

Artist Rights Institute

where artists speak

April 22, 2025

The Honorable Angie Chen Button, Chair
The Honorable James Talarico, Vice Chair
Committee on Trade, Workforce & Economic Development
Texas House of Representatives
P.O. Box 2910
Austin, TX 78768-2910

Re: Oppose HB 3621

Dear Chair Button and Vice Chair Talarico:

We write to oppose HB 3621 for the following reasons. The Artist Rights Institute is a 501(c)(3) organization based in Austin concerned with the study of artist rights and advocacy for the rights of artists in a variety of settings. Our flagship event is our annual Artist Rights Symposium that we hosted with American University's Kogod School of Business in Washington, DC last November. One of the panels at the Symposium that I moderated was titled "The Trouble With Tickets" and was a deep dive on the very issues presented in HB 3621 and that I address with you below.

Ticketing legislation introduced in the Texas House and Senate can fairly be described as The Scalper's Bill of Rights. HB 3621 are destructive to Texas artists by taking away the artist's ability to control the price of their tickets to their audience, the very fans they have spent a lifetime building. Adding insult to injury, the Scalper's Bill of Rights only pays lip service—if that—to President Trump's executive order directing a whole of government approach to stopping the use of bots and the harms associated with resellers.

The Texas legislation also ignores an important topic that was part of President Trump's message at the EO signing as articulated by Kid Rock—the only real way to stop the predatory pricing from scalpers is to allow the real ticket sellers, the original ticket sellers, to control the price through a cap and restrictions on transfer. As was acknowledged in the Oval Office, supporting a principle of subsidiarity in concert pricing is the only effective way to stop the market distortion build on shady practices that run wild at the scalper platforms.

Artist Rights Institute

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Bots Are Not Enough

Moreover, it is unclear what affect the EO will have on the FTC complaint brought by the National Independent Talent Organization (NITO), a copy of which is attached. NITO's members discovered dozens of technology companies that allegedly exhibited at the World Ticket Conference hosted by the National Association of Ticket Brokers in Nashville on July 24-26, 2024. These tech companies were hawking tools that had one purpose--to enable scalpers to circumvent ticket purchasing limits. These tools included sophisticated browser extensions, proxy services, and virtual credit card platforms designed to bypass security measures implemented by primary ticket sellers. The prevalence of these technologies at major industry events suggests that many, if not most, ticket brokers may be violating federal law by using these technologies.

My understanding is that the FTC has opened an investigation in response to NITO's complaint, which no doubt will be fueled by President Trump's directive to the FTC to stop ticket scalping.

I find it hard to understand what business model remains for scalpers without the jet fuel of these scalping tools which include a kind of "bot". While the tools may not fit in the strict definition of a "bot," care must be taken not to create a hidebound loophole that purports to further President Trump's goals but which allows the proverbial Mack Truck to be driven through the EO and the BOTS Act given the breadth of the offering for scalper tools. I think the use of "bot" in the Texas legislation does exactly that.

Concerts are Not Commodities

Live shows are not fungible or interchangeable. The ticket starts out as the artist's property and the artist decides the price based on the economic relationship the artist wants with their fan. As Dr. David C. Lowery of the University of Georgia Terry College of Business has said many times, the economic relationship between artists and fans is analogous to a subscription. From the artist's perspective, a ticket is not a one-time transaction from which the artist wants to extract the net present value of all possible transactions with the fan.

By contrast, out of state resellers appear to have the opposite relationship with Texas fans because in the scalper's business model, *fans are fungible whether they are from Texas or Portland*. Both fans and tickets—and artists for that matter—are commodities for the scalper. Their business in that model is built on a dehumanizing digitization and commoditization of that delicate relationship between artist and fan. This violates the very spirit that the dozens of Texas "Music Friendly Communities" embody as supported by the Governor's Texas Music Office.

That commodification is built entirely on inviting an unknown and unseen number of scalpers potentially from around the world to use the reseller platform, techniques and technologies to interfere in that delicate relationship between artist and fan.

Unintended Consequences: RICO

The Scalper's Bill of Rights would lock in these corrosive techniques for Texas law. It is destructive of the very property rights it purports to preserve by denying the artist's ability to control resale of tickets to their shows, both at local venues and at major shows. Controlling the face price of tickets is a fundamental aspect of preserving a healthy live music economy that has benefited Texas and Texans for decades.

Moreover, it is important to realize that StubHub is currently the subject of a civil RICO claim in a New York lawsuit *Kaiser v. StubHub* brought by a victim of speculative ticketing (copy attached). While StubHub has managed to dodge prosecution—at least temporarily—of this racketeering claim through clever manipulation of the one-sided arbitration clause in StubHub's terms of service, it surely is only a matter of time before a State Attorney General or the FTC opens their own racketeering investigation into scalpers. Otherwise, private arbitrators will be prosecuting state RICO cases in far away jurisdictions. That's what StubHub wanted in the *Kaiser* case and likely wants in all their cases. Is that what President Trump wants for Americans with the whole of government approach of the anti-scalper executive order? Is that what we want for Texans?

As any economist will tell you, price is truth but a distorted price is a lie. This legislation is a scalper-friendly bill disguised as consumer protection. It would strip artists, venues, and fans of essential tools to combat fraud, price gouging, and deceptive reselling by mandating unrestricted ticket transfer, legalizing speculative ticketing, and protecting shady concierge services.

The Scalper's Bill of Rights hands over Texas's vital live event economy and music-tourism to predatory resellers from out of state—while leaving fans exposed and doing nothing to protect our venues.

ALEC's Rejection of the Texas Bills

Before enumerating these harms in the Texas legislation, I must address an elephant in the room—the provenance of these two bills. The Texas legislation is a thinly disguised version of “model” bills initially proposed and then withdrawn from the American Legislative Exchange Council (ALEC) after stiff opposition. These model bills seem to fly in the face of President Trump's anti-scalping Executive Order.

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This ALEC legislation came up on my ticketing panel at the Institute's November 20, 2024 Artist Rights Symposium hosted by American University in Washington DC. (A video and transcript of the panel [is available on the Institute's website.](#))

That model bill was then posted on the ALEC website in anticipation of ALEC's December meeting. My understanding is that shortly before that meeting, SeatGeek or its affiliate had joined ALEC apparently for the purpose of enticing ALEC to support a Scalper's Bill of Rights.

It appears that reseller lobbyists and Rep. David Willis (R-NC), presented model legislation to ALEC's Commerce, Insurance, and Economic Development Task Force and the Communication and Technology Task Force. The model legislation was titled the "Live Event Ticketing Consumer & Reform Act" proposed to do the following which should sound familiar based on the Texas scalper bills:

1. Require all-in pricing;
2. Prevent event organizers from determining the terms of their resale and transferability (targets fan to fan exchanges);
3. Prevent event organizers from setting a minimum or maximum price for resale;
4. Prohibit denying entry to an event or denying rights to a series of tickets including renewals based on the tickets being resold by secondary market ticket seller or being purchased as a resold ticket;
5. Require a primary seller to deliver an event ticket to a ticket purchaser no later than 72 hours after the order confirmation (no similar requirement for resellers); and
6. Prohibit deceptive websites.

The ALEC model bill was so one-sided it was apparently was voted down by ALEC. That's right-- *not even ALEC would support it and that's saying something.* The ALEC model bill was posted on the ALEC website and then taken down around December apparently after it failed to pass; however, I were able to recover the model bill through the Internet Archive at this link <https://web.archive.org/web/20241202183222/https://alec.org/model-policy/live-event-ticketing-consumer-protection-reform-act/> and a copy is attached.

It must also be noted that a bill nearly identical to both the failed ALEC bill and the Texas legislation is currently pending in the North Carolina legislature sponsored by the same Rep. Willis, a copy of which is attached.

As you will see from the attached sample comparison attached of ALEC to HB 3621's companion bill SB 1820, the Texas legislation is essentially word-for-word taken from the failed ALEC "model" legislation. The goals and unsavory provenance of the Texas legislation is reason enough to oppose the Scalper's Bill of Rights, but we now turn to the substantive reasons.

Reasons to Oppose HB 3621 Scalpers' Bill of Rights

Out of Step with President's EO on Scalping

It remains to be seen what effect vigorous enforcement of the BOTS Act per Trump anti-scalping EO will have on this legislation that is essentially a scalper's bill of rights.

Mandated Ticket Transferability

The bill requires ticket transferability with no restrictions, effectively banning artists, venues, and event organizers from using verified ticketing or non-transferable tickets and related apps to fight fraud and price gouging (such as Twickets). This removes a critical safeguard used to keep tickets in the hands of real fans—not bots or scalpers—and makes it harder to use face-value resale systems.

Mandatory Delivery Within 7 Days

Forces primary sellers to deliver tickets within 7 days of purchase, regardless of event date. This accelerates predatory reselling: scalpers gain early access to tickets and can flip them for profit months in advance, long before legitimate fans even have a chance to buy.

Legalizes Speculative Ticket Listings

Loopholes in Sec. 330.005 would allow the continued sale of speculative tickets via deceptive "concierge" services, so long as disclaimers are buried somewhere in the fine print. These loopholes are a thinly disguised enterprise to take money for tickets the "seller" doesn't actually have, leaving fans at risk of paying for a ticket they'll never receive, receiving worse seats than promised, or launching on a long process to claim a refund. Further, these "refunds" don't cover hotel, airfare or other expenses that the fan will have incurred in reliance on the speculative ticket—see the *Kaiser* lawsuit against Stubhub. This entire concept skirts—if it does not directly violate—prohibitions for theft by deception or fraud in the Texas Penal Code.

No Meaningful Consumer Protection

No state-level enforcement or reporting portal for fans who are defrauded, no ban on fake tickets or refund mandate when a ticket fails at the venue's door. No investigation into credit card chargeback abuse, which is increasingly used by fraudsters to steal from Texas venues and artists.

