

Date of Hearing: April 25, 2023

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, AND TOURISM
Sharon Quirk-Silva, Chair
AB 8 (Friedman) – As Amended March 30, 2023

SUBJECT: Ticket sellers

SUMMARY: Revises regulations relating to the pricing transparency and transferability of tickets sold for admission to sporting, musical, theatrical, or any other entertainment events.

Specifically, **this bill:**

- 1) Defines a “ticket seller” to mean a person who, for compensation, commission, or otherwise, sells or resells admission tickets to a sporting, musical, theatrical, or any other entertainment event, including a primary contractor or a platform operator.
- 2) Defines a “primary contractor” to mean the person or organization that is responsible for the event for which tickets are being sold or an agent of that person or organization.
- 3) Defines a “platform operator” means a person or organization that is responsible for operating a marketplace that enables consumers to purchase, sell, and resell tickets.
- 4) Makes it unlawful for a ticket seller to contract for the sale of tickets, or accept consideration for payment in full or for a deposit for the sale of tickets, unless the ticket seller meets one or more of the following requirements:
 - a) The ticket seller has the ticket in their possession.
 - 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.
 - 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 ticket, 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.
- 5) States that a ticket seller is not prohibited from accepting 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 orally at the time of the contract or receipt of consideration, whichever is earlier, and in writing within two days, of the terms of the deposit agreement, and includes in the oral and written notice the disclosures otherwise required.
- 6) Requires ticket sellers to disclose to the purchaser, by means of description or a map, the location of the seat or seats represented by the ticket or tickets prior to sale.

- 7) Requires ticket sellers to disclose service charges imposed by the ticket seller, added to the actual ticket price by the seller, in any advertisement or promotion for any event by the ticket seller.
- 8) Requires ticket sellers to disclose the total cost of a ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket, including, in a clear and conspicuous manner, the portion of the ticket price, stated in dollars, that represents a service charge, fee, or other surcharge. Additionally:
 - a) Disclosure of a subtotal, fee, charge, or other component of the total price must not be false or misleading or made with an intent to deceive, and must not be presented more prominently or in the same or larger size as the total price.
 - b) The total amount due for the ticket must be displayed prior to the ticket being selected for purchase and must not increase during the purchase process at any point after the ticket has been selected by the purchaser, except that the ticket seller may charge a fee for the delivery of the ticket that is reasonable to the delivery method selected by the purchaser and is required to be disclosed to the purchaser prior to accepting payment.
- 9) Requires ticket sellers to provide a link to an internet web page that includes the refund requirements for ticket sellers.
- 10) Requires a primary contractor, not fewer than seven days before the date on which tickets for an event are made available for sale, to clearly and conspicuously disclose all of the following on both the primary contractor's internet website and at the box office of the venue where the event will be held:
 - a) The total number of tickets that will be offered for sale.
 - b) The date or dates on which tickets will be offered for sale.
 - c) The number of tickets that will be offered for sale on each date.
 - d) How those tickets will be priced, including the number and total cost of tickets that are offered at a set price and the number and range of total cost of tickets that are dynamically priced.
- 11) Requires that if tickets are not made available for sale more than seven days before the event takes place, ticket sellers will comply with this section by making the required disclosures at least 24 hours before tickets are made available for sale.
- 12) Prohibits a primary contractor from restricting by any means the resale of tickets, including tickets in a subscription or season ticket package, and from denying access to a ticketholder who possesses a resold ticket to an event based solely on the grounds that the ticket was resold.
- 13) States that this section does not prevent a primary contractor from maintaining and enforcing any policies regarding conduct or behavior at or in connection with the venue. A primary contractor may revoke or restrict tickets for reasons relating to violation of venue policies,

other than policies restricting or prohibiting ticket resale, including, but not limited to, attempts by two or more persons to gain admission to a single event with both the canceled tickets originally issued to the purchaser and those tickets reissued as part of a resale transaction and to the extent the primary contractor deems necessary for the protection of the physical safety of patrons or to address fraud or misconduct.

