

Date of Hearing: July 2, 2024

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Rebecca Bauer-Kahan, Chair

SB 785 (Caballero) – As Amended June 27, 2024

AS PROPOSED TO BE AMENDED

SENATE VOTE: 34-0

SUBJECT: Consumer protection: ticket sellers

SYNOPSIS

Taylor Swift fans are flocking to Europe this summer to attend her concerts. Why? For many in the United States, it is cheaper to travel to Paris for a vacation that includes the concert than it is to purchase tickets in their own home towns. The average get-in-the-door price for the upcoming fall concerts in the United States — the lowest price available — are hovering around \$2,600 per ticket. That means it would cost a couple more than \$5,000 just to be in the same building as Swift. In Europe, however, tickets cost only a fraction of that. Right now, the get-in-the door price to see the opening of the European leg of the Eras Tour is \$340 a ticket — 87% cheaper than the average price in the United States.

This Committee and the Arts, Entertainment, Sports and Tourism Committee held an informational hearing earlier this year focused on understanding the high price of live entertainment tickets and what action should be taken to rein them in. The Assemblymembers and public heard from an economist with expertise in online marketplaces, independent venue operators, representatives of artists, Consumer Reports, primary ticket sellers, and a resale marketplace platform. In addition to Ticketmaster's well-known monopolistic control of the primary market, another key pain point in the ticketing business became clear during the testimony of experts and those working in the field: the secondary resale market in California, and throughout much of the country, is fundamentally broken.

Arguing in support of this bill, the California Chamber of Commerce explains how turbocharged scalping ruins the fan experience:

Imagine waiting for tickets for your favorite musical artist to go on sale – sitting at your computer or phone, ready to click buy when they go on sale for \$85 per seat. Then, the moment comes ... and they are already sold out. Somehow, they sold out instantly. Then, within an hour, those same tickets are being sold on other ticket re-sale websites ... for 200% or 300% more. And when the next concert is announced, tickets are being sold before they go online, again at inflated prices.

That has been the reality of ticket sales. Scalpers are able to use computer programs (bots) to purchase large volumes of tickets, then re-sell them for considerable profits to the desperate fans who cannot compete with the scalpers' bots. Though President Obama outlawed the practice, it continues because the profits are too substantial. This abusive process by scalpers and secondary re-sellers has angered both fans and artists.

One emotional example was a concert given by the Foo Fighters as a benefit for their late former drummer. Tickets were put online for \$89 for their fans – but within an hour of sale, had popped up on re-sale websites and were being sold for over \$400.

These predatory practices provide no market value to fans, venues, or artists – they simply drive-up ticket costs and profit scalpers.

Indeed, one of the key reasons that many European countries have vastly cheaper tickets is that these countries extensively regulate the secondary market.

As a long overdue anti-trust lawsuit against Ticketmaster unfolds at the federal level, this bill seeks to complement these efforts by addressing problems in the secondary market by banning the practice of selling speculative tickets; banning the use of deceptive websites; prohibiting the technology and activities that allow scalpers and ticket brokers to acquire large numbers of tickets in the primary market; significantly increasing the penalties for violating the state’s ticketing laws; and, ensuring that the resale marketplaces that facilitate these practices take responsibility for the tickets that are being sold on their platforms. In doing so, the bill enacts meaningful protections for the real consumers of event ticketing—the fans.

Along with the California Chamber of Commerce, this bill is supported by the Future of Music Coalition, the National Football League, the Gold State Warriors, SAG-AFTRA, the National Independent Venue Association, and over a dozen other organizations. In opposition are the Consumer Federation of California, StubHub, Vivid Seats, Seat Geek, and the Coalition for Ticket Fairness, among a number of other organizations.

This bill passed the Arts, Entertainment, Sports and Tourism Committee in June 2023 on a 5-0-2 vote. The proposed Committee amendments are minor and clarifying in nature. Because of the number of amendments, a mockup of the bill is included at the end of this analysis.

SUMMARY: Revises and recasts California’s entertainment ticket statutes, particularly as it pertains to reselling tickets. Specifically, **this bill:**

- 1) Defines the following terms:
 - a) “Artist” means an actor rendering services on the stage, musical artist, musical organization, or other performing artist rendering professional services in theatrical and other live entertainment enterprises.
 - b) “Consumer” means a natural person who purchases tickets to an entertainment event with the purpose of attending that event.
 - c) “Entertainment venue” means a publicly or privately owned place that holds live entertainment events, including, but not limited to, an arena, auditorium, concert hall, live performance venue, racetrack, stadium, theater, or other place where entertainment events are presented for a price of admission.
 - d) “Event” means a live entertainment event, including a live sporting, musical, or theatre event.

- e) “Event presenter” means the person or organization that is responsible for a sporting, musical, theatre, or other entertainment event for which tickets are sold, including the holder of the rights to the sporting, musical, theatre, or other entertainment event, or their authorized agent.
 - f) “Live entertainment event” means a scheduled live performance at a specific date, time, and location, including, but not limited to, a theatrical or operatic performance, concert, or sporting event, including, but not limited to, football, basketball, baseball, boxing, tennis, hockey, or any other sport.
 - g) “Original seller” means a person who, for compensation, commission, or otherwise, advertises, lists, markets for sale, or sells an admission ticket to a sporting, musical, theatre, or other entertainment event for original sale as instructed by an event presenter, rights holder, or venue operator, or the sale of an event ticket that was returned to the primary seller or event organizer after its initial sale and is sold by or on behalf of the event organizer.
 - h) “Rights holder” means an artist, performing arts organization, theater or dance company, a professional sports team, professional sports league, author, lecturer, or any other persons who are the primary speakers or performers at an event for which tickets are sold.
 - i) “Ticket” means a license, issued by the venue operator, for admission to the place of entertainment at the date and time specified on the ticket.
 - j) “Ticket resale marketplace,” as used in this chapter, means an entity who, for compensation, commission, or otherwise, advertises, lists, markets for sale, processes payments for, facilitates the resale or exchange of, or resells an admission ticket for, a sporting, musical, theatre, or other entertainment event, including a site operated by an original seller that allows consumers to resell tickets.
 - k) “Ticket reseller” means a person who for compensation, commission, or otherwise, advertises, lists, markets for sale, or sells an admission ticket to a sporting, musical, theatre, or other entertainment event other than a ticket for original sale sold by an original seller.
 - l) “Venue operator” means any person who owns, operates, manages, or controls an entertainment venue.
- 2) If required by a local jurisdiction, original sellers, ticket resellers, and ticket resale marketplaces must register with the Secretary of State and obtain a license.
 - 3) Eliminates the requirement that a ticket seller have a permanent business address from which tickets may only be sold and that the address be included in any advertisement or solicitation.
 - 4) Specifies that each ticket sold or offered for sale in violation of this chapter will constitute a separate violation which may be brought only by the Attorney General, a district attorney, a city attorney, a county council or a city prosecutor and requires the court to impose a civil penalty of not more than \$10,000 for each violation of the law, along with awarding the prevailing prosecutor reasonable costs and attorney fees. The level of the penalty must be based on the prevailing circumstances and the seriousness of the violation.