Give Texas Artists, Fans and Venues Real Protection from Scalpers

If the Legislature wants to protect Texans from scalpers in line with President Trump's anti-scalping Executive Order rather than the StubHub IPO road show, consider these pro-market solutions that have been proposed in other states.

Consumer Protection Reporting Portal

Create a centralized portal for fans, venues, and artists to report fraud, violations, or deceptive practices. This will allow the collection of data on the scope of the problem and how the industry is handling it. This could be combined with a rating system like a "5-star review" that works so well with other businesses.

Statewide Ban on Speculative & Fake Tickets

Texas should join other states that have passed bans on speculative ticketing, or "selling what you don't own" which includes selling "tickets" that do not actually exist yet. No tickets should be sold unless the seller has actual possession and guarantees the buyer entry. Having injected themselves into this speculative ticketing racket, the reseller is best positioned to police the sales to confirm they are not facilitating a deception.

Transparency in Pricing

Require total ticket prices—including all fees—to be clearly disclosed at the first point of display and throughout the purchase process.

Accountability for Professional Resellers

Require a registration like a business license of all professional resellers within the state and disclosure of reseller status in ticket listings. Allow a private right of action against resellers by fans who were defrauded. This should be a condition of doing business in Texas that trumps

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any “arbitration” clause in form terms of service that trusting fans do not read or fail to opt-out of (another trap for the unwary).

Refunds for Invalid Tickets

Mandate full refunds from sellers if a ticket does not scan or allow entry at the door for whatever reason and in the case of speculative or fraudulent tickets, require the reseller to cover out of pocket expenses incurred by the fan in reliance on the terms of the spec ticket.

Enforcement & Penalties

Include meaningful civil penalties and fines for repeated violations of the ticketing laws, with dedicated oversight by the Attorney General’s office. Recall that StubHub is being pursued for violating New York’s racketeering laws.

Price Gouging Restrictions

Set limits on how much resellers can mark up tickets over face value—especially in high-demand or emergency situations.

Investigation into Fraudulent Chargebacks

Launch a state-level review into how fraudulent credit card chargebacks are impacting live events, especially independent venues and nonprofits.

We are happy to discuss these issues with you if that would be helpful.

Thank you for this opportunity to address these important issues.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Ch. Castle".

Christian L. Castle
Director

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SB 1820 and HB 3621

By: Bumgarner

H.B. No. 3621

A BILL TO BE ENTITLED

AN ACT

relating to certain disclosures and other requirements and prohibited conduct relating to the sale of tickets for concerts and other events.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 10, Business & Commerce Code, is amended by adding Chapter 330 to read as follows:

CHAPTER 330. SALE OF EVENT TICKETS

Sec. 330.001. DEFINITIONS. In this chapter:

(1) "Base ticket price" means the purchase price of a ticket for an event. The term does not include an event ticket fee or any taxes.

(2) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(3) "Charitable purpose" has the meaning assigned by Section 163.003, Property Code.

(4) "Event" means a concert, theatrical performance, sporting event, exhibition, show, or similar scheduled activity that:

(A) is open to the public;

(B) is held in a public or private venue; and

(C) requires payment of an admission fee to attend the activity.

(5) "Event ticket fee" means a fee or charge added to

the base ticket price to obtain an event ticket from either a primary ticket seller or secondary market ticket seller. The term:

(A) includes:

(i) a service fee or charge;

(ii) an order processing fee;

(iii) a delivery fee; and

(iv) a facility charge fee; and

(B) does not include:

(i) a tax;

(ii) a reasonable postage or carrier charge incurred to ship nonelectronic tickets based on the location or delivery method selected by the purchaser; or

(iii) a charge or fee for an optional product or service associated with the event.

(6) "Nonprofit organization" has the meaning assigned by Section [541.001](#).

(7) "Optional product or service" means a product or service that a person is not required to purchase to use or take possession of an event ticket.

(8) "Primary sale" means the initial sale of a ticket for an event.

(9) "Primary ticket seller" means any of the following persons that are engaged in the primary sale of tickets for an event:

(A) an owner or operator of a venue;

(B) a manager or provider of an event;

(C) a provider of ticketing services; or

1 (D) an agent of a person described by Paragraph
2 (A), (B), or (C).

3 (10) "Resale" or "reselling" means the sale of an
4 event ticket by a primary ticket seller occurring any time after the
5 primary sale of the ticket.

6 (11) "Secondary market ticket exchange" or "exchange"
7 means a person that operates a platform or exchange for
8 advertising, listing, or selling resale tickets on the person's own
9 behalf or on behalf of a vendor or secondary market ticket seller.
10 The term includes a primary ticket seller offering tickets for
11 resale.

12 (12) "Secondary market ticket seller" means an entity
13 engaged in the business of reselling event tickets to the public.

14 (13) "Total ticket price," with respect to a ticket
15 for an event, means the total cost of the ticket. The term includes
16 the base ticket price and an event ticket fee.

17 (14) "Venue" means a stadium, arena, theater, concert
18 hall, or other place used for events.

19 Sec. 330.002. APPLICABILITY OF CHAPTER. This chapter
20 applies only to the sale, including resale, of a ticket for an event
21 held or to be held in a venue in this state with a seating or
22 attendance capacity of more than 200 people.

23 Sec. 330.003. TRANSPARENCY OF MARKETING, DISTRIBUTION, AND
24 PRICING OF TICKETS. (a) Except as provided by Subsection (b), a
25 primary ticket seller, secondary market ticket seller, or secondary
26 market ticket exchange may not offer for sale an event ticket unless
27 the seller or exchange:

1 (1) clearly and conspicuously discloses to a potential
2 purchaser the total ticket price from the time the price is first
3 displayed and continuously throughout the ticket purchasing
4 process;

5 (2) does not increase the total ticket price from the
6 time the price is first displayed to a potential purchaser; and

7 (3) if applicable to the seat and venue, identifies
8 the row number and zone or section of the ticket.

9 (b) Subsection (a)(2) does not apply if a potential ticket
10 purchaser's transaction time expires before making a purchase.

11 Sec. 330.004. PRIMARY TICKET SELLER REQUIREMENTS. (a) A
12 primary ticket seller may not restrict or impair the ability of a
13 purchaser of an event ticket sold by the seller or by the venue
14 holding the event from reselling the ticket:

15 (1) independently of the seller or of any secondary
16 market ticket exchange owned by or affiliated with the seller; or

17 (2) on a secondary market ticket exchange chosen by
18 the purchaser.

19 (b) A primary ticket seller may not require a minimum or
20 maximum price for the resale of any ticket purchased from the
21 seller.

22 (c) For purposes of this subsection, a sanction includes
23 denial of admission to an event or denial of rights to or renewal of
24 bundled series tickets. A primary ticket seller may not sanction or
25 discriminate against a ticket purchaser for:

26 (1) reselling or gifting a ticket; or

27 (2) purchasing a resold ticket.

1 (d) A primary ticket seller shall deliver an event ticket to
2 a ticket purchaser not later than the seventh day after the date the
3 purchaser purchases the ticket.

4 (e) Subject to the requirements of Subsections (a)-(d),
5 this section may not be construed to prohibit an operator of a venue
6 at which an event is held or to be held from maintaining and
7 enforcing policies regarding access control to, or conduct or
8 behavior at, the venue. An operator of a venue may revoke or
9 restrict tickets:

10 (1) for a reason relating to a violation of venue
11 policies that are available in writing;

12 (2) for the safety of the venue's patrons; or

13 (3) to address misconduct occurring on the venue's
14 premises.

15 (f) An operator of a venue may prohibit the resale of a
16 ticket initially offered:

17 (1) at no charge and access to which is not contingent
18 on providing any form of monetary consideration; or

19 (2) by or on behalf of a charitable organization for a
20 charitable purpose if all the ticket sale proceeds are provided to
21 the charitable organization.

22 (g) Notwithstanding any other provision of this section to
23 the contrary, any educational institution or nonprofit
24 organization associated with the educational institution may
25 establish and enforce prohibitions, restrictions, or conditions on
26 the resale and transfer of tickets sold or otherwise made available
27 to the educational institution's or nonprofit organization's

officers, directors, employees, sponsors, or vendors.

Sec. 330.005. REQUIREMENTS FOR SECONDARY MARKET TICKET SELLERS AND EXCHANGES. (a) A secondary market ticket seller or exchange may not sell, or offer or advertise for sale, an event ticket unless the seller or exchange has actual or constructive possession of the ticket.

(b) This section may not be construed to prohibit a secondary market ticket seller or exchange from offering a service to a consumer to obtain an event ticket on the consumer's behalf if the seller or exchange:

(1) does not market or list the service as an event ticket;

(2) maintains a clear, distinct, and easily discernible separation between the service and the direct purchase of event tickets through an unavoidable visual demarcation that persists throughout the entire service selection and purchasing process;

(3) clearly and conspicuously discloses to a potential purchaser that purchase of the service:

(A) is not considered the direct purchase of an event ticket; and

(B) does not guarantee the purchaser will receive an event ticket;

(4) if the service is unable to obtain tickets to a specified event purchased through the service, provides to the purchaser of the service within a reasonable time:

(A) a full refund for the total cost charged by

1 the service to obtain the event ticket; or

2 (B) subject to availability, a replacement event
3 ticket in the same or a comparable location with prior approval of
4 the purchaser; and

5 (5) does not obtain more tickets than the maximum
6 number of tickets that can be purchased in a single transaction as
7 set by the venue and artist for each event.

8 Sec. 330.006. OTHER LAWS NOT AFFECTED. This chapter may not
9 be construed to nullify, expand, or otherwise affect any other law
10 regarding the sale of a ticket for a concert or other event.

