

# Legislative Analysis

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## REPEAL BAN ON TICKET SCALPING

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### House Bill 5108

Sponsor: Rep. Tim Kelly

Committee: Criminal Justice

Complete to 1-13-14

## A SUMMARY OF HOUSE BILL 5108 AS INTRODUCED 10-29-13

The bill would repeal the current ban on reselling a ticket for an event at a price higher than face value (scalping) without the express permission of the event's venue. The bill would also increase the maximum term of imprisonment for an event venue that fails to comply with certain event ticket printing requirements.

House Bill 5108 would amend the Michigan Penal Code to eliminate the prohibition on the practice known as scalping. Specifically, the bill would delete a provision that prohibits a venue or a ticketholder from selling a ticket to an event at a theatre, circus, athletic game, or place of public entertainment or amusement at a price in excess of the advertised general admission price unless the venue's owner or manager permitted the excess charge in writing.

Also eliminated would be:

- A provision prohibiting a person from establishing an agency or suboffice for the sale of a seat ticket to a theatre, circus, athletic grounds, or place of public entertainment or amusement at a price greater than at the box office of the venue for that ticket.
- A provision making the owner or manager of a venue who allowed a person to sell tickets on the grounds of that venue for an inflated price other than lawfully allowed as liable and guilty as the person scalping the tickets.
- A provision prohibiting a person from selling a nontransferable ticket that contains the name of the person who originally bought the ticket.

The bill would retain a provision that requires certain information to be printed on each ticket (e.g., the price of the ticket; the number of the seat, if seats are numbered; and any ticket surcharge if bought other than at the venue's box office, along with a statement that the surcharge could be avoided by purchasing the ticket at the box office of the venue where the event will be held.)

Further, the bill would increase the maximum term of imprisonment for a violation of the above provision. Currently, when a crime is designated as a misdemeanor but no maximum penalty is specified, a violation is punishable by imprisonment for not more than 90 days and/or a fine of not more than \$500. The bill would retain the maximum fine amount but increase the maximum term of imprisonment to 93 days. (By increasing

the penalty to 93 days, the bill will trigger certain fingerprint and record retention requirements by the Department of State Police.)

MCL 750.465

### **FISCAL IMPACT:**

Depending on the number of people that were actually charged under the provisions that are being eliminated, the bill could result in a decrease in costs for local units of government related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in county jails and local misdemeanor probation supervision vary by jurisdiction. There could also be a decrease in penal fine revenues, which would decrease funding for local libraries, which are the constitutionally-designated recipients of those revenues.

Retaining the requirement that certain information to be printed on tickets, and increasing the maximum jail time for noncompliance, could result in future misdemeanor convictions. Future convictions could increase costs related to county jails and/or local misdemeanor probation supervision. Again, the costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries.

In addition, the bill would likely have no significant fiscal impact on state and local law enforcement agencies. The Michigan State Police doesn't have data on the number of arrests for violating any facets of MCL 750.465, suggesting that any such violations (where the law is enforced) could be written under local ordinance rather than state law or under other related laws, such as those for disorderly conduct. Anecdotally, it doesn't appear that the prohibition against ticket scalping (especially in cases where the tickets are initially obtain through legitimate means) is enforced to any great degree. The scalping of tickets obtained through illegitimate means (i.e. stolen) would still involve an illegal act and could still be prosecuted under separate statutory provisions.

The bill also increases the penalties for failing to adhere to the ticket printing requirements to a 93-day misdemeanor. This change would trigger certain fingerprinting requirements under 1925 PA 289 (MCL 28.243), requiring fingerprints and other biometric data to be taken by local law enforcement and forwarded to MSP. That data is then forwarded by MSP to the FBI. This provision would likely have no material fiscal impact on MSP. As noted above, MSP doesn't have any records of violations of MCL 750.465, including the ticket printing provision.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.