

Date of Hearing: April 16, 2024

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, AND TOURISM

Mike Gipson, Chair

AB 2808 (Wicks) – As Amended March 21, 2024

**SUBJECT:** Ticketing enterprise providers

**SUMMARY:** This bill would require ticketing enterprise providers to administer a system application programming interface (API) that would enable participating ticketing providers to access ticket manifests to list and sell verified tickets on the primary and secondary market.

Specifically, **this bill:**

- 1) Defines “ticketing enterprise provider” as a business, which may include a primary ticketing provider or a secondary ticketing provider, that operates a ticketing enterprise system.
- 2) Defines a “participating ticketing provider” as a primary ticketing provider or a secondary ticketing provider that meets all of the following requirements:
  - a) Has a toll-free telephone number or email address dedicated for consumer complaints.
  - b) Has a standard refund policy that guarantees the purchaser a full refund under any of the following circumstances:
    - i) The event is canceled.
    - ii) The ticket does not allow the purchaser to enter the ticketed event unless the ticket is canceled due to an act or omission by the purchaser.
    - iii) The ticket fails to conform to its description or the purchaser failed to receive the ticket.
    - iv) The purchaser failed to receive the ticket.
  - c) Pays the system access fee.
- 2) Defines “ticketing enterprise system” as a product or product suite used by an entertainment facility to manage box office operations for ticket sales and ticket distribution, including the ticket manifest.
- 3) Defines “ticket manifest” as a detailed accounting of all tickets that have been generated for the event.
- 4) Defines “system access API” as an application programming interface that enables a participating ticket provider, after paying a system access fee, to integrate with the ticket manifest in order to list and sell primary tickets and list and sell secondary tickets that are instantly verified by the ticketing enterprise system.

- 5) Requires a ticketing enterprise provider to include an API that enables any participating ticketing provider to integrate with the ticket manifest in order to list and sell primary tickets and list and sell secondary tickets that are instantly verified by the ticketing enterprise system.
- 6) Requires a ticketing enterprise provider to establish a uniform set of terms applicable to all participating ticketing providers to govern participation, maintenance, and support issues associated with the system access API.
- 7) Prohibits a ticketing enterprise provider or an entertainment facility from providing or offer to provide services associated with the system access API on an exclusive or discriminatory basis, which includes the following:
  - a) Providing an exclusive or tiered schedule for selling primary tickets or secondary tickets.
  - b) Providing service enhancements to a participating ticketing provider on more favorable terms than any other participating ticketing provider.
  - c) Throttling or degrading access.
- 8) Prohibits a ticketing enterprise provider or entertainment facility from doing either of the following:
  - a) Limit the transfer or resale of a ticket.
  - b) Penalize, discriminate against, or deny access to an event to a person who has resold a ticket or who purchases a secondary ticket.
- 9) States that a person who violates this section shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which may be assessed and recovered in an action brought in the name of the people of the State of California by the Attorney General, a district attorney, a city attorney, or a city prosecutor. For purposes of this section, each ticket not sold or offered for sale in violation of this section shall constitute a separate violation. The remedies provided by this section are in addition to the remedies or penalties available under all other laws of this state.

**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. (Business and Professions Code (BPC) Division 8, Chapter 21. Ticket Sellers, Section 22503). Clarifies that the following are not ticket sellers subject to the various sections BPC Chapter 21:
  - a) Any primary contractor or seller of tickets for the primary contractor operating under a written contract with the primary contractor. "Primary contractor" means the person or organization responsible for the event for which tickets are being sold. (BPC 22503.5)
  - b) 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 accomplished through the primary event promoter or their agent by written agreement. (BPC 22503.6)