11 SECTION 2. This Act takes effect October 1, 2025.

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NITO FTC COMPLAINT



September 9, 2024
The Honorable Lina M. Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chair Khan:

The National Independent Talent Organization (NITO) requests that the Federal Trade Commission (FTC) investigate the widespread sale of technology used to violate the Better Online Ticket Sales (BOTS) Act. Our organization recently attended the World Ticket Conference organized by the National Association of Ticket Brokers (NATB). At this event, we observed a sold-out exhibition hall filled with vendors selling and marketing products designed to bypass security measures for ticket purchases, in direct violation of the BOTS Act.

Artists, promoters, venues, and primary ticketing systems set ticket purchase limits to increase accessibility and protect fans from large-scale resale for profit, especially for high-demand concerts. The BOTS Act aims to prevent the use of technology that circumvents these ticket purchase restrictions and to protect consumers from price gouging on the secondary market. However, despite these efforts, purchase limits are routinely bypassed. Our research¹ shows that for a single concert, thousands of tickets often end up on secondary sites at an average markup of twice the original face value.

More concerning is evidence of large-scale enterprises employing networks of individuals known as "pullers" who use evasive software to purchase tickets. The BOTS Act does not specifically require a technological solution to circumvent purchase limits; it prohibits any means of bypassing these limits. Therefore, the use of "pullers" to buy tickets for a central sales pool also violates this law.

Multiple solutions exist for those seeking to bypass purchase limits, and most were being marketed and sold at the NATB Conference. We urge the FTC to investigate the practices and companies detailed in the following report.

The Better Online Ticket Sales (BOTS) Act of 2016 prohibits the circumvention of a security measure, access control system, or other technological measure used to enforce ticket purchasing limits for events with over 200 attendees.

The technology used by scalpers in their day-to-day business generally falls into the following categories:

¹ https://mgaleg.maryland.gov/cmte_testimony/2024/fin/1cbxo0LDqFc1FqvPegjJmiAjVv5uZHQ59.pdf

1. Browser Extensions and Multi-Session Tools: Software that allows users to manage multiple browsing sessions simultaneously.
2. Proxy Services: Tools that mask a user's true IP address and location.
3. Virtual Credit Card Services: Enterprise payment platforms that generate multiple virtual credit card numbers and billing addresses.
4. Data Scraping and Analysis Tools: Software for gathering and analyzing ticket availability and pricing data.
5. Comprehensive Resale Platforms: Integrated solutions for large-scale reselling including technology that automates pricing, selling and delivery.

Detailed analysis of specific vendors in a few of these categories reveals potential BOTS Act violations:

1. Browser Extensions and Multi-Session Tools:

There are a number of examples of this kind of software such as [PrimoBrowser](https://primowebbrowser.com/)² and [StubTabs](https://www.stubtabs.com/)³. The [Insomniac Browser](https://insomniacbrowser.com/buy/)⁴ is a prime example of technology that could be used to circumvent ticket purchasing limits. Their product offers:

- Advanced Proxy Tools: Allows easy setup of different proxies for each tab, potentially bypassing IP-based restrictions.
- Native Proxy Support: Assigns custom IP addresses to each tab, further obscuring the user's identity.
- Queue Statistics: Monitors queue positions locally, potentially providing an unfair advantage in ticket queues.
- Advanced Timers: Tracks countdown timers, progress bars, and waiting room statistics, which could be used to optimize mass ticket purchases.
- Cookie Cleaner: Allows quick clearing of cookies, potentially bypassing cookie-based purchase limits.

Insomniac's "[Decision Assistant](https://insomniacbrowser.com/docs/usage/new-extension-decision-assistant/)"⁵ extension further enhances their product's capabilities:

- Team Management: Coordinates large-scale buying operations across multiple users, even "a few hundred buyers and a dozen managers".
- Deep Analytics: Provides detailed data on every ticket pull (tickets successfully carted but not yet purchased), allowing for optimization of purchasing strategies.
- Real-time Decision Making: Enables quick yes/no decisions on ticket purchases across a team of buyers.

These features could easily be used to circumvent ticket purchasing limits in violation of the BOTS Act.

² <https://primowebbrowser.com/>

³ <https://www.stubtabs.com/>

⁴ <https://insomniacbrowser.com/buy/>

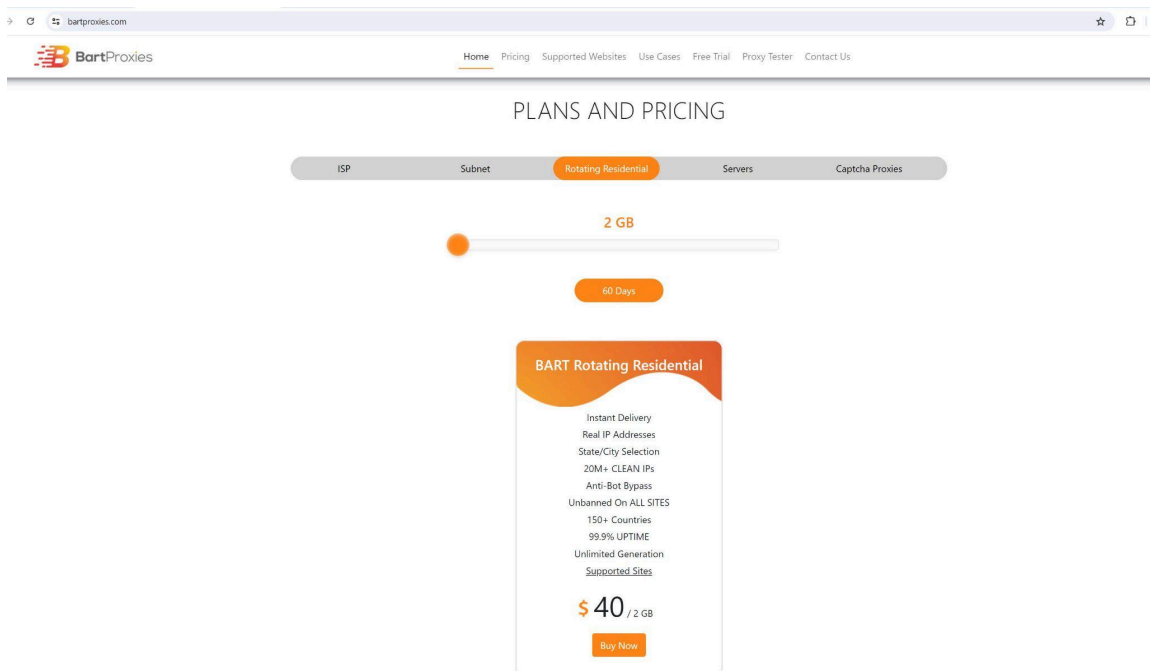
⁵ <https://insomniacbrowser.com/docs/usage/new-extension-decision-assistant/>

2. Proxy Services:

Proxy services like [Live Proxies](https://liveproxies.io/),⁶ [BartProxie](https://bartproxies.com/),⁷ and [Netnut](https://netnut.io/)⁸ offer tools that mask a user's true identity and location. While these services have legitimate uses, their marketing and use cases strongly suggest they are being employed to circumvent ticket purchasing limits in violation of the BOTS Act.

Live Proxies, for example, explicitly markets their product for use with Ticketmaster, one of the largest ticket selling platforms. Their website outlines several use cases that could be considered violations of the BOTS Act:

- **Ticket Reselling:** Live Proxies advertises their service for purchasing large quantities of tickets, specifically to avoid "IP bans or restrictions set by Ticketmaster for bulk buying." This directly contradicts the BOTS Act's prohibition on circumventing security measures to exceed posted ticket limits.
- **Bypassing Regional Restrictions:** The company promotes using their proxies to access region-locked tickets, which could be seen as circumventing access control systems put in place by event organizers.
- **Preventing Account Suspension:** Live Proxies suggests using their service to manage multiple Ticketmaster accounts, assigning different IP addresses to each to avoid detection. This practice clearly aims to bypass systems designed to enforce ticket purchasing limits.



⁶ <https://liveproxies.io/>

⁷ <https://bartproxies.com/>

⁸ <https://netnut.io/>

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Using Proxy Networks To Boost Your Ticketing Business



Or Maman

June 12, 2022

Max 3 min read

Senior Growth Marketing Manager

Buying tickets online seems to be very straightforward: you just go to a ticketing website, find the event and make a purchase. However, purchasing many tickets takes much more effort. There's no surprise that if you try to buy multiple tickets from Ticketmaster, StubHub, Vividseats, or SeatGeek, they will do their best to prevent you from that. The same goes for collecting information from those websites, such as pricing or the available amount of tickets. But are there any workarounds for their protection?

How can proxies support your ticketing activities?

The key to success is to use more than one IP address. If you use your own IP address to perform multiple actions on ticketing platforms, you'll easily get blocked.

Or even worse, you may be fed false information in order to mislead you. To avoid that, it's highly recommended to use a proxy network.

- > How can proxies support your ticketing activities?
- > Which proxies are best for ticket bots?
- > Which proxies to use for scraping tickets pricing?
- > How to choose a proxy network for ticketing?

While Live Proxies does mention using their service for "scalping prevention," the majority of their advertised use cases cater to practices that the BOTS Act aims to prevent. The explicit marketing of these services for ticket purchasing on major platforms like Ticketmaster raises serious questions about their compliance with the law

3. Virtual Credit Card Services:

Companies offering virtual credit card (VCC) services, such as [Taekus](#),⁹ [Blue Penguin](#),¹⁰ and [intercash](#),¹¹ are providing tools that could potentially be used to circumvent ticket purchasing limits in violation of the BOTS Act. These services offer features that are particularly attractive to ticket scalpers and may facilitate practices that the Act aims to prevent:

- **Multiple Billing Addresses:** VCC services allow users to set up multiple billing addresses for their virtual cards. This feature enables scalpers to bypass geographical restrictions on ticket sales, which are often put in place by event organizers to ensure fair access for local fans. By using VCCs with various billing addresses, scalpers can appear to be purchasing from different regions, potentially violating the spirit, if not the letter, of the BOTS Act.
- **Circumventing Purchase Limits:** Many ticketing platforms impose limits on the number of tickets that can be purchased by a single user or household, and event organizers will examine the use of an individual credit card to check for violations. VCC services allow scalpers to generate multiple unique card numbers, effectively bypassing these limits. This practice directly contradicts the BOTS Act's prohibition on circumventing security measures used to enforce ticket purchasing limits.
- **Instantaneous Card Creation:** The ability to create new virtual credit cards instantly gives scalpers a significant advantage in securing high-demand tickets. This speed, combined with automated purchasing systems, could allow scalpers to acquire large numbers of tickets before individual consumers have a fair chance, potentially violating the Act's intent to maintain the integrity of the ticket purchasing process.