- 5) Requires an original seller or ticket reseller to own, possess, or have a contractual right to a ticket before listing, marketing, or selling the ticket.
- 6) Requires an original seller or ticket reseller at the time of listing or marketing a ticket to disclose to the consumer the exact location of the seat in the entertainment venue, unless the ticket is not associated with occupying a specific seat in the venue, such as general admission or standing room only tickets.
- 7) Exempts from 6) flexible series ticket options that allow consumers to commit to a number of performances in a season in advance, while choosing the specific performances at a later date.
- 8) Eliminates the exemption in current law that allows a ticket seller to market, advertise or sell a ticket if they inform the purchaser orally at the time of contract or receipt of consideration, and within two business days, that the seller does not have possession of the ticket, a contract to obtain the ticket and may not be able to obtain the ticket.
- 9) Prohibits a reseller, a resale marketplace, or any affiliate from doing either of the following:
 - a) Reselling more than one copy of the same ticket to a live entertainment event.
 - b) Employing another person directly or indirectly to wait in line to purchase tickets for the purpose of reselling those tickets.
- 10) Requires that ticket resale marketplaces, before accepting a listing to sell a ticket, require that the person listing the ticket has a right to sell the ticket and is able to deliver it to the consumer.
- 11) States that by allowing a ticket to be posted for resale on its website, a ticket resale marketplace is confirming that the ticket is being sold in compliance with all applicable state laws.
- 12) Requires a ticket resale marketplace to disclose on its internet website in each ticket listing the exact location of the seat in the entertainment venue, unless the ticket is not associated with occupying a specific seat, such as general admission or standing room only tickets.
- 13) Repeals a provision of existing law that states that certain ticketing laws do not apply to any primary contractor or seller of tickets for the primary contractor operating under a written contract with the primary contractor, with "primary contractor," defined as the person or organization who is responsible for the event for which tickets are being sold.
- 14) Prohibits a ticket reseller from using an internet website, or causing an internet website to be used, that displays a trademarked or copyrighted URL, title, designation, image, mark, or other symbol without the written consent of the trademark or copyright holder, or any combination of text, images, web designs, or internet addresses that is substantially similar to the internet website of an event presenter or original seller, or any of their authorized agents, without the written consent of the event presenter or original seller.
- 15) Prohibits a ticket reseller from representing that a live entertainment event is sold out or use the term "sold out" when tickets are still available on the original seller's website.

- 16) Prohibits a person from intentionally using, causing to be used, or selling software or services that do any of the following:
- a) Purchase tickets in excess of posted limits for an online event ticket sale.
 - b) Circumvent or disable an electronic queue, waiting period, presale code, or other sales volume limitation system associated with an online event ticket sale.
 - c) Circumvent or disable a security measure, access control system, or other control or measure that is used to facilitate authorized entry into an event.
 - d) Purchase tickets in violation of the combined event presenter's, rightsholder's, and venue operator's posted terms and conditions.
 - e) Utilize multiple Internet Protocol addresses, multiple purchaser accounts, or multiple email addresses to purchase tickets in excess of posted ticket limits.
- 17) Removes the ticketing exemption in current law for non-profit charitable tax-exempt organizations.

EXISTING LAW:

- 1) Defines a "ticket seller" as any person who for compensation, commission, or otherwise sells admission tickets to sporting, musical, theatre, or any other entertainment event. (Bus. & Prof. Code § 22503.)
- 2) Clarifies that the following are not ticket sellers for purposes of existing law:
 - a) An officially appointed agent of an air carrier, ocean carrier, or motor coach carrier who purchases or sells tickets in conjunction with a tour package.
 - b) Any person who sells six tickets or less to any one single event, provided the tickets are sold off the event premises, including, but not limited to, designated parking areas and points of entry to the event.
 - c) The person or organization responsible for the event for which tickets are being sold, or a seller of tickets operating under a written contract with this person or organization.
 - d) Any nonprofit charitable tax-exempt organization selling tickets to an event sponsored by the organization. (Bus. & Prof. Code §§ 22503.5, 22503.6, 22504, 22511.)
- 3) Requires that ticket sellers:
 - a) Maintain records of ticket sales, deposits, and refunds. (Bus. & Prof. Code § 22501.)
 - b) Prior to sale, disclose to the purchaser by means of description or a map the location of the seat or seats represented by the ticket or tickets. (Bus. & Prof. Code § 22502.)
 - c) Make any partial or full deposit refundable if received on a future event for which tickets are not available, except for a service charge of not more than 10 percent, until such time as tickets for the event are actually available. (Bus. & Prof. Code § 22506.)

- d) Provide a refund within 30 days for the ticket price of an event that is canceled. (Bus. & Prof. Code § 22507(a).)
 - e) Provide a refund, upon request, within 30 days, for the ticket price of an event which is postponed, rescheduled, or replaced with another event at the same date and time. (Bus. & Prof. Code § 22507(b).)
 - f) Provide that a local jurisdiction may require a bond of not more \$50,000 to cover required refunds. (Bus. & Prof. Code § 22507(d).)
 - g) Disclose that a service charge is imposed by the ticket seller and is added to the actual ticket price by the seller in any advertisement or promotion for any event by the ticket seller. (Bus. & Prof. Code § 22508.)
- 4) Prohibits a ticket seller from contracting to sell or accepting payment for tickets unless the ticket seller:
- a) Has lawful possession of the ticket;
 - b) Has a contractual right to obtain the ticket; or
 - c) Informs the purchaser, in a specified manner, that it does not have possession of the ticket, has no contract to obtain the offered ticket, and may not be able to supply the ticket at the contracted price. (Bus. & Prof. Code § 22502.1.)
- 5) Authorizes a ticket seller to accept a deposit from a prospective purchaser as part of an agreement that the ticket seller will make best efforts to obtain a ticket at a specified price or price range and within a specified time, provided that the ticket seller informs the purchaser, in a specified manner, of the terms of the deposit agreement and makes required disclosures. (Bus. & Prof. Code § 22502.1.)
- 6) Prohibits a ticket seller from representing that it can deliver or cause to be delivered a ticket at a specific price or within a specific price range and fail to deliver the ticket a) within a reasonable time and b) below or within the price and range of prices stated. (Bus. & Prof. Code § 22502.2.)
- 7) Provides a private right of action to ticket purchasers for violations of 5) and 6). (Bus. & Prof. Code § 22502.3.)
- 8) Declares it unlawful for a person to intentionally use or sell software or services to circumvent a security measure, access control system, or other control or measure (including limits on the number of tickets a person can purchase) that is used to ensure an equitable ticket buying process for event attendees. (Bus. & Prof. Code § 22502.5.)
- 9) Deems a violation of the chapter of the Business and Professions Code containing the provisions above to be a misdemeanor. (Bus. & Prof. Code § 22505.)
- 10) Requires a ticket seller to have a permanent business address from which tickets may only be sold and that the address be included in any advertisement or solicitation. Makes a violation of this requirement a misdemeanor punishable by imprisonment or a fine not exceeding

\$2,500 or by both, and provides for civil penalties of up to \$2,500 for violations. (Bus. & Prof. Code § 22500.)

FISCAL EFFECT: As currently in print, this bill is keyed fiscal.

COMMENTS:

1) **Background.** Gone are the days of camping out overnight in line at a box office hoping to get tickets to a Van Halen, Madonna, or Michael Jackson concert or to one of your favorite team's games. In that pre-internet era, if overnight camping was not an option, a person could try calling the box office over and over, hoping to break through the busy signal to get an actual person who can sell tickets over the phone if the tickets have not sold out already. If those efforts failed, a fan could listen to their favorite radio station for hours at a time hoping to score free tickets through a call-in giveaway contest. Finally, if nothing else worked and the day of the concert or game arrived, they could take the chance of going to the venue in the hopes of finding a scalper standing in the parking lot, or near the entrance to the venue, holding up a couple of tickets for sale at a premium cash price. Of course, this last-ditch effort meant that fans ran the risk of being ripped off by a scalper selling fake tickets. But diehard fans often considered it a chance worth taking.

Buying tickets online. While some things remain unchanged for the music and sports fan, technology and the internet have profoundly changed the experience of ticket buying. The live entertainment ticket ecosystem is now simultaneously much more complicated and much more convenient. Largely gone are the days of box offices and paper tickets. Now, in theory, when tickets go on sale for a concert or a game, fans go to the online ticket platform that is selling those tickets (often Ticketmaster) to purchase them and then have them delivered electronically. However, the reality is more complicated, depending how the consumer enters the online marketplace.

Today, the ticket market is broken down into on-sale primary vendors—comprised of venues and online primary ticket platforms—and the secondary (or resale) market, which is made up of ticket brokers and resale marketplace platforms, such as StubHub, SeatGeek, and Vivid Seats. Adding to the confusion, there is significant crossover between the two markets. For example, Ticketmaster operates a resale platform and SeatGeek operates as both a primary and secondary platform. When multiple secondary platforms and the on-sale primary vendor are all competing for ticket buyers, it can be very difficult for consumers to know where to buy tickets or even whether or not they are getting an actual ticket.

