

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 556

Short Title: Regulate Ticket Brokers. (Public)

Sponsors: Senators Hoyle; Apodaca, Bingham, Carpenter, Foxx, Malone, Metcalf, Purcell, Queen, Rand, Shaw, Sloan, Stevens, Swindell, Thomas, and Weinstein.

Referred to: Finance.

March 27, 2003

A BILL TO BE ENTITLED
AN ACT TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS
TICKET BROKERS AND TO APPLY THE PRIVILEGE TAX ON
AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 32A.

"Ticket Brokers.

"§ 66-259.1. Definitions.

The following definitions apply in this Article:

- (1) Promoter. – A person, firm, or corporation who assumes the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.
- (2) Ticket. – A certificate or token showing that a fare or admission fee has been paid.
- (3) Ticket broker. – A person, firm, or corporation who resells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted, and meets the requirements of registration and bonding pursuant to this Article.
- (4) Ticket sales agent. – A person, firm, or corporation who sells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"§ 66-259.2. Authority to resell tickets.

1 (a) Except as otherwise provided in G.S. 66-259.3, it shall be unlawful for any
2 person other than a ticket broker to resell or offer for resale any ticket of admission or
3 other evidence of the right of entry to any athletic contest, concert, theatre performance,
4 amusement, exhibition, or other entertainment event where the general public is
5 admitted for a price in excess of the face value of the ticket. Notwithstanding G.S.
6 14-344(a), a ticket broker may charge a service fee not to exceed three dollars (\$3.00)
7 when tickets or other evidences of the right of entry are sold by a ticket sales agent
8 authorized to do business by the municipality or county where the ticket sales agent's
9 place of business is located. The owner, operator, lessee, or tenant of the property where
10 the athletic contest or entertainment event is to be held or is being held or the promoter
11 of the contest or event may charge or may authorize, in writing, any person to charge a
12 service fee for the sale of any ticket, privilege, or license of admission in addition to the
13 face value of the ticket. The writing granting authority to another to charge a service fee
14 shall specify the amount of the service fee to be charged for the sale of each ticket,
15 privilege, or license of admission.

16 (b) For any athletic contest or entertainment event described in G.S. 66-259.6, a
17 promoter of a contest or event may contractually restrict the resale of a ticket to that
18 contest or event by giving notice of the restriction on the back of the ticket. An owner,
19 operator, lessee, or tenant of the property where the contest or event is to be held or is
20 being held may contractually restrict the resale of the right of occupancy of any specific
21 suite, seat, or seating area by giving notice in writing of the restriction.

22 **"§ 90-259.3. Exemptions.**

23 (a) Nothing in this Article or any other provision of law shall criminally prohibit
24 a person who is the original purchaser of one or more tickets to an athletic contest or
25 entertainment event covered under this Article and who purchased the tickets for
26 personal use from reselling or offering for resale the tickets for any price. However, the
27 person shall not sell or offer to sell the ticket within 1,500 feet of a ticket office for the
28 contest or event or a public entrance to the contest or event.

29 (b) Nothing in this Article or any other provision of law shall criminally prohibit
30 a person who, for personal use, purchases one or more tickets to an athletic contest or
31 entertainment event from reselling or offering for resale any of the tickets in any zone
32 within the restricted areas, as provided in this subsection or in G.S. 66-259.6(b), where
33 the activity is authorized by the promoter of the contest or event and the owner or
34 operator of the venue where the contest or event is being held or to be held.

35 (c) Charitable organizations and their employees and volunteers shall not be
36 subject to the provisions of this Article when offering for sale any tickets of admission
37 in a raffle, auction, or similar fundraising activity for the benefit of the organization's
38 charitable purposes.

39 **"§ 90-259.4. Requirements; issuance of registration; renewal; failure to comply.**

40 (a) Before placing any advertisement or making any other representations to
41 prospective buyers in this State, a person seeking to practice or engage in business as a
42 ticket broker shall satisfy the following:

