

No. 1990-62

AN ACT

HB 946

Amending the act of May 2, 1947 (P.L.143, No.62), entitled "An act regulating the sale and resale for profit and the carrying on of the business of selling or reselling tickets or other devices for admission to places of amusement; providing for the licensing of persons reselling such tickets for profit; providing for the suspension and revocation of such licenses; imposing duties on licensees and owners or operators of places of amusement; imposing powers and duties on the Department of Revenue, county treasurers, district attorneys, and the receiver of taxes, and city solicitors in cities of the first class; making disposition of moneys collected and providing penalties," further defining terms; extending the provisions of the act; providing exceptions; prohibiting the purchase of tickets with intent to resell; providing for a surcharge upon conviction; and further providing for penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 1 and 2 of the act of May 2, 1947 (P.L.143, No.62), entitled "An act regulating the sale and resale for profit and the carrying on of the business of selling or reselling tickets or other devices for admission to places of amusement; providing for the licensing of persons reselling such tickets for profit; providing for the suspension and revocation of such licenses; imposing duties on licensees and owners or operators of places of amusement; imposing powers and duties on the Department of Revenue, county treasurers, district attorneys, and the receiver of taxes, and city solicitors in cities of the first class; making disposition of moneys collected and providing penalties," are amended to read:

Section 1. Definitions.—

The following words and phrases when used in this act shall have the meanings ascribed to them in this section:

(1) "Amusement." All manner and forms of entertainment including among others theatrical or operatic performances, concerts, moving picture shows, vaudeville, circus, carnival and side shows; all forms of entertainment at fair grounds, and amusement parks, athletic contests, including wrestling matches, boxing and sparring exhibitions, football and baseball games, skating, golfing, tennis, hockey, bathing, swimming, archery, shooting, riding, dancing and all other forms of diversion, sport, recreation or pastime, shows, exhibitions, contests, displays and games[;].

(2) "City." Any city of the first class.

(3) "Department." [—] The Department of Revenue of the Commonwealth of Pennsylvania[;].

(4) "Established Price." The price fixed by the owner of any place of amusement for admission thereto, which must be stamped, printed or written on each ticket of admission[;].

(5) "Licensor." The county treasurer of each county of the second, third, fourth, fifth, sixth, seventh and eighth class, and the receiver of taxes in each city of the first class[;].

(6) "Owner." Any person who owns, operates or controls a place of amusement or who promotes or produces an amusement[;], *or any person who promotes or produces an amusement with the written contractual consent of the owner or operator of an amusement.*

(7) "Place of Amusement." Any place indoors or outdoors where the general public or a limited or selected number thereof may upon payment of an established price attend or engage in any amusement as herein defined, including among others theatres, opera houses, moving picture houses, amusement parks, stadiums, arenas, baseball parks, skating rinks, circus or carnival tents or grounds, fair grounds, social, sporting, athletic, riding, gun and country clubs, riding academies, golf courses, bathing and swimming places, dance halls, tennis courts, archery, rifle or shotgun ranges, roof gardens, cabarets, nightclubs and other like places[;].

(8) "*Producer.*" *Any person who engages an act or amusement and puts on the show.*

(9) "*Promoter.*" *Any person engaged by a producer to promote an amusement.*

(10) "*Resale.*" *The act of selling any ticket of admission by one party to another after an original sale to a party by an owner or an agent of an owner.*

~~[(8)]~~ (11) "Ticket." Any evidence of the right of entry to any amusement or place of amusement for admission to which a price is charged.

Section 2. Reselling of Tickets; Licenses.—

(a) No person shall *purchase with intent to resell*, resell or engage in or continue in the business of reselling any tickets of admission, or any other evidence of the right of entry to any place of amusement, at a price higher than the ~~[established]~~ *marked ticket* price fixed by the owners of such place of amusement, without having first obtained a license to so resell or engage in such business from the licensor of the county or city in which such person intends to conduct such business as hereinafter provided, and no person shall so resell or conduct such a business during any period of suspension or revocation of his license.

(b) *An owner may reserve the right to sell again a ticket in case of default in payment of the purchase money by the purchaser.*

Section 2. Section 11 of the act, amended December 12, 1984 (P.L.971, No.191), is amended to read:

Section 11. Printing Prices on Tickets.—~~[(a)]~~

The owner of every place of amusement shall, if a price be charged for admission thereto, cause to be plainly stamped or printed or written on the face of every ticket to be so used, the established price. Such owner shall likewise cause to be plainly stamped, printed or written on the face of each such ticket the maximum premium, which shall not exceed ~~[one-half]~~ *twenty-five percent (25%)* of the price of the ticket or the sum of ~~[two dollars (\$2.00)]~~ *five dollars (\$5.00)*, whichever shall be ~~[less]~~ *more*, plus lawful taxes, at which such ticket may be resold or offered for resale. ~~[The provisions of this~~

subsection relating to ticket premiums shall not apply to cities of the first class.

(b) In cities of the first class, the maximum premium shall not exceed twenty-five percent (25%) of the price of the ticket or the sum of five dollars (\$5.00), whichever shall be more, plus lawful taxes, at which such ticket may be resold or offered for resale.]

Section 3. Sections 12 and 13 of the act are amended to read:

Section 12. Resale; Violation.—

It shall be unlawful for any person to *purchase with intent to resell*, to resell or *to* offer to resell any such ticket at any price in excess of such maximum premium, plus the established price and lawful taxes as stamped, printed or written thereon.

Section 13. Penalties; *Exemptions*.—

(a) Every person who violates any provision of this act shall upon summary conviction thereof for the first offense be sentenced to pay a fine of not more than [one hundred dollars (\$100)] *three hundred dollars (\$300)* and costs of prosecution, and in default of payment thereof shall undergo imprisonment for thirty (30) days; and for a second or subsequent offense shall be guilty of a misdemeanor *of the second degree* and upon conviction thereof shall be sentenced to pay a fine not to exceed [one thousand dollars (\$1,000)] *five thousand dollars (\$5,000)*, or to undergo imprisonment for a period not to exceed two (2) years, or both. If the violation shall be by a corporation, partnership or association, the officers and directors of such corporation, or the members of such partnership or association, its agents and employes, with guilty knowledge of the fact, shall be guilty and upon conviction shall be punished as herein before provided.

(b) The right of the licensor to suspend and revoke licenses granted and issued under this act shall be in addition to the penalties set forth in this section.

(c) *Upon conviction of a violation of any provision of this act, the sentencing court shall impose upon and collect from the defendant a surcharge of fifty dollars (\$50) in addition to and independent of any fine and cost imposed upon the defendant. The surcharge shall be paid into the city or county treasury for purposes of assisting in enforcement of this act.*

(d) *The provisions of this act shall not apply to fundraising activities performed by or on the behalf of charitable organizations that qualify as an exempt organization under section 501(c) or 527 of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 501(c) or 527) or to political fundraising performed in accordance with the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code."*

Section 4. This act shall take effect in 60 days.

APPROVED—The 29th day of June, A. D. 1990.

ROBERT P. CASEY