The primary market. The primary market is one in which event organizers control the ticket price, the sharing of the revenue between the artist, venue operator, and ticket company, and the decision as to which platform will sell the tickets. The prices set in the primary market heavily affect the volume and value of tickets in the secondary market. In general, it is most common to find underpriced tickets—tickets that sell on the primary market with a face value that is below their market value—so that event organizers can maximize the attendance of their target audience in order to increase customer loyalty, and merchandise sales.¹ To complicate ticket selling in the primary market, some artists have been known to hold back a portion of tickets to

¹ *The Event Ticketing Industry is Broken and in Need of Disruption*, Aventus Network (May 19, 2017).

sell on the resale market in order to take advantage of the higher prices while still maintaining fan loyalty by offering the initial tickets at a low price.²

The secondary market. The secondary market is where tickets purchased on the primary market are resold. Ticket prices are usually significantly higher when purchased from someone in the secondary market. A study conducted by the National Independent Talent Organizations (NITO) analyzed data from 65 different shows around the country in 2023 where artists represented by NITO members performed. According to their findings, on average, ticket buyers were charged twice as much when buying tickets in the secondary market.³ Secondary market platforms not only serve as a way for professional ticket brokers (i.e. businesses that purchase event tickets solely for the purpose of reselling them for a profit) to sell tickets, they also play an important role by providing consumers who can no longer use their tickets a relatively simple way of recouping their money and perhaps making a profit by reselling them to someone else.

The platforms, for a fee, provide the infrastructure and technology that make up the marketplace for brokers and individuals to resell their tickets. Professional ticket brokers either enter into agreements with sports teams and promoters to have access to tickets for resale or they compete with consumers in the primary marketplace to purchase tickets that they intend to resell at a profit on the platforms. Generally speaking, these secondary market platforms, such as StubHub, Vivid Seats, TickPicks, SeatGeek, and the secondary platforms run by Ticketmaster and their main competitor AXS, are similar to eBay (the former parent company for StubHub) or Etsy. This means that individual entities, who are generally not associated with the platform, are the ones selling the merchandise – tickets, in this case.

Speculative ticket sales. A speculative ticket refers to instances in which a seller offers a ticket for sale on a secondary ticket exchange before the seller actually has the ticket. In some cases, secondary sellers may not disclose the fact that they are selling speculative tickets. These practices harm consumers who either do not receive the tickets they purchased or receive tickets that differ from the ticket or seat advertised. Even if consumers receive refunds for the ticket price, they may have already incurred nonrefundable costs to attend the event, such as travel or hotel expenses.⁴

For over a decade, secondary resale markets have allowed the sale of tickets that sellers do not actually possess. Specifically, speculative ticket sales work as follows, according to the Center for Investigative Reporting:

Brokers advertise inventory – sometimes a specific seat, sometimes a seating area – on a resale site, often at a price significantly higher than face value. When a customer selects tickets and checks out, [the site] prompts the broker to then attempt to acquire those tickets elsewhere at a lower price. If the broker can get them for cheaper, they will buy them, pocket the difference and pay the

² Tyler Jenke, “Ed Sheeran’s manager has admitted to selling tickets to resale services,” *The Music Network* (Jun 3, 2018) available at <https://themusicnetwork.com/ed-sheeran-manager-sold-tickets-resale/>.

³ *NITO Ticket Resale Study*. National Independent Talent Organization (Jul 2023)

⁴ *Ibid.*

marketplace a commission. If they can't, the broker will either have to make good on the initial offer and take a loss or renege on the sale.⁵

Ticket brokers often refer to this practice as the equivalent of agreeing to stand in line for someone at the box office. They will buy tickets when they go on sale, so that the consumer does not have to wait in front of their computer, constantly refreshing their web browser. However, the consumer is often not aware that they are buying a ticket that the seller does not possess, nor do they realize they are paying a premium price, significantly above the face value, for a ticket that they may or may not receive.

This practice creates considerable confusion for consumers who cannot purchase tickets from the primary box office because they have not gone on sale yet, but are able to purchase tickets for a premium price on the secondary market. As a recent example, before the tickets for a Justin Timberlake concert scheduled for May in San Jose were officially on sale through Ticketmaster, they were advertised for sale on a number of secondary platforms. In fact, the first three websites at the top of an internet search were already selling tickets. The first website, StubHub, offered tickets for sale and nothing easily identifiable on the platform suggested that the tickets were speculative. The next website, VividSeats, indicated in the "notes" section that the tickets being purchased were a "seat saver" listing and that the purchaser will either receive the tickets or a full refund. The third website, "TicketsOffice.org" also did not advertise the tickets as speculative.

2) Live Nation/Ticketmaster anti-trust lawsuit. The United States Department of Justice (DOJ) and 30 state and district attorneys general filed an anti-trust lawsuit against Live Nation Entertainment on May 23, 2024. In the suit, the US government asks the courts to break up Live Nation, or at the very least separate Ticketmaster from the conglomerate. The US DOJ accuses Live Nation of leveraging its power in the entertainment industry to dominate the industry by locking venues into exclusive ticketing contracts, pressuring artists to use its services and threatening its rivals with financial retribution.

California Attorney General, Rob Bonta, joined the suit. According to the Attorney General's office:

The lawsuit alleges Live Nation violated Sections 1 and 2 of the Sherman Antitrust Act, which prohibits anticompetitive agreements, monopolization, and attempted monopolization. Monopolization offenses occur when a single firm maintains a monopoly unlawfully, by using its control of the market to exclude rivals and harm competition. In addition, the complaint alleges violation of California's Unfair Competition Law.

The complaint filed today alleges that Live Nation protects its monopoly by using both exclusive contracts with promoters and venues to protect its dominant position in the live music industry to force artists and venues to use both its ticketing and concert promotion services. Live Nation uses their market dominance to leverage its power over all other aspects of the live music entertainment industry: from artist management, to ticketing, and promotions. For example, Live Nation has used their dominance in promotions to force

⁵ Duncan, Byard. "How is this Legal?" *The Center for Investigative Reporting*, March 8, 2021, available at <https://revealnews.org/article/how-is-this-legal/>.

venues to use Ticketmaster's ticketing services, thereby blocking innovation and unfairly competing with competitors in the music concert business.

In the lawsuit, Attorney General Bonta, U.S. DOJ, and coalition states allege that Live Nation has:

- *Harmed fans through higher fees.* Fans' ticketing experience — from buying a ticket to showtime — is also worse than it would be if the industry was competitive.
- *Maintained its monopoly in ticketing markets* by locking up venues through restrictive long-term, exclusive agreements and threats that venues will lose access to Live Nation-controlled tours and artists if they sign with a rival ticketer.
- *Leveraged its extensive network* of venues to force artists to select Live Nation as a promoter instead of its rivals, maintaining its promotions monopoly.

In filing the lawsuit, Attorney General Bonta joins the U.S. Department of Justice and the attorneys general of Arizona, Arkansas, Colorado, Connecticut, Florida, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia.⁶

According to the judge recently assigned to the case, the trial could begin as early as March 2026.⁷

3) How is the ticket buying experience different in other countries? It is in large part due to Taylor Swift, arguably the most popular musical artist in history, that the cost of live entertainment tickets and the difficulties in the market continue to be top of mind for lawmakers and entertainment and business journalists. Originally, Swifties were outraged in November 2022 when millions flocked to Ticketmaster.com to grab tickets to see her perform for the first time since 2018 and the website crashed. The long wait lines and frozen screens sparked an uproar with fans blaming Ticketmaster for ruining their chances to see the pop star. While the initial anger reportedly stemmed from the Ticketmaster platform being unable to handle that volume of activity, the larger, on-going outrage stems from consumers discovering that tickets are instantly sold out, but within minutes are offered on secondary resale marketplaces for thousands of dollars. According to the *Los Angeles Times*, the face value of the tickets for Swift's concert at SoFi Stadium ranged from \$49 to \$449. However, tickets on StubHub were quickly being sold for around \$800 up to \$11,000.⁸

Billboard recently reported:

⁶ California Department of Justice. *Attorney General Bonta Files Lawsuit Against Live Nation, Ticketmaster* (May 23, 2024) <https://oag.ca.gov/news/press-releases/attorney-general-bonta-files-lawsuit-against-live-nation-ticketmaster>.