- 14) Requires ticket sellers to have a permanent business address from which tickets may only be sold. That address must be included in any advertisement or solicitation and be duly licensed as may be required by any local jurisdiction. A violation of this section constitutes a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by fine not exceeding \$2,500, or by both. A person who engages, has engaged, or proposes to engage in a violation of this section will be liable for a civil penalty not to exceed \$2,500 for each violation. Each ticket sold or offered for sale in violation of this section shall constitute a separate violation.
- 15) Requires a ticket seller who is selling tickets to a cellular phone-free event to provide a printed ticket for sale. A ticket seller who is selling tickets to a cellular phone-free event shall not charge more for a printed ticket, or impose a fee that is more than the fee for a mobile or electronic ticket.
- 16) Prohibits a person from intentionally using or selling software or services to circumvent a security measure, access control system, or other control or measure that is used to ensure an equitable ticket buying process for event attendees.

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. Clarifies that the following are not a ticket seller subject to various requirements (Business and Professions Code (BPC) Sections 22503.6, 225034, and 22511):
 - 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 accomplished through the primary event promoter or his or her agent by written agreement.
 - b) 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.
 - c) Any primary contractor (defines as the person or organization responsible for the event for which tickets are being sold) or seller of tickets for the primary contractor operating under a written contract with the primary contractor.
 - d) Any nonprofit charitable tax-exempt organization selling tickets to an event sponsored by the organization.
- 2) Establishes various requirements for ticket sellers, a violation of which constitutes a misdemeanor, including that they (BPC 22500 – 22511):

- 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.
 - b) Maintain records of ticket sales, deposits, and refunds.
 - 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.
 - 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.
 - e) 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.
 - f) Provide a refund within 30 days for the ticket price of an event which is canceled.
 - g) 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.
 - h) Provide a bond of not more \$50,000 to provide for any refunds in a local jurisdiction that requires this.
 - i) Disclose in any advertisement or promotion for any event that a service charge is imposed and added to the actual ticket price.
- 3) Prohibits a ticket seller from contracting to sell or accepting payment for tickets unless the ticket seller has lawful possession of the ticket; has a contractual right to obtain the ticket; or informs the purchaser the seller does not have possession of the tickets, has no contract to obtain the offered ticket, and may not be able to supply the ticket at the contracted price, as specified. 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 orally at the time of the contract or receipt of consideration, whichever is earlier, and in writing within two days, of the terms of the deposit agreement, and includes in the oral and written notice other required disclosures. (BPC 22502.1)
 - 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. Specifies that a ticket seller who violated this prohibition and violates 3) 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 22052.2 and 22052.3)

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

COMMENTS:

- 1) Author's statement. According to the author, "Average ticket prices have more than tripled since the mid-'90s, and the fees that are tacked on to each ticket can be as high as 78% of the ticket price. While consumers are certainly feeling the pinch, ticket retailers are doing fine. Just last month Ticketmaster/LiveNation announced record profits, reporting a 2022 operating income up 125% from pre-pandemic levels to \$732 million, and revenue up 44% to \$16.7 billion.

"The California laws governing ticket retailers were passed before the internet even existed - a fact that's become exceedingly clear as mega ticket sellers and resellers have used those rules to rip-off consumers eager to see their favorite artists. We need to make sure artists, performers, and venues can reach fans and sell tickets in an easier and more transparent way. We also need to update the law for how tickets are sold today.

"We can keep the entertainment industry thriving in California, and protect the consumers at the same time. AB 8 adds important new consumer protections and transparency in three key ways.

"First, AB 8 will protect all consumers from all types of ticket brokers. Current law only regulates 'secondary ticket brokers' but exempts 'primary ticket brokers' and doesn't include secondary ticket sellers or resale platforms.

