

HOUSE No. 3975

The Commonwealth of Massachusetts

PRESENTED BY:

Tackey Chan

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 adoption of the accompanying bill:

An Act to secure while improving fans' tickets.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>6/14/2023</i>

HOUSE No. 3975

By Representative Chan of Quincy, a petition (subject to Joint Rule 12) of Tackey Chan relative to certain ticket transactions. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to secure while improving fans' 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. Section 182A of Chapter 140 of the General Laws, as appearing in the
2 2020 Official Edition, is hereby amended by adding at the end thereof the following 3
3 paragraphs:-

4 No person, firm, corporation, or other entity shall employ a paperless ticketing system
5 unless the consumer is given an option to purchase paperless tickets that the consumer can
6 transfer at any price, and at any time, and without additional fees, independently; provided,
7 however, a paperless ticketing system may be employed that does not allow for independent
8 transferability of paperless tickets only if the consumer is offered an option at the time of sale to
9 purchase the same tickets in some other form that is transferable independently, including, but
10 not limited to, paper tickets or electronic tickets. The established price for any given ticket shall
11 be the same regardless of the form or transferability of such ticket. The ability for a ticket to be
12 transferred independently shall not constitute a special service for the purpose of imposing a
13 service charge subject to section one hundred and eighty-five D.

14 Notwithstanding the above paragraph, an operator of any such theatrical exhibition,
15 public show or public amusement or exhibition, or such operator's agent, may offer paperless
16 tickets which do not allow for independent transferability provided that such tickets are included
17 in a membership pass at a discounted price offered by a professional sports organization for
18 seating in venues or stadiums with a fixed capacity of over 19,000 seats that guarantees entry to a
19 specified number of events in a specified time period with seat assignments assigned no more
20 than four hours prior to the commencement of the event and such seat assignment must be
21 variable from game to game and not intended for season ticket holders. Tickets provided under
22 such membership pass may be restricted from being transferred or resold, including through the
23 operator or operators' agents, and must be clearly marked as such prior to initial offering or sale.
24 Such membership pass shall not mean a subscription or season ticket package offered for sale
25 and shall not result in the sale of more than five per cent of the maximum amount of all seats that
26 will be made available at a venue for a particular event to be sold under this section.

27 Venue operators, or agents of such operators, may maintain and enforce policies with
28 respect to conduct, behavior, public health and safety, or age at the venue or event; and establish
29 limits on the quantity of tickets that may be purchased.

30 SECTION 2. Chapter 140 of the General Laws, as so appearing, is hereby amended by
31 striking out section 185A, and inserting in place thereof the following section:-

32 Section 185A. No person shall engage in the business of reselling, or facilitating a
33 mechanism for two or more parties to participate in the resale of, any ticket or tickets of
34 admission or other evidence of right of entry to any theatrical exhibition, public show or public
35 amusement or exhibition required to be licensed under sections one hundred and eighty-one and

36 one hundred and eighty-two of this chapter or under chapter one hundred and twenty-eight A,
37 whether such business is conducted on or off the premises on which such ticket or other evidence
38 is to be used, without being licensed therefor by the commissioner of the division of occupational
39 licensure, in this and the six following sections called the commissioner. Any operator or
40 manager of a website that serves as a platform to facilitate resale, or resale by way of a
41 competitive bidding process, solely between third parties and does not in any other manner
42 engage in reselling of tickets shall be exempt from said licensing requirements.

43 A license shall be granted only upon a written application setting forth such information
44 as the commissioner may require. Each license issued under this section shall be in force until
45 the first day of January next after its date, unless sooner revoked. No such license may be
46 transferred or assigned except upon written permission of the commissioner. The sale of a ticket
47 or pass, entitling the holder thereof to admission to any such theatrical exhibition, public show or
48 public amusement or exhibition upon payment either of nothing or a sum less than that
49 demanded of the public generally, shall be deemed to be a resale thereof within the meaning of
50 this section.

51 No person shall engage in or have any interest, as a stockholder or otherwise, in any such
52 business in the conduct of which is or are resold any ticket or tickets of admission or other
53 evidence or evidences of right of entry to any theatrical exhibition, public show or public
54 amusement or exhibition of which said person is the owner or in which he has any interest, as a
55 stockholder or otherwise.

56 SECTION 3. Section 185B of said chapter, as so appearing, is hereby amended by
57 adding at the end thereof the following:- If any licensee demonstrates that their business

58 provides a service to facilitate ticket transactions without charging any fees or surcharges above
59 the established face value ticket price, on every transaction, except a reasonable and actual
60 service charge for the delivery of tickets, then the fees for licensing shall be waived.