⁷ Brooks, Dave. "Judge in Live Nation Antitrust Case Indicates Possible Start Date for Blockbuster Trial," *Billboard* (Jun. 28, 2024) <https://www.billboard.com/pro/live-nation-antitrust-case-judge-possible-trial-start-date/>,

⁸ Fox, Emma. "\$11,000 to see Taylor Swift? How concert tickets got so expensive," *The Los Angeles Times* (July 27, 2023) <https://www.latimes.com/entertainment-arts/story/2023-07-27/explaining-the-complicated-world-of-ticketing>.

Prices to see [Taylor] Swift at one of her final nine shows in the United States have increased following the release of the album April 19, with the average get-in-the-door price — the lowest price available — hovering around \$2,600 per ticket, according to data from TicketIQ. That means it would cost a couple more than \$5,000 just to be in the same building as Swift in Miami . . . , New Orleans . . . and Indianapolis . . . this fall.

In Europe, however . . . tickets cost only a fraction of that. Right now, the get-in-the door price to see the opening of the European leg of the Eras Tour is \$340 a ticket — 87% cheaper than the average price in the United States. . . . That means a fan in Miami could fly to Paris for about \$900 a person . . . spend two nights at a four-star hotel at \$250 a night and purchase a \$340 concert ticket for a grand total of \$1,740 — which is still \$760 less than the cheapest tickets currently available for her Miami shows.

Tickets to see Swift in Stockholm . . . are even cheaper, at \$312 for the cheapest tickets, while tickets for her show in Portugal . . . start at \$336 and in Spain . . . start at \$324.⁹

Opponents of this bill have argued that one of the reasons that Swift tickets remain so much lower is because Ticketmaster does not have the same control over the market in other countries. Policymakers in the state and federal government have agreed that Live Nation Entertainment/Ticketmaster’s oversized market share represents a significant problem. However, as noted above, the face value price of Taylor Swift tickets during the United States leg of her tour, particularly here in California, were in a similar range as those in Europe. So, it is unclear what impact their domination in the primary market played in this case.

The opposition has also posited that another reason for the difference in ticket prices is that Swift is not as popular in Europe, so the demand is not as great. However, Swift fans at her recent sold-out concerts in Edinburgh, Scotland may beg to differ. According to reports from the British Geological Survey, Swift’s fans caused an actual earthquakes during her concerts. Seismic readings were detected almost 4 miles away from the stadium.¹⁰

While this bill is not about or for Ms. Swift, her popularity, the interest of the media, and the loud voices and devotion of her fans provide an opportunity to clearly observe the problems in the United States’ entertainment ticket market and compare it to ticket markets in other countries.

4) European countries’ continue to distrust “touts.” Despite the fact that ticket brokers and other secondary resellers are directly competing with consumers in the primary ticket market and may be the reason they cannot find tickets, people in the United States have embraced the resale ticket market as a valid business model that provides consumers with the ability to purchase tickets to events that they could not otherwise attend, albeit at a premium price. This is not the case in many European countries where consumers, policymakers, and mainstream media have remained wary of the practice of purchasing tickets in order to resell them at an inflated price, which the U.K. refers to as “touting.”

⁹ Brooks, Dave. “Why Are Taylor Swift Eras Tour Tickets So Much Cheaper in Europe?” *Billboard* (May 2, 2024) <https://www.billboard.com/business/touring/taylor-swift-eras-tour-tickets-cheaper-europe-1235671760/>.

¹⁰ Melnick, Kyle. “Swifties set off earthquake sensors again. These songs made the biggest stir.” *The Washington Post* (Jun. 13, 2024) <https://www.washingtonpost.com/entertainment/2024/06/13/taylor-swift-concert-fans-dance-earthquake-sensors/>.

Ticket market experts point to this general distrust as one of the reasons for the difference in ticket prices between the United States and Europe, while the United States has turned its attention to the domination of Live Nation Entertainment, the parent company for Ticketmaster, as the main driver behind skyrocketing ticket prices.¹¹ Policymakers in other countries have taken concerns related to the price of tickets and the resale market so seriously that one of the planks that the Labour party in Britain is running on for the upcoming July 4th election is a commitment to cap the price of resale tickets. According to the *Change Labour Party Manifesto 2024*:

With Labour, the arts and music will no longer be the preserve of a privileged few. Culture is an essential part of supporting children and young people to develop creativity and find their voice. . . . Access to music, drama and sport has become difficult and expensive because of ticket touting. Labour will put fans back at the heart of events by introducing new consumer protections on ticket resales.¹²

In reporting on the commitment to regulate the resale market, the *BBC* reports, “Labour will cap the resale prices of tickets and regulate resale platforms if the party wins the next general election, Sir Keir Starmer has said. The plans will clamp down on ticket touts who rip off music and sports fans going to live events, Sir Keir said.”¹³

4) Joint Informational Hearing: Online Ticketing and Access to Live Entertainment (Feb. 13, 2024). During a joint informational hearing earlier this year between this Committee and the Arts, Entertainment, Sports and Tourism Committee, the Assemblymembers and public heard from an economist with expertise in online marketplaces, independent venue operators, representatives of artists, Consumer Reports, primary ticket sellers, and a resale marketplace platform. One thing became clear during the testimony of experts and those working in the field: the secondary resale market in California is fundamentally broken.

It has become virtually impossible for average consumers to find tickets for sale from the primary online box office for a myriad of reasons: popular events are immediately sold out within seconds of the tickets going on sale, while they simultaneously pop up on resale marketplaces at significantly inflated prices; a simple Google search for tickets presents consumers with link after link to resale marketplaces because the company has paid to boost their site on the search engine; a website that appears to be the official site for the event (i.e. muppetslivetickets.com) is actually a white label site that links to a secondary market place platform; or the tickets being advertised for sale are actually speculative tickets because even though the event has been announced, the actual tickets have not gone on sale yet.

During the hearing, venue operator after venue operator expressed frustration with having to deal with angry and frustrated fans who showed up at the venue with tickets that were fake. According to their testimony, this is a growing problem and for many of them it is happening every night that there is a show at their venue.

¹¹ While Ticketmaster’s domination is a legitimate concern, as discussed earlier in this analysis, the available data does not support the fact that primary market prices account for the high price of tickets.

¹² Geiger, Chas. “Keir Starmer vows to cap resale music and sport ticket prices,” *BBC* (Mar. 14, 2024) <https://www.bbc.com/news/uk-politics-68563793>.

¹³ *Ibid.*

These small business owners told of shows that were sold out and the venue purchased food and beverages and staffed the venue for a large crowd, only to find that the venue ended up being half empty because a ticket broker had purchased all of the tickets to the event but had been unable to resell them. This particular problem does not initially seem like a significant one for venues because they have sold all of the available tickets. However, venues generally do not make their revenue from the sale of tickets that revenue goes to the artist. The primary revenue for the venue comes from selling food, beverages, and merchandise. So, when a venue has staffed up and ordered enough supplies for a sold out crowd and they do not show up, the venue ends up losing money on the show.

Similarly, representatives for artists spoke of the importance of the relationship between artists and their fans. Artists often price tickets in a reasonable range that will allow their fans to afford to attend. When those tickets are purchased by scalpers or ticket brokers, in violation of the posted terms and conditions, and resold for several times the original price, not only do the artists and venues not make any increased revenue from the higher prices but the artist's fans often become upset and blame the artist for the high price of the tickets.