- c) Any person who sells six tickets or less to any one single event, provided the tickets are sold off the premises where the event is to take place, including, but not limited to, designated parking areas and points of entry to the event. (BPC 22504)
  - d) Any nonprofit charitable tax-exempt organization selling tickets to an event sponsored by the organization. (BPC 22511)
- 2) Imposes various requirements on ticket sellers. A violation of any of these provisions constitutes a misdemeanor and may subject the ticket seller to civil liability. These requirements include that tickets sellers:
- a) Have a permanent business address from which tickets may only be sold and that the address be included in any advertisement or solicitation, a violation of which constitutes a misdemeanor punishable by imprisonment or a fine not exceeding \$2,500 or by both. Provides that a person who engages, has engaged, or proposes to engage in a violation of this specific requirement is liable for a civil penalty not to exceed \$2,500 for each violation. (BPC 22500 (a)(b)&(c))
  - b) Maintain records of ticket sales, deposits, and refunds. (BPC 22501)
  - c) 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. (BPC 22502)
  - d) Make any partial or full deposit received on a future event for which tickets are not available refundable, except for a service charge of not more than 10 percent until tickets for the event are actually available. (BPC 22506)
  - e) Provide a full refund if an event is canceled to the purchaser within 30 days of the cancellation. If an event is postponed, rescheduled, or replaced with another event at the same date and time, a refund must be provided within 30 days upon the request of the purchaser. (BPC 22507 (a)&(b))
  - f) 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. (BPC 22508)
- 3) Prohibits a ticket seller from contracting to sell or accepting payment for tickets unless the ticket seller meets one of more of the following requirements:
- a) The ticket seller has the ticket in their possession. (BPC 22502.1 (a))
  - b) The ticket seller has a written contract to obtain the offered ticket at a certain price from a person in possession of the ticket or from a person who has a contractual right to obtain the ticket from the primary contractor. (BPC 22502.1 (b))
  - c) The ticket seller informs the purchaser orally at the time of the contract or receipt of consideration, whichever is earlier, and in writing within two business days, that the seller does not have possession of the tickets, has no contract to obtain the offered ticket

at a certain price from a person in possession of the ticket or from a person who has a contractual right to obtain the ticket from the primary contractor, and may not be able to supply the ticket at the contracted price or range of prices. (BPC 22502.1 (c))

- 4) Prohibits a ticket seller from representing that they can deliver or cause to be delivered a ticket at a specific price or within a specific price range and fail to deliver within a reasonable time at or below or within the price and range of prices stated. (BPC 22502.2)
- 5) Specifies that a ticket seller who violated this prohibition and violates 3) or 4) above is civilly liable to the ticket purchaser for two times the contracted price of the ticket, in addition to any sum expended in trying to attend the event, and reasonable attorney's fees and court costs. (BPC 22502.3.)

**FISCAL EFFECT:** Unknown. This measure has been keyed fiscal by the Legislative Counsel.

**COMMENTS:**

- 1) Author's statement. According to the author, "AB 2808 is a 'first of its kind' bill; it attacks the 'root cause' of high event ticket prices and lack of access, by requiring competition at the first point of sale for tickets. Right now, exclusive to this industry, one entity effectively controls 80% of ticket sales in this country and 78% of the top-grossing arenas in addition to managing the artists. Adjusted for inflation, ticket prices have increased 140% since the Ticketmaster/Live Nation merger in 2010. This bill would require that ticket access be provided to multiple platforms, similar to how hotels operate."
- 2) Background. In 2010, the Justice Department approved a merger between Ticketmaster and Live Nation Entertainment. Live Nation is a massive events promoter and venue operator, and Ticketmaster is widely recognized as a gigantic entity in ticket sales. Combined they control an estimate of 60 to 80 percent of the ticketing and live event venues market. The conditions of this merger included provision stipulating that Ticketmaster divesting one of its ticket divisions and license its software to a competitor, and being subject for 10 years to tough anti-retaliation provisions to prevent abuse of its power over concert tours, artist management, ticketing, and theaters. While originally the Justice Department determined that the merger was anticompetitive, these terms alleviated its concerns. However, many consumer advocates, politicians, and independent concert promoters were not in favor of the merger. In July 2010, 50 members of the House of Representatives sent a letter urging the Justice Department to oppose the deal.

Ticketmaster and Live Nation argued that by combining they would be able to reduce inefficiencies in the marketing and presentation of live events, which would help to revive the ailing music industry and ultimately benefit consumers. The lack of healthy competition in the primary market is a concern for consumer advocates, who claim that the near-monopoly power has created concerns among many that Live Nation will retaliate if venues go with a ticketing company other than their Ticketmaster operation, and in many cases exclusivity agreements, that can last 3-7 years, require Ticketmaster to be used.

On Tuesday, January 24, 2023, the U.S. Senate Judiciary Committee had a hearing on this issue, focusing specifically on Live Nation and Ticketmaster's 2010 merger. U.S. Senators questioned Live Nation and raised potential solutions to the problems above, including non-exclusivity of contracts between venues and ticketing agents, in addition to placing price caps

on tickets and working more closely with the Federal Trade Commission to stop speculative ticket sales.

