

56: 8-26
LEGISLATIVE HISTORY CHECKLIST
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(Admission tickets--resale)

NJSA: 56:8-26

LAWS OF: 1995 CHAPTER: 169

BILL NO: S1227

SPONSOR(S): Singer & others

DATE INTRODUCED: June 16, 1995

COMMITTEE: ASSEMBLY: ---
SENATE: Law & Public Safety; Budget

AMENDED DURING PASSAGE: Yes Admentments during passage
Third reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: May 1, 1995 Re-enacted 6-29-95
SENATE: March 30, 1995 Re-enacted 6-26-95

DATE OF APPROVAL: July 5, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No
SENATE: Yes 10-27-94 & 12-8-94

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clipping---attached:
"Whitman suspends cap on ticket prices," 7-7-95, Asbury Park Press.

KBG:pp

§1
T & E
&
Note To 56:8-33
§2
Note To §1

P.L.1995, CHAPTER 169, *approved July 5, 1995*

1994 Senate No. 1227 (*Third Reprint*)

CORRECTED COPY

1 AN ACT concerning the resale of tickets of admission to places
2 of entertainment ¹[and],² ²and² amending P.L.1983, c.135
3 ²[and P.L.1966, c. 30]².

4
5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. ³[Section 1 of P.L.1983, c.135 (C.56:8-26) is amended to
8 read as follows:

9 1. As used in this act:

10 a. "Director" means the director of the Division of Consumer
11 Affairs in the Department of Law and Public Safety.

12 b. "Division" means the Division of Consumer Affairs in the
13 Department of Law and Public Safety.

14 c. "Person" means corporations, companies, associations,
15 societies, firms, partnerships and joint stock companies as well as
16 individuals.

17 d. "Place of entertainment" means any privately or publicly
18 owned and operated entertainment facility within [the] this State
19 [of New Jersey] , such as a theater, stadium, museum, arena,
20 racetrack or other place where performances, concerts, exhibits,
21 games or contests are held and for which an entry fee is charged.

22 e. "Ticket" means any piece of paper which indicates that the
23 bearer has paid for entry or other evidence which permits entry
24 to a place of entertainment.

25 f. ["Ticket agent" means any person who is involved in the
26 business of selling or reselling tickets of admission to places of
27 entertainment who charges a premium in excess of the price, plus
28 taxes, printed on the tickets.] (Deleted by amendment, P.L. ,
29 c.).

30 g. "Ticket broker" means any person situated in and operating
31 in this State ¹[or in another state]¹ who is involved in the
32 business of reselling tickets of admission to places of
33 entertainment to State residents and who charges a premium in
34 excess of the price, plus taxes, printed on the tickets ¹[, but does
35 not include a business selling tickets on consignment]¹.

36 ¹h. "Resale" means a sale by a person other than the owner or
37 operator of a place of entertainment or of the entertainment
38 event or an agent of any such person.

39 i. "Resell" means to offer for resale or to consummate a
40 resale.¹ (New section) Notwithstanding the provisions of section

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted October 27, 1994.

² Senate SBA committee amendments adopted December 8, 1994.

³ Senate amendments adopted in accordance with Governor's
recommendations June 22, 1995.

1 8 of P.L.1983, c.135 (C.56:8-33), for a period of 18 months
2 following the effective date of this act, the resale price of each
3 ticket subject to the provisions of P.L.1983, c.135 (C.56:8-26 et
4 seq.) shall not be limited to the price charged therefor and
5 printed on the face of the ticket. As used in this section,
6 "resale" means a sale by a person other than the owner or
7 operator of a place of entertainment or of the entertainment
8 event or an agent of any such person.³

9 ³[2. Section 2 of P.L.1983, c.135 (C.56:8-27) is amended to
10 read as follows:

11 2. No [person] ticket broker shall engage in or continue in the
12 business of reselling tickets for admission to a place of
13 entertainment without meeting the following requirements:

14 a. Owning, operating or maintaining [an] a permanent office,
15 branch office, bureau, agency, or other place of business, not
16 including a post office box, for the purpose of reselling tickets [in
17 this State; and];

18 b. Obtaining a ¹[license] certificate of registration¹ to resell
19 or engage in the business of reselling tickets from the director ;

20 c. Listing his ¹[license] registration¹ number in any printed
21 advertisement or solicitation;

22 d. Maintaining records of ticket sales, deposits and refunds for
23 a period of not less than three years from the time of any of
24 these transactions;