⁹ <https://taekus.com/>

¹⁰ <https://www.theblupenguin.com/>

¹¹ <https://www.intercash.com/>

- **Precise Fund Management:** While not inherently illegal, the ability to pre-load exact amounts onto VCCs for specific events or ticket batches allows for more efficient large-scale purchasing operations using dozens or even hundreds of low skilled workers serving as “[pullers](#)”.¹² This feature, when combined with other tools designed to circumvent purchasing limits, could facilitate violations of the BOTS Act.
- **Anonymity and Fraud Prevention Evasion:** VCCs provide an additional layer of anonymity, making it more difficult for ticketing platforms to identify and prevent fraudulent or bulk purchasing activities. This anonymity could be used to evade detection of practices that violate the BOTS Act.



Recently, The National Association of Ticket Brokers hosted the World Ticket Conference in Nashville, TN. The event's website listed [numerous exhibitors](#),¹³ many of which were selling services that fall into the above key categories and raise significant concerns regarding BOTS Act compliance. The presence of these vendors at a conference specifically for ticket brokers strongly suggests that a substantial portion of attendees either currently use these services or are likely to do so in the near future. This widespread availability and apparent demand for tools that can circumvent ticket purchasing limits indicates that many, if not most, scalpers are operating in violation of the federal BOTS Act.

Recommendations for rights holders and the Federal Trade Commission (FTC):

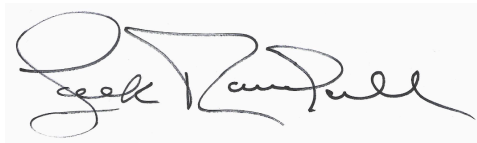
1. **Subpoena Customer Lists:** The FTC should use its authority to subpoena customer lists from companies offering services that fall into the categories likely to facilitate BOTS Act violations. This includes browser extension developers, proxy service providers, and virtual credit card services marketed to ticket resellers.
2. **Increase Enforcement Actions:** The FTC should prioritize investigations into large-scale ticket reselling operations, focusing on those using multiple technologies to circumvent purchasing limits.

¹² <https://eliteeventsandtickets.net/becoming-a-successful-puller/>

¹³ <https://www.worldticketconference.com/exhibitors.html>

3. Collaborate with Ticketing Platforms: Rightsholders and the FTC should work closely with major ticketing platforms to identify patterns of behavior indicative of BOTS Act violations and share this information to aid in enforcement efforts.
4. Update Legislation: Advocate for updates to the BOTS Act to explicitly address new technologies and methods used to circumvent ticket purchasing limits, including the use of virtual credit cards and sophisticated proxy services. Additionally ban the sale, marketing and advertisement of these technologies for use of purchasing tickets.
5. Consumer Education: Launch a public awareness campaign to educate consumers about the negative impacts of scalping and how to identify legitimately sourced tickets.
6. Industry Cooperation: Encourage legitimate secondary market platforms to implement stricter verification processes for high-volume sellers and to share data on suspicious activity with law enforcement.
7. Technical Countermeasures: Rightsholders should invest in advanced anti-bot technologies and regularly update their systems to detect and prevent automated purchasing attempts.
8. International Cooperation: As many of these operations may span multiple countries, the FTC should work with international partners to address cross-border violations of ticket purchasing regulations.

By implementing these recommendations, rights holders and the FTC can take significant steps towards curbing BOTS Act violations and ensuring fairer access to event tickets for consumers.



Jack Randall
President



Nathaniel Marro
Managing Director

The following member companies have signed on in additional support of this complaint

Absolutely Live Entertainment LLC

Arrival Artists

Artisan Agency

Axis Management

Big Fish

Bonfire Music Group

Brad Simon Organization

Concerted Efforts

Crawlspace Booking

Crossover Touring

Death Or Glory Artist Management

Distance Management

Entourage Talent Associates

Fly South Music Group

Ground Control Touring

High Road Touring

Leave Home Booking

Lucky Man Mgmt

Madison House

Magnus Artists

Maria Mattias Music

Michael Hausman Artist Management

MINT Talent Group

New Frontier Touring

Northstar Artists

Oblique Artist Management

Out There MGMT

outer/most

Paladin Artists

Partisan Arts

Powerline Entertainment

Q Prime

Rainmaker Music
Red Light Management
Skyline Artists
Sound Talent Group
Stuart Ross Management

Ted Kurland Agency
The Tuesday Agency
This is Management
TKO
Todd Cote DBA Leafy Green
Upward Spiral Music

National Independent Talent Organization



Chair Button and Vice Chair Talarico
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STUBHUB RICO CASE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANIEL J. KAISER, on behalf of himself and all
others similarly situated,

Plaintiff,

-against-

STUBHUB, INC.,

Defendant.

Case No. 1:24-cv-00044 (JLR)

OPINION AND ORDER

JENNIFER L. ROCHON, United States District Judge:

Daniel J. Kaiser (“Plaintiff”) brings this putative class action against Defendant StubHub, Inc. (“StubHub”) based on alleged sales of “invalid and/or bogus tickets sold on the StubHub web site for which StubHub served as seller and/or third-party broker.” Dkt. 18 (the “Amended Complaint” or “Am. Compl.”) ¶ 27. For the following reasons, StubHub’s motion to compel arbitration and stay this case pending the conclusion of proceedings before the arbitrator is GRANTED. The pending motions are otherwise denied.

BACKGROUND

I. Facts

A. Plaintiff Creates a StubHub Account¹

StubHub operates an online marketplace that allows registered users to offer, sell, and buy tickets to various events. Dkt. 12 (“Gonzalez Decl.”) ¶ 4. To access, use, or offer to buy

¹ Unless otherwise noted, the facts stated in this subsection are uncontested and taken from a declaration and accompanying exhibits submitted by StubHub in connection with its motion to compel arbitration. *See* Dkt. 12. In addressing a motion to compel arbitration, the Court may consider evidence outside of the pleadings. *See Meyer v. Uber Techs., Inc.*, 868 F.3d 66, 74 (2d Cir. 2017) (in deciding motions to compel arbitration, “the court considers all relevant, admissible evidence submitted by the parties and contained in pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits” (brackets, ellipsis, quotation marks, and citation omitted)).

or sell a ticket on StubHub’s website, the user must agree to a StubHub, Inc. user agreement.

Id.; see Dkt. 12-1 (the “User Agreement”). There is no way to bypass this requirement.

Gonzalez Decl. ¶ 6.

Plaintiff accepted the User Agreement and created an account with StubHub, Inc. on February 6, 2022. *Id.* ¶ 11. The User Agreement contains a notice of its “Agreement to Arbitrate,” stating:

FOR ALL USERS RESIDING IN THE UNITED STATES, PLEASE BE ADVISED: CLAUSE 22 OF THIS AGREEMENT CONTAINS AN AGREEMENT TO ARBITRATE, WHICH WILL, WITH LIMITED EXCEPTIONS, REQUIRE YOU TO SUBMIT CLAIMS YOU HAVE AGAINST US TO BINDING AND FINAL ARBITRATION, UNLESS YOU OPT-OUT. UNLESS YOU OPT OUT: (1) YOU WILL ONLY BE PERMITTED TO PURSUE CLAIMS AGAINST US ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING, AND (2) YOU WILL ONLY BE PERMITTED TO SEEK RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ON AN INDIVIDUAL BASIS.

Id. ¶ 24 (quoting User Agreement § 1).

The Agreement to Arbitrate provides for arbitration over “any and all disputes or claims that have arisen or may arise between you and us relating in any way to or arising out of this or previous versions of the User Agreement (including this Agreement to Arbitrate . . .) or the breach or validity thereof, your use of or access to the Site or Services, or any tickets or related passes sold or purchased through the Site or Services.” User Agreement § 22.1. The provision further states that “[t]his Agreement to Arbitrate is intended to be broadly interpreted” and that the Federal Arbitration Act (the “FAA”) “governs the interpretation and enforcement of this Agreement to Arbitrate.” *Id.*

The User Agreement allows users to opt out of the Agreement to Arbitrate by mailing a written opt-out notice to an address in Delaware. *Id.* § 22.1(E). StubHub asserts, and Plaintiff does not dispute, that Plaintiff did not opt out of the Agreement to Arbitrate in the User Agreement. Gonzalez Decl. ¶ 27.

B. Plaintiff Allegedly Purchases Tickets Through StubHub’s Website²

Plaintiff visited StubHub, Inc.’s website and purchased two tickets for a soccer game on September 30, 2023, in Tottenham, England. Am. Compl. ¶ 7. Prior to traveling to England for the game, Plaintiff received an email dated September 15, 2023, which stated:

Hello User,

We’re just as excited as you for Tottenham Hotspur vs Liverpool FC!

We just wanted to remind you that **Tottenham Hotspur will release the tickets a few days before the event.** We’ll send you an email when yours are ready

Remember, our 100% Guarantee ensures you’ll have your tickets in hand in time for the event.

Thank you for your patience and trust. See you at Tottenham Hotspur Stadium!

