

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Menard, Joan (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the resale of tickets.

PETITION OF:

NAME:

Menard, Joan (SEN)

DISTRICT/ADDRESS:

First Bristol and Plymouth

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO 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:

1 SECTION 1. Chapter 140 of the General Laws, as appearing in the 2006 Official Edition, is
2 hereby amended by inserting after section 184 the following sections:-

3 Section 184A. As used in sections 184A through 184N, inclusive, the following words shall,
4 unless the context otherwise requires, have the following meanings:-

5 “Business of reselling tickets”, the reselling of tickets as (a) an organized business with the
6 objective of making a profit from the resale of tickets; or (b) an individual who derives more
7 than 10 percent of his gross personal income from the resale of tickets.

8 “Commissioner”, the commissioner of the department of public safety.

9 “Department”, department of public safety.

10 “Face value”, the price of admission as determined by the operator of the venue where the event
11 is to take place and required to be printed on the front of the ticket.

12 “Facilitating the resale of tickets”, creating or providing a platform to help bring about the resale
13 of tickets solely between third parties.

14 “Fee”, any amount charged by a ticket seller or reseller that causes the purchase price of the
15 ticket to exceed face value, subject to the regulatory authority of the department.

16 “Licensee”, a person or corporation licensed by the department to act as a ticket reseller.

17 “Original ticket seller” a person or corporation engaged in the business of generating a ticket or
18 tickets for sale either by itself or on the behalf of a venue that has contracted with the person or
19 corporation for that purpose.

20 “Person”, a natural person, corporation, association, partnership or other legal entity.

21 “Ticket”, a document produced in the form of paper, plastic, electronic or any medium which is
22 generated or approved by an original ticket seller to authorize the ticket holder the right of entry
23 to a venue.

24 “Ticket receipt”, a document generated by the ticket seller or reseller and provided to the
25 consumer at the time of purchase, recording the costs associated with the purchase of a specific
26 ticket and including, but not limited to, the transaction fee; the venue fee; and any additional fees
27 that cause the purchase price of the ticket to exceed face value.

28 “Ticket reseller”, a person licensed and engaged in the business of reselling tickets pursuant to
29 section 184C.

30 “Transaction”, a sale of a ticket by a ticket seller or reseller.

31 “Transaction fee”, the amount charged by the ticket seller or reseller in excess of the face-value
32 of the ticket that represents the cost incurred by the licensed ticket seller or reseller in transacting
33 the sale of the ticket to the consumer, subject to the regulatory authority of the department.

34 “Venue”, the location of the event for which a ticket of admission is offered for sale.

35 Section 184B. Except as provided in Section 184G, no person shall engage in the business of
36 reselling tickets in the commonwealth or in the business of facilitating the resale of any ticket or
37 tickets for admission or other evidence of right of entry to any theatrical exhibition, public show,
38 public amusement, educational event, exhibition, concert, or professional or amateur sporting
39 event or any other event or exhibition occurring in the commonwealth and required to be
40 licensed under sections 181 and 182 of this chapter, at a price above the face value unless he has
41 obtained a license from the commissioner of public safety. Any person so licensed shall maintain
42 1 or more offices in the commonwealth.

43 Section 184C. Any person wishing to obtain such a license shall apply in writing to the
44 commissioner and in a form prescribed by the commissioner; provided, however, that an
45 applicant shall state, under the pains and penalties of perjury, his name and address; the name
46 under which he is to operate his business, if other than his true name; the street and number of
47 the building or place where the business is to be conducted; the name and address of the
48 individual who will actually direct and operate the activities of the business; a copy of a business
49 certificate if the registrant is not incorporated or a copy of the relevant parts of the articles of

50 organization showing the names and addresses of all owners, partners or trustees of an applicant
51 including, in the case of corporate entities, the names and addresses of all officers, directors and
52 principal shareholders if the registrant is incorporated in the commonwealth or a copy of the
53 foreign corporation certificate of registration required to be filed with the secretary of the
54 commonwealth pursuant to subsection 3 of section 15 of chapter 156D if the corporation is
55 organized under the laws of another state or country.

56 A ticket reseller shall conspicuously post his license in his office. All licenses shall
57 clearly display the licensee's number on every computer website, advertisement appearing in
58 print, advertisement transmitted to consumers via electronic mail, and advertisement appearing
59 on a computer. All licensees shall display their sales and refund policies, customer service
60 number, times when the licensee is open for business, the office address or addresses, and the
61 maximum potential fees charged per transaction in a clear and conspicuous manner in all offices,
62 on computer websites, and on documents or tickets mailed through standard mail or electronic
63 mail.

64 A license issued under this section shall be in force for a period of 2 years and the fee
65 therefore shall be \$1,000 for the original license and for each renewal thereof, and may be
66 increased by the commissioner of administration and finance as he deems appropriate under the
67 provision of section 3B of chapter 7. No such license may be transferred to a new location,
68 except upon written permission of the commissioner.

69 Section 184D. No license under section 184C shall be issued unless the applicant therefore
70 deposits with the commissioner a bond for the faithful compliance by such applicant, as licensee,
71 during the term of the license with the provisions of sections 184B to 184N, inclusive, such bond
72 to run to the commonwealth in the sum of \$100,000 and to be in force during the term of the
73 license. Any person from whom a ticket reseller has unjustly withheld a refund for purposes
74 outlined in section 184E may bring an action upon the bond of ticket reseller and may recover
75 upon such bond for his own benefit up to the amount of the withheld ticket less any fees
76 associated with the purchase of said ticket.