All of this is not to suggest that the Committee does not believe that there are also major problems in the primary marketplace related to the fact that Ticketmaster enjoys a monopoly by controlling 80 percent of ticket sales. But the artists, their managers, the venue operators, and the consumer experts all overwhelmingly agreed that the largest and most immediate problems they faced were due to an out-of-control secondary market where the primary business model involves competing with actual consumers in the primary market in order to then turn around and sell the tickets to the same consumers at greatly inflated prices.¹⁴

5) Purpose of this bill. Arguing in support of this bill, the California Chamber of Commerce states these reasons why this bill is needed:

Imagine waiting for tickets for your favorite musical artist to go on sale – sitting at your computer or phone, ready to click buy when they go on sale for \$85 per seat. Then, the moment comes ... and they are already sold out. Somehow, they sold out instantly. Then, within an hour, those same tickets are being sold on other ticket re-sale websites ... for 200% or 300% more. And when the next concert is announced, tickets are being sold *before they go online*, again at inflated prices.

That has been the reality of ticket sales. Scalpers are able to use computer programs (bots) to purchase large volumes of tickets, then re-sell them for considerable profits to the desperate fans who cannot compete with the scalpers' bots. Though President Obama outlawed the practice,¹⁵ it continues because the profits are too substantial.¹⁶ This abusive process by scalpers and secondary re-sellers has angered both fans¹⁷ and artists.

¹⁴ For additional information, a detailed background paper and a video link to the hearing is available at <https://apcp.assembly.ca.gov/hearings/2023-24-informationaloversight-hearings>.

¹⁵ President Obama signed the Better Online Ticket Sales (BOTS) Act in December of 2016. Discussed here: <https://www.westarts.org/news-updates/the-battle-between-bots-and-the-ticket-industry-continues>, and here <https://www.billboard.com/music/music-news/president-obama-signs-bots-act-law-7625257/>.

¹⁶ As an example, the Federal Trade Commission Action against three scalpers for \$3.7 million for buying over 150,000 tickets and re-selling them. <https://www.pcmag.com/news/3-scalpers-fined-for-using-bots-to-scoop-up-tickets-on-ticketmaster>

¹⁷ <https://www.npr.org/2021/12/10/1063237219/olivia-rodrigo-sour-tour-tickets>

One emotional example was a concert given by the Foo Fighters as a benefit for their late former drummer. Tickets were put online for \$89 for their fans – but within an hour of sale, had popped up on re-sale websites and were being sold for over \$400.¹⁸

These predatory practices provide *no market value* to fans, venues, or artists – they simply drive-up ticket costs and profit scalpers.

It is these problems in the secondary market that this bill seeks to address by banning the practice of selling speculative tickets; banning the use of deceptive websites; prohibiting the technology and activities that allow scalpers and ticket brokers to acquire large numbers of tickets in the primary market; significantly increasing the penalties for violating the state’s ticketing laws; and, ensuring that the resale marketplaces that facilitate these practices take responsibility for the tickets that are being sold on their platforms.

6) Author’s statement. According to the author:

SB 785 will reform the laws governing the purchase and sale of tickets to live entertainment and sporting events in California, and create meaningful protections for consumers, artists, teams, and local venues.

Current law regulates ticket brokers but does not apply to the resale platforms where consumer deception and price gouging occurs. This bill will modernize California ticket purchasing laws to apply to all ticketing platforms, both original sale and resale, in order to provide comprehensive and uniform protections for fans, artists, teams, and venues.

SB 785 will protect consumers, artists, teams, and venues by regulating the organized ticket scalping that currently harms consumers and the event presenters who bring live entertainments their fans. Specifically, this bill will:

- Impose true ticket price transparency and full fee disclosures on all ticket sellers across all platforms. In other words, the first price a consumer sees will be the final price they pay – no surprises at checkout.
- End the outrageous practice of speculative ticketing by imposing easily enforceable rules to reduce consumer price gouging and penalizing ticket sellers and platforms who list speculative tickets.
- Establish serious penalties for the use of deceptive websites that lure consumers into buying tickets at inflated prices.
- Establish serious penalties for employing bots that allow professional scalpers to hoard tickets and engage in large-scale scalping, depriving consumers of access to face value tickets.

This bill puts fans and live entertainment creators—rather than scalpers who prey on fans--first. In addition to protecting consumers, this bill will not impinge upon the rights of the

¹⁸ <https://themanc.com/audio/fans-fume-as-taylor-hawkins-tribute-concert-tickets-appear-on-resale-sites-for-four-times-the-price/>

artists, entertainers, and teams to choose how their tickets may be priced, sold, transferred or resold, or what technologies they deploy in the sale of their tickets, including the tools they use to ensure the availability of face values

7) **What this bill does.** This bill includes the following significant changes to current entertainment ticket law:

Prohibits speculative tickets sales. Ends speculative ticket sales, except in instances where a ticket seller has a contractual right to sell the ticket.

- Requires an original ticket seller or a ticket reseller, before listing, marketing, or selling a ticket must own, possess, or have the contractual right to sell the ticket.
- Requires an original seller or a ticket reseller, at the time of listing or marketing, and before selling, disclose to the purchaser the specific seat within the venue that the purchaser is entitled to occupy, including the section, row, and seat number represented by each ticket.
- Requires a ticket marketplace, before accepting a listing to market or sell a ticket, to require that the person listing the ticket own, possess, or have a contractual right to sell the ticket, and be able to deliver the ticket to the buyer.
- Requires a ticket marketplace, on its internet website in each ticket listing, to disclose to the purchaser, by means of a description or a map, the location within the venue that the ticket will entitle the purchaser to occupy, including the section, row, and seat number represented by each ticket.

Restricts ticket purchases from the primary box office. Declares it unlawful for a person to do the following in order to circumvent restrictions on primary sale tickets:

- Purchase tickets in excess of posted limits for an online event ticket sale.
- Circumvent or disable an electronic queue, waiting period, presale code, or other sales volume limitation system associated with an online event ticket sale.
- Circumvent or disable a security measure, access control system, or other control or measure that is used to facilitate authorized entry into an event.
- Purchase tickets in violation of the combined posted terms and conditions of the rights holder, event presenter, and venue operator.
- Utilize multiple Internet Protocol addresses, multiple purchaser accounts, or multiple email addresses to purchase tickets in excess of posted ticket limits.

Prohibits deceptive marketing practices. Prohibit using a box office website that looks substantially similar to the venue or primary seller's website in order to direct sales to the resale market. Specifically prohibits the following:

- A trademarked or copyrighted URL, title, designation, image, mark, or other symbol without the written consent of the trademark or copyright holder.

- Any combination of text, images, web designs, or internet addresses that is substantially similar to the internet website of an event presenter or original seller, or any of their authorized agents, without the written consent of the event presenter or original seller.
- Representing that a live entertainment event is sold out or use the term “sold out” when tickets are still available from the original seller.

Increases penalties. Increases the current fine of \$2,500 to a fine of up to \$10,000 for each ticket that is sold or offered for sale in violation of the chapter.

- Action may be brought by:
 1. The Attorney General.
 2. A district attorney.
 3. A city attorney.
 4. A county council of a county.
 5. A city prosecutor in a city.
- In addition to the fines, an original seller, a ticket reseller, or a ticket resale marketplace that violates the sections of this bill related to speculative tickets, deceptive marketing, or prohibited purchasing practices is civilly liable to the consumer for two times the contracted price of the ticket, in addition to any sum expended by the consumer in nonrefundable expenses for attending.

8) **Analysis.** As discussed throughout this analysis, the conditions in the ticket resale market have not only caused prices to skyrocket, but have also allowed unscrupulous ticket resellers to mislead consumers who are attempting to purchase tickets to attend a live entertainment event. This bill seeks to prohibit some of the most deceptive practices and addresses a number of the concerns raised during this Committee’s informational hearing.