25 e. Disclosing to the purchaser by means of verbal description
26 or a map, the location of the seat or seats represented by the
27 ticket or tickets;

28 f. Disclosing to the purchaser the cancellation policy of that
29 broker;

30 g. Disclosing that a service charge is added by the ticket
31 broker to the stated price on the ticket or tickets and is included
32 by the broker in any advertisement or promotion for an event;

33 h. Disclosing to the purchaser, whenever applicable, that the
34 ticket broker has a guarantee policy. If a ticket broker
35 guarantees delivery of a ticket or tickets to a purchaser and fails
36 to deliver the ticket or tickets, the ticket broker shall provide a
37 full refund for the cost of the ticket or tickets and pay a penalty,
38 determined by the director, for each failure to deliver, provided
39 that the penalty shall not exceed the quoted price of the ticket or
40 tickets, or \$500, whichever is less;

41 i. Disclosing to the purchaser of a ticket or tickets when he is
42 utilizing a tentative order policy, popularly known as a "try and
43 get." When a ticket broker fails to obtain a ticket or tickets on a
44 "try and get" basis, the broker shall refund any deposit made by a
45 purchaser of such ticket or tickets within a reasonable time;

46 j. When guaranteeing a ticket or tickets in conjunction with
47 providing a tour package, a ticket broker who fails to provide a
48 purchaser with such ticket or tickets shall refund fully the price
49 of the tour package and ticket or tickets and pay a penalty,
50 determined by the director, which shall not exceed \$1,000; and

51 k. Providing to a purchaser of a ticket or tickets who cancels
52 an order, a full refund for the cost of the ticket or tickets less
53 shipping charges, if such ticket or tickets are returned to the
54 broker within three days after receipt; provided, that when a
55 ticket or tickets are purchased within seven days of an event, a

1 refund shall be given only if the ticket or tickets are returned
2 within one day of receipt; and provided, that no refund shall be
3 given on any ticket or tickets purchased within six days of an
4 event unless the ticket broker is able to resell the ticket or
5 tickets.

6 (cf: P.L.1983, c.220, s.2)]³

7 ³[3. Section 3 of P.L.1983, c.135 (C.56:8-28) is amended to
8 read as follows:

9 3. a. The division shall prepare and furnish to applicants for
10 ¹[licenses] registration¹ application forms and requirements
11 prescribed by the director pertaining to the applications for and
12 the [issuances] issuance of ¹[licenses] certificates of registration¹
13 to ticket brokers.

14 b. Every applicant for a ¹[license] certificate of registration¹
15 to engage in the business of reselling tickets as a ticket broker
16 shall file his written application with the division on the form
17 furnished by, and consistent with, the regulations prescribed by
18 the director.

19 c. Each application shall be accompanied by a fee [which shall
20 be determined by the director] of ¹[\$2,000] \$100¹, and a
21 description of the location where the applicant proposes to
22 conduct his business.

23 ¹[d. Every applicant for a license to engage in the business of
24 reselling tickets shall provide information, in a form satisfactory
25 to the director, demonstrating that he is a member in good
26 standing of a ticket broker trade association that has been in
27 existence for at least one year, and which association operates a
28 mediation panel to deal with consumer issues and provides the
29 public with access to a consumer hot line.]¹

30 (cf: P.L.1983, c.135, s.3)]³

31 ³[4. Section 4 of P.L.1983, c.135 (C.56:8-29) is amended to
32 read as follows:

33 4. a. Upon receipt of the completed application, fee and bond,
34 if any, ¹and within 120 days¹ and when the director is satisfied
35 that the applicant has complied with all of the requirements of
36 this act, the director shall grant and issue a ¹[license] certificate
37 of registration¹ to the applicant.

38 b. The ¹[license] certificate of registration¹ granted may be
39 renewed for a period of [two years] one year upon the payment of
40 a renewal fee [which shall be determined by the director] of ¹[\$2,000] \$100¹.

42 c. No ¹[license] certificate of registration¹ shall be
43 transferred or assigned without the approval of the director. [No]
44 Any request for a change in the location of the premises operated
45 by [the] any ¹[licensee] registrant¹ situated in and operating in
46 this State shall be [made except by permission of the director,
47 and upon payment of a fee established by the director] submitted
48 to the director in writing no less than 30 days prior to that
49 relocation. The ¹[license] certificate of registration¹ shall run to
50 January 1 in the second year next ensuing the date thereof unless
51 sooner revoked by the director.