Dkt. 13-2 at 3; *see* Am. Compl. ¶ 8. The email was sent from “order-update@orders.stubhubinternational.com” and had a “StubHub” logo in the top left corner of the body of the email. Dkt. 13-2 at 2-3. On September 27, 2023, Plaintiff received another email from the same address, stating:

² Unless otherwise noted, the facts stated in this subsection are taken primarily from the Amended Complaint and accepted as true. *See DiFolco v. MSNBC Cable L.L.C.*, 622 F.3d 104, 110-11 (2d Cir. 2010). The Court also considers documents, such as the emails cited by Plaintiff, that are attached to, or incorporated by reference into, the Amended Complaint. *See Div. 1181 Amalgamated Transit Union-N.Y. Emps. Pension Fund v. N.Y.C. Dep’t of Educ.*, 9 F.4th 91, 94 (2d Cir. 2021) (per curiam) (“When ruling on a motion to dismiss, documents that are attached to the complaint or incorporated in it by reference are deemed part of the pleading and may be considered.” (quotation marks and citation omitted)).

Hello User,

Tottenham Hotspur vs Liverpool FC Tickets is around the corner!

We know you're on your toes waiting for your tickets to arrive, so don't worry. We'll send you an email when yours are available.

Get ready!

1. Stay tuned

Download our app to track everything directly from the palm of your hand.

2. Keep an eye on your inbox

Don't forget to add us to your safe sender list and check your spam or junk folder.

3. Learn more

You can visit our Help Center for more information.

Remember, your order is 100% Guaranteed

Dkt. 13-3 at 2-3; *see* Am. Compl. ¶ 9. This email also had the "StubHub" logo in the top left corner of the body of the email. Dkt. 13-3 at 3. After Plaintiff flew to London on September 28, 2023, he received yet another email from the same address, stating:

Hello Daniel,

The seller sent you your tickets! Check your email kaiser@ksmlaw.com for a transfer offer and follow the instructions carefully to get your tickets.

You might already have the email. If not, it'll be in your inbox soon.

Dkt. 13-4 at 2-3; *see* Am. Compl. ¶¶ 10-11. Just as with the prior emails, this email had the "StubHub" logo in the top left corner of the body of the email. Dkt. 13-4 at 3.

Plaintiff "downloaded" the two tickets and went with a guest to the stadium for the game. Am. Compl. ¶¶ 12-13. When Plaintiff and his guest arrived, a Tottenham Ticket Office employee told Plaintiff "that the tickets were fraudulent/invalid and that StubHub was

not authorized to sell and/or serve as a third party broker for tickets at Tottenham Hotspur[] Stadium.” *Id.* ¶ 15. The employee told Plaintiff that other “StubHub customers” previously had the same experience and were turned away on game day. *Id.* The employee handed Plaintiff “a preprinted flyer explaining the problem of fraudulent ticket sales and that no tickets sold by anyone other than the Stadium are valid.” *Id.* ¶ 16.

Plaintiff alleges that “StubHub has sold hundreds of invalid, unauthorized Tottenham Hotspur[] Stadium tickets and, indeed, thousands of tickets to a variety of events that it never had authorization to sell nor to serve as a third[-party] broker.” *Id.* ¶ 17. Plaintiff also alleges that “StubHub knew that it had no authority to sell and/or serve as third party broker for the sale of tickets to a variety of events, including Tottenham Hotspur[] Stadium tickets to plaintiff Kaiser and all those similarly situated.” *Id.* ¶ 19. Plaintiff further claims that Tottenham Hotspur Stadium and other venues have repeatedly told StubHub that it was not authorized to sell tickets to their events but StubHub has ignored these communications. *Id.* ¶ 20.

II. Procedural History

On November 22, 2023, Plaintiff sued StubHub in New York state court for: (1) breach of contract; (2) conversion; (3) fraud; and (4) a civil claim under the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1961 *et seq.* Dkt. 1-1 ¶¶ 37-48; *see also* Am. Compl. ¶¶ 37-48 (same). StubHub removed the case to federal court on January 3, 2024, Dkt. 1, and moved, on February 2, 2024, to dismiss the complaint or, in the alternative, compel arbitration, Dkt. 14 (“Br.”). Plaintiff amended his complaint on February 15, 2024, to add a jury demand. Am. Compl. at 1. Rather than refile, StubHub elected to stand on its original motion. Dkt. 19. On March 8, 2024, Plaintiff filed his opposition to StubHub’s motion to dismiss or to compel arbitration and cross-moved to file a

second amended complaint. Dkt. 22 (“Opp.”); *see* Dkt. 21-2 (the “Second Amended Complaint” or “Second Am. Compl.”). StubHub filed its reply in support of its motion to dismiss or compel arbitration and in opposition to Plaintiff’s motion to amend on March 22, 2024. Dkt. 26.

LEGAL STANDARD

When both a motion to dismiss and a motion to compel arbitration are before the Court, the Court “should generally rule on a motion to compel arbitration before proceeding to a merits-based motion to dismiss.” *Harris v. TD Ameritrade Inc.*, 338 F. Supp. 3d 170, 181 (S.D.N.Y. 2018), *aff’d*, 837 F. App’x 841 (2d Cir. 2021) (summary order); *see Bimota SPA v. Rousseau*, 628 F. Supp. 2d 500, 502 (S.D.N.Y. 2009) (considering and granting defendants’ motion to compel arbitration on all of plaintiff’s claims, thus obviating need to consider partial motion to dismiss); *Rosehoff Ltd. v. Cataclean Ams. LLC*, No. 12-cv-01143, 2013 WL 2389725, at *10 (W.D.N.Y. May 30, 2013) (assessing the parties’ merits arguments, including “the sufficiency of the claims in the complaint,” would be “unnecessary and contrary to judicial economy” if case must be stayed or dismissed in favor of arbitration). Therefore, the Court will first address StubHub’s motion to compel arbitration.

When considering a motion to compel arbitration under the FAA, 9 U.S.C. § 1 *et seq.*, courts “apply a ‘standard similar to that applicable for a motion for summary judgment,’” *Zachman v. Hudson Valley Fed. Credit Union*, 49 F.4th 95, 101 (2d Cir. 2022) (quoting *Nicosia v. Amazon.com, Inc.*, 834 F.3d 220, 229 (2d Cir. 2016)). Under this standard, “the Court must grant a motion to compel arbitration if the pleadings, discovery materials before the Court, and any affidavits show there is no genuine issue as to any material fact and it is clear the moving party is entitled to judgment as a matter of law.” *Ryan v. JPMorgan Chase & Co.*, 924 F. Supp. 2d 559, 561-62 (S.D.N.Y. 2013). If the facts in the record are undisputed

and “require the matter of arbitrability to be decided against one side or the other as a matter of law,” the Court “may rule on the basis of that legal issue and avoid the need for further court proceedings.” *Zachman*, 49 F.4th at 101 (quoting *Meyer v. Uber Techs., Inc.*, 868 F.3d 66, 74 (2d Cir. 2017)).

Under Section 2 of the FAA, arbitration agreement[s] are generally “valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.” 9 U.S.C. § 2. The Supreme Court has emphasized that the FAA “establishes ‘a liberal federal policy favoring arbitration agreements.’” *Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 505 (2018) (quoting *Moses H. Cone Mem’l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 24 (1983)). “[B]y its terms, the FAA leaves no place for the exercise of discretion by a district court, but instead mandates that district courts *shall* direct the parties to proceed to arbitration on issues as to which an arbitration agreement has been signed.” *Daly v. Citigroup Inc.*, 939 F.3d 415, 421 (2d Cir. 2019) (further brackets omitted) (quoting *Dean Witter Reynolds, Inc. v. Byrd*, 470 U.S. 213, 218 (1985)). Still, “arbitration is a matter of contract and a party cannot be required to submit to arbitration any dispute which [the party] has not agreed so to submit.” *Howsam v. Dean Witter Reynolds, Inc.*, 537 U.S. 79, 83 (2002) (citation omitted).

DISCUSSION

I. Motion to Compel Arbitration

In deciding whether claims are subject to arbitration, a court must first determine whether the parties agreed to arbitrate. *Zachman*, 49 F.4th at 101. If an agreement to arbitrate exists, the court must determine, as relevant here, the scope of that agreement and “whether Congress intended any federal statutory claims asserted to be non-arbitrable.” *Id.*

StubHub argues that Plaintiff's claims are subject to arbitration under the arbitration clause in its User Agreement, which Plaintiff accepted when he became a registered user of StubHub. *See* Br. at 19-25. Plaintiff does not dispute that he entered into the User Agreement with StubHub or that the User Agreement contains an agreement to arbitrate. He also does not dispute that he did not opt out of the User Agreement's arbitration agreement. Instead, Plaintiff argues that the Agreement to Arbitrate is unenforceable.

Plaintiff alleges, somewhat unclearly, that "[b]ecause the agreement between defendant and plaintiff[] was bargained for fraudulently by defendant, the venue provisions pertaining to the ticket purchase agreement, including any and all provisions to arbitrate disputes, are void and unenforceable." Am. Compl. ¶ 6. Plaintiff further explains in his brief that StubHub was not authorized to broker the ticket sale for the Tottenham game and therefore engaged in fraudulent conduct by creating a false impression that it was so authorized. *See* Opp. at 2-3. Given StubHub's lack of authority and fraudulent conduct, Plaintiff argues, the User Agreement – including its arbitration language – is unenforceable. *See id.* The Court does not agree. Plaintiff's claim that StubHub engaged in fraud during the Tottenham ticket transaction is itself subject to the arbitration clause in the User Agreement. *See, e.g., Meadows Indem. Co. v. Baccala & Shoop Ins. Servs., Inc.*, 760 F. Supp. 1036, 1043 n.5 (E.D.N.Y. 1991) ("[F]raud claims are arbitrable under federal arbitration law unless the arbitration clause itself was allegedly fraudulently induced.").