61 The applicant for a license shall file with the application a bond in the penal sum of
62 25,000 dollars, which bond shall be approved by the commissioner. Each such bond shall be
63 conditioned that the obligor will not be guilty of any fraud or extortion, will not violate directly
64 or indirectly any of the provisions of sections one hundred and eighty-five A through one
65 hundred and eighty-five F, inclusive, or any of the provisions of the license provided for in said
66 sections, will comply with the provisions of said sections and will pay all damages occasioned to
67 any person by reason of any misstatement, misrepresentation, fraud or deceit or any unlawful act
68 or omission of such obligor, his or her agents or employees, while acting within the scope of
69 their employment, made, committed or omitted in connection with the provisions of said section
70 in the business conducted under such license or caused by any other violation in carrying on the
71 business for which such license is granted. One or more recoveries or payments upon such bond
72 shall not vitiate the same but such bond shall remain in full force and effect, provided, however,
73 that the aggregate amount of all such recoveries or payments shall not exceed the penal sum
74 thereof. Before the commissioner shall draw upon such bond, the commissioner shall issue a
75 determination in writing which shall include the basis of such action. The commissioner shall
76 notify in writing the licensee of any such determination and shall afford the licensee an
77 opportunity to respond within 20 days of the receipt of such determination. In no event may the
78 bond be drawn upon in less than 25 days after the service of a determination to the licensee.
79 Such written notice may be served by delivery thereof personally to the licensee, or by certified
80 mail to the last known business address of such licensee. Only upon such determination of the

81 commissioner shall moneys be withdrawn from the bond. The commencement of any action or
82 actions against the surety upon any such bond for a sum or sums aggregating or exceeding the
83 amount of such bond shall require a new and additional bond in like amount as the original one,
84 which shall be filed within 30 days after the demand therefor. Failure to file such bond within
85 such period shall constitute cause for the revocation of the license theretofore issued to the
86 licensee upon whom such demand shall have been made.

87 Any suit or action against the surety on any bond required by the provisions of this
88 section shall be commenced within one year after the cause of action shall have accrued.

89 SECTION 4. Section 185C of said chapter, as so appearing, is hereby amended by
90 adding at the end thereof the following paragraph:-

91 No person, firm, corporation, or other entity shall utilize ticket purchasing software to
92 purchase tickets. For the purpose of this paragraph, "ticket purchasing software" shall mean any
93 machine, device, computer program or computer software that, on its own or with human
94 assistance, bypasses security measures or access control systems on a retail ticket purchasing
95 platform, or other controls or measures on a retail ticket purchasing platform that assist in
96 implementing a limit on the number of tickets that can be purchased, to purchase tickets. Any
97 person, firm, corporation, or other entity who knowingly utilizes ticket purchasing software in
98 order to purchase tickets shall be subject to a civil penalty in an amount not less than 500 dollars
99 per violation and shall forfeit all profits made from the sale of any such unlawfully obtained
100 tickets. Any person, firm, corporation or other entity who is a licensee who is adjudicated guilty
101 of the following acts may lose their license and may be barred from licensure for a period not to
102 exceed three years if such licensee: (i) knowingly utilized ticket purchasing software in order to

103 purchase tickets; (ii) knowingly resold or offered to resell a ticket that such licensee knew was
104 obtained using ticket purchasing software; or (iii) intentionally maintained any interest in or
105 maintained any control of the operation of ticket purchasing software to purchase tickets.

106 SECTION 5. Section 185D of said chapter, as so appearing, is hereby amended by
107 striking out the first paragraph, and inserting in place thereof the following:-

108 Section 185D. No licensee under section one hundred and eighty-five A shall resell, or
109 facilitate the resale of, any ticket or other evidence of right of entry to any theatrical exhibition,
110 public show or public amusement or exhibition of any description without a guarantee to each
111 purchaser of such resold tickets that the licensee will provide a full refund of the amount paid by
112 the purchaser, including, but not limited to all service charges if any of the following occurs: (i)
113 the event for which such ticket has been resold is cancelled; (ii) the ticket received by the
114 purchaser does not grant the purchaser admission to the event described on the ticket; (iii) the
115 ticket was not delivered to the purchaser prior to the occurrence of the event, unless such failure
116 of delivery was due to an act or omission of the purchaser; or (iv) the ticket fails to conform to its
117 description as advertised unless the purchaser has pre-approved a substitution of tickets.

118 A licensee shall disclose in a clear and conspicuous manner the total price of the ticket
119 and the portion of the ticket price stated in dollars that represents a service charge prior to
120 accepting payment therefor. Any physical or electronic listing of available tickets by price
121 facilitated by the licensee shall include a clear and conspicuous disclosure of any service charges
122 presumed to be included in the final total amount of the ticket price.

123 For the purpose of this section, service charges are defined as costs incurred by said
124 licensee related solely to the procuring and selling of such ticket or other evidence of right of

125 entry and not related to the general business operation of said licensee. Service charges include,
126 but are not limited to, charges for messengers, postage, and long distance telephone calls,
127 extensions of credit and costs attributable thereto.

128 SECTION 6. Section 185E of said chapter, as so appearing, is hereby amended by
129 inserting after the second sentence, the following new sentence:- A licensee shall keep full and
130 accurate sets of records showing: (i) the prices at which all tickets have been bought and sold by
131 such licensee; and (ii) the names and addresses of the person, firm or corporation from whom
132 they were bought.