52 (cf: P.L.1983, c.135, s.4)]³

53 ³[5. Section 5 of P.L.1983, c.135 (C.56:8-30) is amended to
54 read as follows:

55 5. The director shall require the applicant for a ¹[license]

1 certificate of registration¹ to engage in the business of reselling
2 tickets as a ticket broker to file with the application a bond in
3 the amount of [~~\$10,000.00~~] \$15,000 with two or more sufficient
4 sureties or an authorized surety company, which bond shall be
5 approved by the director.

6 Each bond shall be conditioned on the promise that the
7 applicant, his agents or employees will not be guilty of fraud or
8 extortion, will not violate any of the provisions of this act, will
9 comply with the rules and regulations promulgated by the
10 director, and will pay all damages occasioned to any person by
11 reason of misstatement, misrepresentation, fraud or deceit or any
12 unlawful act or omission in connection with the provisions of this
13 act and the business conducted under this act.

14 (cf: P.L.1983, c.135, s.5)³

15 ³[6. Section 8 of P.L.1983, c.135 (C.56:8-33) is amended to
16 read as follows:

17 8. ¹[Each place of entertainment shall print on the face of
18 each ticket and include in any advertising for any event the price
19 charged therefor. Except for tickets printed prior to the
20 enactment of this act, each ticket shall have endorsed thereon
21 the maximum premium not to exceed 20% of the ticket price or
22 \$3.00, whichever is greater, plus lawful taxes, at which the ticket
23 may be resold.] Each place of entertainment shall print on the
24 face of each ticket and include in any advertising for any event
25 the price charged therefor. Tickets printed prior to the
26 enactment of P.L. c. (C.) (now pending before the
27 Legislature as this bill) shall have endorsed thereon the maximum
28 premium not to exceed 20% of the ticket price or \$3.00,
29 whichever is greater, plus lawful taxes, at which the ticket may
30 be resold.¹ No person ¹[operating on consignment] , except
31 registered ticket brokers and ticket brokers operating in another
32 State¹ shall [resell,] ¹[sell or offer to]¹ [resell, or purchase with
33 the intent to resell] ¹[sell] resell or purchase with the intent to
34 resell¹ a ticket [at any premium in excess of the maximum
35 premium as set forth in this act] for admission to a place of
36 entertainment at a premium in excess of 25% of the ticket price
37 or \$3.50, whichever is greater, plus lawful taxes.

38 (cf: P.L.1983, c.220, s.3)³

39 ³[7. Section 9 of P.L.1983, c.135 (C.56:8-34) is amended to
40 read as follows:

41 9. a. No person shall ¹[sell, offer to sell,]¹ resell¹[, offer to
42 resell]¹ or purchase with the intent to resell any ticket, in or on
43 any street, highway, driveway, sidewalk, parking area, or common
44 area owned by a place of entertainment in this State, or any
45 other area adjacent to or in the vicinity of any place of
46 entertainment in this State as determined by the director; except
47 that a person may resell, in an area which may be designated by
48 [the] a place of entertainment in this State, any ticket or tickets
49 originally purchased for his own personal or family use at no
50 greater than the lawful price permitted under this act.

51 (cf: P.L.1983, c.220, s.4)³

52 ³[8. (New section) A purchaser of a ticket or tickets who
53 places a special order with a ticket broker for a ticket or tickets
54 that are not in stock or are obtained for a purchaser's specific

1 need and are paid for in advance by the ticket broker, shall not be
2 eligible to receive a refund for that purchase unless the ticket
3 broker is able to find someone else to purchase the ticket or
4 tickets as long as the purchaser is notified in advance of this
5 policy.]³