The User Agreement contains a relatively broad arbitration clause that covers "any and all disputes or claims that have arisen or may arise between [Plaintiff] and [StubHub] relating in any way to or arising out of this or previous versions of the User Agreement (including this Agreement to Arbitrate . . .) or the breach or validity thereof, [Plaintiff's] use of or access to the Site or Services, or any tickets or related passes sold or purchased through the Site or

Services.” User Agreement § 22.1. A clause that refers to claims “arising out of or relating to” an agreement is “the paradigm of a broad clause.” *New London Assocs., LLC v. Kinetic Soc. LLC*, 384 F. Supp. 3d 392, 406 (S.D.N.Y. 2019) (quoting *Collins & Aikman Prods. Co. v. Bldg. Sys., Inc.*, 58 F.3d 16, 20 (2d Cir. 1995)). “When ‘arising out of,’ ‘relating to,’ or similar words appear in a forum selection clause, such language is regularly construed to encompass . . . tort claims associated with the underlying contract.” *Credit Suisse Sec. (USA) LLC v. Hilliard*, 469 F. Supp. 2d 103, 107 (S.D.N.Y. 2007); see *Viking River Cruises, Inc. v. Moriana*, 596 U.S. 639, 653 (2022) (“[A]n arbitration agreement is a specialized kind of forum-selection clause that posits not only the situs of suit but also the procedure to be used in resolving the dispute.” (quotation marks and citation omitted)).

All of Plaintiff’s claims “aris[e] out of” or “relat[e] in any way” to Plaintiff’s “use of or access to the Site.” User Agreement § 22.1. Plaintiff grounds his claims on the allegations that he visited StubHub’s website, through which StubHub sold (or served as a third-party broker of the sale of) the “invalid and/or bogus” Tottenham tickets. Am. Compl. ¶¶ 7, 19, 27. Plaintiff contends that StubHub falsely and fraudulently advertised tickets on its website that it had no authority to sell or broker. *Id.* ¶¶ 41, 44, 47. All four of Plaintiff’s claims, which are based on StubHub’s conduct and marketing practices on its website, therefore arise out of or relate “in any way” to the use or access of StubHub’s website. User Agreement § 22.1; cf. *Genesco, Inc. v. T. Kakiuchi & Co.*, 815 F.2d 840, 854 (2d Cir. 1987) (fraud claims fall within the scope of arbitration clause covering “all claims and disputes of whatever nature arising under this contract”), *abrogated on other grounds as recognized by Rodriguez-Depena v. Parts Auth., Inc.*, 877 F.3d 122, 124 n.1 (2d Cir. 2017).³

³ The Court is not persuaded by the case law cited in Plaintiff’s brief on this point. See Opp. at 12. The only binding precedent cited, *Opals on Ice Lingerie v. Bodylines, Inc.*, 320 F.3d

Even if Paragraph 6 of the Amended Complaint were construed as arguing that StubHub fraudulently induced Plaintiff to enter the User Agreement, over a year before he purchased the Tottenham tickets, “a party’s challenge to . . . the contract as a whole[] does not prevent a court from enforcing a specific agreement to arbitrate.” *Rent-A-Ctr., W., Inc. v. Jackson*, 561 U.S. 63, 70 (2010); *see ACE Cap. Re Overseas Ltd. v. Cent. United Life Ins. Co.*, 307 F.3d 24, 29 (2d Cir. 2002) (“It is well settled that a claim or defense of fraudulent inducement, when it challenges generally the enforceability of a contract containing an arbitration clause rather than specifically the arbitration clause itself, may be subject to arbitration.”). The arbitration provision is “severable from the remainder of the contract.” *Buckeye Check Cashing, Inc. v. Cardegna*, 546 U.S. 440, 445 (2006). Therefore, Plaintiff cannot avoid the arbitration clause by claiming that he was fraudulently induced to enter the User Agreement.

Plaintiff further tries to avoid the arbitration clause by noting that StubHub itself denies that it was authorized to sell the Tottenham tickets. *See Opp.* at 12. Therefore, Plaintiff argues, he did not consent to arbitration with StubHub because “there is no applicable user agreement between [Plaintiff] and StubHub as to the unauthorized Tottenham ticket transaction.” *Id.*

Plaintiff is correct to note that StubHub asserts that its website does not permit the sale of soccer tickets for matches in the United Kingdom and that anyone seeking to purchase such tickets on its website is redirected by a message on its website to StubHub International (“SHI”), a separate company to which StubHub has licensed the “StubHub” trademark. *See*

362 (2d Cir. 2003), is inapposite because unlike here, where Plaintiff undisputedly entered into the User Agreement with StubHub, the agreement with the arbitration clause in *Opals* contained forged signatures and there was no otherwise valid agreement between the parties, *see id.* at 370-71.

Gonzales Decl. ¶¶ 14-15, 17, 21. But Plaintiff misconstrues the scope of the arbitration clause in the User Agreement and its impact on the parties' dispute. The obligation to arbitrate is based on the User Agreement, not the alleged transaction for the Tottenham tickets. Regardless of whether StubHub actually sold the Tottenham tickets to Plaintiff, Plaintiff does not dispute that he entered into the User Agreement when he became a registered user of StubHub's website. The arbitration clause within this User Agreement provides for arbitration of "any and all disputes or claims . . . relating in any way to or arising out of . . . [Plaintiff's] use of or access to the Site or Services, or any tickets or related passes sold or purchased through the Site or Services." User Agreement § 22.1. Even if StubHub did not sell the tickets on its website, such that this dispute does not arise out of tickets sold or purchased through the Site, the former portion of the arbitration clause still provides for the arbitration of claims relating to the "use of or access to the Site." *Id.* The claims here all relate to Plaintiff's use of or access to the StubHub website, even if, as StubHub asserts, the website directed him to SHI through which he ultimately purchased the tickets.⁴

Finally, StubHub requests that the action be stayed during the pendency of the arbitration. Br. at 25. "When a district court finds that a lawsuit involves an arbitrable dispute, and a party requests a stay pending arbitration, § 3 of the FAA compels the court to stay the proceeding." *Smith v. Spizzirri*, 601 U.S. 472, 478 (2024); *see* 9 U.S.C. § 3 (providing that the court "shall on application of one of the parties stay the trial of the action

⁴ As to the question of whether Congress intended the federal claim to be non-arbitrable, Plaintiff does not argue that Plaintiff's RICO claim is nonarbitrable and the Court concludes that it is arbitrable. *See Shearson/Am. Exp., Inc. v. McMahon*, 482 U.S. 220, 242 (1987) (finding "no basis for concluding that Congress intended to prevent enforcement of agreements to arbitrate RICO claims"); *accord Kowalewski v. Samandarov*, 590 F. Supp. 2d 477, 491 (S.D.N.Y. 2008) ("Arbitration agreements relating to RICO claims are indisputably enforceable.").

until such arbitration has been had in accordance with the terms of the agreement”).

Therefore, the Court grants StubHub’s request to stay this case pending the arbitration.

II. Motion to Dismiss

StubHub moves to dismiss the Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), arguing that Plaintiff did not purchase the tickets at issue through StubHub, Inc. but instead through SHI. *See* Br. at 8-9. StubHub further argues that: (1) Plaintiff’s conversion claim is duplicative of his breach-of-contract claim; (2) Plaintiff’s fraud claim is duplicative of his breach-of-contract claim and fails to plead fraud with particularity; and (3) Plaintiff’s civil RICO claim is impermissibly extraterritorial and fails to allege a pattern of racketeering, cognizable predicate acts, the requisite scienter, proximate causation, or a RICO enterprise. *See id.* at 9-19. Whether Plaintiff’s claims are viable is currently for the arbitrator, not the Court, to decide. Because Plaintiff is required to arbitrate his claims against StubHub, the motion to dismiss Plaintiff’s claims is denied as moot. *See, e.g., Glover v. Bob’s Discount Furniture, LLC*, 621 F. Supp. 3d 442, 451 (S.D.N.Y. 2022) (denying motion to dismiss as moot after granted motion to compel arbitration).

III. Motion for Leave to Amend

Finally, the Court turns to Plaintiff’s request for leave to file the Second Amended Complaint. *See* Opp. at 15. Federal Rule of Civil Procedure 15(a)(1) allows a party to amend its complaint once as a matter of course within 21 days after serving the complaint or within 21 days after a responsive pleading has been served. Fed. R. Civ. P. 15(a)(1). Where, as here, the time for amendment as a matter of course has passed, a party may amend its pleading only with the opposing party’s written consent or with leave of court. Fed. R. Civ. P. 15(a)(2). A “court should freely give leave [to amend] when justice so requires.” *Id.* Nevertheless, “it is within the sound discretion of the district court to grant or

deny leave to amend.” *Green v. Mattingly*, 585 F.3d 97, 104 (2d Cir. 2009) (citation omitted). Certain factors “such as undue delay, bad faith or dilatory motive on the part of the movant, . . . undue prejudice to the opposing party[,] . . . [and] futility of amendment” may justify a district court’s decision to deny leave to amend. *Williams v. Citigroup Inc.*, 659 F.3d 208, 213-14 (2d Cir. 2011) (per curiam) (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962)). Proposed amendments are futile when they “would fail to cure prior deficiencies or to state a claim under Rule 12(b)(6) of the Federal Rules of Civil Procedure.” *IBEW Loc. Union No. 58 Pension Tr. Fund & Annuity Fund v. Royal Bank of Scot. Grp., PLC*, 783 F.3d 383, 389 (2d Cir. 2015) (citation omitted).