"Next, the bill requires transparent pricing. Don't you hate it when you go online to buy a ticket to an event and you are told that the ticket price is \$50 each, and then you select two tickets and click over to the next page and those two tickets that you thought would be \$100 are now \$130 because of a \$15 per ticket 'service fee'. One more click to the next page to complete your order, and, adding insult to injury, they tack on another \$5 to the cost for an 'order processing fee'. Couldn't they have just told you upfront that the tickets would have cost \$135?

"AB 8 will require that the full price of a ticket including all fees be provided to the consumer before they put their purchase in their online shopping cart for tickets sold by both primary and secondary ticket sellers. It will also require platforms, both original sale and resale, to disclose an exact location (section, row, seat number) of the tickets.

"Last but not least, AB 8 also provides clarity on the transferability of tickets. In today's market place, consumers are often in the dark about their options if they can't attend an event. Can you get a refund? No. Can you resell them? Maybe, or maybe not. Can you give them away for free? Maybe, or maybe not.

"Consumers are facing an increasing number of restrictions placed on tickets that they have rightfully purchased. For any given event, primary ticket sales are typically done exclusively by one of a handful of large companies. These companies are not only in the primary ticket selling business, most are also in the secondary or resale ticket business as well. Their dominance in the primary market gives them incredible ability to use technology or terms and conditions to dictate to consumers how tickets can be used, whether or not they can be transferred, given away or resold, and on which platforms these transactions can occur.

“This unfairly limits consumer choice and competition in the industry. It empowers ticket sellers over consumers. Under AB 8, consumers will be protected from discriminatory, anticompetitive, and deceptive practices that make it harder to buy, resell, and use tickets.”

- 2) Background. On November 18, 2022, tickets were scheduled to go on sale for singer and songwriter Taylor Swift’s Eras Tour. Pre-sale for tickets for select fans with certain corporate partnerships began as early as November 1, 2022. On November 15, during presale, Ticketmaster’s website crashed when millions of people attempted to buy Swift’s concert tickets. After Ticketmaster determined there were at least questions as to whether there were enough tickets to meet buyer demand, Ticketmaster also cancelled its general ticket sale that was supposed to open on November 18, 2022. This meant that fans who otherwise would have paid hundreds of dollars to see Swift in concert were left to purchase them off of resale websites, where they were going for thousands of dollars (some even around \$20,000).

Following public outcry the Justice Department opened an antitrust investigation into Ticketmaster, who merged with Live Nation Entertainment back in 2010. For her own part, Swift criticized the situation on social media, sharing with fans that she and her team asked multiple times if Ticketmaster could handle the demand of her fan base, and the company assured her it could.

On Tuesday, January 24, 2023, the US Senate Judiciary Committee had a hearing on the issue, focusing specifically on the Live Nation and Ticketmaster’s 2010 merger. Senators questioned Live Nation and raised potential solutions to the problems above, including non-exclusivity of contracts between venues and ticketing agents, placing price caps on tickets, and working more closely with the Fair Trade Commission to stop speculative ticket sales. National media has been following the story since October and November of 2022.

- 3) Common issues with ticket purchasing. Additional or hidden fees are typically included in the price for tickets to live events. A strategy known as “drip pricing” allows sellers to advertise a deceptively low price that lures in consumers, revealing the full cost including mandatory surcharges only once the consumer is on the verge of completing the transaction.

Drip pricing has no legitimate business purpose and harms consumers. The practice leads people to spend more money than they would if the full price were communicated upfront. While consumers can in theory walk away once the true price is revealed, studies show that many complete such transactions, given the time and effort that they have already invested. Even for consumers who abandon a transaction, drip pricing wastes time and severely complicates efforts to compare the actual prices of competing offers.

Consumers are facing an increasing number of restrictions placed on tickets that they have rightfully purchased. For any given event, primary ticket sales are typically done by one of a handful of large companies exclusively. These companies are not only in the primary ticket selling business, most are also in the secondary or resale ticket business as well. Their dominance in the primary market, gives them incredible ability to use technology or terms and conditions to dictate to consumers how tickets can be used, whether or not they can be transferred, given away or resold, and on which platforms these transactions can occur.

