

ASSEMBLY THIRD READING

AB 1640 (Stefani)

As Amended March 2, 2026

Majority vote

SUMMARY

Prohibits the sale of a restaurant reservation for more than what was originally charged for that reservation without the restaurant's consent. The bill also authorizes a public prosecutor to bring a civil action for civil penalties up to \$1,000, as well as a private right of action for an individual who suffers actual harm.

Major Provisions

- 1) Defines "restaurant" as a retail food establishment that prepares, serves, and vends food directly to a customer.
- 2) Prohibits a person from selling or transferring, or facilitating the sale or transfer, of a restaurant reservation for an amount higher than the person paid for the reservation. Exempts from this prohibition, a person who has a written agreement with the restaurant that expressly authorizes the person to charge the higher amount.
- 3) Allows the Attorney General, or any county counsel or city attorney, to bring civil action against violators for a civil penalty of up to \$1000 for each violation, injunctive or declaratory relief, and attorney's fees.
- 4) Provides individuals or entities who suffer actual harm with a private right of action to pursue civil litigation against violators for damages, injunctive or declaratory relief, attorney's fees, and any other relief a court deems proper.

COMMENTS

The return to in-person dining following the COVID-19 pandemic increased restaurant partnerships with third-party reservation platforms such as Resy, OpenTable, and Tock. These partnerships have relieved restaurants of the strain of managing their own reservation system, expanded customer access to dining options, and have increased consumer exposure to different restaurants. However, an emerging market for restaurant reservations has consumers and restaurants alike worried about the future of restaurant profitability.

Secondary markets for restaurant reservations rely on sites like Cita Marketplace and Appointment Traders, which act as marketplaces for the transfer and procurement of reservations. According to their website, Appointment Traders brands themselves as the eBay of time slots, allowing users to "buy someone else's confirmed reservation, or create a reward (bid) for someone to secure one on [the user's] behalf."¹ If a person wants to dine at a restaurant on a particular day but there are no available reservations on Appointment Trader, they can set a bid for a concierge to try and snag the reservation on their behalf, similar to bidding on eBay. Appointment Trader suggests a range of pricing to start the bidding out. Once the price is set, community users will receive a notification and begin trying to secure the reservation for the

¹ Appointment Trader, "How AppointmentTrader Works for Customers,".

user. If successful, the user gets a premium reservation and the concierge earns money, often hundreds of dollars for a single reservation at a highly coveted restaurant. According to a recent *New Yorker* article, many of these concierges are actually bots created by tech-savvy users to snap up reservations faster than most humans could, making it difficult to gauge how many freelance concierges operate on Appointment Traders.² Still, the profits can be large: one college sophomore made \$70,000 in a single year from selling restaurant reservations in New York, a city he did not live in.³

The development of a secondary market for reservations that are typically free has gamified the reservation system, emboldening resellers to garner large profits at the expense of average diners. Typically, the lucrative reservations are for upscale dining that caters to elite clientele. However, even the most casual diner occasionally splurges on a celebratory night out and would now have to compete with bots and zealous concierges for a reservation or would have to purchase a reservation for an exorbitant fee. These markets are already becoming commonplace in popular restaurant destinations like New York and Los Angeles. However, they are spreading across the nation and even more modest restaurant destinations have begun to offer reservations for a price. For example, Appointment Traders allows users to place a concierge bid for Kru Contemporary Japanese Cuisine in Sacramento. As of the writing of this analysis, bidders can offer \$711 for a table for two at 5 PM on Saturday, March 14th. Notably, \$711 is slightly below the "hot zone" that touts "+25% higher fill rate vs. average." If bidders wanted a higher likelihood of getting into Kru, the sliding bar suggests they offer \$1733 to concierges. These fees do not include food or tips, essentially ensuring that lower income diners could not participate in fine dining opportunities.

These reservation systems not only undermine casual diners but can actively harm restaurants. Restaurant owners pride themselves on manufacturing guests' experiences during every step of their interaction, from scrolling the menu on the restaurant's website to the first time they come in for a meal. These secondary markets can impact diners' perceptions of restaurants, especially if the experience does not fit the high price tag that diners may pay for a table.