The Court denies Plaintiff’s motion to amend the complaint due to the futility of his proposed amendments. The additional claims set forth in the Second Amended Complaint still arise out of or relate to StubHub’s website. Plaintiff continues to allege that he visited StubHub’s website and purchased two tickets to the Tottenham soccer game. Second Am. Compl. ¶ 7. Plaintiff seeks to add allegations supporting two new claims that StubHub, in connection with its third-party brokering services, (1) failed to monitor the use of its brand name by SHI to sell tickets, and (2) engaged in deceptive business and advertising practices. *Id.* ¶¶ 27, 35, 60, 63. Those claims therefore still arise out of or relate to Plaintiff’s use of or access to StubHub’s website. Therefore, amending the complaint to add these allegations would not cure any deficiency with respect to whether this dispute may proceed in this Court. *See Catz v. Precision Glob. Consulting*, No. 19-cv-07499 (ER), 2021 WL 1600097, at *14 (S.D.N.Y. Apr. 23, 2021) (granting defendant’s motion to compel arbitration and thus denying motion to amend the complaint that would not change this result); *Kutluca v. PQ N.Y. Inc.*, 266 F. Supp. 3d 692, 704-05 (S.D.N.Y. 2017) (same); *Oguejiofo v. Open Text Corp.*, No. 09-cv-01278 (RWS), 2010 WL 1904022, at *3 (S.D.N.Y. May 10, 2010) (“Since the

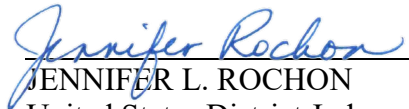
arbitration clause applies to this dispute, . . . any amendment by [the plaintiff] would be futile.”). Thus, the motion to amend is denied.

CONCLUSION

For the foregoing reasons, StubHub’s motion to compel arbitration is GRANTED, and the Court hereby STAYS the case pending completion of arbitration proceedings. StubHub’s motion to dismiss is DENIED without prejudice as moot. Plaintiff’s cross-motion to amend the complaint is DENIED. The Clerk of Court is respectfully directed to terminate the motions at Dkts. 11 and 20.

Dated: July 17, 2024
New York, New York

SO ORDERED.


JENNIFER L. ROCHON
United States District Judge

Chair Button and Vice Chair Talarico
Re: Oppose HB 3621
April 22, 2025
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ALEC MODEL BILL

LIVE EVENT TICKETING CONSUMER PROTECTION & REFORM ACT

Prior to task force meetings, ALEC posts these legislative member-submitted draft model policies to our website. The draft model policies are then discussed, debated, and voted on by ALEC task force members. Policies that receive final approval by legislators on the ALEC Board of Directors become official ALEC model policy. Draft model policies that fail to become official ALEC model policy are removed from the website.

Policy Status

Type: **Model Policy**

Date Introduced: **Dec 2024**

Issues

- Business

Task Forces

- Commerce, Insurance, and Economic Development
- Communications Technology

Tags

- SNPS 2024

Summary

This model policy establishes rules for transparency in ticket pricing, including requiring all primary and secondary ticket merchants to clearly and cor

display total event ticket prices. It also prohibits certain restrictive practices by primary ticket merchants and establishes rules on secondary ticket market.

DRAFT

LIVE EVENT TICKETING CONSUMER PROTECTION & REFORM ACT

SEC. 2. DEFINITIONS.

(1) **BASE EVENT TICKET PRICE.**—The term “base event ticket price” means, with respect to an event ticket, the price of the event ticket excluding the event ticket fees or taxes.

(2) **EVENT.**—The term “event” means any live concert, theatrical performance, sporting event, show, or similarly scheduled live activity, taking place at a seating or attendance capacity exceeding 200 persons that is—

(A) open to the general public; and

(B) promoted, advertised, or marketed in interstate commerce, or for which event tickets are generally sold or distributed in interstate commerce.

(3) **EVENT TICKET FEE.**—The term “event ticket fee” means a charge that must be paid in addition to the base event ticket price in order to obtain an event ticket from a ticket issuer or secondary market ticket issuer, including service fees, charge and order processing fees, delivery fees, facility charge fees, and other charges, and does not include any taxes or any charge or fee for an optional product or service associated with the event that may be selected by a purchaser of an event ticket.

(4) **TOTAL EVENT TICKET PRICE.**—The term “total event ticket price” means, with respect to an event ticket, the total cost of the event ticket, including the event ticket price and any event ticket fees, excluding any taxes.

(5) **OPTIONAL PRODUCT OR SERVICE.**—The term “optional product or service” means a product or service that an individual does not need to purchase or take possession of an event ticket.

(6) **PLACE OF ENTERTAINMENT or VENUE.**—The term “place of entertainment” or “venue” means a public or private entertainment facility, such as an arena, theater or other place where live performances, concerts, exhibits, athletic games, or contests are held, for which an entry fee is charged, to which an individual is invited to observe, and for which a fee is charged.

(7) **PRIMARY SALE.**—The term “primary sale” means, with regards to a ticket, the initial sale of a ticket.

(8) **PRIMARY TICKET SELLER.**—The term “primary ticket seller” means an owner or operator of a venue or a sports team, a manager or provider of ticketing services (or an agent of such owner, operator, manager, or provider) that engages in the primary sale of tickets for an event.

(9) **RESALE; SECONDARY SALE.**—The terms “resale” and “secondary sale” mean any sale of an event ticket that occurs after the primary sale of the ticket by a ticket issuer.

(10) **SECONDARY MARKET TICKET SELLERS.**—The term “secondary market ticket issuer” means any entity for which it is in the regular course of business of the entity to resell or make a secondary sale of an event ticket to the general public.

(11) **SECONDARY MARKET TICKET EXCHANGE.**—The term “secondary market ticket exchange” means any person that operates a platform or website for advertising, listing, or selling resale tickets, on behalf of itself, vendors, or a secondary market ticket issuer.

(12) **LOWER LEVEL DOMAIN NAME.**—The term “lower level domain name” means the portion of text in a Uniform Resource Locator or URL for a website that is to the left of top level domains such as .com, .net or .org.

(13) VENUE. — The term “venue” means real property where one or more persons hosts a concert, game, performance show or similar occasion. The “venue” includes an arena, amphitheater, club, concert hall, convention center, fairground, public assembly facility, stadium, theater, or any other mass location.

SEC. 3. RULES ON TRANSPARENCY OF MARKETING, DISTRIBUTION, AND PRICING OF TICKETS.

Beginning 120 days after the date of enactment of this Act, it shall be unlawful for a ticket issuer, primary ticket seller, secondary market ticket seller or market ticket exchange to offer for sale an event ticket unless the ticket seller, primary ticket seller, secondary market ticket issuer or secondary market exchange —

- (1) clearly and conspicuously displays the total event ticket price, if a price is displayed, in any advertisement, marketing, or price list wherever the ticket is for sale;
- (2) clearly and conspicuously discloses to any individual who seeks to purchase an event ticket the total event ticket price at the time the ticket is first offered to the individual and anytime thereafter throughout the ticket purchasing process.

SEC. 4. RULES FOR PRIMARY TICKET SELLERS.

Primary ticket seller requirements.

A primary ticket seller shall do the following:

- (1) Not restrict or hinder the ability of a purchaser who has purchased a ticket from a primary ticket seller or venue from—
 - (A) reselling any such ticket independently of the primary ticket seller or any secondary ticket sales marketplace owned or affiliated with the primary ticket seller and
 - (B) reselling any such ticket on the secondary ticket sales marketplace the purchaser chooses.
- (2) Not require a minimum or maximum price for the resale of any ticket purchased from a primary ticket seller.
- (3) Not sanction, discriminate against or deny a purchaser admission to an event, deny rights to bundled series tickets or the renewal thereof, or otherwise discriminate against a purchaser on the basis that the purchaser resold a ticket, gifted a ticket, or purchased a resold ticket.
- (4) Not unreasonably delay the delivery of a ticket to a purchaser after purchase from the primary ticket seller.

Subject to the requirements of Subsections 1-4 of this Section, nothing in this section shall be construed to prohibit an operator of a live entertainment venue from maintaining and enforcing policies regarding access control, conduct or behavior at or in connection with the operator's place of live entertainment. A live entertainment venue may revoke or restrict tickets:

- (i) For reasons relating to a violation of venue policies that are available in writing;
- (ii) For the protection of the safety of patrons; or
- (iii) To address fraud or misconduct.

Nothing in this Section prohibits an operator of a live entertainment venue from prohibiting the resale of tickets if the ticket was initially offered:

- (i) At no charge, and access to the ticket is not contingent upon providing any form of monetary consideration; or
- (ii) By or on behalf of a charitable organization [as defined under relevant state law], for a charitable purpose [as defined under relevant state law], where the proceeds from the ticket sale are provided to the charitable organization.

Notwithstanding any provisions of this Section to the contrary, any educational institution or associated nonprofit organization may establish and enforce prohibitions, restrictions, or conditions on the resale and transfer of tickets sold or otherwise made available to either of the following:

- (i) The institution or organization's officers, directors, employees, sponsors, or vendors; or

(ii) Donors who have made a financial contribution to obtain the right to purchase tickets.

SEC. 5 RULES FOR SECONDARY MARKET TICKET SELLERS AND SECONDARY MARKET TICKET EXCHANGES

Secondary market ticket seller and secondary market ticket exchange requirements.

A secondary market ticket seller and secondary market ticket exchange shall not do the following:

(1) Use in the URL of the ticket website a lower-level domain name that contains:

(A) The name of the venue for which the ticket grants admission;

(B) The name of the entertainment event, including the name of an individual, group or team scheduled to perform or appear at the event; or

(C) A name substantially similar to the name in item (A) or (B) of this subsection.

SEC. 6. ENFORCEMENT

Chair Button and Vice Chair Talarico

Re: Oppose HB 3621

April 22, 2025

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REP. WILLIS' NORTH CAROLINA BILL

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 598
Mar 31, 2025
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40355-NH-165

Short Title: Live Event Ticketing Protections & Reforms. (Public)

Sponsors: Representative Willis.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO CREATE CONSUMER PROTECTIONS FOR SECONDARY TICKET
PURCHASERS AND TO PROHIBIT SECONDARY TICKET SELLERS FROM USING
THE NAME OF A VENUE OR EVENT IN THEIR WEBSITE ADDRESS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Chapter 75 of the General Statutes is amended by adding a new
Article to read:

"Article 9.

