

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*

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Rep. Art Swann, Chairman
Business and Utilities Subcommittee
301 6th Avenue North
Suite G-19A War Memorial Bldg.
Nashville, TN 37243



April 3, 2016

Re: Opposition to HB 2352, *Fans Anti-Counterfeit Ticket (FACT) Act*

Dear Chairman Swann:

We ask you to oppose HB 2352 as it allows promoters and venues to stop Tennesseans from selling their own tickets and has unintended consequences for sites and services serving Tennesseans.

We suggest that if the goal is to protect Tennessee ticket purchasers, that you instead provide resources to enforce existing anti-bot laws and pass legislation requiring disclosure of ticket holdbacks.

Unintended consequences for websites serving Tennessee

Section 47-18-1605 imposes a requirement on every site that operates a forum – failure to comply is criminal.

The broad definition of “Online Marketplace” means that HB 2352 applies to *any* site with forums where buyers and sellers of tickets can meet.

This means that GoTitans.com would need to worry about compliance with the disclosure and facilitation provisions of HB 2352. The same is true for fan forums on TitansOnline.com and TitansReport.com.

Not only are these burdensome requirements on fan sites, but these requirements likely violate the federal laws that protect sites from liability for content published by others.

A better approach – Requires disclosure of ticket holdbacks and fund enforcement of existing anti-bot laws

Rather than imposing these new restrictions, to better protect Tennesseans, legislation should look to shine a light on ticket holdbacks and provide additional funding to enforce existing anti-bot laws.

A report by the New York Attorney General¹ showed that nearly half of all tickets are never made available for public purchase. The report shows that around 54% of tickets are withheld from public purchase – with most going to VIPs and fan club insiders.

This reality is often hidden from the public. The NY AG said, “the industry must provide greater transparency into the allocation of tickets, to increase accountability and enable the public to make informed choices.”

¹ http://www.ag.ny.gov/pdfs/Ticket_Sales_Report.pdf

The NY AG report also highlighted the harm from “bots” with some scalpers purchasing as much as a thousand tickets in one minute. Fortunately, Tennessee already has a law protecting residents from scalpers – an eight year-old anti-bot law.² This law makes it illegal for scalpers to use computer algorithms to circumvent protection systems in order to buy large blocks of tickets. However, as of last year this law had never been enforced.³

Rather than creating new burdens on online ticket marketplaces, the legislature should instead provide the resources for law enforcement to enforce existing laws. At the same time, the legislature should look to amend HB 2352 to “shine the light” and require venues to disclose how many tickets are being withheld from public purchase and to whom they are going.

We ask that you not move forward with HB 2352 and instead apply the better approach of funding enforcement of existing laws and to pass legislation letting consumers know how few tickets they can purchase.

Thank you for considering our views, and please let me know if I can provide further information.

Sincerely,



Steve DelBianco

Executive Director, NetChoice

cc: Committee Members

NetChoice is a coalition of e-Commerce businesses including Facebook, Google, eBay, Expedia, Yahoo, and Lyft.

More information at www.netchoice.org

² TCA 39-17-1105

³ <https://www.futureofmusic.org/blog/2015/04/08/new-bill-tackles-ticket-buying-bots>