

SEPTEMBER 7TH, 2023

TESTIMONY FROM THE PENNSYLVANIA CHAPTER OF THE NATIONAL INDEPENDENT VENUE ASSOCIATION

RE: HB1658 DISCUSSING THE PROHIBITION OF SPECULATIVE TICKETING

Co-Chairs Representative Matzie and Representative Marshall and Ranking Members of the Consumer Protection, Technology, & Utilities Committee:

Thank you for the effort put forth on this issue, and for the invitation to speak today. My name is Kerri Park and I am the President of the Pennsylvania Chapter of the National Independent Venue Association (NIVA), representing the interests of over 40 independently owned and operated music venues, comedy clubs, promoters, and festivals across the Commonwealth of Pennsylvania. Our members collectively produce thousands of live events and performances in the Commonwealth, and bring hundreds of thousands of fans together every year. We are locally owned and operated independent businesses that work to serve our communities and fans.

Our industry faced unprecedented hardship during the pandemic, and while we spent our time, effort, and energy working to secure the foundation of the live music ecosystem and work our way to re-opening, new challenges arose that we are now facing in real time and the passing of HB1658 can immediately help to mitigate.

Picture this, an artist you love is coming to your hometown to your local rock or comedy club. You see the show announcement from the venue or from the artist, you rush online to search for tickets and click the first result online to buy a ticket, and it has your city and the venue on the listing and SCORE! You got a ticket before the presale was even released. Seems too good to be true. You buy those tickets without hesitation because everything checks out. You did it, you got tickets before everyone else, right? Now you take care of all your travel arrangements, book your hotel, make dinner plans, and buy your outfits with your best friend. The big day arrives and you get to the venue, show the ticket taker your ticket, and that big red X shows up next to your ticket, you bought a

speculative ticket. That website you bought tickets from was actually a secondary resale site and the ticket broker that listed the ticket never actually had the ticket in their possession. Unfortunately, the ticket is fake. And while, yes you may get a refund from the resale site, that is not always the case. Additionally, all of the other incurred costs are lost. Not only have you lost out on a once in a lifetime experience, your ticket purchasing experience will never be the same again and may create doubt when deciding to purchase tickets to another show in the future.

A speculative ticket is the act of selling a ticket that has not been obtained or purchased before listing it for sale. Speculative ticket sales are eroding consumer confidence, and these stories are only becoming more common. Our box office staff have to bear the news to fans that purchased a fake (or speculative) ticket and the fan goes home to leave a bad review for the venue or artist for an experience that they had zero control or involvement in.

This issue is now impacting all venues of all sizes and shows for all artists. Just a few weeks ago, we heard firsthand from a member's box office staff, working the box office for one Taylor Swift Eras Tours dates in Pittsburgh. The box office staff had mentioned several instances where customers purchased from a secondary resale site, where the reseller was attempting to transfer an Eventbrite ticket that was augmented to appear like a Taylor Swift ticket, with QR code for entry and all. As the venue was a Ticketmaster venue, the ticket regrettably was not a valid ticket and the customers were denied entry, leaving them upset and disheartened and berating box office staff trying to understand how this happened.

While much of our industry was figuring out how to survive and be able to re-open after the global pandemic, predatory resellers and ticket brokers have adapted to technology that allows many secondary resale sites to scrape venues' event listings, venue information, artists that are playing at the facility, even our seating charts to list ambiguous ticket listings. For example, many resale sites will list the section, but never the exact seat location because generally the predatory reseller does not have the actual ticket at the time it is listed on their website.

Here is a prime example of this happening in real time. A member venue announced a show for Tower of Power, a 10-piece R&B funk band, who has collaborated with artists

from Huey Lewis, to Elton John, to the great Otis Redding. The show was announced, on a Monday, with the first member presale starting on Wednesday, and tickets going on sale to the public on Friday. On Tuesday morning, before ANY tickets were ever available to the public, the venue noticed the event was not only listed on VividSeats, but listing tickets being available for purchase in a specific section and row, without a listed seat. Not only that, but tickets were listed for 3x the face value. Some listings were advertising 1-6 tickets, but the row referenced only has 4 seats in that row. Another listing in the same scenario, but with a comedian, Tim Dillon, showed that VividSeats was even listing tickets for sale (before there was any presale to purchase tickets), advertising tickets for “Instant Delivery”. That simply cannot happen because tickets could not even be purchased. How can that be allowed to advertise something as “Instant Delivery” when factually we know that a ticket could not have been obtained?

This is no fault of the customer. When a fan sees a ticket listed before it can be accessed by the general public, even at an inflated price, they’re more likely to purchase that ticket because they have access before the public. We are seeing that when a predatory reseller or broker lists tickets for a show before they even go on sale, upwards of 50% of these listings are speculative tickets. Meaning, the broker or predatory reseller does not have the ticket in hand and are waiting on a customer to purchase from the secondary resale site before they purchase it directly from the venues.

Moreover, these deceptive and predatory practices undermine the hard work, talent, and livelihood of emerging artists, making money off their work while limiting the number of live events fans can attend due to inflated prices, impeding the careers of emerging artists. Speculative tickets are a nefarious scheme by predatory resellers who view tickets as nothing more than commodities to be traded for exorbitant sums. Whenever someone is the victim of fraud, you can bet that person is going to think twice about going to see another show or two that year. On average, consumers are likely to attend only 4 concerts a year. With the inflation on the secondary market, due to price hikes driven mainly by ticket brokers and predatory resellers, that amount is going to drastically decrease, leaving our rooms much emptier. And when a fan spends \$200 on a show that was supposed to be \$20, do you think they’re buying the same merchandise and alcohol at the show? They simply can’t afford it. And our artists and venues can’t afford to live without that extra income.

Let's talk about other artist implications. When tickets initially go on sale for larger scale events, anywhere from 5-20% of inventory sold are immediately going onto the secondary market. When these tickets, speculative or not, are listed and NOT sold, this means fewer fans in the room. There are empty front row seats and artists are playing to half a crowd. For example, we had a member promoter who recently hosted GRAMMY and BRIT-award winning blues singer Joss Stone at a theater in Greensburg, PA. The first two rows were completely empty, as they were scooped up by predatory resellers. Suffice to say, these predatory practices are happening across all ticketing systems, not just the major platforms.

Those that are in the room, that purchased from a secondary reseller, are disgruntled to find out that they purchased tickets at 3-4x the face value of the ticket when there are empty seats next to them. This is an across the board predatory practice that is not good for fans, artists, or venues. Additionally, it's not good for the surrounding local economies. Not to mention, it completely destroys the integrity of consumer confidence and the ticket buying process. Who would want to go through that process again after realizing they felt like they've been cheated?

For independent businesses, this issue is very straightforward. It is deceitful practice to advertise the resale of something that brokers are not in physical possession of. Nobody should be permitted to sell a ticket unless they legally own it and have it in their possession. The language in HB1658 not only addresses the root of the issue, but will be successful in prevention due to the enforcement and penalties thoughtfully built into the text. We strongly urge the committee to support the ban of speculative ticketing and the support of HB1658 and look forward to working with the members to further help address the ticketing issues that are impactful to venues, artists, and most importantly, the fans.