Of note, in January 2017, Ireland's Competition and Consumer Protection Commission (CCPC) launched an investigation into Ticketmaster Ireland. The CCPC concluded that, "Ticketmaster Ireland may have abused a dominant position in the market by entering into long term exclusive contracts with contractual partners and that these contracts may have restricted competition in the market." In November 2020, Ticketmaster Ireland entered into an agreement with CCPC to remove exclusivity clauses from contracts with venues over the supply of ticketing services.

- 3) Live event ticketing. Tickets purchased online are typically found on either primary ticket seller websites or on the secondary market. Primary ticket sellers, including Ticketmaster and AXS, work with event organizers to control ticket prices, and share revenue between the artists and the venue operators. The prices set in the primary market heavily affect the volume and value of tickets in the secondary market. Although the cost of tickets can fluctuate through dynamic pricing, tickets generally sell on the primary market with a face value that is below their market value. The number of tickets available is of necessity limited to the capacity of the venue, and of course are subject to sell outs.

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, especially for high demand or sold out concerts and sports games, as was seen last year for tickets to see Taylor Swift, Beyoncé, or the Sacramento Kings' playoff games. Secondary market platforms not only serve as a way for consumers who are unable to use their tickets to have a relatively simple way of recouping their money, and potentially making a profit, by reselling them to someone else, they also are utilized by professional ticket brokers. These brokers operate as a business that purchases event tickets solely for the purpose of reselling them to maximize profit.

The platforms, for a fee, simply 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. These secondary market platforms include StubHub, Vivid Seats, TickPicks, and SeatGeek, as well as resale platforms run by Ticketmaster and AXS.

According to a 2018 report by the United States Government Accountability Office (GAO), ticket brokers are dominating the resale marketplaces. They have a competitive advantage over individual consumers because they have the technology and resources to purchase large numbers of tickets as soon as they go on sale. Some consumer advocates, state officials, and event organizers believe that brokers unfairly use this advantage to obtain tickets from the primary market, which restricts ordinary consumers from buying tickets at face value. As a result, consumers may pay higher prices than they would if tickets were available on the primary market. In addition, some event organizers and primary ticket sellers have expressed frustration that the profits from the higher resale price are pocketed by brokers who had no role in creating or producing the event.

It is possible that brokers and others reselling tickets could list a ticket on multiple resale platforms at the same time, and choose to complete the transaction with the highest bidder. For digital ticket sales, where a paper ticket is not being mailed or delivered to the purchaser, it is unclear at what stage in the process the reseller can cancel the sale or choose to keep the ticket and offer a refund to the purchaser.

- 4) What is an API? An application programming interface, or API, is a software interface that allows two or more computer programs or components to interface. One of the purposes of the APIs is to make the internal details of how a system works hidden, exposing only what is useful to the programmer, and to maintain consistency. Without ensuring proper security practices, bad actors can get access to information they should not have, or even gain privileges to make changes to servers.

Primary and secondary market ticket sellers use an API to verify barcodes when tickets are transferred or resold on their platforms. When a ticket is resold, the API allows the secondary ticket platform to verify and then cancel the original barcode, and a new barcode is then issued to the buyer of the resold ticket.

- 5) Arguments in support. According to a coalition of supporters including the Consumer Federation of California, the California Black Chamber of Commerce, the California Hispanic Chamber of Commerce, and others, “AB 2808 will increase competition in live event ticketing, making live events more affordable and accessible to attend. It helps fix a broken system where one ticketing monopoly uses its market dominance to benefit themselves at the expense of consumers.

“Today there is virtually no competition in primary ticket sales because all the control lies in the hands of a single company - Live Nation/Ticketmaster (LNE/TM). Every step of the live event marketplace – from artist management to promotion to venues to ticketing – is heavily influenced by LNE/TM. This monopoly has fostered an anti-competitive environment that leaves fans frustrated by increased prices, less access to events, and less control of tickets they rightfully purchased.

“With AB 2808, California has an opportunity to lead the nation in transforming live event ticketing to give fans – not monopolies – more power in the ticketing marketplace. Instead of being forced to shop with one company, AB 2808 creates an open, integrated marketplace where consumers can shop around for the best price and the best experience.”

- 6) Arguments in opposition. According to the National Independent Venue Association of California, with an opposed unless amended position on the bill, “Independent music venues are struggling across California, in large part due to the overwhelming amount of fraud in the secondary ticket seller marketplace. As venues, we are the first responders and also the provider of the benefit of the bargain of the ticket—we sell the tickets, we man the box office, we handle the rope lines, we book and promote the show, and we provide all the logistics necessary for the artists on our stages to put on the show. We are involved in every aspect, including having to speak to guests who unfortunately bought a fake ticket or were sold the same ticket a different individual used to enter the venue.