6 ³[9. (New section) a. There is established a Ticket Broker's
7 Mediation Panel ¹[in the Division of Consumer Affairs]¹ in the
8 Department of ¹Law and¹ Public Safety, which shall consist of
9 ¹[six] nine¹ members: one of whom shall be the ¹[Director of the
10 Division of Consumer Affairs] Attorney General¹ or his designee;
11 two from the general public with a background in mediation¹
12 and ¹[five] six¹ of whom shall be licensed ticket brokers to be
13 selected by the Governor. Of the public members, ¹[three] two¹
14 shall be representatives of ticket brokers from the southern
15 region of this State, ¹[one] two¹ shall be ¹[a representative]
16 representatives¹ from the central region of New Jersey, and
17 ¹[one] two¹ shall be ¹[a representative] representatives¹ from the
18 northern region of New Jersey. Of the public members first
19 appointed, ¹[one] two¹ shall be appointed for a term of one year;
20 ¹[two] three¹ for a term of two years and ¹[two] three¹ for a
21 term of three years. Their successors shall be appointed for
22 terms of three years. The ¹[director] Attorney General¹ shall
23 serve as chairperson of the mediation panel. A vacancy occurring
24 in the membership of the mediation panel for any cause, other
25 than the expiration of term, shall be filled by the Governor and
26 the person so appointed shall hold office for the unexpired term
27 of the member whose office has become vacant.

28 b. Members of the Ticket Broker's Mediation Panel shall serve
29 without compensation for performing their duties as members,
30 but the ¹[director] Attorney General¹ may, within the limits of
31 funds appropriated or otherwise made available therefor,
32 reimburse public members for the actual expenses necessarily
33 incurred in the performance of their duties.

34 c. The Ticket Broker's Mediation Panel shall participate in
35 hearing and making recommendations that are not binding
36 regarding questions brought before it involving controversies
37 concerning contractual agreements between purchasers and
38 ticket brokers and between ticket brokers.]³

39 ³[10. (New section) If any provision of this act or the
40 application thereof to any person or circumstance shall be
41 adjudged invalid by a court of competent jurisdiction, the order
42 or judgment shall be confined in its operation to the controversy
43 in which it was rendered and shall not affect or invalidate the
44 remaining provisions of the act or the application of any part to
45 any other person or circumstance, and to this end the provisions
46 of this act are declared to be severable.]³

47 ²[11. Section 3 of P.L.1966, c.30 (C54:32B-3) is amended to
48 read as follows:

49 3. There is imposed and there shall be paid a tax of 6% upon:

50 (a) The receipts from every retail sale of tangible personal
51 property, except as otherwise provided in this act. If the lessor
52 of tangible personal property purchased for lease elects to pay
53 tax on the amount of the sales price as provided in paragraph (2)
54 of subsection (bb) of section 2 of P.L.1966, c.30 (C.54:32B-2), any

1 and each subsequent lease or rental is a retail sale, and a
2 subsequent sale of such property is a retail sale.

3 (b) The receipts from every sale, except for resale, of the
4 following services:

5 (1) Producing, fabricating, processing, printing or imprinting
6 tangible personal property, performed for a person who directly
7 or indirectly furnishes the tangible personal property, not
8 purchased by him for resale, upon which such services are
9 performed.

10 (2) Installing tangible personal property, or maintaining,
11 servicing, repairing tangible personal property not held for sale in
12 the regular course of business, whether or not the services are
13 performed directly or by means of coin-operated equipment or by
14 any other means, and whether or not any tangible personal
15 property is transferred in conjunction therewith, except (i) such
16 services rendered by an individual who is engaged directly by a
17 private homeowner or lessee in or about his residence and who is
18 not in a regular trade or business offering his services to the
19 public, (ii) such services rendered with respect to personal
20 property exempt from taxation hereunder pursuant to section 13
21 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment,
22 P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning,
23 tailoring, weaving, pressing, shoe repairing and shoeshining and
24 (v) services rendered in installing property which, when installed,
25 will constitute an addition or capital improvement to real
26 property, property or land.

27 (3) Storing all tangible personal property not held for sale in
28 the regular course of business and the rental of safe deposit boxes
29 or similar space.

30 (4) Maintaining, servicing or repairing real property, other
31 than a residential heating system unit serving not more than
32 three families living independently of each other and doing their
33 cooking on the premises, whether the services are performed in
34 or outside of a building, as distinguished from adding to or
35 improving such real property by a capital improvement, but
36 excluding services rendered by an individual who is not in a
37 regular trade or business offering his services to the public, and
38 excluding garbage removal and sewer services performed on a
39 regular contractual basis for a term not less than 30 days.

40 (5) Advertising services, except advertising services for use
41 directly and primarily for publication in newspapers and
42 magazines and except for direct-mail advertising processing
43 services in connection with distribution to out-of-State
44 recipients.

45 (6) Advertising space in a telecommunications user or provider
46 directory or index distributed in this State.