Among their other concerns, opponents of this bill have consistently pointed to two issues related to this bill. First, the inclusion of broad terms and conditions for event presenters. On this topic, StubHub, in an “oppose unless amended” position, writes:

Sec 9. 22503.3 endorses an event presenter’s (i.e. LNE) ability to unilaterally set, impose, and enforce terms and conditions on ticket sales, ticket pricing, the transfer or resale of tickets sold, as well as the technologies used to sell tickets. This effectively endorses anticompetitive terms and conditions and restrictive technologies that limit consumer choice and further engrains a monopoly that is alleged by the DOJ and Attorney General Bonta to use anti-competitive tactics to disadvantage artists, venues, consumers, and competitors. We respectfully request that this committee remove Sec. 9 from the bill to protect consumers, the broader industry and competition in the live event space.

The most recent author’s amendments (as amended June 27, 2024) removed this section from the bill.

Secondly, opponents have expressed concern related to requirements that the original face value of a ticket be included in any resale posting. On this point, the Coalition for Ticket Fairness, an association of ticket brokers and secondary platforms, notes:

. . . [T]he bill uses the guise of “transparency” to further suffocate competition from the secondary market by imposing requirements on resellers that in many instances would be impossible to meet, such as listing the face value of tickets that are resold or requiring a specific seat location for tickets that consumers purchase in a particular “zone” of a venue. The so called “transparency” proponents request in SB 785 has no public policy benefit and is merely intended to further stifle the secondary market.

In a world of dynamic primary pricing, the “face value” of a ticket is difficult if not impossible to verify, and can lead to confusion that may encourage consumers make a poor financially decision. It is very common for a primary seller to drip supply into the market at a given price, for example \$50. If those tickets sell “too fast”, they may sell the row in front or behind (or the seats next to) the \$50 seats at \$75, then when those sell, at \$100 and so on... A consumer given the face value information buying a \$50 ticket on the secondary market might balk at a price of \$80, when an almost identical seat with a face value of \$100 might be sold at \$90. Simply because someone is losing money on a \$100 ticket does not mean the consumer is better off paying \$90 vs \$80 for identical tickets. What someone paid at one point in time is not relevant to the consumer’s buying decision, but knowing how many tickets were sold and if more tickets may become available would be.

Author’s amendments, taken on June 24, 2024, remove the requirement that tickets being resold contain information related to the original face price of the ticket.

9) What remains to be done? While more remains to be done in both the primary and secondary markets, this bill addresses some of the most significant problems in the secondary market and significantly increases the consumer protections for fans who are purchasing tickets in order to attend live events. Based on discussions with artists, consumers, venue operators, and talent organizations and research into ticketing practices in other states and other countries, legislators may want to consider the following policies in future legislation:

Price caps. Likely the single most impactful policy for controlling the price of tickets is a cap both on the resale price and on the amount of fees secondary marketplaces can charge for allowing the tickets to be sold on their platforms. The primary driver between the price of tickets in California and the prices in other countries can be traced to capping the amount someone is allowed to resell a ticket for. In Europe, prices are kept low thanks to laws limiting how high tickets can be marked up over face value. In countries like France, Germany and the Netherlands, ticket resellers face limits on how much tickets can be marked up on secondary sites — typically 20 percent over face value. Since 2021, Ireland has capped the resale price of a ticket at what it originally sold for in the primary market. Maryland, in its recent legislation was considering a ten percent cap on resale tickets.¹⁹

¹⁹While the final version of Maryland’s ticketing reform bill did not include caps, it is expected that caps will be reintroduced in their next legislative session.

While generally limiting prices in most markets could be seen as something to be leery of, this market is the rare exception where there is a justification to limit resale prices given all of the abuses detailed throughout this analysis.

In addition to capping the resale price, legislators should also consider capping the fees that can be charged by resale platforms. Unlike the primary ticket fees, which are generally shared between the ticket seller and the venue operator, resale fees, in most cases, solely benefit the resale platform.

The rights of artists. While the author has removed the language in the bill allowing for event presenter's to exercise sweeping authority over the way in which tickets are priced, transferred, sold, and resold, there is a strong argument for enshrining in state law the rights of artists to establish terms and conditions and maintain control over their own work product.

Enumerating a limited range of terms and conditions turned over to artists allows clear artist control over the provisions that matter most to them like restricting resale to face value, using adjusted pricing, or making tickets available to fan club members. All of these choices are examples of decisions that artists should be allowed to control.

Protecting a consumers' ability to either resell or give away a ticket they cannot use. Equally important in the policies that should be considered is the question of what someone should be able to do with a ticket they are unable to use. The most consumer-protective approach is to require that ticket sellers ensure that consumers can exchange a ticket at face value to recoup their money, give the ticket away to someone of their choosing, or be able to try to resell it on the secondary marketplace for a capped amount. This would ensure that the ticket will not go unused.

Exploring exclusivity contracts. Small venue operators have been very clear that exclusive contracts with primary ticket sellers is a critical part of their business model. However, given Live Nation's dominance, while the anti-trust lawsuit is being decided at the federal level, lawmakers may want to consider limiting exclusive contracts when the venue operator, the event promoter, and the primary ticket seller are all part of the same company. This approach, arguably, would provide openings in the primary ticket market for other companies to gain a larger market share and it would eliminate some of the most egregious practices in the primary market.

10) Suggested Committee amendments. Though primarily clarifying in nature, the suggested Committee amendments are spread throughout the bill. A complete mock-up is included as an attachment at the end of this analysis.

11) Related legislation. AB 2203 (McCarty, 2024) requires ticket sellers that sells admission tickets to sporting, musical, theater, or any other entertainment event, to immediately deliver a proof of purchase to a consumer, and would require a venue operator to honor that proof of purchase in lieu of the ticket if specified conditions are met. This bill is currently awaiting hearing in the Senate Business, Professions, and Economic Development Committee.

AB 2808 (Wicks, 2024) prohibited certain entertainment venue operators from entering into an exclusive contract with a primary ticket seller. That bill was held on the Appropriations Committee suspense file.

AB 8 (Friedman, 2023) requires a ticket seller to disclose to a purchaser the total price of the ticket and the portion of that price that represents any fees or surcharges. The seller must also provide a link to an internet webpage that includes certain refund requirements, as specified. This bill is currently on the suspense file in the Senate Appropriations Committee.

SB 829 (Wilk, 2023) prohibits the operator of an entertainment facility and a primary ticket seller from entering into a contract that provides for the primary ticket seller to be the exclusive ticket seller for the operator of the entertainment facility. SB 829 is currently in this Committee.

SB 478 (Dodd; Ch. 400, Stats. of 2023) makes it an unlawful business practice pursuant to the Consumer Legal Remedies Act to advertise, display, or offer a price for a good or service that does not include all mandatory fees or charges other than taxes imposed by a government.

AB 1556 (Friedman, Ch. 180, Stats. 2021) requires for cancelled events, that a refund be made within 30 calendar days of the cancellation; and requires a ticket price at any event which is postponed, rescheduled, or replaced with another event at the same date and time be fully refunded to the purchaser by the ticket seller upon request within 30 calendar days of the refund request.

AB 329 (Pan, Ch. 325, Stats. 2013) made it a misdemeanor to intentionally use or sell software to circumvent a security measure, access control system, or other control or measure on a ticket seller's website that is used to ensure an equitable ticket buying process.

ARGUMENTS IN SUPPORT: Writing in support of the bill, the National Independent Venue Association (NIVA) states:

I want to be clear: this measure is in no way, shape, or form a giveaway to LiveNation/Ticketmaster as the opponents suggest. Independent venues and promoters have been advocating across the nation for reforms contained in this bill because of the flood of fake tickets we see at our doors night after night that hurt our small businesses. Taylor Swift does not grace our stages but we unfortunately see fake tickets night after night and often look on the secondary platform sites to see our \$30 tickets priced at \$150 when we have inventory available on our websites.

