificate of a valid and up-to-date license of each licensee must be maintained and displayed in accordance with this section at each branch office, bureau, agency or sub-agency of the above mentioned principal office whenever any such licensee is on site working or reselling tickets. Said certificate shall be granted only upon a written application setting forth such information as the director may require. Each such certificate issued under this section shall be in force until the first day of January next after the date on the license upon which it is based, unless said license is sooner revoked, in which case said certificate is automatically revoked as well. No such certificate may be transferred or assigned except upon written permission of the director. The aforementioned license shall be displayed at the principal office in a place and fashion such that it may be read clearly by any customer doing business therein. In likewise manner, each certificate shall be displayed at each branch office, bureau, agency, sub-agency, the principal office in a place and fashion such that it may be read clearly by any customer doing business therein. No person shall engage in or have any interest, as a stockholder or otherwise, in any business the conduct of which is the resale of any ticket of which said person is the owner or in which said person has any interest, as a stockholder or otherwise.

Section 9. Bond Requirements.

The director shall require the applicant for a license issued pursuant to section 8 to file with the application for a bond in the penal sum of \$2,000, with two or more sufficient sureties or a duly authorized surety company, which bond shall be approved by such director. Each such bond shall be conditioned that the obligor will not be guilty of any fraud or extortion, will not violate directly or indirectly any provisions of this chapter or any of the provisions of the license or certificate or certificates issued pursuant to section 8 of this chapter, will comply with all applicable provisions of said chapter and will pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit or any unlawful act or omission of such obligor, his agents or employees, while acting within the scope of their employment, made, committed or omitted in connection with any business conducted under such license or

caused by any other violation of this chapter in carrying on the business for which such license was granted. The director shall keep books wherein shall be entered in alphabetical order all such licenses and the names and addresses of said licensees and all bonds received by said director, the date of the issuance of such license and the filing date of said bonds, and such record shall be open to public inspection during normal business hours. A suit to recover on the bond required to be filed by this section may be brought in the name of the person damaged, upon the bond in a court of competent jurisdiction in the Commonwealth. The amount of damages claimed by the plaintiff and not the penalty named in the bond shall determine the jurisdiction of the court in which such action is brought. one or more recoveries or payments upon such bond shall not impair said bond but such bond shall remain in full force and effect, provided, however, that the aggregate amount of all such recoveries or payments shall not exceed the penal sum thereof. Upon commencement of any action or actions against surety upon any such bond for a sum or sums aggregating or exceeding the amount of such bond the director shall require a new or additional bond in like amount as said original bond, which shall be filed with the director within thirty days after the demand thereof by said director. Failure to file such bond within said thirty day period shall constitute cause for suspension or revocation of the license of said licensee pursuant to section 12 of this chapter by said director. Any suit or action against surety on any bond required by this section shall be commenced within one year after the cause of such action shall have accrued.

Section 10. Fee for License to Resell Tickets. The fee for each license granted by the director pursuant to the provisions of section 8 of this chapter shall be determined annually by the commissioner of administration and finance subject to the provisions of section 3B of chapter 7 of the General Laws. The fee for each certificate granted by said director in accordance with the provisions of said section 8 to a licensee shall be one-half the fee of the aforementioned license.

Section 11. Ticket Scalping, Speculating, Price Gouging. Except as provided in section 5 of this chapter, any person who resells, offers to resell, or solicits the purchase of any ticket to any place of entertainment for an amount greater than the established price printed in the face of each such ticket shall be guilty of ticket scalping. Except as provided in said section 5, any person who resells, offers to resell, or solicits the purchase with the intent to resell two or more tickets to any place of entertainment for an amount greater than the established price printed in the face of each such ticket shall be guilty of aggravated ticket scalping.

Section 12. Suspension or Revocation of Licenses. The director, after written notice by certified mail to the licensee as to time and place of a hearing and after reasonable opportunity for said licensee to be heard, may present evidence and may revoke or suspend his license and certificate or

certificates, for such period as said director may deem proper, upon satisfactory proof that the licensee has violated or permitted to be violated any condition of his license, any rule or regulation of the office, or has been convicted of a crime defined in this chapter or of a crime involving fraud or misrepresentation in relation to the resale of tickets to a place of entertainment, or has been convicted of such offense in any other state or the United States within the past five years. Notwithstanding the provisions of section 6, if a license and certificate or certificates has been revoked by the director under this section, the licensee shall be disqualified to receive a license and certificate or certificates for one year after the expiration of the term of the license and certificate or certificates so revoked, said licensee shall be prohibited from working as an employee or otherwise for the holder of a license issued pursuant to section 8 of this chapter during the period said person's license has been revoked or suspended, and the director may revoke or suspend the license of any such license holder found to have employed said person. Any such hearing shall be conducted in accordance with procedures established by the director, and to rules and regulations of the office as promulgated pursuant to the provisions section 18 of this chapter. Section 13. Investigations.

