

Carl M. Szabo, Vice President and General Counsel  
1401 K St NW, Suite 502  
Washington, DC 20005  
202-420-7485  
[www.netchoice.org](http://www.netchoice.org)

September 17, 2021

**RE: Support for H.442, An Act to modernize the issuance and sale of sports and entertainment tickets.**

NetChoice enthusiastically **supports** H.442 and asks for its passage.

H.442 would modernize Massachusetts law to ensure that Massachusetts fans enjoy easy ways to buy, sell, and give away their sports and concert tickets. This bill would help fans and citizens throughout the state enjoy choice, convenience, and competition in the primary and secondary markets for event tickets.

H.442 aims to maintain consumer protection, choice, and convenience, as well as promote market competition by:

- creating important consumer protection requirements;
- allowing Massachusetts fans to freely transfer a ticket to a friend, client, or family member;
- preventing denial of admission to anyone seeking to use a transferable ticket;
- allowing fans to sell tickets they are not going to use;
- prohibits the use of automated software to scoop-up tickets;
- enabling fans to choose among competing secondary markets to buy and sell tickets.

The evolution of ticketing technologies and a growing concentration of market power is putting the squeeze on Massachusetts fans, and that's why H.442 is needed now.

***H.442 creates important consumer protection requirements***

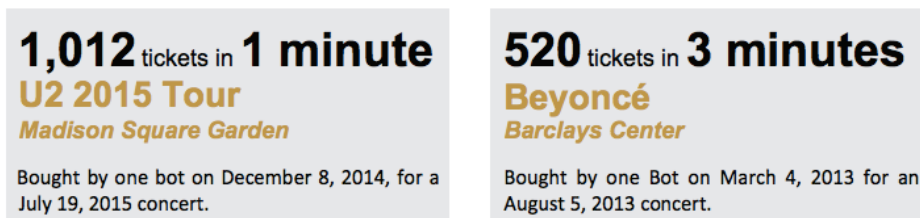
The bill requires ticket resellers to provide ticket purchasers a **full refund** or **comparable replacement** ticket if:

- The event is canceled and not rescheduled;
- The ticket received by the purchaser is counterfeit;
- The ticket fails to conform to the description provided by the seller or reseller;
- The ticket was not delivered to the purchaser prior to the occurrence of the event, unless such failure of delivery was due to an act or omission of the purchaser; or
- The ticket does not provide the consumer admission to the event for which it was purchased.

***H.442 makes clear it's illegal to use "Bots" for Scooping-Up Tickets***

States across the country have outlawed the use of computer software "bots" to circumvent ticket sellers' security or ticket control protections. The New York Attorney General found that these bots

allowed individuals to grab hundreds of tickets in the first few seconds after tickets go on sale, as seen in the documented examples below.



By prohibiting these circumvention techniques, H.442 helps ensure that one group doesn't use "bots" to grab hundreds of tickets the minute they go on sale.

***Without H.442, Ticketmaster can limit fans to restricted Tickets.***

Increasingly, consumers are facing restrictions on the transferability of the tickets they rightfully purchase. These restrictions are unilaterally dictated by the ticket issuer and may tickets prevent fans from giving away their tickets to friends and family altogether, or more likely, require that all transfer/resale occur through the platform where the tickets were originally purchased.

Ticketmaster has been increasing the use of these restrictions, notably through their "SafeTix" digital ticketing system which requires all transfers to occur through the Ticketmaster app. In fact, Ticketmaster has stated that they intend to sell all of their tickets via "SafeTix" beginning by 2021.

Without H.442, Ticketmaster can deny citizens and businesses the ability to give away tickets to friends, family, or clients, because the purchaser's name won't match the ticketholder's name.

H.442 ensures that consumers are empowered in the ticket purchase transaction by allowing them the choice to purchase tickets without transferability restrictions at the original point of sale. H.442 puts consumers in control, not ticket issuers.

***Other states are protecting their fans from restricted tickets***

Fans don't suffer these restrictions when artists perform Colorado, Connecticut, New York, Utah, or Virginia. These states have laws with the similar protections as those in H.442.

Recently Utah,<sup>1</sup> and Virginia<sup>2</sup> enacted laws similar to those in Connecticut,<sup>3</sup> New York,<sup>4</sup> and Colorado<sup>5</sup>. These legislators protected their state's fans' ability to freely transfer, resell, and give away their tickets.

<sup>1</sup> UT Code §§ 13-54-102 (2019). "(1) Except as provided in Subsection (2), each ticket issued for an event shall be a transferrable ticket."

<sup>2</sup> VA Stat. §§ 59.1-466.5-7. "No person that issues tickets for admission to an event shall issue any such ticket solely through a delivery method that substantially prevents the purchaser of the ticket from lawfully reselling the ticket on the Internet ticketing platform of the ticket purchaser's choice... No person shall be discriminated against or denied admission to an event solely on the basis that the person resold a ticket, or purchased a resold ticket, on a specific Internet ticketing platform."

<sup>3</sup> CT Pub Act. 17-28 (2017). "No person shall employ an entertainment event ticketing sales system that fails to give the purchaser an option to purchase tickets that the purchaser may transfer to any party, at any price and at any time, without additional fees and without the consent of the person employing such ticketing system."

<sup>4</sup> NY Arts & Cult Aff L § 25.30 "[I]t shall be prohibited for any operator of a place of entertainment, or operator's agent, to: (a) restrict by any means the resale of any tickets...(b) deny access to a ticket holder who possesses a resold subscription or season ticket to a performance based solely on the grounds that such ticket has been resold...(c) employ a paperless ticketing system unless the consumer is given an option to purchase paperless tickets that the consumer can transfer at any price, and at any time, and without additional fees, independent of the operator or operator's agent." (emphasis added).

<sup>5</sup> Colorado Rev. Stat. § 6-1-718(3) "It is void as against public policy to apply a term or condition to the original sale to the purchaser to limit the terms or conditions of resale... A person or entity, including an operator, that regulates admission to an event shall not deny access to the event to a person in possession of a valid ticket to the event...based solely on the ground that such ticket was resold through a reseller that was not approved by the operator." (emphasis added).

Big-name acts regularly perform in these states, so there's simply no credibility to any claim that passing H.442 would discourage concerts from coming to Massachusetts.

***Now is the Time to Enact H.442***

Ticketmaster is aggressively expanding its restricted tickets program. This will limit fan choice and could impose a new battery of "convenience fees" just to give a ticket to a friend.

Now is the time to pass H.442 and help Massachusetts protect consumers and enable them to enjoy the choice and convenience of an open tickets marketplace and bring Massachusetts fans the same rights that are enjoyed in neighboring states.

As a result, we ask for the passage of H.442.

Sincerely,

Carl Szabo  
Vice President and General Counsel, NetChoice