Just last week on June 8th, the *Sonoma Press-Democrat* published an article, entitled "Sonoma, Napa county venues are warning concertgoers about uptick in inflated, fake tickets," that offers a snapshot of what our member venues deal with night after night. Certain deceptive websites, appearing to be affiliated with venues, are actually third-party vendors with no connection to the venue. These sites often rank highly in search engine results for tickets, presenting themselves as official outlets, yet they charge inflated prices, sometimes up to triple the face value of the ticket.

The opposition to this measure would argue this proposal strengthens a monopoly's hold on the industry. This is not true. This measure addresses the major challenges independent venues and promoters face with regard to fraudulent tickets or massively overpriced tickets on third-party platforms that hurt our reputations.

Opponents would also have you believe that empowering the secondary market will "increase competition" and promote "ticket freedom." This is also not true and doing so as they articulate will increase the likelihood of predatory practices thus diminishing the fan

experience at a show. Without banning speculative and predatory ticketing practices, fans may have more places to purchase tickets, but will have less guarantees that the ticket is real/valid, resulting in a terrible experience when they arrive and find out their ticket is fake and they can't get into the show. SB 785 takes these necessary steps to truly protect not only the consumer (fans), but the artists and the venues who depend on the trust and engagement of the fans.

By considerately putting the fan first, SB 785 will help to ensure that fans get valid tickets, artists perform to more fans at their shows, and venues will have a better chance of protecting their businesses and reputations. There have been many bills in California, and around the country, that have attempted to reshape and reform ticketing but SB 785 has the most potential to simultaneously protect fans, artists and venues from deceptive, inflammatory and predatory ticket resellers in a model for the rest of the country.

ARGUMENTS IN OPPOSITION: Echoing the concerns raised by several groups the Consumer Federation of California, writes:

On May 23rd of this year the federal Department of Justice, joined by 29 states and the District of Columbia, [sued the Live Nation/Ticketmaster monopoly] for violating antitrust law and urged that it be broken up. The 29 states that joined in the lawsuit included California and our Attorney General as well as the following states: Arkansas, Florida, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, West Virginia, and Wyoming, to just name a few. This speaks to the overwhelming bipartisan nature of legal concern with the monopolistic actions of Live Nation/Ticketmaster ever since their merger in 2010.

[. . .]

The lawsuit filed by the federal DOJ plus 30 jurisdictions serves, among other things, as an invitation to the federal government and the states to take stronger action on behalf of consumers to limit the destructiveness of the Live Nation/Ticketmaster monopoly while the case attempting to break it up winds its way slowly through the U.S. court system. Historically antitrust cases like this have taken numerous years to adjudicate, so the California Legislature should act now to significantly trim the wings of the monopoly.

Instead, respectfully, SB 785 aims its sights squarely on what limited competition there is in the marketplace against the Live Nation/Ticketmaster monopoly. SB 785's general approach is to make things worse for consumers by making things better for the monopoly as they fight the lawsuit striking at the heart of their corporate practices. This is misguided.

That is not to say that there aren't productive conversations to be had about so-called speculative ticketing, where consumers think they have a ticket to a show but the entity they "bought" it from has to go out and secure that ticket after the consumer has paid, or deceptive websites that fool consumers into thinking they are interacting with the actual concert venue only to find out that they've been defrauded. But these issues pale in comparison to the larger problems directly foisted upon consumers by the monopoly and the various issues that would help consumers by legislatively limiting monopoly power. Taking on the Live Nation/Ticketmaster monopoly seems to be later on the legislative priority list than helping the monopoly harm consumers by forcing their competition to take a haircut while the monopoly, their apologists and allies egg them on.

REGISTERED SUPPORT / OPPOSITION:

Support

American Association of Independent Music
Axs
Bay Area Council
Black Music Action Coalition
California Arts Advocates
California Chamber of Commerce
City of Thousand Oaks
Forty Niners Football Company Llc, a Delaware Limited Liability Company
Future of Music Coalition
Golden State Warriors
International Association of Venue Managers
Live Nation Entertainment, INC.
Los Angeles Rams
Music Artists Coalition
Music Workers Alliance
National Football League
National Independent Venue Association of California
Nederlander Concerts
Orange County Business Council
Ovg360
Recording Academy
Recording Industry Association of America
SAG-AFTRA
San Francisco 49ers
San Jose Sharks
Songwriters of North America
Union of Musicians and Allied Workers

Opposition

Coalition for Ticket Fairness
Consumer Federation of California
Netchoice (UNREG)
Progressive Policy Institute
Protect Ticket Rights
Sports Fans Coalition
Vivid Seats LLC

Oppose Unless Amended

CA League of United Latin American Citizens (LULAC)
California Black Chamber of Commerce
California Hispanic Chambers of Commerce
California Lulac
California Urban Partnership

Central Valley Latino Mayors and Elected Officials Coalition
Central Valley Yemen Society
Chamber of Progress
Gametime
Hispanic 100
Latin Business Association
Lenusa
Multicultural Business Alliance
National Action Network - Sacramento Chapter
National Consumers League
Seatgeek, INC.
Si Se Puede Fresno, Tulare, Kings & Kern
Stubhub, INC.
Tickpick
Tickpick, LLC
Women Veterans Alliance

SUGGESTED COMMITTEE AMENDMENTS

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 22500 of the Business and Professions Code is amended to read:

22500. (a) Original sellers, ticket resellers, and ticket *resale* marketplaces shall be registered with the Secretary of State and be duly licensed, as may be required by any local jurisdiction.

(b) A violation of this section shall constitute a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500) or by both.

(c) For the purposes of this chapter, each ticket sold or offered for sale in violation of this chapter shall constitute a separate violation. An action for a violation of this chapter may be brought only by any of the following:

(1) The Attorney General.

(2) A district attorney.

(3) A city attorney of a city ~~that has a population greater than 750,000.~~

(4) A county counsel of a county ~~within which any city has a population greater than 750,000.~~

(5) A city prosecutor in a city ~~that has a full-time city prosecutor, with the consent of the district attorney.~~

(d) In an action alleging a violation of this chapter, the court shall impose a civil penalty of not more than ten thousand dollars (\$10,000) for each violation of this chapter. *Additionally, the court shall award a prevailing public prosecutor reasonable costs and attorney's fees.* In determining the amount of the civil penalty, the court shall consider all of the relevant circumstances presented by any of the parties to the case, including, but not limited to, all of the following:

(1) The nature and seriousness of the misconduct.

(2) The number of violations.

(3) The persistence of the misconduct.

(4) The length of time during which the misconduct occurred.

(5) The willfulness of the misconduct.

(6) The assets, liabilities, and net worth of the defendant.

(e) The remedies provided by this section are cumulative to each other and to the remedies or penalties available under all other laws of this state.

SEC. 2. Section 22501 of the Business and Professions Code is amended to read:

22501. Original sellers, ticket resellers, and ticket *resale* marketplaces shall maintain records of ticket sales, deposits, and refunds for at least a period of one year *after the initial sale*.

SEC. 3. Section 22502 of the Business and Professions Code is amended to read:

22502. (a) An original ~~ticket~~-seller or a ticket reseller, before listing, marketing, or selling a ticket, shall own, possess, or have the contractual right to sell the ticket.

(b) An original seller or a ticket reseller shall, at the time of listing or marketing of, and before selling a ticket, disclose to the ~~purchaser~~ *consumer*, by means of a description or a map, the location within the *entertainment* venue that the ticket will permit the ~~purchaser~~ *consumer* to occupy, including the section, row, and seat number represented by each ticket, unless that ticket is designated as standing room only or not otherwise associated with occupying a particular location within ~~a~~ *that entertainment* venue.

(c) Subdivision (b) shall not apply to flexible series ticketing options that allow attendees to commit to a number of performances in advance, while choosing the specific performances at a later date.

SEC. 4. Section 22502.1 of the Business and Professions Code is amended and renumbered to read:

22502.3. (a) It shall be unlawful for an original seller or a ticket reseller to advertise, offer for sale, or contract for the sale of a ticket, or accept consideration for payment in full or for a deposit for the sale of a ticket if they do not own, possess, or have the contractual right to sell the ticket.