77 Section 184E. A licensed ticket reseller shall refund to the purchaser of a ticket the full amount,
78 less any reasonable transaction fees and delivery charges, paid by the purchaser for such ticket
79 upon: (i) the cancellation of the event for which the ticket was sold; (ii) the ticket purchased does
80 not grant the purchaser admission to the event described on the ticket; or (iii) the ticket fails to
81 conform to its description as advertised by the ticket seller or reseller.

82 A licensed ticket reseller shall provide the purchaser of a ticket with the ticket seller's
83 name, address and telephone number or other information necessary to allow the purchaser to
84 contact the ticket seller to obtain a refund of the ticket price, if necessary.

85 No person shall knowingly sell or resell a forged, counterfeit or otherwise invalid ticket.

86 Section 184F. The commissioner may, after notice to the licensee and reasonable opportunity for
87 him to be heard, suspend a license issued pursuant to section 184C or may revoke the same for
88 such period as the commissioner deems proper, upon satisfactory proof that the licensee has
89 violated or permitted a violation of any condition of his license or of any rule or regulation of the
90 commissioner under section 184M or any provision of this act. If the license is revoked, the
91 licensee shall be disqualified from receiving a license for a period of 1 year after the expiration
92 of the term of the license so revoked.

93 Section 184G. A person that provides a medium on an internet website owned and controlled by
94 said person shall be authorized to allow unlicensed ticket resellers to conduct transactions on its
95 website and collect a fee for each transaction; provided that said person provides a secure
96 method for these transactions, and discloses his role in these transactions in a clear and
97 conspicuous manner to the parties conducting the transactions. Said person shall require persons
98 selling tickets to fully disclose shipping and other costs as part of its posting to seek buyers for
99 tickets. Said person shall not be deemed a Ticket Reseller and shall not be obligated to become a
100 Licensee; provided, that said person guarantees a full refund of the amount paid for the ticket if:
101 (1) the ticketed event is canceled; (2) the purchaser is denied admission to the ticketed event,
102 unless the denied admission is due to the action or omission of the purchaser, and the purchaser;
103 or (3) the ticket is not delivered to the purchaser in the manner described on the website or
104 pursuant to the delivery agreement made by the person selling the ticket, and such failed delivery
105 results in the purchaser's inability to attend the ticketed event. If a ticketed event is canceled, the
106 Internet website shall not be liable for refunding reasonable handling fees and delivery charges,
107 provide that the internet website's refund guarantee discloses that such fees and charges are
108 nonrefundable.

109 Section 184H. A venue or a municipality may establish an area within the property line of said
110 venue for the lawful resale of tickets; provided, however, that said resale area shall only be used
111 for events occurring at said venue and on the date of said event; and provided further, that upon
112 establishment by the venue or municipality of said area: (i) no person shall resell, offer to resell
113 or solicit the resale of any ticket to any venue having a permanent seating capacity in excess of
114 5,000 persons within 2,500 feet from the physical structure of such venue, provided however that
115 current licensees and those seeking a license under pursuant to section 184C shall be exempt
116 from such restrictions when operating out of a permanent physical structure licensed by the
117 municipality; and (ii) no person shall resell, offer to resell or solicit the resale of any ticket to any
118 venue having a permanent seating capacity of 5,000 or fewer persons within 1,000 feet from the
119 physical structure of such place of entertainment, provided however that current licensees and
120 those seeking a license pursuant to section 184C shall be exempt from such restrictions when
121 operating out of a permanent physical structure licensed by the municipality.

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123 If a venue or a municipality establishes an area within the property line of any such venue
124 for the lawful resale of tickets, then the venue or the municipality shall provide for adequate
125 security in said area and shall require identification and verification of the ticket resellers
126 conducting any transactions, and may limit the total number of tickets to be resold per person,
127 and may establish the time when said transactions will occur. Each ticket reseller shall clearly
128 and conspicuously display his license upon his person while conducting any transaction in said
129 area and shall provide to the purchaser a ticket receipt detailing the reseller's relevant contact
130 information, including but not limited to, the reseller's license number and telephone number.
131 The venue or the municipality shall not charge a fee to those participating in the resale of tickets
132 in this area. Any ticket reseller who violates the provisions of this section shall be subject to the
133 fines and penalties under section 184K. The department may issue guidelines to cities and towns
134 on the implementation of this section. Nothing in this provision shall prohibit any person
135 providing a medium via the Internet pursuant to Section 184G from establishing a physical
136 presence for the drop-off and pick-up of tickets purchased via the Internet within the zones set
137 forth herein.

138 Section 184I. Whoever violates any provision of section 184B to section 184K, inclusive, or any
139 rule or regulation of the commissioner promulgated pursuant thereto, shall be punished by a fine
140 of not more than \$1,000 for a first violation; not more than \$3,000 for a second violation; and not
141 more than \$5,000, or imprisonment in a jail or house of correction for not more than 1 year, or
142 both, for a third or subsequent violation. Each individual ticket sale in violation of this chapter
143 shall be considered a separate and independent transaction.

144 Section 184J. The provisions of sections 184B to 184I, inclusive, shall not apply to tickets or
145 other evidence of entry to theatrical exhibitions, public shows or public amusements or
146 exhibitions, in which all the proceeds of the sale or resale inure exclusively to the benefit of
147 religious, educational or charitable institutions, societies or organizations or civic leagues or not
148 for profit organizations operated exclusively for the promotion of social welfare or to
149 associations of veterans of any wars of the United States, or to tickets or other evidence of entry
150 to agricultural fairs, none of the profits of the sale or resale of which are distributed to
151 stockholders or members of the association conducting the same.

152 Section 184K. The commissioner shall promulgate rules and regulations for the administration
153 and enforcement of sections 184B through 184F.

154 SECTION 2. Sections 185A through 185G, inclusive, of chapter 140 of the General Laws are
155 hereby repealed.

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