- 1 (1) Maintain a permanent office or place of business in this State,
2 excluding a post office box, for the purpose of engaging in the
3 business of a ticket broker.
- 4 (2) File for registration as a ticket broker with the Secretary of State on a
5 form provided by the Secretary of State. The filing shall contain the
6 following:
- 7 a. The name and place of business of the ticket broker.
8 b. A statement describing the activities of the ticket broker,
9 including that the ticket broker:
- 10 1. Engages in the resale of admission tickets on a regular
11 and continuous basis from one or more permanent
12 locations within the State.
- 13 2. Maintains as the principal place of business activity at
14 those locations the resale of tickets.
- 15 3. Maintains at those locations a listing of the names and
16 addresses of all persons employed by the ticket broker.
- 17 (3) Obtain a bond issued by a surety company authorized to do business in
18 this State in the amount of one hundred thousand dollars (\$100,000)
19 and file a copy of the bond with the Secretary of State. The bond shall
20 be executed in favor of this State for the benefit of any person
21 damaged by the ticket broker's breach of contract or any obligation
22 arising from the breach or by any violation of this Article. Any person
23 claiming against the bond may maintain an action at law against the
24 ticket broker and the surety. The aggregate liability of the surety shall
25 be for actual damages and shall not exceed the amount of the bond.
- 26 (4) Pay a registration fee not to exceed two thousand dollars (\$2,000).
- 27 (b) Upon finding that a ticket broker has complied with the requirements of
28 subsection (a) of this section, the Secretary of State shall issue to the ticket broker a
29 certificate of registration. The ticket broker shall display the certificate of registration
30 prominently in the ticket broker's place of business.
- 31 (c) Ticket brokers shall renew their registration annually pursuant to rules
32 adopted by the Secretary of State and pay a renewal fee not to exceed two thousand
33 dollars (\$2,000).
- 34 **§ 66-259.5. Disclosure; refunds.**
- 35 (a) A ticket broker shall satisfy the following disclosure requirements:
- 36 (1) Post at the ticket broker's established place of business the terms of the
37 purchaser's right to cancel the purchase of a ticket from a ticket broker.
- 38 (2) Disclose to the purchaser the refund policy of the ticket broker if an
39 athletic contest or entertainment event is canceled or not rescheduled.
- 40 (3) Disclose to the purchaser in writing the difference between the face
41 value of the ticket and the amount that the ticket broker is charging for
42 the ticket.
- 43 (4) Sell tickets only at the ticket broker's permanent office or place of
44 business. However, delivery of one or more tickets after the

1 transaction is completed to a place other than the ticket broker's office
2 or place of business shall not violate this subdivision.

3 (b) Unless otherwise provided in a written agreement between a ticket broker and
4 a purchaser, a ticket broker shall refund any payment received for the purchase of a
5 ticket under this Article if: (i) the purchaser returns the ticket and requests a cancellation
6 of the sale within 36 hours from the time of purchase of the ticket; and (ii) the return is
7 made more than 72 hours preceding the athletic contest or entertainment event.

8 (c) A ticket broker is required to refund any payment received for the purchase of
9 a ticket under this Article if the athletic contest or entertainment event is canceled or not
10 rescheduled.

11 (d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to
12 an athletic contest or entertainment event to a purchaser and fails to complete the
13 delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full
14 refund of any amount paid by the purchaser and pay the purchaser a refund fee of three
15 times the amount paid by the purchaser for each ticket.

16 **"§ 66-259.6. County and municipal ordinances.**

17 (a) For any single athletic contest or entertainment event that occurs no more
18 than once annually or any series of athletic contests that occur no more than once
19 annually and occur within a time period not exceeding 10 days, the municipal
20 corporation where the contest, event, or series of contests is to be held, or if the contest,
21 event, or series of contests is to be held in an unincorporated area, the county of the
22 unincorporated area, is authorized to enact by ordinance regulations governing ticket
23 brokers for the contest, event, or series of contests that are more restrictive than the
24 provisions of this Article.

25 (b) The municipal corporation where an athletic contest or entertainment event is
26 to be held, or if the contest or entertainment event is to be held in an unincorporated
27 area, the county of the unincorporated area, is authorized to enact an ordinance
28 prohibiting any person, whether a ticket broker or an original purchaser who purchased
29 tickets for personal use, from reselling or offering for resale one or more tickets within
30 2,700 feet of a venue that seats or admits 15,000 or more persons.

31 **"§ 66-259.7. Prohibited conduct.**

32 (a) A ticket broker or an employee or agent of a ticket broker is prohibited from
33 engaging in any of the following:

- 34 (1) Employing any agent or employee for the purpose of making future
35 purchases of tickets from the owner, operator, lessee, or tenant of the
36 property where an athletic contest or entertainment event is to be held.
37 (2) Acquiring or reselling in excess of one percent (1%) of the total tickets
38 allocated for any contest or event.
39 (3) Reselling or offering for resale any ticket within 1,500 feet from the
40 venue where an event or contest is to be held or is being held.
41 (4) Paying any consideration, directly or indirectly, to any promoter,
42 operator, or ticket sales agent to acquire or assist in the acquisition of a
43 ticket, except for the actual face value cost of the ticket and any
44 service fee authorized by G.S. 14-344(a).

