

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.

**Remarks by Curt Mosel, Chief Operating, ArtsQuest
For the House Consumer Protection, Technology and Utilities Committee
Hearing on HB 1658, September 7th**

Good morning and thank you Chairman Matzie and Republican Chairman Marshall for allowing me the opportunity to comment on HB 1658. My name is Curt Mosel, and I am the Chief Operating Officer of ArtsQuest.

ArtsQuest is a Lehigh Valley-based, non-profit organization whose mission is to provide access to the arts for all. This year, 2023, we are celebrating our 40th year in existence! ArtsQuest sells up to 250,000 tickets annually with an approximate revenue of \$6 Million annually (around 24% of our total gross revenue). These ticket sales help fund our mission, allowing us to provide upwards of 4000 programs, including art-based classes for all ages (from pre-school to seniors), youth summer camps, festivals throughout the year (including Musikfest, the largest non-gated music festival in the country) and a multitude of concerts. ArtsQuest is proud to be able to provide this programming of which more than 50% is free to the public.

ArtsQuest is happy to join the Better Business Bureau, Ticketmaster, Live Nation and the National Independent Venue Association (NIVA), of which we are member, in supporting HB 1658.

Ticket speculation not only hurts us directly, with people selling our tickets at a higher rate when we almost always still have inventory available, but it also becomes a challenge for our box office team on the day of the show. Additionally, there is an issue of speculators jamming up our social platforms - "selling their tickets because they had a change in their schedule." This is a constant struggle as ArtsQuest has one full time social media staff member who typically writes and posts 25-35 posts per day across multiple platforms and accounts for ArtsQuest. She would spend most of her day flagging and deleting speculative posts which come in waves at all hours and are nearly impossible to keep up with in real time.

Here are some specific examples of how speculation occurs and negatively impacts our organization.

- This past weekend, we held Sangriafest - more than half of the comments from people on Facebook were speculators trying to lure ticket sales. This practice is now expanding beyond ticket sales to speculators saying they are the only approved person to sell vendor space!
- On rare occasions and more prominently during Covid, ArtsQuest was forced to reschedule many concerts, including *Willie Nelson* and *The National* at Musikfest.

The *Willie Nelson* concert was moved from 2020 to 2021 and then ultimately, the performance took place in 2022. During that time, the show was considered sold out, but tickets were constantly changing hands. As the performance date changed from one year to the next, people with aftermarket tickets wanted refunds that we were offering, but because they purchased their tickets through a third party, we were unable to refund them their money back.

Additionally, we were forced to relocate and find seats for multiple patrons who purchased the same seats as other patrons from speculators and third-party resellers.

Regarding *The National* concert that took place at Musikfest in 2020 (as a ticketed headliner), people purchased tickets through speculation, although there were literally thousands of tickets still available for purchase through our official website.

On our social media channels, numerous fans started asking for refunds. Our policy, at that point, was not to refund until a show was either cancelled or rescheduled to a new date. At that point, if the show was to be cancelled, everyone would be refunded. If rescheduled, patrons had the opportunity to request a refund if they were unable to attend the new scheduled show date.

It was impossible to assist patrons who had bought their tickets from speculators or resellers, even when we refunded everyone that had bought tickets. This ultimately forced the band to cancel the performance, not wanting any bad PR with their fans.

Various types of speculation that our organization has been exposed to thus far:

- **Speculation before an on-sale** – tickets are advertised on social media and via SEO ads after a concert is announced, but before they are on sale to the public.
- **Tickets for shows/events that are not sold out**- Here tickets have not yet been purchased and on social media, speculators comment on one of our social posts that they “just got their tickets, but now sadly can’t make it.”
- **Hot tickets for shows selling well**- Sometimes speculators have success and begin buying blocks of tickets and end up having more inventory than they can sell. We then see these speculators requesting chargebacks for the tickets with their credit card company, stating it was not authorized.

Ultimately, speculators are bad for the fans who end up mistrusting the rightsholders and artists. It also causes mistrust of the presenting organization and can lead to a loss of interest or fandom for the artist.

Broker sites will use our name and image to sell tickets. Success of a performance begins at 60% of tickets sold, so speculation is easy by presenting sections with availability, but not an actual seat location. This deceives our customers.

The ArtsQuest Center is a \$27 Million Performing Arts Center that we raised 100% of the funds for and financed. We also pay our staff to book and work events, as well as paying the artists. We charge a fair ticket price that is negotiated with artist management for the performance, \$25-35, for example. A broker and their speculators, with zero overhead or cash outlay will try to sell that same show for \$64-92/ticket without having purchased it.