(b) A reseller, a resale marketplace, or any affiliate of a reseller or resale marketplace shall not do either of the following:

(1) Resell more than one copy of the same ticket to a live entertainment event.

(2) Employ another person directly or indirectly to wait in line to purchase tickets for the purpose of reselling the tickets.

SEC. 5. Section 22502.1 is added to the Business and Professions Code, to read:

22502.1. (a) (1) A ticket *resale* marketplace, before accepting a listing to market or sell a ticket, shall require that the person listing the ticket own, possess, or have the contractual right to sell the ticket, and be able to deliver the ticket to the ~~buyer~~ *consumer*.

(2) By allowing a ticket to be posted for resale on its website, a ticket resale marketplace is confirming that the ticket is being sold in compliance with all applicable state laws.

(b) A ticket *resale* marketplace, on its internet website in each ticket listing, shall disclose to the ~~purchaser~~ *consumer*, by means of a description or a map, the location within the *entertainment* venue that the ticket will permit the ~~purchaser~~ *consumer* to occupy, including the section, row, and seat number represented by each ticket, unless that ticket is designated as standing room only or not otherwise associated with occupying a particular location within *an entertainment* venue.

SEC. 6. Section 22502.2 of the Business and Professions Code is amended and renumbered to read:

22502.4. It shall be unlawful for an original seller, a ticket reseller, or a ticket *resale* marketplace to represent that they can deliver or cause to be delivered, a ticket at a specific price or within a specific price range, and to fail to deliver within a reasonable time, or by a contracted time, the ticket, at or below the price stated or within the range of prices stated.

SEC. 7. Section 22502.3 of the Business and Professions Code is amended and renumbered to read:

22502.5. In addition to other remedies, an original seller, a ticket reseller, or a ticket *resale* marketplace that violates Section 22505.1 or 22502.4 shall be civilly liable to the ticket ~~purchaser~~ *consumer* for two times the contracted price of the ticket, in addition to any sum expended by the ~~purchaser~~ *consumer* in nonrefundable expenses for attending, or attempting to attend, the event in good faith reliance on seat or space availability, and reasonable attorney's fees and court costs.

SEC. 8. Section 22503 of the Business and Professions Code is amended to read:

22503. (a) *An "artist" means an actor rendering services on the stage, musical artist, musical organization, or other performing artist rendering professional services in theatrical and other live entertainment enterprises.*

(b) A "consumer," as used in this chapter, means a natural person who purchases tickets to an entertainment event with the purpose of attending that event.

(c) *An "entertainment venue" means a publicly or privately owned place that holds live entertainment events, including, but not limited to, an arena, auditorium, concert hall, live performance venue, racetrack, stadium, theater, or other place where entertainment events are presented for a price of admission.*

(d) An "event," as used in this chapter, means a live entertainment event, including a live sporting, musical, or theatre event.

(e) An "event presenter," as used in this chapter, means the person or organization that is responsible for a sporting, musical, theatre, or other entertainment event for which tickets are sold, including the holder of the rights to the sporting, musical, theatre, or other entertainment event, or their authorized agent.

(f) *A "live entertainment event" means a scheduled live performance at a specific date, time, and location, including, but not limited to, a theatrical or operatic performance, concert, or sporting event, including, but not limited to, football, basketball, baseball, boxing, tennis, hockey, or any other sport.*

(g) An "original seller," as used in this chapter, means a person who, for compensation, commission, or otherwise, advertises, lists, markets for sale, or sells an admission ticket to a sporting, musical, theatre, or other entertainment event for original sale as instructed by an event presenter, *rights holder, or venue operator, or the sale of an event ticket that was returned to*

the primary seller or event organizer after its initial sale and is sold by or on behalf of the event organizer.

(h) A “rights holder,” as used in this chapter, means an artist, performing arts organization, theater or dance company, a professional sports team, professional sports league, author, lecturer, or any other persons who are the primary speakers or performers at an event for which tickets are sold.

(i) A “ticket” means a license, issued by the venue operator, for admission to the place of entertainment at the date and time specified on the ticket.

(j) A “ticket resale marketplace,” as used in this chapter, means an entity who, for compensation, commission, or otherwise, advertises, lists, markets for sale, processes payments for, facilitates the resale or exchange of, or resells an admission ticket for, a sporting, musical, theatre, or other entertainment event, ~~whether original sale or resale~~ including a site operated by an original seller that allows consumers to resell tickets.

(k) A “ticket reseller,” as used in this chapter, means a person who for compensation, commission, or otherwise, advertises, lists, markets for sale, or sells an admission ticket to a sporting, musical, theatre, or other entertainment event other than a ticket for original sale sold by an original seller.

(l) A “venue operator” means any person who owns, operates, manages, or controls an entertainment venue.

SEC. 9. Section 22503.5 of the Business and Professions Code is repealed.

SEC. 10. Section 22503.6 of the Business and Professions Code is amended and renumbered to read:

22503.4. This chapter does not apply to an officially appointed agent of an air carrier, ocean carrier, or motor coach carrier that purchases or sells tickets in conjunction with a tour package accomplished through the primary event promoter, or their agent, by written agreement.

SEC. 11. Section 22505.2 is added to the Business and Professions Code, to read:

22505.2. (a) A ~~person~~ *ticket reseller* shall not use an internet website, or cause an internet website to be used, to display either of the following:

~~(a)~~ *(1)* A trademarked or copyrighted URL, title, designation, image, mark, or other symbol without the written consent of the trademark or copyright holder.

~~(b)~~ *(2)* Any combination of text, images, web designs, or internet addresses that is substantially similar to the internet website of an event presenter, *rights holder*, or original seller, or any of their authorized agents, with the intent to mislead and without the written consent of the event presenter, *rights holder*, or original seller.

(b) A ticket reseller shall not represent that the live entertainment event is sold out or use the term sold out when tickets are still available on the original seller’s website.

SEC. 12. Section 22505.5 of the Business and Professions Code is amended and renumbered to read:

22505.1. Notwithstanding Section 22503.4, 22504, or 22511, it shall be unlawful for a person to intentionally use, cause to be used, or sell software or services to do, or to otherwise engage in, any of the following:

- (a) Purchase tickets in excess of posted limits for an online event ticket sale.
- (b) Circumvent or disable an electronic queue, waiting period, presale code, or other sales volume limitation system associated with an online event ticket sale.
- (c) Circumvent or disable a security measure, access control system, or other control or measure that is used to facilitate authorized entry into an event.
- (d) Purchase tickets in violation of the *combined* event presenter's, *rights holder's*, and *venue operator's* posted terms and conditions.
- (e) Utilize multiple Internet Protocol addresses, multiple purchaser accounts, or multiple email addresses to purchase tickets in excess of posted ticket limits.

SEC. 13. Section 22507 of the Business and Professions Code is amended to read:

22507. (a) The ticket price of an event that is canceled shall be fully refunded to the ~~purchaser~~ *consumer* by the person who sold or facilitated the sale of the ticket to the ~~purchaser~~ *consumer*, whether an original seller, event presenter, ticket reseller, or ticket *resale* marketplace, within 30 calendar days of the cancellation.

(b) The ticket price of an event that is postponed, rescheduled, or replaced with another event at the same date and time, shall be fully refunded or credited to the account of the ~~purchaser~~ *consumer* by the person who processed the sale of the ticket upon request within 30 calendar days of the refund request.

(c) For purposes of this section, a rescheduled event includes a canceled occurrence of a recurring event for which the ~~purchaser~~ *consumer* is offered the opportunity to attend another, materially identical occurrence of the same event, at a different date or time.

(d) A local jurisdiction may require an original seller, ticket reseller, or ticket *resale* marketplace to provide a bond of not more than fifty thousand dollars (\$50,000) to provide any refunds that may be required pursuant to this section.

SEC. 14. Section 22508 of the Business and Professions Code is repealed.

SEC. 15. Section 22511 of the Business and Professions Code is amended to read:

22511. This chapter does not apply to any event for which tickets are distributed free of charge.

SEC. 16. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556

of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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