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COMMERCE AND TRADE

Selling and Other Trade Practices: Provide it Shall Be Unlawful for Any Person to Sell or Offer for Sale Any Ticket of Admission to Any Entertainment Event for a Price in Excess of the Price Printed on the Ticket and Provide for Service Charges and Their Specification on Announcements

CODE SECTION:	O.C.G.A. § 10-1-310 (amended)
BILL NUMBER:	HB 1225
ACT NUMBER:	1195
SUMMARY:	The Act prohibits selling or offering to sell any ticket to certain sporting events for a price in excess of the price printed on the ticket. However, the Act provides that authorized ticket agents may charge a service charge which does not exceed three dollars. In addition, the Act provides the same prohibition for the sale of tickets to any entertainment event. However, the Act does allow the owner of the property on which the entertainment event is held to authorize any person to charge a service charge in addition to the price printed on the ticket. The authorization must be in writing and must specify the amount of the service charge. Finally, the Act provides that any advertisement which includes the price of admission for an event covered by this Code section must specify the amount of the service charge to be charged for the sale of a ticket.
EFFECTIVE DATE:	July 1, 1994, O.C.G.A. § 10-1-310(a); Sept. 1, 1994, § 10-1-310(b) as it relates to international sports competitions and ceremonies involving competitors from more than one country; Apr. 1, 1995, § 10-1-310(b) as it relates to all other events, and § 10-1-310(c).

History

Ticket scalping is defined as "selling for a price in excess of the price printed on the ticket."[1] As a result of public outcry about the unavailability of sporting and nonsporting event tickets and the high

1. 1988 Ga. Laws 324 (formerly found at O.C.G.A. § 10-1-310 (1989)).

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prices charged by scalpers, the Georgia General Assembly decided to take up the ticket scalping issue in the 1994 legislative session.[2] The bill began as a result of a letter received from a constituent who was upset he had paid $160 for a concert ticket.[3] The bill's author, Representative Jim Martin, sent a copy of the proposed bill to the Atlanta Committee for the Olympic Games (ACOG) because he thought the ticket scalping issue might also concern the Committee.[4]

ACOG was concerned about the inevitability of price-gouging on tickets to many Olympic events not covered by the 1989 ticket scalping statute.[5] Tickets for the Olympic Games go on sale in early 1995.[6] Ticket scalpers were already predicting a significant price mark-up for the more popular events.[7]

Among other things, the bill attempted to deal with the problems which result from the "block buying" of tickets by brokers who then sell the tickets at an increased price.[8] Each time tickets go on sale for a highly demanded event, the scalpers and brokers move into action.[9] The brokers buy up as many tickets as they can from various sources.[10] They buy from season-ticket holders, pay people to stand in line at outlets for the electronic ticket services, speed-dial into ticket

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2. Telephone Interview with Rep. Jim Martin, House District No. 47 (Mar. 24, 1994) [hereinafter Martin Interview]. Rep. Martin drafted HB 1225. *Id.* The 1989 ticket scalping statute only covered certain sporting events and did not deal with the scalping of entertainment event tickets, such as concerts. *See* 1988 Ga. Laws 324 (formerly found at O.C.G.A. § 10-1-310 (1989)).

3. Martin Interview, *supra* note 2; *see also*, Drew Jubera & Mike Fish, *Mastering the Ticket Monster*, ATLANTA CONST., May 29, 1993, at K1. One angry ticket buyer stated:

> What upsets me, and everybody like me, is when you go to buy a ticket and they tell you a concert is sold out, then you open the paper and they're advertising tickets the next day and playing on my emotions. . . . I'm the one who buys the CD's, the paraphernalia, the posters. I should be able to buy a ticket—not a radio personality, not a ticket agency, not The Omni. We get the last choice. It's not fair, and it makes me mad.

Id.

4. Martin Interview, *supra* note 2.

5. Mike Fish, *Mastering the Ticket Monster: Scalpers Seeing Gold for '96 Olympics*, ATLANTA CONST., May 29, 1993, at K10. The 1989 ticket scalping statute only made it illegal to sell tickets to any football game, basketball game, baseball game, soccer game, hockey game, or tennis or golf tournament for a price in excess of the price printed on the ticket. 1988 Ga. Laws 324 (formerly found at O.C.G.A. § 10-1-310 (1989)). Thus, many Olympic events, such as gymnastics and even the opening and closing ceremonies, would not have been covered. Fish, *supra*.