47 (7) Tickets sold by a ticket broker, defined pursuant to section
48 1 of P.L.1983, c.135 (C.56:8-26), located in this State. For the
49 purposes of this subsection, receipts from the sales of tickets sold
50 by a ticket broker include all charges paid by the ticket purchaser
51 to the ticket broker.

52 Wages, salaries and other compensation paid by an employer to
53 an employee for performing as an employee the services
54 described in this subsection are not receipts subject to the taxes

1 imposed under this subsection (b).

2 Services otherwise taxable under paragraph (1) or (2) of this
3 subsection (b) are not subject to the taxes imposed under this
4 subsection, where the tangible personal property upon which the
5 services were performed is delivered to the purchaser outside this
6 State for use outside this State.

7 (c) Receipts from the sale of food and drink in or by
8 restaurants, taverns, vending machines or other establishments in
9 this State, or by caterers, including in the amount of such
10 receipts any cover, minimum, entertainment or other charge
11 made to patrons or customers:

12 (1) In all instances where the sale is for consumption on the
13 premises where sold;

14 (2) In those instances where the vendor or any person whose
15 services are arranged for by the vendor, after the delivery of the
16 food or drink by or on behalf of the vendor for consumption off
17 the premises of the vendor, serves or assists in serving, cooks,
18 heats or provides other services with respect to the food or drink,
19 except for meals especially prepared for and delivered to
20 homebound elderly, age 60 or older, and to disabled persons, or
21 meals prepared and served at a group-sitting at a location outside
22 of the home to otherwise homebound elderly persons, age 60 or
23 older, and otherwise homebound disabled persons, as all or part of
24 any food service project funded in whole or in part by government
25 or as part of a private, nonprofit food service project available to
26 all such elderly or disabled persons residing within an area of
27 service designated by the private nonprofit organization; and

28 (3) In those instances where the sale is for consumption off the
29 premises of the vendor, and consists of a meal, or food prepared
30 and ready to be eaten, of a kind obtainable in restaurants as the
31 main course of a meal, including a sandwich, except where food
32 other than sandwiches is sold in an unheated state and is of a type
33 commonly sold in the same form and condition in food stores
34 other than those which are principally engaged in selling prepared
35 foods;

36 (4) Sales of food and beverages sold through coin-operated
37 vending machines, at the wholesale price of such sale, which shall
38 be defined as 70% of the retail vending machine selling price,
39 except sales of milk, which shall not be taxed. Nothing herein
40 contained shall affect other sales through coin-operated vending
41 machines taxable pursuant to subsection (a) above or the
42 exemption thereto provided by section 21 of P.L.1980, c.105
43 (C.54:32B-8.9).

44 The tax imposed by this subsection (c) shall not apply to food or
45 drink which is sold to an airline for consumption while in flight.

46 (d) The rent for every occupancy of a room or rooms in a hotel
47 in this State, except that the tax shall not be imposed upon (1) a
48 permanent resident, or (2) where the rent is not more than at the
49 rate of \$2.00 per day.

50 (e) (1) Any admission charge, where such admission charge is in
51 excess of \$0.75 to or for the use of any place of amusement in
52 the State, including charges for admission to race tracks,
53 baseball, football, basketball or exhibitions, dramatic or musical
54 arts performances, motion picture theatres, except charges for

1 admission to boxing, wrestling, kick boxing or combative sports
2 exhibitions, events, performances or contests which charges are
3 taxed under any other law of this State or under section 20 of
4 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
5 admission to, or use of, facilities for sporting activities in which
6 such patron is to be a participant, such as bowling alleys and
7 swimming pools. For any person having the permanent use or
8 possession of a box or seat or lease or a license, other than a
9 season ticket, for the use of a box or seat at a place of
10 amusement, the tax shall be upon the amount for which a similar
11 box or seat is sold for each performance or exhibition at which
12 the box or seat is used or reserved by the holder, licensee or
13 lessee, and shall be paid by the holder, licensee or lessee.

14 (2) The amount paid as charge of a roof garden, cabaret or
15 other similar place in this State, to the extent that a tax upon
16 such charges has not been paid pursuant to subsection (c) hereof.

17 (f) The receipts from every sale, except for resale, of
18 intrastate or interstate telecommunications charged to an
19 address in this State, regardless of where the services are billed
20 or paid.¹

21 (cf: P.L.1992, c.11, s.1)]²

22 ¹[10.] ²[12.1] ³[11.2] 2.³ This act shall take effect
23 ³[immediately] 90 days after enactment³.