Ticket issuers and primary ticket platforms are increasingly using anticompetitive tactics to control the lifecycle of a ticket from start to finish. These include issuing paperless and other non-transferable tickets or requiring photo ID and the original credit card used for purchase

to gain venue entry. These restrictions limit competition, increase prices, and hinder fans' ability to buy, resell, or give away tickets as they choose.

Tickets are often purchased several months in advance of the event and, in most cases, buyers are not able to return or exchange tickets if they can no longer attend. Some ticket businesses, sports team owners, artists, and venues use burdensome delivery techniques to make it difficult, if not impossible, for the original purchaser to freely transfer the ticket. These restrictions limit fans' ability to: 1) resell a ticket if they cannot attend an event, 2) buy tickets as gifts, 3) Give tickets away to friends or family or 4) Donate tickets to charitable causes.

The precise manner in which tickets are distributed, to industry insiders through holds, to non-public groups through pre-sales, and to the general public through public on-sales, is rarely, if ever, disclosed to the public. This information vacuum leads to mistrust from consumers, who feel like the system is fixed against them.

Currently, huge percentages of tickets are not actually offered for sale to the general public, instead set aside for various affinity groups, or simply kept back to keep supply at a perceived low amount to justify price surging systems like "dynamic" and "platinum" tickets. A 2016 report by the New York Attorney General's office found that more than 50% of tickets to concerts were held back from general sale, with many concerts seeing far higher percentages, an audit by the Honolulu, Hawaii government in 2020 showed one concert that had a 93% of tickets held back. Holdbacks once again harm consumers as they create a false sense of demand, artificially inflating prices, leading to resell platforms where they are more than likely to spend above face value for a ticket.

- 4) Arguments in support. According to co-sponsors of the bill, the California Public Interest Research Group (CALPIRG) and Consumer Federation of California, "Whether purchasing tickets for a concert or sporting event, more and more consumers are finding themselves misled by hidden fees and other unfair tactics that can make it hard to find the true price of a ticket, and faced with limits on consumer control over what they can do with their own ticket once purchased. Transparency is critical to ensure a fair marketplace. Consumers need to know what they are paying for, and how much, up front in order to make informed purchases. Yet ticket sellers have gotten away with including hidden fees, unclear seat location information, and murky refund policies for many of their ticket sales. By not revealing the full price of the ticket, including fees, upfront, ticket vendors are misleading consumers and trying to make comparison shopping more difficult, frequently requiring them to pay fees that are up to 27-30% more than the advertised price.

"Consumers should know how much a ticket costs from the first, advertised listing price, not after clicking through several screens. Consumers also should know how many tickets are actually available for purchase. Ticket sellers have been known to hold back ticket sales to create the sense tickets will sell-out sooner than they actually will, which can artificially drive up prices.

"In addition to proper transparency, consumers also deserve control over their ticket after they purchase it and should be able to decide how to use, sell or give away their tickets if they wish. Unfortunately, ticket sellers currently can prevent ticket owners from reselling

tickets through any site besides their own. Once you buy a ticket, it should be yours to do with as you please.

“Broad public support for ticket reform that has been brewing for the last several years, and these reforms offered by AB 8 are long overdue. As we emerge from the worst days of the COVID pandemic, Californians are looking for more and more opportunities to enjoy live events. And as people rush to buy tickets for these events, the broken nature of the ticket-selling system is becoming more and more clear.”

- 5) Arguments in opposition. According to Live Nation Entertainment, “Live Nation Entertainment strongly opposes Assembly Bill 8, a bill with good intentions but which would hurt consumers, make it impossible for artists, teams, and venues to protect their fans, and principally advances the interests of professional ticket resellers and the secondary marketplaces such as StubHub and Vivid Seats that accept and even encourage ticket scalping.