Importantly, these markets do not rely on consent from restaurants, allowing anyone with time and connections to profit off the backs of restaurants. Restaurants, especially those that are locally-owned, often rely on reservations to predict how much food to prepare and how many staff to have on any given night. Missed reservations, while not impacting the sellers of the reservation (they get money whether or not the purchaser actually goes to the restaurant), can be detrimental to a restaurant's profits.⁴ Restaurants typically operate on razor-thin margins, with average profit margins just hitting double digits (10.5%) this year for the first time since 2022.⁵ For context, real estate investment trust margins often hover around 20-25% net profit margins.⁶ Additionally, restaurants are often forced to screen callers for fake numbers and bots, leading some to ask for photo identification to make a reservation, which can make "diners feel like

² Adam Iscoe, "Why You Can't Get a Restaurant Reservation," *The New Yorker*, (Apr 22, 2024).

³ Alex Mitchell, "I made \$70K selling NYC restaurant reservations – and I don't even live in New York," *The New York Post*, (Apr 25, 2024).

⁴ Alex Mitchell, "I made \$70K selling NYC restaurant reservations," *supra*.

⁵ Charles Smith, "Restaurant Profit Margins Just Hit Double Digits for the First Time Since 2022," *Smith Allen*, (Feb 28, 2026).

⁶ Aswath Damodaran, "Margins by Sector (US)", (Jan 2026), *Stern NYU*.

they're in a T.S.A.-screening line."⁷ Reservation piracy can therefore have devastating effects on the restaurant industry and patrons seeking a celebratory night out.

According to the Author

California's restaurants are essential to our communities and local economies, yet they are increasingly targeted by unauthorized reservation resellers that exploit their reservation systems and monetize a restaurant's inventory, tables, and experiences – all without consent. AB 1640 protects restaurants and consumers by prohibiting these deceptive practices, ensuring that only those with a written agreement can list or sell reservations. This bill also establishes penalties for violators, empowers the Attorney General to take legal action, and creates a state fund to support enforcement efforts. By holding bad actors accountable, AB 1640 safeguards small businesses and ensures a fair, transparent reservation process for all.

Arguments in Support

The California Restaurant Association argues in support:

Eating establishments constantly look for ways to help maximize occupancy in their businesses, which increasingly includes the use of integrated reservation systems. While restaurateurs use these systems to make booking reservations seamless for customers, there has been a rise in unauthorized third-party reservation services that use bots and fake profiles to hoard reservations and then sell them for a profit – monetizing a restaurant's inventory of tables in a dining room and creating arbitrary economic barriers for guest access.

[...]

Ultimately, unauthorized third-party reservation companies profit by charging exorbitant fees for reservations while making no investment or taking any risk in that same restaurant. AB 1640 is a sensible measure that helps restore control of a dining room back to restaurant operators, while removing artificial economic barriers of entry for potential guests.

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Possible costs (General Fund, special funds) to the Department of Justice (DOJ) of an unknown amount. Actual costs will depend on whether the Attorney General pursues enforcement actions, and, if so, the level of additional staffing DOJ needs to handle the related workload. If DOJ hires staff to handle enforcement actions authorized by this bill, the department will incur significant costs, likely in the low hundreds of thousands of dollars annually at a minimum. If DOJ does not pursue enforcement as authorized by this bill, the department would likely not incur any costs.

⁷ Adam Iscoe, "Why You Can't Get a Restaurant Reservation," *supra*.

- 2) Cost pressures (Trial Court Trust Fund) of an unknown but potentially significant amount to the courts to adjudicate any additional filings. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26.
- 3) Cost pressure (General Fund) of an unknown but potentially significant amount for establishing the Reservation AntiPiracy Act Fund. Potential offsetting penalty revenues from the fund intended for enforcement activities.

VOTES

ASM PRIVACY AND CONSUMER PROTECTION: 15-0-0

YES: Bauer-Kahan, Macedo, Bryan, DeMaio, Hoover, Irwin, Lowenthal, McKinnor, Ortega, Patterson, Pellerin, Petrie-Norris, Ward, Wicks, Wilson

ASM JUDICIARY: 12-0-0

YES: Kalra, Macedo, Lee, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

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