

SB 328-FN - AS AMENDED BY THE SENATE

04/11/2024 1423s

2024 SESSION

24-2939

08/05

SENATE BILL

**328-FN**

AN ACT

relative to deceptive ticket sale practices.

SPONSORS:

Sen. D'Allesandro, Dist 20; Sen. Watters, Dist 4; Sen. Fenton, Dist 10; Sen. Perkins Kwoka, Dist 21; Sen. Altschiller, Dist 24; Sen. Soucy, Dist 18; Sen. Whitley, Dist 15; Sen. Rosenwald, Dist 13; Sen. Chandley, Dist 11; Sen. Prentiss, Dist 5; Rep. Heath, Hills. 41; Rep. Goley, Hills. 21

COMMITTEE:

Commerce

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AMENDED ANALYSIS

This bill regulates secondary ticket exchanges, ticket issuers, and resellers, and prohibits speculative ticket sales.

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Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Four*

AN ACT relative to deceptive ticket sale practices.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1       1 New Paragraph; Regulation of Business Practices for Consumer Protection; Acts Unlawful;  
2 Unauthorized Resellers. Amend RSA 358-A:2 by inserting after paragraph XVIII the following new  
3 paragraph:

4       XIX.(a) In this paragraph:

5               (1) "Clear and conspicuous" or "clearly and conspicuously" means that a required  
6 disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary  
7 consumers.

8               (2) "Resale" means the second or subsequent sale of a ticket. "Resale" includes a sale  
9 by any means, including in person, by telephone, by mail, by e-mail, by facsimile, or through a  
10 website or other electronic means.

11              (3) "Reseller" means a person engaged in the resale of tickets.

12              (4) "Secondary ticket exchange" means an electronic marketplace that enables  
13 consumers to sell, purchase, and resell tickets.

14              (5) "Speculative ticket" means a ticket that is not in the actual or constructive  
15 possession of a reseller at the time of sale. "Speculative ticket" includes a ticket sold by a reseller  
16 that, at the time of resale:

17                   (A) Is not in the physical possession of the reseller;

18                   (B) Is not owned by the reseller; or

19                   (C) Is not under contract to be transferred to the reseller.

20              (6) "Ticket" means physical, electronic, or other evidence, that grants the possessor  
21 of the evidence license to enter a place of entertainment for one or more events at a specified date  
22 and time.

23              (7) "Ticket Issuer" means a person that, directly or indirectly, issues initial tickets  
24 for an entertainment event. "Ticket issuer" includes a musician or musical group, an operator of a  
25 venue, a sponsor or a promoter of an entertainment event, a sports team participating in an  
26 entertainment event, a sports league whose teams are participating in an entertainment event, a  
27 theater company, a marketplace or service operated for consumers to make an initial purchase of  
28 tickets, or an agent of any of the persons listed in this subparagraph.

29              (8) "URL" means the Uniform Resource Locator associated with an online website.

30              (b) This subparagraph applies only to secondary ticket exchanges, ticket issuers,  
31 resellers, and any person selling or reselling a ticket. The listing for a ticket shall:

1 (1) Clearly and conspicuously disclose the total price of the ticket, including all fees,  
2 surcharges, and taxes required to be paid in order to purchase the ticket, from the first time a price  
3 is displayed and anytime thereafter;

4 (2) Not increase the total price of the ticket from the first time a price is displayed,  
5 excluding the addition of reasonable postage or carrier charges incurred to ship non-electronic  
6 tickets based on the location or delivery method selected by the purchaser, which shall be disclosed  
7 and added to the total cost prior to purchase;

8 (3) Provide an itemized listing of all charges that comprise the total price of the  
9 ticket, including all fees, surcharges, and taxes prior to purchase;

10 (4) Identify the row number and zone or section of the ticket, to the extent applicable  
11 to the seat and venue; and

12 (5) Provide a clear and conspicuous statement, before a visitor purchases an event  
13 ticket from the ticket issuer, reseller, or secondary ticket exchange that the issuer, reseller, or  
14 exchange is engaged in the secondary sale of event tickets.

15 (c) A person shall not prohibit or restrict the transfer or resale of a ticket that was made  
16 available to the general public for purchase.

17 (d) A reseller shall not sell or offer to sell speculative tickets. Nothing in this section  
18 shall be construed to prohibit a reseller or a secondary ticket exchange from offering a service to a  
19 consumer to obtain a ticket on behalf of the consumer if the reseller or secondary ticket exchange  
20 complies with the following:

21 (1) Does not market or list the service as a ticket.

22 (2) Maintains a clear, distinct, and easily discernible separation between the service  
23 and event tickets through unavoidable visual demarcation that persists throughout the entire  
24 service selection and purchasing process.

25 (3) Clearly and conspicuously discloses before selection of the service that the service  
26 is not a ticket and that the purchase of the service does not guarantee a ticket.

27 (4) In the event the service is unable to obtain the specified ticket purchased through  
28 the service for the consumer, provides the consumer that purchased the service, within a reasonable  
29 amount of time:

30 (A) A full refund for the total cost of the service to obtain a ticket on behalf of the  
31 consumer; or

32 (B) Subject to availability, a replacement ticket in the same or a comparable  
33 location with the approval of the consumer; and

34 (5) Does not obtain more tickets in each transaction than the numerical  
35 limitations for tickets set by the venue and artist for each respective event.

(e) This subparagraph shall not apply to a person who is acting on behalf of a ticket issuer. A person who owns, operates, or controls a website to sell, resell, or facilitate the sale or resale of a ticket may not use or display:

(1) Any trademarked or copyrighted URL, title, designation, image, mark, or any other symbol of a ticket issuer; or

(2) Any combination of text, images, website, graphics, website display, or website addresses that is substantially similar to the website of a ticket issuer in a manner that could reasonably be expected to mislead a potential purchaser.

(3) This subparagraph does not prohibit a reseller or secondary ticketing exchange from using text or images containing the name of a ticket issuer, a place of entertainment, or an event in order to:

(A) Describe an event;

(B) Identify the location at which the event will occur; or

(C) Identify the space within the venue that the event ticket would or has entitled the bearer to occupy for an entertainment event.

2 Effective Date. This act shall take effect January 1, 2025.

**SB 328-FN- FISCAL NOTE  
AS AMENDED BY THE SENATE (AMENDMENT #2024-1423s)**

AN ACT                      relative to deceptive ticket sale practices.

**FISCAL IMPACT:**        ☒ State                      ☒ County                      ☒ Local                      ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
<b>Revenue</b>	\$0	\$0	\$0	\$0
<i>Revenue Fund</i>	None			
<b>Expenditures</b>	Indeterminable			
<i>Funding Source</i>	General Fund			
<b>Appropriations</b>	\$0	\$0	\$0	\$0
<i>Funding Source</i>	None			

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
<b>County Revenue</b>	\$0	\$0	\$0	\$0
<b>County Expenditures</b>	Indeterminable			
<b>Local Revenue</b>	\$0	\$0	\$0	\$0
<b>Local Expenditures</b>	Indeterminable			

**METHODOLOGY:**

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: [https://gencourt.state.nh.us/lba/Budget/Fiscal\\_Notes/JudicialCorrectionalCosts.pdf](https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf)

**AGENCIES CONTACTED:**

Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association