The director shall be authorized, or may upon the complaint of any person to the office decide to initiate, an investigation of any person who resells any ticket to a place of entertainment. Such investigation shall include, but is not limited to, the operation, business practices or business methods of the reseller of any such ticket which relates to this state's or any other state's ticket resale law, or in regards to ticket resale practices generally. Every person licensed under section 8 of this chapter shall provide, upon the reasonable request of the director, such information as may be required concerning said person's business, business practices or business methods provided that the information requested is related to the complaint which forms the basis of such investigation. Each operator of any place of entertainment shall also be required, on request of said director, to supply such information as may be necessary concerning the business, business practices or business methods of licensee provided that the information requested is related to the complaint which forms the basis of such investigation. Section 14. Penalty For The Resale of Tickets by Unlicensed Persons. Except as otherwise provided for in this chapter, or by any rule or regulation of the office, any unlicensed person convicted of violating any section of this chapter and reselling a ticket to a place of entertainment for greater than the established price printed on the face of said ticket, plus tax, shall be punished by a fine of not more than \$1,000 for the first such violation and conviction; any person convicted of a second such violation shall be punished by a fine of not more than \$2,000; and if convicted of a third or subsequent violation said person shall be punished by a fine of \$3,000 and by imprisonment in a jail or house of

correction for not more than one year in jail.

Section 15. Change of Office Location on Licenses. If the holder of an unexpired license issued pursuant to section 8 of this chapter changes the home address or moves the business location of said license holders' principal office, branch office, bureau, agency or sub-agency to a location other than that described on the face of the license, said licensee shall within 48 hours immediately following such change of home address or business location, give written notice of such change or move to the director, said notice shall describe the exact location to which said home address or principal office, branch office, bureau, agency or sub-agency has been made and the date on which it was made, and send such license and any certificate or certificates to such director. The director shall cause to be stamped across the face of said license and certificate or certificates a statement indicating that the home address or principal office, branch office, bureau, agency or sub-agency of the holder of said license was moved on the date stated in the written notice from the location originally described in said license to the location described in said written notice, and said license shall be returned to the licensee named therein and posted in accordance with the provisions of said section 8. No tickets shall be sold at any location other than the business location of the licensee printed on the face of said license or certificate or certificates or a change of business location, if any, as stamped on the face of said license or certificate or certificates by said director.

Section 16. Records of purchases and sales. Every licensee shall at all times keep a full and accurate set of records showing the prices at which all tickets were bought and sold by said licensee, or any employee working for said licensee, and the names and addresses of the person, corporation, firm, or other entity, or a subsidiary thereof from whom said ticket was bought. Said records shall be made available upon request to the director, or to any other law enforcement agency or department having interest in said records. Failure to provide such records upon such a request may result in suspension or revocation of said license, and a fine of \$2,500, or both by said director for any such incident. All such records shall be retained by said licensee for a period of not less than three years.

Section 17. Public Record of Licensees. The director shall keep a book or books in the department, open to public inspection during the normal business hours of said department, in which shall be entered in alphabetical order a record of the names and addresses of the holder of any license granted under section 8 of this chapter, the address or addresses of said license holders, principal office and any branch office, bureau, agency or sub-agency where said licensee or any employee of said licensee conducts ticket resale business, the names and addresses of any licensee whose license has been suspended or is currently under suspension pursuant to the provisions of sections 6 and/or 12 of this chapter, and the names and addresses

of any licensee who has been fined or incarcerated pursuant to the provisions of said sections 6 and/or 12. Section 18. Rules and Regulations. The director shall, pursuant to the provisions of chapter 30A, promulgate, and may from time to time amend, revise, alter such rules and regulations as he deems necessary relative to the granting of licenses and the business, business practices and business methods for the resale of tickets to places of entertainment and the business carried on by persons licensed pursuant to section 8 of this chapter. Section 19. Annual Report. The director shall annually on or before the last Wednesday in December issue a report, a copy of which he shall file with the clerk of the house of representatives and with the house and senate chairmen of the joint committees on government regulations and state administration, detailing any and all investigations conducted by the office and the director during the previous year. Said annual report shall include the total number of licenses issued, suspended, or revoked during the previous year, the names and addresses of any licensee whose license was suspended or revoked and the reason for any such suspension or revocation, the names and addresses of any licensee fined or incarcerated and the reason for such fine or incarceration, and the total dollar amount of money collected from any such fines during said year.

SECTION 2. Chapter 140 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out Sections 185A through 185G.