

SENATE NO. 214

AN ACT RELATIVE TO PRIMARY TICKET BROKERS AND TICKET RESELLERS.

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

1 SECTION 1. Chapter 140 of the General Laws, as appearing in the 2004 Official Edition, is
2 hereby amended by inserting after section 184 the following section:-

3 Section 184A. The following words and phrases as used in sections 184B to 184N,
4 inclusive, unless the context otherwise requires, shall have the following meanings:

5 "Commissioner", the Commissioner of the Department of Public Safety.

6 "Convenience fee", an amount charged by the primary ticket broker in transactions
7 where the ticket is provided to the consumer in a manner other than a face-to-face
8 exchange between the consumer and the primary ticket broker or its agent and may
9 include, but is not limited to, electronic mail or holding the ticket at a designated venue
10 location.

11 "Department", Department of Public Safety.

12 "Face value", the price of admission as determined by the operator of the venue where
13 the event is to take place and required to be printed on the front of the ticket.

14 "Fee", any amount over and above the transaction fee and the venue fee stated on the
15 ticket invoice and charged by the primary ticket broker that causes the purchase price of
16 the ticket to exceed face value.

17 "Licensee", a person or corporation licensed by the Department to act as a primary ticket
18 broker.

19 "Primary ticket broker", a person or corporation engaged in the business of generating a
20 ticket or tickets for sale either by itself or on the behalf of a venue that has contracted
21 with the person or corporation for that purpose.

22 "Ticket", a document produced in the form of paper, plastic, electronic or any medium
23 which is generated by a primary ticket broker to authorize the ticket holder the right of
24 entry to a venue.

25 "Ticket invoice", a document generated by the primary ticket broker and provided to the
26 consumer at the time of purchase documenting the costs associated with the purchase of
27 a specific ticket and including, but not limited to, the transaction fee; the venue fee; and
28 any additional fees that cause the purchase price of the ticket to exceed face value.

29 "Transaction", a sale of a ticket or up to 10 tickets by a primary ticket broker to a
30 consumer.

31 "Transaction fee", the amount charged by the primary ticket broker in excess of the face-
32 value of the ticket that represents the cost incurred by the primary ticket broker in
33 transacting the sale of the ticket to the consumer and which shall not exceed eight-
34 dollars per transaction.

35 "Venue", the location of the event for which a ticket of admission is sold.

36 "Venue fee", the amount charged by the venue to cover the costs to the venue of hosting
37 an event for which a ticket is sold and which shall not exceed three-dollars.

38 Section 184B. No person or corporation shall engage in the business of selling any ticket or
39 tickets of admission or other evidence of right of entry to any theatrical exhibition, public show,
40 public amusement, educational, exhibition, concert, or professional or amateur sporting event or
41 any other event or exhibition occurring in the commonwealth and required to be licensed under
42 sections 181 and 182 of this chapter as a primary ticket broker without being licensed by the
43 Commissioner. The Commissioner shall establish rules and regulations regarding the
44 information required for application of licensure, method of submitting and application and
45 process to application; provided that each applicant must include the following information:

- 46 (a) a copy of a business certificate if the registrant is not incorporated; or
- 47 (b) a copy of the relevant parts of the articles of organization showing the names and
48 addresses of all owners, partners or trustees of an applicant including, in the case
49 of corporate entities, the names and addresses of all officers, directors and
50 principal shareholders if the registrant is incorporated in the commonwealth or
- 51 (c) a copy of the foreign corporation certificate of registration required to be filed
52 with the secretary of the commonwealth pursuant to subsection three of section
53 fifteen of chapter one hundred fifty six D if the corporation is organized under
54 the laws of another state or country.

55 Section 184C. No licensee under section 184B shall charge fees, including transaction fees,
56 totaling more than 12 dollars for any ticket or evidence of right of entry to any theatrical
57 exhibition, public show, public amusement, exhibition, concert, or professional or amateur
58 sporting event of any description, convenience fees, transaction fees, and venue fees inclusive.

59 The licensee shall provide a ticket invoice to the consumer at the time of the transaction which
60 shall clearly state the separate monetary amounts assessed as a convenience fee, transaction fee,
61 venue fee and other fees charged in excess of the face-value of the ticket. Each licensee shall
62 record with the Department and the Division of Corporations these fees and the purpose of the
63 fees in a clear and concise manner within 5 business days of when the fees change. Copies of
64 all ticket invoices shall be kept electronically at the address of record of the licensee and made
65 available for inspection upon the request of the Commissioner or his designee.

66 Section 184D. No license under section 184B shall be issued unless and until the applicant
67 therefor deposits with the Commissioner a bond for the faithful compliance by such applicant,
68 as licensee, during the term of the license, with the provisions of section 184A to one-hundred
69 184N inclusive, such bond to run to the commonwealth in the sum of one-hundred thousand
70 dollars and to be in force during the term of the license.

71 Section 184E. Any person from whom any licensee under section 184B has unjustly withheld
72 any ticket or charged fees in excess of those fees authorized in section 184C may, without
73 expense to the Commonwealth, bring an action in the name of the state treasurer upon the bond
74 of such licensee and may recover upon such bond for his own benefit up to the amount of the
75 withheld ticket or the amount of the fees charged in excess of statutorily authorized amounts.

76 Section 184F. The fee for each license granted under section 184B and for each annual renewal
77 thereof shall be determined annually by the Commissioner of Administration and Finance under
78 the provision of section 3B of chapter 7 according to the number of tickets sold; provided that,
79 there shall be levels of fees based on the number of tickets sold.