Broker sites offering speculative seats can often manipulate Google ads, so that their site shows up first in a Google search for our shows. This literally redirects sales from our site to theirs. Many times, we see patrons who are not as well-versed in ticket sites end up being misled, purchasing tickets on a broker site from a speculator for a lot more money than face value, not realizing what has happened. Approximately 60-70% of people who reach out to us about tickets they bought through a third-party website have no idea they purchased tickets this way.

A recent example was an individual who bought two *El Gran Combo* tickets (with a face value of \$10) for \$150 because she unknowingly bought from a third-party ticket seller. This is clearly an epic failure of

the system when a member of a community that speaks English as a second language is marginalized and exploited, clearly by a deceptive practice.

This erodes consumer confidence in ArtsQuest. Both the consumer and our organization are victims. Patrons show up at our venue and see the show is not sold out, only to learn they paid significantly more for their seats than we are charging. Subsequently, they become angry at our volunteers and staff, often demanding refunds. Ultimately, we often allow chargebacks through because the patron feels violated.

Finally, ticket speculators contribute to valid safety concerns because we have no knowledge of exactly who is inside our venue. For example, there could be an individual or stalker who purchased tickets through a broker site and comes to the show alone with bad intent. We would not have that person or their information in our computer ticketing system which means there is no trail left for law enforcement to track and ultimately identify that person.

Independent, non-profit organizations, like ArtsQuest, need help to stop these deceitful and manipulative practices.

House Bill 1658 Hearing
September 7, 2023

House Consumer Protection, Technology, and Utilities Committee
Pennsylvania House of Representatives
Harrisburg, PA 17120

My name is Willie “Prophet” Stiggers and I am co-founder and board member of the Black Music Action Coalition. I am here today representing BMAC and a coalition of music artist advocacy organizations to express our collective and strong support of HB 1658.

I want to thank you all for hearing from the artists. There are lots of people discussing concert tickets and music fans. No one knows and appreciates music fans, more than the artists. We represent the artists. They work very hard – with the venues - to provide the best live experiences to as many of their fans as possible.

Unregulated scalpers and the secondary platforms do not care about the artists or the fans. In fact, they prey on fans. One of the most harmful practices is speculative ticketing. When resellers list tickets they have not yet obtained, they are betting (or speculating) that they will be able to get the tickets and then resell them to fans. All too often they will advertise tickets before any have even gone on sale. They will then use bots to procure large amounts of tickets when on sale does occur - boxing out real fans from buying the tickets at face value.

Consumers are falsely led to believe they are purchasing a valid ticket. Once a speculative ticket is sold, the reseller can cancel the order if they are unable to procure the ticket or if it is no longer profitable to complete the transaction – leaving the fan without a ticket, sometimes the day-of the event.

Artists and fans have a special relationship. Having fans dupped into thinking they have an actual ticket and realizing it never existed is not the experience an artist wants for fans who spend their hard-earned money to come to their show. Consumers do not benefit from the practice of speculative ticketing in any way – the practice only benefits resale platforms who turn a blind eye in the name of profit.

HB 1658 cleans up the ticketing ecosystem by simply requiring resellers have possession of a ticket before listing it for sale – fans will be able to purchase tickets with confidence.

Thank you for taking the time to listen. On behalf of artists and their fans, I ask you to please support HB 1658 and protect Pennsylvania consumers from this deceptive practice so they can enjoy their favorite live events without getting scammed.

Help Protect Pennsylvania Artists & Fans

Support House Bill 1658

HB 1658 Prohibits Speculative Ticketing Acts and Practices

This means a reseller may not advertise, offer for sale, contract for the resale of a ticket or accept full or partial consideration for resale of a ticket **unless all of the following requirements are met:**

- 1.** The ticket must **conform to the ticket's description** as advertised and include the precise section and row of the seat.
- 2.** The reseller **must have possession** or constructive possession of the ticket, or a written contract to obtain the ticket at a certain price from the rights holder or operator for the ticket.
- 3.** The ticket being advertised, listed or offered for resale by the reseller must occur **after the official ticket presale or onsale** for the event has begun, unless given adequate written consent by the rights holder or operator.

