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The Honorable Colorado State Senate
The 74th General Assembly
First Regular Session
State Capitol
200 E. Colfax Ave.
Denver, CO 80203

VETO

Dear Honorable Members of the Colorado State Senate:

Today I vetoed Senate Bill 23-060, Concerning Consumer Protections in Event Ticket Sales, at 5:36pm

Colorado has one of the most successful concert and venue sectors in the United States. Not only is Colorado home to Red Rocks, the top-grossing and most-attended concert venue of any size, anywhere in the world for 2021 with 996,570 attendees, but we also lead the nation in overall venue attendance per capita, with Colorado regularly ranking at or near the top among U.S. states in arts performance and exhibition attendance.

Not only are enjoying concerts, sporting events, rodeos, and more a big part of our quality of life in Colorado, but they also have a strong positive economic impact. In addition to the ticket and food sales themselves, our success in hosting major cultural events leads to increased tourism and spending in our main street businesses.

I am proud of the successes of Colorado's artists, venues, and fans – particularly given all of the challenges the industry has faced over the past few years – and therefore the bar for any changes to laws in this area is very high. Consumer advocacy groups have opposed this legislation and asked for a veto, and I take that very seriously.

On that note, I fully acknowledge that Senate Bill 23-060 (SB 23-060) would also make several clear improvements for consumers and the entertainment ecosystem, which I strongly support:

First, it clarifies in statute that a venue shall not deny access to an individual with a valid ticket just because that ticket was sold through a reseller or online marketplace. Second, the bill expands the definition of deceptive trade practices to include when a software application "bot" buys tickets in excess of the authorized limits. While these tickets can already be invalidated under the terms of use agreement of many venues, allowing for deceptive trade practices investigations is a step forward for consumers to combat pernicious bots. In addition, it clamps down on a person or bot using multiple email addresses to get around purchase limitations and prevents internet websites from displaying a trademarked or copyrighted URL in selling a ticket. Finally, the bill takes a positive step by requiring display of the total ticket price, including all fees, and requires refunds if a ticket would not actually grant admission to an event or fails to conform to its description.

However, there are also some significant problems with the bill that risk upsetting the successful entertainment ecosystem in Colorado. Throughout my administration, consumer protection and the right to a fair, competitive marketplace have been paramount. I am concerned that consumer advocacy groups

such as the National Consumers League and Consumer Federation of America have asked for a veto of this legislation because of its potential to discourage competition in the sector, ultimately harming consumers. I am also concerned that this legislation strengthens an existing entity with too much market power.

Problematic provisions include new conditions on the secondary market and common resale practices that limit consumer access to innovative products that address existing market failures, such as online ticket waiting services. In addition, the bill uses open-ended, ambiguous language including under applicability of unfair trade practices that could be broadly interpreted with potentially negative implications, such as around the use of “lookalike” content under deceptive trade practices.

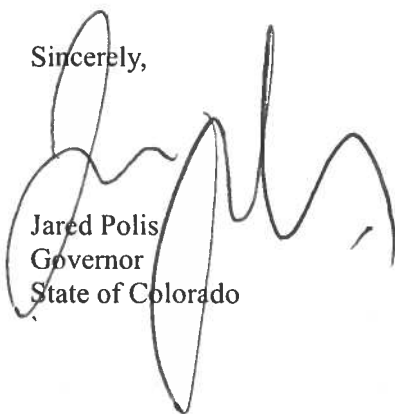
In addition, I am concerned about potential ambiguities included in the bill related to the transferability of tickets under Colorado law, both through discretion provided to venue operators and through two potential loopholes associated with likely well-intended restrictions. In particular, the bill allows the prohibition on resale for tickets sold as *part* of a charitable event or for tickets offered in compliance with the Americans with Disabilities Act (ADA). While the intent may be admirable, the language is written too broadly and could lead to unintended restrictions on the lawful transfer of tickets. If there is a desire to ensure that tickets that are donated to charities and are *fully* part of a charitable event are non-transferable, then that is language I and other stakeholders could indeed support.

At one point during the legislative process, the bill included other positive provisions that would have done much to shift its overall balance towards consumers. However, these provisions were removed. Namely, the bill would have required reporting on bots, which would have contributed to the crackdown on this practice, which is already illegal at the federal level.

On the whole, this bill has no doubt improved since its introduction, when it included untenable enforcement provisions that the sponsors took action to remove. In fact, I would encourage market participants, including venues, sellers, platforms, and resellers, to undertake many of these measures as a best practice on their own, providing clear pricing upfront, providing refunds where appropriate, and disclosing bots to federal authorities, and I would support legislation that add these practices into Colorado law. However, I remain convinced that on balance the provisions in this bill in their entirety would harm consumers and put our entertainment ecosystem at risk. I appreciate the sponsors' work and encourage them to work with consumer advocates, online ticketing platforms and resellers, and my administration in future legislative sessions to draft an unambiguously pro-consumer bill that holds both primary and secondary ticket sellers accountable without unintended consequences that hurt innovation and hamper the marketplace.

For the above reasons, SB 23-060 is disapproved and vetoed.

Sincerely,



Jared Polis
Governor
State of Colorado