



September 8, 2020

Representative Graham Filler  
Chair  
Committee on the Judiciary  
Michigan House of Representatives  
Room 519  
Anderson House Office Building  
124 North Capitol Avenue  
Lansing, MI 48933

**Re: National Consumers League Support for Senate Bill No. 385**

Dear Representative Filler:

On behalf of the National Consumers League<sup>1</sup> (NCL), America's pioneering consumer and worker advocacy organization, I write to urge you to support Senate Bill No. 385 ("SB 385") which is currently pending before the Judiciary Committee.<sup>2</sup>

For more than a decade NCL has supported public policies that increase transparency, competition and fairness in the live event ticket marketplace. At the federal level, we successfully championed the passage of the Better Online Ticketing

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<sup>1</sup> The National Consumers League, founded in 1899, is the nation's pioneering consumer organization. Our non-profit mission is to protect and promote social and economic justice for consumers and workers in the United States and abroad. For more information, visit <http://www.nclnet.org>.

<sup>2</sup> Online:

[https://www.legislature.mi.gov/\(S\(pn0vrh14js0wsysoev0x3yfg\)\)/mileg.aspx?page=GetObject&objectname=2019-SB-0385](https://www.legislature.mi.gov/(S(pn0vrh14js0wsysoev0x3yfg))/mileg.aspx?page=GetObject&objectname=2019-SB-0385)

Sales Act of 2016 (“BOTS Act”), landmark legislation that prohibits on the use of ticket-buying “bot” software by unscrupulous ticket scalpers.<sup>3</sup> Today, we continue to advocate for federal bills such as the Better Oversight of Secondary Sales and Accountability in Concert Ticketing Act of 2019 (“BOSS ACT”)<sup>4</sup> and state bills such as SB 385 that protect consumers from predatory practices in the primary and secondary ticket marketplaces.<sup>5</sup>

SB 385 would create much-needed protections for Michiganders who want access to affordable live event tickets. First, the bill would strengthen Michigan consumer protection law regarding the use of automated ticket-buying software (“ticket bots”). Under the federal BOTS Act,<sup>6</sup> ticket resellers are prohibited from using ticket bots to circumvent ticket sales limitations and selling tickets obtained through the use of ticket bots. SB 385 would go further than the BOTS Act by prohibiting the sale, gift, transfer, use, distribution, or possession with the intent to distribute of ticket bot software.

Second, the bill would crack down on the use of deceptive “white label” ticket resale websites. As we noted in comments filed in 2018 with the Federal Trade Commission,<sup>7</sup> operators of such websites often resort to unscrupulous business practices which include masquerading as a primary vendor through the use of deceptive URLs (using terms like “official” or “box office,” for example) and aggressive search engine optimization techniques to attract consumers. In reality, the “white label” websites are designed to trick ticket buyers into thinking they are

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<sup>3</sup> National Consumers League. “NCL commends Senate passage of the BOTS Act,” Press release. December 1, 2016. Online: [https://www.nclnet.org/bots\\_act\\_passed](https://www.nclnet.org/bots_act_passed)

<sup>4</sup> National Consumers League. “NCL: BOSS ACT is the fix a broken ticket market needs.” Press release. June 13, 2019. Online: [https://www.nclnet.org/boss\\_act\\_2019](https://www.nclnet.org/boss_act_2019)

<sup>5</sup> National Consumers League. “NCL’s Breyault testifies in support of legislation to reform the rigged live event ticket industry.” Press release. May 24, 2016. Online: [https://www.nclnet.org/breyault\\_ticket\\_testimony\\_may242016](https://www.nclnet.org/breyault_ticket_testimony_may242016)

<sup>6</sup> 15 USC §45c

<sup>7</sup> *Comments of the National Consumers League and Sports Fans Coalition to the Federal Trade Commission regarding: “Online Event Ticket Workshop.”* December 5, 2018. Online: [https://d3n8a8pro7vhm.cloudfront.net/ncl/pages/4806/attachments/original/1544128291/SFC\\_NCL\\_FTC\\_Ticketing\\_Workshop\\_Comments\\_%28FINAL%29.pdf?1544128291](https://d3n8a8pro7vhm.cloudfront.net/ncl/pages/4806/attachments/original/1544128291/SFC_NCL_FTC_Ticketing_Workshop_Comments_%28FINAL%29.pdf?1544128291)

purchasing tickets from a venue's box office, not a secondary ticketing site, where fees are often higher than even affiliated resale sites.<sup>8</sup>

Finally, the bill would regulate speculative ticket-selling. If left unregulated, the resale of speculative tickets – tickets that resellers do not actually possess – is inherently risky for consumers. There have been numerous instances nationwide where consumers believed they were purchasing resale tickets to in-demand events only to find later that the reseller was unable to obtain the tickets.<sup>9</sup> This can be particularly costly when consumers purchase airline tickets, accommodations or other travel-related services with the expectation that they will have tickets to a desired event. SB 385 would prohibit the sale of speculative tickets unless the ticket reseller clearly and conspicuously discloses that the reseller does not possess the ticket being purchased. In addition, the bill will require a speculative ticket reseller to inform ticket buyers not less than 48 hours prior to the ticketed event if the ticket reseller does not have the tickets in possession. The bill would also provide much-needed refund protections for consumers who purchase a speculative ticket, but who later find themselves without the ticket.

Consumers in Michigan and around the country have been harmed by a rigged live event ticket marketplace for far too long. SB 385 is an important step forward that better protects the ticket-buying public and reins in the conduct of unscrupulous ticket resellers. On behalf of consumers in Michigan, we urge swift passage of SB 385. Thank you for your attention to our concerns.

Sincerely,

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<sup>8</sup> Federal Trade Commission. "TicketNetwork and Marketing Partners Ryadd and Secure Box Office Settle Charges of Deceptively Marketing Resale Tickets." Press release. July 24, 2014. Online: <https://www.ftc.gov/news-events/press-releases/2014/07/ticketnetwork-marketing-partners-ryadd-secure-box-office-settle>

<sup>9</sup> Thompson, Tisha. "OTL: How the wild world of Super Bowl ticket brokering can burn regular fans," ESPN.com. January 18, 2019. Online: [https://www.espn.com/espn/otl/story/\\_/id/25771518/how-wild-world-super-bowl-ticket-brokering-burn-regular-fans](https://www.espn.com/espn/otl/story/_/id/25771518/how-wild-world-super-bowl-ticket-brokering-burn-regular-fans)



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**cc: Representative Beau LaFave, Majority Vice-Chair**  
**Representative David LaGrand, Minority Vice-Chair**  
**Senator Tom Barrett**  
**Senator Erika Geiss**