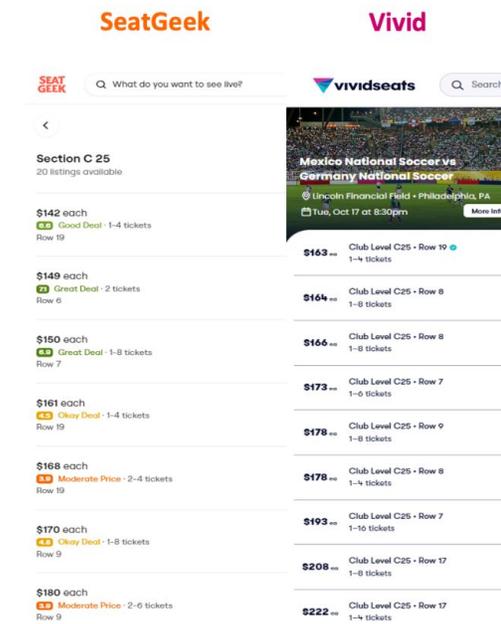
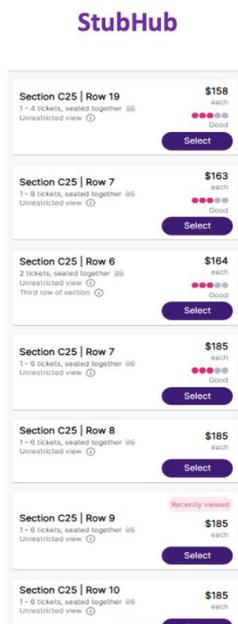
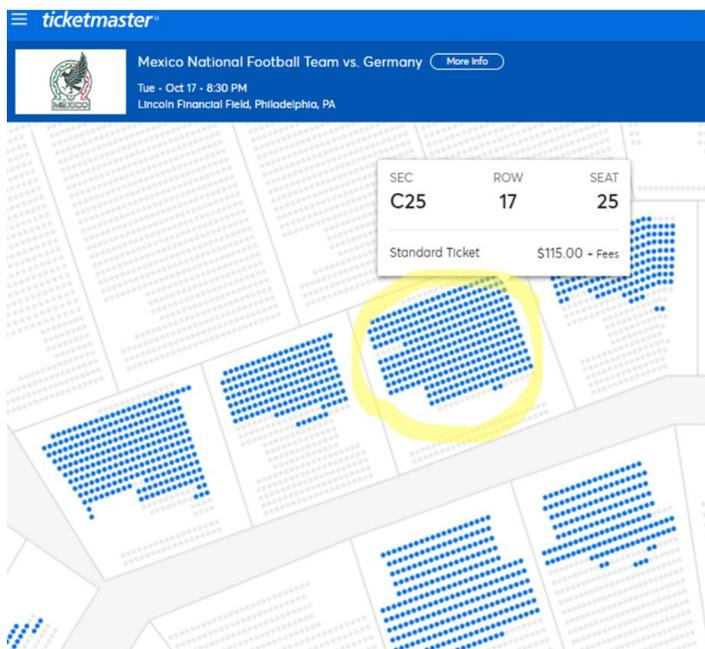
Prohibiting speculative ticketing ensures that fans receive accurate and transparent information about ticket availability and pricing, giving real fans a better chance of securing tickets at face value.

Support artists and fans, not scams with HB 1658

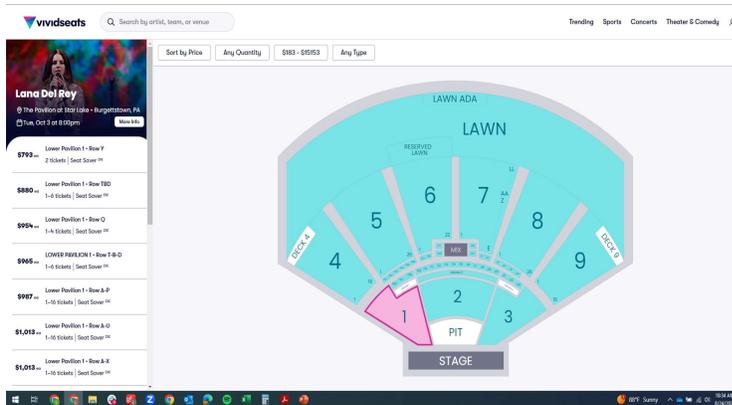
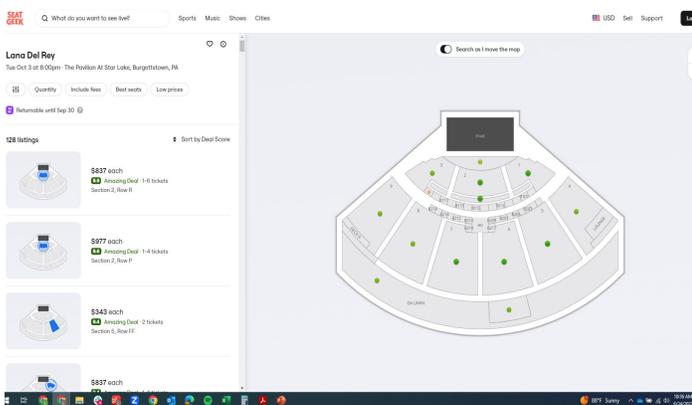
Banning speculative ticketing provides many benefits to fans and the live entertainment industry as a whole

Speculative Ticketing in Action

Resale speculative tickets are priced at a minimum **23% premium** compared to primary tickets



A day prior to the official onsale, other marketplaces had an abundance of resale listings up for Lana Del Rey show



Stand up for fans by supporting House Bill 1658