

FIRST REGULAR SESSION

# HOUSE BILL NO. 1098

## 99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRIER.

2229H.01I

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To amend chapter 316, RSMo, by adding thereto five new sections relating to the Missouri Fan Protection Act, with penalty provisions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 316, RSMo, is amended by adding thereto five new sections, to be known as section 316.121, 316.122, 316.123, 316.124, and 316.125, to read as follows:

**316.121. Sections 316.121 to 316.125 shall be known and may be cited as the "Missouri Fan Protection Act".**

**316.122. As used in sections 316.121 to 316.125, the following terms mean:**

- (1) **"Automated ticket purchasing software", any machine, device, computer program, or computer software that navigates or runs automated tasks on retail ticket purchasing websites to bypass security measures and purchase, reserve, or access tickets;**
- (2) **"Face value", the price of a ticket as determined by the artist or event presenter, which may or may not be printed or displayed on the ticket;**
- (3) **"Online marketplace", a website, software application for a mobile device, or any other digital platform that provides a forum for or facilitates the buying and selling or reselling of tickets between parties who are not the event presenter or any website that engages in the resale of tickets;**
- (4) **"Original purchaser", a person who buys one or more tickets to enter a place of entertainment with the intention of using such tickets solely for the use by such person or such person's family, invitee, agent, or employee;**
- (5) **"Person", any individual, partnership, firm, association, corporation, limited liability company, or combination of individuals or legal entities;**

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

16           (6) "Place of entertainment", an entertainment facility in this state that holds  
17 performances, concerts, exhibits, games, athletic events, or contests for which an entry fee  
18 is charged including, but not limited to, a theater, stadium, museum, arena, amphitheater,  
19 or racetrack. A facility owned by a school, college, or university is a place of entertainment  
20 only when the facility holds an event for which an entry fee is charged;

21           (7) "Reseller", any person who resells a ticket;

22           (8) "Ticket", a printed, electronic, or other type of evidence indicating the right,  
23 option, or opportunity to occupy space at or to enter or attend a place of entertainment  
24 regardless of whether evidenced by any physical manifestation of such right;

25           (9) "Ticket broker", any person or persons acting in concert who engage in the  
26 business of reselling tickets of admission to places of entertainment. "Ticket broker" shall  
27 not include:

28           (a) A person who does not regularly engage in the business of reselling tickets or  
29 who resells less than one hundred tickets during any one-year period; or

30           (b) Any person who operates an online marketplace.

316.123. A ticket broker shall disclose to any prospective purchaser:

2           (1) Whether the ticket offered for sale is within the actual possession of the reseller  
3 and available for delivery and, if not, the period of time when the reseller reasonably  
4 expects to have the ticket in hand and available for delivery;

5           (2) That the ticket offered by the broker is authentic and good for entry into a place  
6 of entertainment on the date for which it is offered; and

7           (3) That the ticket offered for sale was not procured by the use of software  
8 primarily designed for the purposes of interfering with the operations of any ticket seller,  
9 in violation of Missouri fan protection act.

316.124. 1. An online marketplace offering tickets for resale shall disclose clearly  
2 and conspicuously:

3           (1) That it is an online marketplace and prices of tickets can often exceed face  
4 value;

5           (2) The face value and exact location of the seat of the ticket being offered for sale,  
6 including any section, row, or seat number;

7           (3) Which tickets are specifically designated as accessible seating;

8           (4) Whether the ticket offered for sale is in the actual possession of the reseller and  
9 available for delivery;

10           (5) Whether the reseller is actively making an offer to procure the ticket;

11           (6) If the ticket is not in the physical possession of the reseller, the period of time  
12 when the reseller reasonably expects to have the ticket in hand and available for delivery;  
13 and

14           (7) The refund policy of the online marketplace in connection with the cancellation  
15 or postponement of an entertainment event.

16           2. An online marketplace shall not use the name of a venue, artist, or team  
17 trademark or service mark in any way without the express written consent of the  
18 intellectual property owner, except if such use constitutes fair use and is consistent with  
19 applicable laws, including full disclosure or attribution of the true intellectual property  
20 owner.

          316.125. 1. It shall be unlawful for any person to utilize automated ticket  
2 purchasing software to purchase tickets.

3           2. Any person who knowingly utilizes automated ticket purchasing software in  
4 order to bypass security measures and purchase tickets shall be subject to a civil penalty  
5 in an amount no less than five hundred dollars and not to exceed one thousand dollars for  
6 each such violation and shall forfeit all profits made from the sale of any such unlawfully  
7 obtained tickets.

8           3. Any person who intentionally maintains any interest in or control of the  
9 operation of automated ticket purchasing software to bypass security measures and  
10 purchase tickets shall be subject to a civil penalty in an amount no less than seven hundred  
11 fifty dollars and not to exceed one thousand five hundred dollars for each such violation  
12 and shall forfeit all profits made from the sale of any such unlawfully obtained tickets.

13           4. Any person who is subject to a civil penalty under this section and was previously  
14 assessed a penalty under this section in the previous five years shall be guilty of a violation  
15 and may be fined no less than one thousand dollars and no more than five thousand dollars  
16 for each such violation and shall forfeit all profits from the sale of any such unlawfully  
17 obtained tickets. In addition, a person convicted of a violation under this section may be  
18 required to forfeit any and all equipment used in the unlawful purchasing of tickets.

19           5. The attorney general shall have jurisdiction to enforce the provisions of this  
20 section.

21           6. In addition to the power given to the attorney general to enforce the provisions  
22 of this section, any place of entertainment or any aggrieved party that is injured by  
23 wrongful conduct described under this section may bring an action to recover all actual  
24 damages suffered as a result of any of such wrongful conduct. The court in its discretion  
25 may award up to treble damages. The court may enjoin the respondent from any and all

26 **activity prohibited under this section. The court may also award reasonable attorney's fees**  
27 **and costs.**

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