80 Section 184G. All licenses granted pursuant to section 184B shall be posted conspicuously in
81 the primary ticket broker's office. All licenses shall clearly display the primary ticket broker's

82 Massachusetts license number on every computer website, advertisement appearing in print,
83 advertisement transmitted to consumers via electronic mail, and advertisement appearing on a
84 computer shall clearly display the primary ticket broker's Massachusetts license number. All
85 licensees shall conspicuously display their sales and refund policies, customer service number,
86 when the licensee is open, office address or addresses, the maximum potential fees charged per
87 transaction in a clear and apparent manner to consumers in all licensee offices, computer
88 website, documents mailed with tickets and electronic mails.

89 Section 184H. The Commissioner shall establish and may from time to time review and change
90 the rules and regulations relative to the granting of licenses and the business carried on by
91 persons or corporations licensed under section 184B. The Commissioner or the designee to
92 whom authority is delegated by the Commissioner shall investigate the affairs of such licensees
93 as often as the Commissioner deems necessary and for that purpose shall have access to the
94 books, papers and electronic records of such licensees. Failure for a licensee to provide access
95 to said records may result in revocation of the licensee's license or fines established under 184I.

96 Section 184I. Whoever violates any provision of section 184A to section 184I, inclusive, or any
97 rule or regulation of the Commissioner made under section 184H, shall be punished by a fine of
98 not more than \$500 for an initial violation; provided however that whoever is convicted of a
99 second violation of section 184A to section 184L, inclusive, shall be punished by a fine of not
100 more than \$1,000; and provided further that whoever is convicted of a third and subsequent
101 violation shall be punished by a fine of not more than \$5,000, or imprisonment in a jail or house
102 of correction for not more than 1 year, or both. Each individual sale by a primary ticket broker
103 to a consumer shall be considered a separate and independent transaction.

104 Section 184J. No licensee shall charge any consumer a fee from the transmission of a ticket or
105 tickets to a consumer through any telecommunication or Internet media, including electronic
106 mail or through a website.

107 Section 184K. The Department shall collect at a time and schedule determined by the
108 Commissioner from each licensee 5 cents on each ticket sold under sections 184B, 184N and
109 185A and the Department shall deposit said monies into the Ticket Sales Administration and
110 Investigation Fund established under Section 184L.

111 Section 184L. There shall be a separate fund to be known as the Ticket Sales Administration
112 and Investigation Fund which shall be sited within the Department. The Department shall
113 utilize said fund for the purpose of conducting administrative, investigatory and enforcement
114 functions of sections 184A to 184K and sections 185A to 185G. The Department shall provide
115 an annual report before December 31 of each year on the expenditure of funds and the works
116 completed under said sections to the Joint Committee on Consumer Protection and Professional
117 Licensure, the House and Senate Committees on Ways and Means.

118 Section 184M. Each city or town may establish an area immediately around a venue whereby
119 unlicensed primary ticket brokers and unlicensed ticket resellers may resell tickets for said
120 venue for an event to occur on that date only at a cost not to exceed the price printed on the
121 ticket. The city or town shall provide for adequate security in said area, may limit the total
122 number of tickets to be resold per person, may establish the time and dates when said
123 transactions would occur, may require identification and verification of the persons conducting
124 the transactions. The city or town may not charge a fee to those participating in the resale of
125 tickets in this area. The primary ticket broker may not revoke a ticket holder's tickets solely
126 because the ticket purchased a ticket through this section. Tickets holders whole violate this

127 section are subject to fines and penalties under section 185F. Each city or town that adopts this
128 section must file its ordinance and plan with the Department. The Department may issue
129 guidelines to cities and towns on the implementation of this section.

130 Section 184N. A corporation that provides a medium on an Internet website owned and
131 controlled by said corporation shall be authorized to allow unlicensed ticket resellers to conduct
132 transactions on its website and collect a fee for each transaction; provided that, said corporation
133 is registered with the Department, provides a secure method for these transactions, discloses the
134 corporation's role in these transactions in a clear and conspicuous manner to the persons
135 conducting the transactions, shall limit the number of ticket sold to Massachusetts venues to 10
136 transactions sold per year per person, shall keep a record of the contact information and
137 transactions of the persons conducting ticket sales to Massachusetts venues, shall collect the fee
138 under section 184K from each person and send the monies collected to the Department, shall
139 not collect a fee on the total transaction of more than 25 per cent of the total transaction's value,
140 and shall require persons selling tickets to fully disclose shipping and other costs as part of its
141 posting to seek buyers for tickets. The Department shall establish rules and regulations for the
142 implementation of this section. Said corporations shall make available to the Department
143 information about the sale of tickets to Massachusetts venues at the Department's request. Said
144 corporations may report to the Department any person using their Internet website to conduct
145 excessive ticket sale transactions to Massachusetts venues or primary ticket brokers or ticket
146 resellers conducting resale of tickets on their Internet website.

147 SECTION 2. Section 185D of chapter 140 of the General Laws, as appearing, is hereby
148 amended by striking out said section and inserting in place thereof the following:-

149 Section 185D. No licensee under section one 185A shall resell any ticket or other evidence of
150 right of entry to any theatrical exhibition, public show, public amusement, educational,
151 exhibition, concert, or professional or amateur sporting event or any other event or exhibition
152 occurring in the commonwealth of any description at a price in excess 3 times the price printed
153 on the face of such ticket and said price shall include any and all fees by the reseller or the
154 primary ticket broker under section 184A, or other evidence of right of entry as the purchase
155 price thereof.

156 SECTION 3. Section 185F of chapter 140 of the General Laws, as appearing, is hereby
157 amended by striking out said section and inserting in place thereof the following new section:-

158 Section 185F. Whoever violates any provision of section 185A to section 185G, inclusive, or
159 section 184M or any rule or regulation of the commissioner made under section 185E, shall be
160 punished by a fine of not more than \$1,000 per violation, by imprisonment in a jail or house of
161 correction for not more than two and one half years, or both.