"Live Event Ticket Sales and Resales."

SECTION 1.(b) Subsections (a) and (c) of G.S. 75-44 are recodified as subsections
(a) and (b), respectively, of G.S. 75-151, to be titled "Definitions; enforcement," to be located in
Article 9 of Chapter 75 of the General Statutes, as established by subsection (a) of this section.

SECTION 1.(c) Subsection (b) of G.S. 75-44 is recodified as G.S. 75-152, to be
titled "Ticket price transparency," to be located in Article 9 of Chapter 75 of the General Statutes,
as established by subsection (a) of this section.

SECTION 1.(d) Article 9 of Chapter 75 of the General Statutes, as established by
subsection (a) of this section, reads as rewritten:

"Article 9.

"Live Event Ticket Sales and Resales.

"§ 75-151. Definitions; enforcement.

(a) As used in this ~~section~~Article, the following definitions apply:

- (1) Entertainment event. – A sporting game or contest, concert, or other entertainment performance with a live presentation element in this State for which attendance is available to the public through the purchase of ticket.
- (2) Mandatory fee. – Any fee or surcharge that a consumer must pay in order to purchase a ticket to an entertainment event.
- (3) Resale. – The second or subsequent sale of a ticket through a website or other electronic means.
- (4) Reseller. – A person engaged in the resale of tickets.
- (5) Secondary ticket exchange. – An electronic marketplace that enables persons to sell, purchase, and resell tickets.
- (6) Ticket issuer. – The person that is the first seller of tickets for an entertainment event, including a musician or musical group, an operator of a venue, sponsor or a promoter of an entertainment event, a sports team participating in an entertainment event, a sports league whose teams are participating in an entertainment event, a theater company, a marketplace or service operated for



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consumers to make an initial purchase of tickets, or an agent of any of the persons listed in this subdivision.

- (7) Ticketing session. – The period of time beginning when the price of a ticket to an entertainment event is first displayed to a person through a website or application and ending when the person has not purchased the ticket within the time period prescribed by the secondary ticket exchange, ticket issuer, or reseller.

(b) A violation of this ~~section~~ Article is an unfair trade practice under G.S. 75-1.1 and is subject to all of the investigative, enforcement, and penalty provisions of an unfair trade practice under this ~~Article~~ Chapter.

"§ 75-152. Ticket price transparency.

A secondary ticket exchange, ticket issuer, or reseller shall meet the following requirements when listing a ticket for sale or resale:

- (1) At any time the price of the ticket is displayed to the purchaser, the listing shall clearly and conspicuously disclose the total price of the ticket, including all mandatory fees and the maximum order processing fee, if any.
- (2) The total price of the ticket initially displayed at the beginning of a ticketing session shall not be increased during that ticketing session, except by the addition of the charges permitted under subdivision (4) of this subsection.
- (3) The listing shall clearly and conspicuously disclose to the consumer the existence and actual dollar amount of each mandatory fee, if any, prior to the completion of the transaction. The descriptor used to identify each mandatory fee shall not be deceptive or misleading.
- (4) The following charges are not mandatory fees and may be added to the ticket price and shall be disclosed to the purchaser prior to purchase of the ticket:
 - a. Actual charges required to deliver a non-electronic ticket to the address specified by the purchaser by the delivery method designated by the purchaser.
 - b. Taxes or fees imposed on the transaction by any government.
 - c. A reasonable fee for processing the order.

"§ 75-153. Restrictions for ticket issuers.

(a) A ticket issuer shall not restrict or hinder the ability of a purchaser that has purchased a ticket from a ticket issuer from doing any of the following:

- (1) Reselling a ticket independently of the primary ticket seller or any secondary ticket exchange owned or affiliated with the ticket issuer.
- (2) Reselling a ticket on the secondary ticket exchange of the purchaser's choosing.

(b) A ticket issuer may not require a minimum or maximum price for the resale of a ticket purchased from the issuer.

(c) A ticket issuer may not sanction, discriminate against, or deny a purchaser admission to an event, deny rights to bundled series tickets or the renewal thereof, or otherwise discriminate against a secondary ticket exchange seller or purchaser on the basis that the ticket was resold, gifted, or purchased as a resold ticket.

(d) A ticket issuer shall deliver an electronic ticket to a purchaser within 72 hours of confirming the purchase order, unless the event occurs within 72 hours of the purchase, in which case a ticket issuer shall deliver the ticket as soon as reasonably possible following purchase order confirmation.

(e) Nothing in this section prohibits an operator of a live entertainment venue from doing any of the following:

- (1) Maintaining and enforcing policies regarding conduct or behavior at or in connection with the operator's live entertainment venue.

(2) Establishing limits on the quantity of tickets that may be purchased.

(3) Selling or gifting nontransferable tickets to an event for either of the following reasons:

a. The event is a private event.

b. The ticket is offered at a discounted price to only a select group of people, including students, veterans, or members of an organization.

Nontransferable tickets issued under this sub-subdivision shall be clearly marked as nontransferable and shall not be offered promotionally to the general public.

"§ 75-154. Secondary ticket exchange website addresses.

A secondary ticket exchange shall not use a website address that contains the name of or a name substantially similar to the name of the event, a performer at the event, or the venue to which the ticket is for."

SECTION 2. This act becomes effective October 1, 2025.

Chair Button and Vice Chair Talarico
Re: Oppose HB 3621
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COMPARISON ALEC MODEL BILL

	Johnson SB1820	ALEC Lobbyists Model Bill
Base Ticket Price	"Base ticket price" means the purchase price of a ticket for an event. The term does not include an event ticket fee or any taxes.	BASE EVENT TICKET PRICE. The term "base event ticket price" means, with respect to an event ticket, the price of the event ticket excluding event ticket fees or taxes
Event	"Event" means a concert, theatrical performance, sporting event, exhibition, show, or similar scheduled activity that: (A) is open to the public; (B) is held in a public or private venue; and (C) requires payment of an admission fee to attend the activity.	EVENT.-The term "event" means any live concert, theatrical performance, sporting event, show, or similarly scheduled live activity, taking place a seating or attendance capacity exceeding 200 persons that is (A) open to the general public; and (B) promoted, advertised, or marketed in interstate commerce, or for which event tickets are generally sold or distributed in interstate commerce.
Event Ticket Fee	"Event ticket fee" means a fee or charge added to the base ticket price to obtain an event ticket from either a primary ticket seller or secondary market ticket seller. The term: (A) includes: (i) a service fee or charge; (ii) an order processing fee; (iii) a delivery fee; and (iv) a facility charge fee; and (B) does not include: (i) a tax; (ii) a reasonable postage or carrier charge	EVENT TICKET FEE.-The term "event ticket fee" means a charge that must be paid in addition to the base event ticket price in order to obtain an event ticket from a ticket issuer or secondary market ticket issuer, including service fees, charge and order processing fees, delivery fees, facility charge fees, and charges, and does not include any taxes or any charge or fee for an optional product or service associated with the event that may be selected by a purchaser of an event

	incurred to ship nonelectronic tickets based on the location or delivery method selected by the purchaser; or (iii) a charge or fee for an optional product or service associated with the event.	ticket.
Total Event Ticket Price	"Total ticket price," with respect to a ticket for an event, means the total cost of the ticket. The term includes the base ticket price and an event ticket fee.	TOTAL EVENT TICKET PRICE. The term "total event ticket price" means, with respect to an event ticket, the total cost of the event ticket, including the event ticket price and any event ticket fees, excluding any taxes.
Optional Product or Service	"Optional product or service" means a product or service that a person is not required to purchase to use or take possession of an event ticket.	OPTIONAL PRODUCT OR SERVICE.-The term "optional product or service" means a product or service that an individual does not need to purchase, to use or take possession of an event ticket
Venue/Place of Entertainment	"Venue" means a stadium, arena, theater, concert hall, or other place used for events.	PLACE OF ENTERTAINMENT OR VENUE.-The term "place of entertainment" or "venue" means a public or private entertainment facility, such an arena, theater or other place where live performances, concerts, exhibits, athletic games, or contests are held, for which an entry fee is charged.
Primary Sale	"Primary sale" means the initial sale of a ticket for an event.	PRIMARY SALE.-The term "primary sale" means, with regards to a ticket, the initial sale of a ticket.

Primary Ticket Seller	"Primary ticket seller" means any of the following persons that are engaged in the primary sale of tickets for an event: (A) an owner or operator of a venue; (B) a manager or provider of an event; (C) a provider of ticketing services; or (D) an agent of a person described by Paragraph (A), (B), or (C).	PRIMARY TICKET SELLER.- The term "primary ticket seller" means an owner or operator of a venue or a sports team, a manager or provider of an event, or a provider of ticketing services (or an agent of such owner, operator, manager, or provider) that engages in the primary sale of tickets for an event.
Resale	"Resale" or "reselling" means the sale of an event ticket by a primary ticket seller occurring any time after the primary sale of the ticket. .	RESALE; SECONDARY SALE. The terms a "resale" and "secondary sale" mean any sale of an event ticket that occurs after the primary sale of an event ticket by a ticket issuer
SECONDARY MARKET TICKET EXCHANGE	"Secondary market ticket exchange" or "exchange" means a person that operates a platform or exchange for advertising, listing, or selling resale tickets on the person's own behalf or on behalf of a vendor or secondary market ticket seller. The term includes a primary ticket seller offering tickets for resale.	SECONDARY MARKET TICKET EXCHANGE: The term "secondary market ticket exchange" means any person that operates a platform or exchange for advertising, listing, or selling resale tickets, on behalf of itself, vendors, or a secondary market ticket issuer.