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28 Establishes requirements for ticket brokers concerning the resale
29 of tickets of admission to places of entertainment.

1 regarding questions brought before it involving controversies
2 concerning contractual agreements between purchasers and
3 ticket brokers and between ticket brokers.

4 10. This act shall take effect immediately.

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STATEMENT

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9 This bill provides that any person who falls within the
10 definition of a ticket broker must maintain a permanent office or
11 other place of business and be licensed by the Division of
12 Consumer Affairs in the Department of Law and Public Safety.
13 The bill defines the term "ticket broker" as any person situated
14 in and operating in New Jersey or from out of state who is
15 involved in the business of reselling tickets of admission to places
16 of entertainment to New Jersey residents and who charges a
17 premium in excess of the price, plus taxes, printed on the tickets,
18 but does not include a business selling tickets on consignment.
19 The bill's requirements apply to the resale of tickets for
20 admission to places of entertainment in this State. The bill also
21 imposes other requirements upon ticket brokers, including: listing
22 of the broker's license number in printed advertisements or
23 solicitations; maintaining certain records; disclosing to the
24 purchaser the broker's various operating policies regarding
25 service charges, cancellations, guarantee procedures, tentative
26 orders, and special orders; and providing the purchaser with
27 information about the location of seating.

28 The bill also stipulates that an applicant for a license to engage
29 in the business of reselling tickets as a ticket broker shall file
30 with the application a bond in the amount of \$15,000. Under
31 existing law, the bond requirement for an applicant is \$10,000. In
32 addition, the bill provides that the initial license application fee
33 and the annual license renewal fee shall each be \$2,000. The bill
34 also provides that no person operating on consignment shall sell
35 or offer to sell a ticket for admission to a place of entertainment
36 at a premium in excess of 25% of the ticket price or \$3.50,
37 whichever is greater, plus lawful taxes.

38 Furthermore, the bill establishes a Ticket Broker's Mediation
39 Panel in the Division of Consumer Affairs, which shall consist of
40 six members. One member is the Director of the Division of
41 Consumer Affairs, who shall serve as chairperson of the
42 mediation panel. The other five members shall be licensed ticket
43 brokers selected by the Governor. The mediation panel shall
44 participate in hearing and making recommendations that are not
45 binding regarding questions voluntarily brought before it involving
46 controversies concerning contractual agreements between
47 purchasers and ticket brokers and between ticket brokers.

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52 Establishes requirements for ticket brokers concerning the resale
53 of tickets of admission to places of entertainment.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1227

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 27, 1994

The Senate Law and Public Safety Committee favorably reports with committee amendments Senate Bill No. 1227.

As amended and released by the committee, this bill provides that any person who falls within the definition of a ticket broker must maintain a permanent office or other place of business and be licensed by the Division of Consumer Affairs in the Department of Law and Public Safety. The bill defines the term "ticket broker" as any person situated in and operating in New Jersey who is involved in the business of reselling tickets of admission to places of entertainment to New Jersey residents and who charges a premium in excess of the price, plus taxes, printed on the tickets. The bill's requirements apply to the resale of tickets for admission to places of entertainment in this State. The bill also imposes other requirements upon ticket brokers, including: listing of the broker's certificate of registration number in printed advertisements or solicitations; maintaining certain records; disclosing to the purchaser the broker's various operating policies regarding service charges, cancellations, guarantee procedures, tentative orders, and special orders; and providing the purchaser with information about the location of seating.

The bill also stipulates that an applicant for a license to engage in the business of reselling tickets as a ticket broker would file with the application a bond in the amount of \$15,000. Under current law, the bond requirement for an applicant is \$10,000. In addition, the bill provides that the initial license application fee and the annual license renewal fee would each be \$100. The bill also provides that no person except registered ticket brokers and ticket brokers operating in another state could resell or purchase with the intent to resell a ticket for admission to a place of entertainment at a premium in excess of 25% of the ticket price or \$3.50, whichever is greater, plus lawful taxes.

Furthermore, the bill establishes a Ticket Broker's Mediation Panel in the Division of Consumer Affairs, which would consist of nine members. One member is the Attorney General, who would serve as chairperson of the mediation panel. Six members would be licensed ticket brokers selected by the Governor. The other two members would be members of the general public with a background in mediation. The mediation panel would participate in hearing and making recommendations that are not binding regarding questions voluntarily brought before it involving controversies concerning contractual agreements between purchasers and ticket brokers and between ticket brokers.

