

# **Major Sports Facilities Amendment Bill 2006**

## **Explanatory Notes**

### **Short Title of the Bill**

Major Sports Facilities Amendment Bill 2006

### **Objectives of the Bill**

The *Major Sports Facilities Act 2001* provides for the management, operation, use and promotion of facilities in Queensland for staging national or international sports, recreational or entertainment events.

The Bill addresses the issue of ticket scalping by creating offences and penalties for reselling or purchasing tickets at a price greater than 10% above the original ticket price for events held at major sports facilities.

The Bill also creates new offences and penalties for unauthorised aerial advertising over declared events held at major sports facilities.

### **Reasons for the Bill**

There has been an increasing prevalence of scalping of tickets to events held at Government-owned facilities managed by the Major Sports Facilities Authority (MSFA), with tickets being resold at prices well above the original ticket price. This prevents many genuine supporters from obtaining tickets to events unless they are prepared to pay inflated prices, contributing to inappropriate profiteering by ticket scalpers who may not pay tax on the income.

Event organisers and ticket agents impose conditions of sale on tickets, usually including that the purchaser cannot resell tickets at a premium price. Breaches of this condition can incur cancellation of the ticket. This disadvantages the purchaser who may pay an inflated price for a ticket and subsequently be refused entry to the event. Purchasers may also be victims of fraudulent activity where tickets may not exist or do not meet the expectations of the purchaser due to false advertising.

There has also been concern about increasing instances of “ambush” marketing at major events, for example, where unauthorised corporate advertisers fly airships over venues. This activity has the potential to detract from Queensland’s ability to attract and secure major events for the State, and undermines legitimate corporate sponsorship arrangements for events.

### **Achievement of the Objectives**

The Bill addresses the issue of ticket scalping by creating a deterrent to the reselling and purchasing of scalped tickets and minimising the market for scalped tickets within the general public. The Bill creates new penalties for reselling (20 penalty units) and purchasing (5 penalty units) tickets to events at MSFA facilities at a price greater than 10% above the original ticket price. These provisions will reinforce the terms and conditions currently attached to many tickets by event organisers and ticket agents, which prohibit the resale of tickets at a premium.

Under the Bill, the Queensland Police Service will be empowered to issue infringement notices to offenders under the *State Penalties Enforcement Regulation 2000*. This will allow for policing of scalping activity prior to or during events held at MSFA facilities.

The Bill does not aim to restrict people’s ability to resell tickets where they have a genuine need to do so and where transfer of the ticket is allowable under the ticketing conditions. The 10% margin enables people who are unable to attend an event to recoup the ticket price and any costs associated with the ticket resale. In addition, an exemption is provided to allow the lawful resale of tickets above the 10% margin by non-profit organisations for fundraising purposes.

The Bill will also allow the Governor in Council to declare particular events being staged at MSFA facilities as being subject to aerial advertising restrictions. The declaration of the event must be published in the Government Gazette at least 28 days before the restrictions take effect, and include details of the period over which the restrictions apply.

The MSFA will be empowered to issue written authorisations for the display of aerial advertising, to allow aerial advertising opportunities for legitimate corporate sponsors. In granting approvals authorising the display of aerial advertising, the MSFA must have regard to issues including the effect of the advertising on the staging of the event, and any existing commercial or sponsorship arrangements regarding the event which may have been entered into by the Authority or the event’s organiser.

It will be an offence (700 penalty units) to display advertising in airspace within sight of a declared event without appropriate authorisation from the MSFA.

However, the restrictions on aerial advertising will not apply to logos or symbols permanently displayed on buildings which may be visible from MSFA facilities or advertisements displayed on aircrafts which may pass over venues as part of scheduled commercial flights.

### **Estimated Administrative Cost to Government**

Future administrative costs to the Government will be minimal and will be met from within existing budget allocations. Monitoring and enforcement of the ticket scalping offences by the Queensland Police Service is not expected to be a significant imposition on police resources and would not require additional policing hours.

### **Consistency with Fundamental Legislative Principles**

The Bill is consistent with the fundamental legislative principles set out in the *Legislative Standards Act 1992*.

### **Consultation**

The Department of Local Government, Planning, Sport and Recreation, the MSFA, the Queensland Police Service, Queensland Treasury, the Department of Justice and Attorney-General and Crown Law were consulted on the Bill.

## **Notes on Clauses**

### **Part 1                      Preliminary**

Clause 1 sets out the short title of the Bill.