6. Fish, *supra* note 5.

7. *Id.*

8. Martin Interview, *supra* note 2.

9. Jubera & Fish, *supra* note 3.

10. *Id.*

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service lines, and buy directly from promoters.[11] Then, the brokers sell the tickets at a considerably higher price.[12] Block buying interferes with the availability of tickets for the average fan, and this Act attempts to remedy the problem.[13]

HB 1225

The Act amends Code section 10-1-310 dealing with the unlawful scalping of tickets for certain athletic events. The Act retains virtually all of the 1989 Code section dealing with athletic events and service charges.[14] It remains unlawful for any person to sell a ticket of admission to any "football game, basketball game, baseball game, soccer game, hockey game, or tennis or golf tournament for a price in excess of the price printed on the ticket."[15] Service charges not exceeding three dollars are still acceptable for tickets sold by an "authorized ticket agent through places of established business."[16] To some extent, this subsection will affect the Olympic Games in that the sporting events specified are or may be Olympic events.[17]

The Act makes it illegal to sell a ticket to any "entertainment event not covered in subsection (a)" at a price in excess of the price printed on the ticket.[18] However, the Act contains an exception to this general prohibition.[19] This exception allows the owner of the property where the entertainment event is held to enter into a written agreement with

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11. *Id.*
12. *Id.*
13. Martin Interview, *supra* note 2.
14. *Compare* O.C.G.A. § 10-1-310 (1994) *with* 1988 Ga. Laws 324 (formerly found at O.C.G.A. § 10-1-310 (1989)).
15. *Compare* O.C.G.A. § 10-1-310(a) (1994) *with* 1988 Ga. Laws 324 (formerly found at O.C.G.A. § 10-1-310 (1989)).
16. *Compare* O.C.G.A. § 10-1-310 (1994) *with* 1988 Ga. Laws 324 (formerly found at O.C.G.A. § 10-1-310 (1989)).
17. Martin Interview, *supra* note 2.
18. O.C.G.A. § 10-1-310(b) (1994). The term "entertainment event" is partially defined in the Act, but the Act also makes clear the definition is not exhaustive. *Id.* "Entertainment event" includes, but is not limited to, any "athletic contests, concerts, theater performances, or other entertainments, amusements, or exhibitions to which the general public is admitted. . . ." *Id.*
19. *Id.*

> [T]he owner, operator, lessee, or tenant of the property on which such entertainment event is to be held or is being held may authorize, in writing, any person to charge a service charge for the sale or selling of such ticket, privilege, or license of admission in addition to the price printed on the ticket.

Id. In the original bill, this exception applied only to the "owner or operator" of the property. HB 1225, as introduced, 1994 Ga. Gen. Assem. The exception was expanded to include "lessee" and "tenant" by the Conference Committee to allow more entities to authorize a service charge. HB 1225 (CCS), 1994 Ga. Gen. Assem.

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any person authorizing the person to charge a service charge for the sale of a ticket to that event.[20] Thus, under this exception, an event promoter can enter into a written agreement with the owner of the property where the event will be held to charge a service charge.[21] Furthermore, under the foregoing exception, the amount of the service charge is not limited by the Act, but must be specified in the written agreement.[22] Additionally, where an event is advertised, the advertisement must include the price of admission and "clearly and conspicuously" specify the amount of the service charge.[23]

The original version of the bill proposed a three dollar cap on service charge fees for the selling of tickets to any event.[24] However, before the bill passed the House, the House Committee on Industry amended the bill, dropping the three dollar service charge cap.[25] This change came after the Ticketmaster Corporation threatened to leave Georgia in protest of the proposed cap on service charges.[26] However, the bill's author, Representative Jim Martin, explained that the reason the House dropped the cap provision was due to the complicated financial arrangements associated with ticket selling, and not due to any pressure from companies like Ticketmaster.[27]

The bill, as introduced, provided that a person would not be in violation of the statute if the ticket did not contain a disclosure stating that selling a ticket for a price in excess of the price printed on the ticket shall be a violation of Code section 10-1-310.[28] Thus, the disclosure was meant to serve as a "notice" provision.[29] However, the House Committee on Industry deleted the disclosure provision because of an objection raised that it presented a "loophole."[30] The loophole would have allowed a printer of the ticket to determine when scalping could legally occur.[31]

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20. O.C.G.A. § 10-1-310(b) (1994). The written agreement must specify the exact amount of the service charge. *Id.* This provision was based on a similar Connecticut law. *See* CONN. GEN. STAT. § 53-289 (1984).

21. Martin Interview, *supra* note 2.

22. *Id.*

23. O.C.G.A. § 10-1-310(c) (1994). This provision was added by the Conference Committee to provide public notice. Martin Interview, *supra* note 2; *see also* HB 1225 (CCS), 1994 Ga. Gen. Assem.

24. HB 1225, as introduced, 1994 Ga. Gen. Assem.

25. HB 1225 (HCS), 1994 Ga. Gen. Assem.

26. Shelley Emling, *Legislature '94: Day 28 Bill May Make Scalping Legal at '96 Olympics "Weakened" Proposal Goes to Senate*, ATLANTA CONST., Feb. 24, 1994, at G4.

27. Martin Interview, *supra* note 2.

28. HB 1225, as introduced, 1994 Ga. Gen. Assem.

29. Martin Interview, *supra* note 2.

30. *Id.*; Emling, *supra* note 26.

31. Martin Interview, *supra* note 2.

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The original bill also contained a section providing that a violation of this Code section would be a misdemeanor.[32] However, this language was removed by the House Committee on Industry[33] because Code section 10-1-311 provides that a violation of Code section 10-1-310 is a misdemeanor.[34]

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32. HB 1225, as introduced, 1994 Ga. Gen. Assem.
33. HB 1225 (HCS), 1994 Ga. Gen. Assem.
34. Martin Interview, *supra* note 2; *see* O.C.G.A. § 10-1-311 (1994).

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