The committee amendments:

- 1) increase the membership of the mediation panel to nine members, adding two members of the general public, and provide that the Attorney General rather than the Director of the Division of Consumer Affairs would be chairman;
- 2) clarify that the statutory maximum premiums for tickets are applicable only to certain resales and not the original sale;
- 3) substitute the term certificate of registration for license;
- 4) decrease the fee which must accompany an application for a certificate of registration from \$2000 to \$100;
- 5) provide that the director grant the certificate of registration within 120 days after receiving the application;
- 6) provide for a severability clause;
- 7) provide that out-of-state ticket brokers would not be subject to the bill's provisions;
- 8) delete the provision requiring a ticket broker to be a member of a ticket broker trade association;
- 9) impose the sales and use tax on the receipts from sales of tickets by ticket brokers in this State. The tax is imposed on the entire charge paid to the ticket broker by a purchaser;
- 10) define the terms "resale" and "resell."

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 1227

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 8, 1994

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1227 (1R), with committee amendments.

Senate Bill No. 1227 (1R), as amended, changes existing statutes pertaining to the sale of entertainment tickets. It requires ticket brokers to maintain a permanent office and register with the Division of Consumer Affairs in the Department of Law and Public Safety. The bill also requires ticket brokers to: list the brokers registration number in printed advertisements or solicitations; maintain business records for three years; and disclose to the purchaser information concerning the location of seating and the brokers' operating policies regarding service charges, cancellations, guarantee procedures, tentative orders and special orders. The bill imposes penalties on ticket brokers for failure to comply with the provisions of the bill. Ticket brokers not situated, but operating in this State are exempt from the bill's provisions.

The bill provides for an initial registration fee and annual renewal fee of \$100 each. The bill also increases the amount of the one-time ticket broker bond from \$10,000, under current law, to \$15,000.

The bill establishes a nine-member unpaid panel to provide non-binding recommendations concerning disputes in contractual agreements between purchasers and ticket brokers, and controversies between ticket brokers. The bill authorizes the Attorney General to reimburse public panel members for actual expenses incurred in the performance of their duties, if funding is available.

COMMITTEE AMENDMENTS

The committee amendments remove the provision of the bill that would have extended the sales tax on tickets sold by a ticket broker in this State to the entire charge paid to a broker by a purchaser, including the service charge.

FISCAL IMPACT

The Division of Consumer Affairs places the cost of implementing this bill at \$260,000 in the first year following enactment, \$257,000 for the second year and \$212,000 for the third year. The division estimates that annual revenues collected from ticket brokers for registration and renewal fees will be reduced from \$150,000 to \$7,500 as a result of this bill.

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June 19, 1995

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

SENATE BILL NO. 1227
(Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1227 (Second Reprint) with my recommendations for reconsideration.

A. Summary of Bill

This bill, among other things, removes the current statutory maximum premium which may be charged by registered and out-of-State brokers who resell entertainment tickets. The bill, however, restricts resale premiums which may be charged by all other persons by prohibiting them from charging a premium in excess of 25 percent of ticket price or \$3.50, whichever is greater, plus tax. Under current law, the maximum premium at which any ticket may be resold is the greater of 20 percent of the ticket price or \$3.00, plus tax. The bill also revises other provisions of the State's Consumer Fraud Act pertaining to the resale of entertainment tickets.

B. Recommended Action

I commend the sponsors and the Legislature for their efforts to reduce government regulation of entertainment ticket sales and to make these tickets available to consumers in the secondary market at competitive prices. While the free market generally works well, I am not convinced that free market principles will operate appropriately in the face of the overwhelming demand for the finite number of seats available for

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STATE OF NEW JERSEY
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the typical entertainment event contemplated by this bill. Nonetheless, it is not unreasonable to allow for the opportunity to assess the ability of the market to operate free of a cap.

Accordingly, I recommend that this bill be amended to remove the statutory price cap on the resale of all entertainment tickets for a period of eighteen months. During that time, the Legislature will be able to assess whether lifting the resale price cap makes more tickets available to consumers at prices lower than those now charged by unlicensed resellers. Based upon that assessment, we will be able to determine whether the temporary repeal of the price cap should be made permanent. I also recommend deferring the effective date for 90 days to allow for proper implementation.