“Speculative ticketing is the serious and harmful practice of selling tickets the offeror does not yet possess. It is a scalping technique, used to exploit the initial excitement around show announcements and lock fans in to purchase contracts at high prices. It is a tool of the shadiest of scalpers and brokers who will not hesitate to make false disclosures and then disappear. Often these ‘spec tickets’ are put up for sale on secondary services before the original onsale. These sales are deeply harmful to consumers who believe they have bought a real ticket but, if the spec seller fails to deliver, end up with nothing but an often worthless claim for a refund and a huge amount of disappointment and unrecoverable losses for travel or other expenses.

“A recent, typical example of this practice occurred when Beyoncé announced her Renaissance tour, with stops at SoFi Stadium in Inglewood and Levi’s Stadium in Santa Clara. Within minutes of the tour being announced and a week before the event actually went on sale, tickets were popping up on resale platforms for thousands of dollars, some for more than \$22,000. These tickets did not yet exist, and those offering them didn’t possess them or have the ability to promise a specific seat to a buyer.

“Teams, artists, and venues who produce and present events must be able to set prices and structure ticket sales in ways that honor their relationship with their fans and strike the right balance between affordability and meeting demand. In live entertainment, it is very common, the norm, even, for artists to underprice their tickets to make them more affordable. Unfortunately, when they do so they invite scalping, which in the age of StubHub, SeatGeek and Vivid Seats occurs at an industrial scale.”

- 6) Double-referral. Should the bill pass out of this committee, it will be re-referred to the Assembly Committee on Privacy and Consumer Protection.
- 7) Amendments and suggestions. Due to legislative scheduling and deadlines, amendments to this bill will be processed by the Assembly Committee on Privacy and Consumer Protection rather than this committee. The Authors have agreed to remove section 22505 (numbers 10 and 11 of the provisions of the bill listed above) relating to seven day pricing, ticket holdbacks, and inventory disclosure.

According to opponents of the bill, bot attacks are a serious problem and the fines for getting caught are minor compared to the profits they are receiving from reselling tickets to high-profile events. Moving forward, the authors may want to consider amending the bill to impose higher fines for this type of activity to act as a better deterrent, or adding a requirement on ticket sellers to report bot attacks to the State Attorney General.

8) Prior and related legislation:

- a) SB 785 (Caballero), of 2023, would update laws regulating ticket sellers by establishing new categories of ticket sellers, establishing various requirements for certain types of ticket sellers, and increasing penalties for violations of rules governing ticket seller operations. The bill also prohibits a certain type of ticket seller from advertising or selling or accepting payment for a ticket sale prior to the ticket being available by the event presenter, unless authorized to sell by the event presenter. Additionally, it increases penalties for violations of certain requirements and prohibits event presenter likeness from being used on any website. (Status: The bill is currently in the Senate Committee on Judiciary.)
- b) SB 829 (Wilk), of 2023, would prohibit an exclusivity clause in a contract between a ticket seller and primary entertainment facility operator, where the primary ticket seller is the exclusive ticket seller for the operator of the entertainment facility. (Status: The bill is currently in the Senate Committee on Judiciary.)
- c) 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.
- d) 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.
- e) 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

Consumer Federation of California (Co-Sponsor)
California Public Interest Research Group – CALPIRG (Co-Sponsor)
California Low-income Consumer Coalition
Cameo - California Association for Micro Enterprise Opportunity
Consumer Federation of America

Consumer Reports
Consumer Watchdog
East Bay Community Law Center
Housing and Economic Rights Advocates
Seatgeek
Stubhub, INC.
Tickpick
Vivid Seats LLC

Opposition

AXS Group LLC
Bay Area Council
Black Music Action Coalition
California Capitol Venue Coalition
Future of Music Coalition
Golden State Warriors
Live Nation Entertainment, INC.
Los Angeles Rams
Music Artists Coalition
Music Workers Alliance
National Independent Venue Association of California (NIVA-CA)
Recording Academy
SAG-AFTRA
San Francisco Forty-Niners
San Jose Sharks
Songwriters of North America
Union of Musicians and Allied Workers

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