

Florida SB 388

SUPPORT TESTIMONY

March 13, 2023

Florida State Senate
Senate Commerce and Tourism Committee

Dear members of the committee:

NetChoice enthusiastically supports SB 388 and asks for its passage.

SB 388 would modernize Florida law to ensure that Florida 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.

SB 388 aims to maintain consumer protection, choice, and convenience, as well as promote market competition by:

- Allowing Florida 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;
- Empowering fans to sell tickets they are not going to use; and
- 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 Florida fans, and that's why SB 388 is needed now.

Without SB 388, 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 SB 388, 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.

- **84% of Florida fans SUPPORT** legislation that guarantees their right to resell, give away, or donate their tickets how they choose
- **75% of Florida fans polled AGREE that tickets are the property of the ticket holder**, not the original issuer.
- **81% of Florida fans polled say the ticket holder who purchased the ticket should be free** to determine if and how their ticket is resold.

SB 388 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. SB 388 puts consumers in control, not ticket issuers.

Other states are protecting their fans from restricted tickets

Connecticut,¹ New York,² Colorado,³ Utah,⁴ and Virginia⁵ enacted similar laws to SB 388.

These legislators protected their state’s fans’ ability to freely transfer, resell, and give away their tickets.

Fans didn’t suffer these restrictions when artists perform in Colorado, Connecticut, New York, Utah, or Virginia. These states have laws with similar protections as those in SB 388.

Big-name acts regularly perform in these states, so there’s simply no credibility to any claim that passing SB 388 would discourage concerts from coming to Florida.

¹ 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.”

² 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).

³ 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).

⁴ UT Code §§ 13-54-102 (2019). “(1) Except as provided in Subsection (2), each ticket issued for an event shall be a transferrable ticket.”

⁵ 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.”

At the same time, Ticketmaster's claims that "the artists made us do it" ring hollow. Ticketmaster's parent company, Livenation, is the leading artist promoter in the world – essentially it's Ticketmaster-Livenation telling the artists to use Ticketmaster and make the tickets non-transferable. And regardless, Florida lawmakers should stick up for the rights of Florida fans and protect the free market, not defer to artists from other states.

Now is the Time to Enact SB 388

The primary event ticket marketplace is broken.

Ticketmaster controls more than 70% of the market for ticketing and live events. Ticketmaster controls more than 80% for live concerts.⁶ This is evidence of monopolistic market power.

The "service fees" that Ticketmaster charges continue to increase while quality falls. Evidence of consumer harm.

The hearings before the US Senate Judiciary Committee showed how Ticketmaster and its parent company Livenation used their market power to force venues to only sell through Ticketmaster.⁷ This is evidence of abuse of market power.

Without SB 388 it's going to get worse

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.

Although Ticketmaster may claim they have no plans for such a program, they have spent incredible sums on lobbying to defeat a bill that they claim has no impact on them.

* * *

Now is the time to pass SB 388 and help Florida protect consumers and enable them to enjoy the choice and convenience of an open tickets marketplace and bring Florida fans the same rights that are enjoyed in many other states.

As ever, we offer ourselves as a resource to discuss any of these issues with you in further detail, and we appreciate the opportunity to provide the committee with our thoughts on this important matter.

Sincerely,
Carl Szabo
Vice President & General Counsel, NetChoice

NetChoice is a trade association that works to make the internet safe for free enterprise and free expression.

⁶ Florian Ederer, *Did Ticketmaster's Market Dominance Fuel the Chaos for Swifties?*, Yale Insights (Nov. 23, 2022).

⁷ See, *That's the Ticket: Promoting Competition and Protecting Consumers in Live Entertainment*, US Sen. Jud. Cmtee. (Jan. 24, 2023)

Florida Fans Want to Control their Tickets

I bought it, I own it



75% of Florida fans polled AGREE that tickets are the property of the ticket holder, not the original issuer.

Only 14% said event organizers can prevent transferring or reselling. 11% not sure or other.

I determine how to resell my tickets

81% of Florida fans polled say the ticket holder who purchased the ticket should be free to determine if and how their ticket is resold.

Only 14% said it's the ticket issuer who controls.

5% were unsure.



84% of Florida fans SUPPORT legislation that guarantees their right to resell, give away, or donate their tickets how they choose



84% of Florida residents polled said they support legislation guaranteeing their rights to sell, give away, or donate their tickets however they choose.
Only 10% oppose. 6% not sure or other.