Because the resale cap will be suspended only temporarily, the remaining provisions of the Consumer Fraud Act regulating the sale and resale of entertainment tickets should not be amended at this time. The unchanged provisions of the Consumer Fraud Act together with the Criminal Code's prohibitions against deceptive business practices and theft by deception will continue to protect consumers from fraudulent or misleading practices relating to the sale and resale of entertainment tickets while the resale cap is suspended.

Therefore, I herewith return Senate Bill No. 1227 (Second Reprint) and recommend that it be amended as follows:

Page 1, Section 1, Lines 1-41: After "1." delete in entirety and insert "(New section)"

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Notwithstanding the provisions of section 8 of P.L.1983, c.135 (C.56:8-33), for a period of 18 months following the effective date of this act, the resale price of each ticket subject to the provisions of P.L.1983, c.135 (C.56:8-26 et seq.) shall not be limited to the price charged therefor and printed on the face of the ticket. As used in this section, "resale" means a sale by a person other than the owner or operator of a place of entertainment or of the entertainment event or an agent of any such person."

Page 1, Section 2, Lines 42-43: Delete in entirety

Page 2, Section 2, Lines 1-51: Delete in entirety

Page 2, Section 3, Lines 52-54: Delete in entirety

Page 3, Section 3, Lines 1-21: Delete in entirety

Page 3, Section 4, Lines 22-43: Delete in entirety

Page 3, Section 5, Lines 44-54: Delete in entirety

Page 4, Section 5, Lines 1-6: Delete in entirety

Page 4, Section 6, Lines 7-30: Delete in entirety

Page 4, Section 7, Lines 31-43: Delete in entirety

Page 4, Section 8, Lines 44-51: Delete in entirety

Page 4, Section 9, Lines 52-54: Delete in entirety

Page 5, Section 9, Lines 1-30: Delete in entirety

Page 5, Section 10, Lines 31-38: Delete in entirety

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Page 8, Section 11, Line 13:

Delete "11." and insert "2."
and delete "immediately" and
insert "90 days after
enactment"

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Margaret M. Foti

Chief Counsel to the Governor

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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001
Contact: BECKY TAYLOR
609-777-2600

TRENTON, N.J. 08625
Release: THURSDAY
JULY 6, 1995

Governor Christie Whitman has signed the following bills into law:

S-1227/A-1878, sponsored by Sen. Robert Singer (R-Burlington/Monmouth Ocean) and James Cafiero (R-Cape May/Atlantic/Cumberland) and Assemblymen Walter Kavanaugh (R-Morris/Somerset) and Joseph Malone (R-Burlington/Monmouth/Ocean). This bill, with the Governor's recommendations, amends the Consumer Fraud Act to temporarily suspend the current price cap on the resale of admission tickets to places of entertainment.

The amended ticket scalping bill provides that, for a period of 18 months following the effective date of the bill, the resale price of any ticket shall not be limited to the price charged and printed on the face of the ticket. "This 18 month repeal will give us time to assess whether lifting the cap will result in the increased availability of tickets at lower prices," said Governor Whitman.

The Governor said that while she is "not convinced that free market principles will operate appropriately in the face of the overwhelming demand for the finite number of seats available for the typical entertainment event, this law will allow for the opportunity to assess the ability of the market to operate free of a cap."

Whitman said that while the resale cap will be lifted, other provisions of the Consumer Fraud Act will remain in effect. The state's Criminal Code, which prohibits deceptive business practices and theft by deception, will continue to be enforced.

The bill becomes effective 90 days from enactment.

S-342/A-868, sponsored by Sen. William Gormley (R-Atlantic) and Assemblyman Frank LoBiondo (R-Cape May/Atlantic/Cumberland). This bill expands the offense of maintaining a nuisance to cover sexually oriented businesses which offer booths, screens, enclosures or other devices to facilitate sexual activity by patrons.

S-458/A-1456, sponsored by Sen. John Ewing (R-Morris/Somerset) and Assemblymen Melvin Cottrell (R-Burlington/Monmouth/Ocean) and Joseph Malone (R-Burlington/Monmouth/Ocean). This bill expands the membership on the Advisory Council on the Deaf and Hard of Hearing.

A-2260/S-1594, sponsored by Assemblymen Anthony Bucco (R-Morris) and Arthur Albohn (R-Morris) and Sen. Gordon MacInnes (D-Morris) and Robert Martin (R-Essex/Morris/Passaic). This bill allows a municipal ordinance which establishes a special improvement district to exempt residential property from special improvement assessments.