## **Part 2**                      **Amendment of *Major Sports Facilities Act 2001***

Clause 2 states that this part amends the *Major Sports Facilities Act 2001*.

Clause 3 inserts a new Part 4A ‘Resale or purchase of tickets’ and Part 4B ‘Advertising’ in the Act.

The new section 30B provides definitions for ‘authorised ticket agent’, ‘non-profit organisation’, ‘original ticket price’, ‘resell’, ‘sell’ and ‘ticket’ for Part 4A.

The new sections 30C(1) and (2) create offences and penalties for persons within or outside Queensland to resell a ticket or purchase a ticket to a major sports facility event at a price greater than 10% above the original ticket price. The maximum penalty for reselling a ticket is 20 penalty units and the maximum penalty for purchasing a ticket is 5 penalty units.

The new section 30C(3) provides that the offences do not apply to the resale or purchase of tickets by or for a non-profit organisation for fundraising purposes. This will allow the continued lawful resale or purchase of event tickets in circumstances such as auctions to raise funds for a charity or community purpose.

The new section 30C(4) states that it does not authorise the resale of a ticket to a major sports facility event. This preserves contractual obligations in the purchase of a ticket; for example, where the ticketing conditions state that a ticket is non-transferable or is voided on resale. The Bill does not provide a statutory authority to resell tickets.

The new section 30D provides definitions for ‘advertisement’, ‘aircraft’, ‘declared event’, ‘declared period’ and ‘display’ for Part 4B. Advertisement will include skywriting, banners or signs attached to buildings, aircraft or other similar devices, advertising matter displayed on aircraft, and laser or digital projections of advertising.

The new section 30E provides for the Governor in Council, by gazette notice, to declare a major sports facility event as a declared event for Part 4B. This section states that the declaration must be made at least 28 days before the start of the period, and state the period for which the part will apply. This notification period is specified in order to provide sufficient notice to potential advertisers that the restrictions will be in force, and for the MSFA to consider any applications for aerial advertising authorisations.

The new section 30F creates an offence for a person to display an advertisement in airspace, or on a building or other structure, that is within sight of a major sports facility during a declared period for the facility. The penalty for this offence is 700 penalty units. This will allow for the courts to impose a maximum penalty of 3,500 penalty units (currently \$262,500) for corporations which breach the legislation.

This section provides that the new offence does not apply to displays authorised under section 30G; advertisements that are logos, symbols or similar matter displayed on a building or other structure on more than a temporary basis; and advertisements displayed on an aircraft within sight of the facility if the aircraft is in transit as a part of a scheduled commercial flight.

The new section 30G provides for the MSFA to, on written application by a person, authorise the display of an advertisement in airspace, or on a building or other structure, within sight of a major sports facility during a declared period for the facility. In considering applications and determining whether the display is appropriate, the MSFA must take into consideration issues including the effect of the advertisement on the organisation or staging of the event and whether there are any commercial arrangements in place with the MSFA or event's organiser. The MSFA may impose conditions on the display of the advertisement.

Clause 4 amends the Act to change the heading of section 32 from 'Offences' to 'Conduct on facility land'.

Clause 5 corrects the numbering of Part 6, Division 3 'Transitional provision for Major Sports Facilities Amendment Act 2005' to Division 4.

Clause 6 inserts a new Division 5 'Transitional provision for Major Sports Facilities Amendment Act 2006' to ensure that the amendments to the *State Penalties Enforcement Regulation 2000* by the Bill do not affect the Governor in Council's power to repeal or further amend the Regulation.

Clause 7 amends the Dictionary to include the definitions of 'advertisement', 'aircraft', 'authorised ticket agent', 'declared event', 'declared period', 'display', 'major sports facility event', 'non-profit organisation', 'organiser', 'original ticket price', 'resell', 'sell' and 'ticket'.

## **Part 3**                      **Amendment of *State Penalties Enforcement Regulation 2000***

Clause 8 states that Part 3 amends the *State Penalties Enforcement Regulation 2000*.

Clause 9 amends Schedule 5 of the Regulation to insert the offences and penalties under the *Major Sports Facilities Act 2001*, which will allow police officers to issue infringement notices for unlawful resale and purchase of tickets at major sports facility events. The maximum infringement notice penalty for reselling a ticket is 2 penalty units and the maximum infringement notice penalty for purchasing a ticket is ½ penalty unit. The Bill provides that police officers are the authorised persons for service of infringement notices under the new sections 30C(1) or (2).