1 (b) A promoter, operator, or ticket sales agent may not receive any consideration,
2 directly or indirectly, from any person, firm, or corporation to acquire or assist in the
3 acquisition of a ticket, except for the actual face value cost of the ticket and any service
4 fee authorized by G.S. 14-344(a).

5 **"§ 90-259.8. Disqualification for felony conviction.**

6 No person shall practice or engage in business as a ticket broker, or be employed as
7 general manager for a person practicing or engaged in business as a ticket broker, who
8 has been convicted of a felony and has not been pardoned or had his or her civil rights
9 restored.

10 **"§ 90-259.9. Violations.**

11 (a) Civil Penalties. – The Secretary of State may issue an order against a
12 certificate holder or any other person who willfully violates any provision of this
13 Article or rules adopted by the Secretary of State. Orders issued by the Secretary of
14 State may include the following:

- 15 (1) An order requiring the certificate holder or other person to cease and
16 desist from violating any provision of this Article.
17 (2) An order suspending or revoking the ticket broker's certificate of
18 registration.
19 (3) An order imposing a civil penalty of up to one thousand dollars
20 (\$1,000) for each violation of this Article.

21 No order under this subsection may be entered without giving the certificate holder or
22 other person 15 days' prior notice and an opportunity for a contested case hearing
23 conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

24 Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to
25 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

26 (b) Criminal Penalties. – A willful violation of any provision of this Article shall
27 constitute a Class 2 misdemeanor. The Secretary of State may refer any available
28 evidence concerning violations of this Article to the proper district attorney who may,
29 with or without reference, institute the appropriate criminal proceedings.

30 (c) Injunction. – Whenever it appears to the Secretary of State that a person has
31 engaged or is about to engage in an act or practice constituting a violation of any
32 provision of this Article or any rule adopted by the Secretary of State, the Secretary of
33 State may bring an action in any court of competent jurisdiction to enjoin those acts or
34 practices and to enforce compliance with this Article or any rule or order issued
35 pursuant to this Article.

36 **"§ 90-259.10. Rules.**

37 The Secretary of State may, in accordance with Chapter 150B of the General
38 Statutes, adopt rules necessary to carry out the provisions of this Article."

39 **SECTION 2.** G.S. 14-344 reads as rewritten:

40 **"§ 14-344. Sale of admission tickets in excess of printed price.**

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

1 exceed three dollars (\$3.00) for each ticket except that a promoter or operator of the
2 property where the event is to be held and a ticket sales agency may agree in writing on
3 a reasonable service fee greater than three dollars (\$3.00) for the first sale of tickets by
4 the ticket sales agent. This service fee may be a pre-established amount per ticket or a
5 percentage of each ticket. The existence of the service fee shall be made known to the
6 public by printing or writing the amount of the fee on the tickets which are printed for
7 the event. Any person, firm or corporation which sells or offers to sell a ticket for a
8 price greater than the price permitted by this section shall be guilty of a Class 2
9 misdemeanor.

10 (b) This section shall not apply to sales pursuant to Article 32A of Chapter 66 of
11 the General Statutes."

12 **SECTION 3.** G.S. 105-37.1 reads as rewritten:

13 "**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

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

- 16 (1) Giving, offering, or managing a dance or an athletic contest for which
17 an admission fee in excess of fifty cents (50¢) is charged.
- 18 (2) Giving, offering, or managing a form of amusement or entertainment
19 that is not taxed by another provision of this Article and for which an
20 admission fee is charged.
- 21 (3) Exhibiting a performance, show, or exhibition, such as a circus or dog
22 show, that is not taxed by another provision of this Article.

23 (a1) Ticket Brokers. – A privilege tax is imposed on the net receipts of a person
24 who is engaged in the business of ticket brokering as defined under Article 32A of
25 Chapter 66 of the General Statutes. For the purposes of this subsection, "net receipts"
26 means the gross receipts less the face value of the tickets sold.

27 (b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the
28 gross receipts from the activities described in subsection (a) of this ~~section~~section and
29 three percent (3%) of the net receipts from the activities described in subsection (a1) of
30 this section. The tax is due when a return is due. A return is due by the 10th day after
31 the end of each month and covers the gross receipts received during the previous month.

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

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

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

4 Neither a county nor a city may levy a license tax on a person taxed under
5 subsection (a1) of this section."

6 **SECTION 4.** Section 3 of this act becomes effective July 1, 2003, and
7 applies to tickets sold on or after that date. The remainder of this act is effective when it
8 becomes law.