“While it aims to increase competition, the logistical obstacles of running multiple platforms will fall directly on the shoulders of indie venues that have small full time staffs. If more than one platform is being utilized day of show, it will result in a more confusing and frustrating

experience for the fans, the artist and the venue staff. AB 2808 offers a confusing scheme that puts all of the burden on the venue to manage and will ultimately impact fan and consumer experience.”

- 7) Double-referral. Should the bill pass out of this committee, it will be re-referred to the Assembly Committee on Privacy and Consumer Protection.
- 8) Amendments and policy considerations. The committee has requested amendments from the author that would remove system access API provisions from the bill, and exempt live professional and collegiate sporting events. The committee feels that opposition has valid concerns with allowing open access to the API at the scale proposed by the bill. Providing broad access to inventories and customers’ personal information, administered and maintained by venues and primary ticket sellers, creates safety and security risks for venues, teams, performers, and attendees of live events. Additional concerns include risk to the ability to confirm the validity of tickets, and creating more situations where fraudulent tickets find their way on to the market.

The committee’s concerns about the impacts to professional and collegiate sports include safety and security for major international sporting events that will be occurring in the state. This includes the 2026 World Cup, the 2027 Super Bowl, and the 2028 Olympic and Paralympic Games. With many anticipated attendees of these events traveling from out of the state, especially from outside of the country, the committee feels that some of the more strict regulations on ticketing, put in place by parent organizations outside of state control, are of necessity. These safety and security measures are not simply for the benefit of the organizers and participants of these events, but have implications on California’s tourism industry by giving peace of mind to consumers.

- 9) Prior and related legislation:
  - a) AB 2203 (McCarty), of 2024, would make it unlawful to sell the same ticket to an entertainment event to more than one person. (Status: The bill is currently in the Assembly Committee on Privacy and Consumer Protection.)
  - b) AB 8 (Friedman), of 2023, would prohibit a ticket seller from advertising, displaying, or offering a ticket for sale without including all fees that must be paid in order to purchase the ticket, other than taxes imposed by a government on the transaction, and would prohibit the price of a ticket from increasing during the purchase process at any point after the ticket has been selected by the purchaser. (Status: The bill is currently in the Senate Committee on Appropriations.)
  - c) SB 785 (Caballero), of 2023, would update laws regulating ticket sellers by establishing definitions for original sellers and ticket resellers; makes changes to the requirements of listing, marketing, and selling a ticket; and increasing penalties for violations of rules governing ticket seller operations. (Status: The bill is currently in the Assembly Committee on Privacy and Consumer Protection.)
  - d) 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. (Status: The bill is currently in the Assembly Committee on Arts, Entertainment, Sports, and Tourism)

- e) AB 1556 (Friedman), Chapter 180, Statutes of 2021, requires, for cancelled events, that a refund be made within 30 calendar days of the cancellation. 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.
- f) SB 1001 (Hertzberg), Chapter 892, Statutes of 2018, prohibits a person from using of a bot to communicate or interact with another person in California online with intent to mislead the other person about its artificial identity for the purpose of knowingly deceiving the person about the content of the communication in order to incentivize a purchase or sale of goods or services in a commercial transaction or to influence a vote in an election.
- g) AB 329 (Pan), Chapter 325, Statutes of 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 Internet Web site that is used to ensure an equitable ticket buying process.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Black Chamber of Commerce  
California Hispanic Chambers of Commerce  
California League of United Latin American Citizens (LULAC)  
California Urban Partnership  
Central Valley Yemen Society  
Chamber of Progress  
Coalition for Ticket Fairness  
Consumer Federation of California  
Hispanic 100  
Latin Business Association  
LENUSA  
National Action Network Sacramento  
Si Se Puede Fresno, Tulare, Kings & Kern  
Sports Fans Coalition  
Stubhub, INC.  
Women Veterans Alliance

**Opposition**

American Association of Independent Music  
Artist Rights Alliance  
AXS (Oppose unless amended)  
Black Music Action Coalition  
California Arts Advocates (Oppose unless amended)  
California Chamber of Commerce  
Future of Music Coalition  
Golden State Warriors / The Chase Center  
Hollywood Pantages Theater / Broadway in Hollywood

Live Nation Entertainment, INC.  
Los Angeles Rams  
Music Artists Coalition (MAC)  
Music Managers Forum US  
Music Workers Alliance  
National Independent Talent Organization  
National Independent Venue Association of California (Oppose unless amended)  
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

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