

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Ninth Session
June 2, 2017**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 10:20 a.m. on Friday, June 2, 2017, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Steve Yeager, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Elliot T. Anderson
Assemblywoman Lesley E. Cohen
Assemblyman Ozzie Fumo
Assemblyman Ira Hansen
Assemblywoman Sandra Jauregui
Assemblywoman Lisa Krasner
Assemblywoman Brittney Miller
Assemblyman Keith Pickard
Assemblyman Tyrone Thompson
Assemblywoman Jill Tolles
Assemblyman Justin Watkins
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Joyce Woodhouse, Senate District No. 5



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Janet Jones, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Michael Schneider, Private Citizen, Las Vegas, Nevada
Myron G. Martin, President and Chief Executive Officer, The Smith Center for the Performing Arts, Las Vegas, Nevada
Alfredo Alonso, representing Black Knight Entertainment; and Vegas Golden Knights
Jonathan P. Leleu, representing Live Nation Entertainment
Michael G. Alonso, representing Caesars Entertainment
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office
Jennifer Lazovich, representing Bravo Tickets, LLC
Michael D. Hillerby, representing Bravo Tickets, LLC
William C. Horne, representing StubHub
David Goldwater, representing Nevada Association of Ticket Brokers
Brian Mueller, Senior Director of Operations, Vivid Seats, Chicago, Illinois
Bryce Landier, President, Event Ticket Marketing Association
Gail Tuzzolo, representing Event Ticket Marketing Association
Samuel P. McMullen, representing Event Ticket Marketing Association
Danny L. Thompson, representing Event Ticket Marketing Association
Nick Vander Poel, representing Reno-Sparks Convention and Visitors Authority

Chairman Yeager:

[Roll was called. Committee protocol and rules were explained.] We have one bill on the agenda this morning. I will now open the hearing on Senate Bill 235 (2nd Reprint).

Senate Bill 235 (2nd Reprint): Provides for the regulation of ticket sales to an athletic contest or live entertainment event in certain circumstances. (BDR 52-672)

Senator Joyce Woodhouse, Senate District No. 5:

I am here to present Senate Bill 235 (2nd Reprint) for your consideration. I recently read a *Consumer Reports* magazine article about why entertainment and athletic ticket prices are going through the roof. The article provided the example of people purchasing tickets for Adele's 2016 North American tour on the Ticketmaster website. They were not just competing with one another, they were also up against ticket brokers and unscrupulous speculators who were able to purchase the majority of the available seats. The fans

could purchase tickets only from brokers and individual resellers on the resale market at a price in excess of the ticket's face value. Ticket brokers and resellers manipulate the marketplace and force ordinary Nevadans and visitors to buy tickets on the secondary market at a greater cost.

This problem is occurring throughout the country. Other states have also investigated this issue. For example, in New York the state attorney general looked into the matter and released a report of his findings in 2016. The investigation revealed that 54 percent of tickets are reserved for the artist, production companies, venues, promoters, radio stations, and presale customers. Experts say it is indicative of ticketing practices nationwide. When the remaining tickets are released to the public, profiteering can be rampant. Today, anyone can resell tickets on the Internet—an individual with some spare tickets, a small-time speculator looking to make a large windfall, or a professional ticket broker. These resellers are largely free to sell tickets at whatever prices consumers are willing to pay, and sometimes that is a lot. I am sponsoring S.B. 235 (R2) in an effort to combat unfair and illegal ticket purchasing and reselling.

At this time, I would like to introduce Mr. Myron Martin, President and CEO of The Smith Center for Performing Arts; former Senator Michael Schneider; and Alfredo Alonso. I brought this bill forward due to issues regarding fraudulent ticket sales that Mr. Martin shared with me. Senator Schneider, Mr. Martin, and Mr. Alonso have worked tirelessly with other individuals who are interested and concerned about this issue. I cannot tell you the number of meetings that have occurred since the first hearing on this bill with those who are opposed to it in its first iteration. Most have come to agreement on the measure as it is before you.

These three men and others who will be testifying will handle the rest of the testimony and are happy to answer any questions you may have. I appreciate the individuals who are with me today, Mr. Martin and Senator Schneider, who have worked so hard trying to bring this issue into a format so that Nevada can move forward and address the issue that so many of our families have when they purchase tickets. When they get to the theater or athletic event, they find somebody else in the seat they hold the ticket for and then cannot be seated. We are trying our best to find a way to solve this problem. We think this bill is a good step in the right direction.

With your indulgence, I would ask your leave so that I can return to Senate Finance to continue working on our bills.

Chairman Yeager:

Thank you, Senator Woodhouse, for all your hard work this session. We certainly understand that you have other matters to attend to, so do not feel compelled to stay.

Michael Schneider, Private Citizen, Las Vegas, Nevada:

Thank you for letting us come forward today. I will give you some background on this issue. It started last summer when I was at a baseball game with Mr. Martin and he talked about the issues he was having with tickets. For the record, my wife is the Vice President of The Smith Center for the Performing Arts and works with Mr. Martin.

The tickets are being scammed, and The Smith Center's ticket sales represent 74 to 75 percent of the operating capital for that facility. Every year they have to raise money to help fund the facility. They keep the ticket prices low, and you can go see a Broadway play in Las Vegas starting at \$29. The Smith Center brought in the play *Wicked*, and people brought their little girls in costume. The parents bought their \$29 tickets, which was a lot of money for them, and the tickets are not scanning because someone else got there first. People are buying tickets and reselling them 6, 8, 10, or 12 times, but they can only be used once. In addition, people buy up mass amounts of tickets, and then the public cannot purchase tickets so the resellers mark the prices up a huge percentage.

Mr. Martin is bringing *Hamilton* to The Smith Center, which will most certainly be sold out. On the Internet, if you type in "Smith Center," a site will come up that you would think was the original Smith Center site and says "Buy tickets today for *Hamilton*." However, the tickets do not yet exist today. This fake website is selling the tickets starting at \$699 and up to \$1,899. These are the types of things we are trying to corral to allow members of the Las Vegas community to see affordable plays.

Myron G. Martin, President and Chief Executive Officer, The Smith Center for the Performing Arts, Las Vegas, Nevada:

This started as a bill to help prevent these situations where someone is buying a ticket once and selling it multiple times. We were asking for some relief from those people who pretend to be The Smith Center and put up websites that the unknowing consumer believed to be our official website. It turns out this is a practice that is hurting the venues up and down the Strip a lot more than it is hurting us. It is going to be an even bigger issue with professional sports when that comes to town.

However, let me be clear, this is not an anti-secondary ticketing bill. This bill in no way says that people do not have the right to buy a ticket and resell it. In fact, if you buy a ticket for an athletic event or musical and at the last minute decide you cannot go, you have the right to resell your tickets. I have also testified that I personally have purchased over a dozen tickets for sporting events in the last 12 months from StubHub, which is a secondary ticketing site. So to be clear, this is not an anti-secondary ticketing bill.

It is simply asking that we make it illegal to pretend you are someone you are not on the Internet or to employ the Internet robots that go in and buy up all the tickets so that regular families—like your family and mine—do not have a chance at purchasing tickets. It asks that we specifically outlaw the practice of buying an electronic ticket once and selling it multiple times. You may say, Well that is fraud. Yes, it is fraudulent activity to buy something once and sell it multiple times. This bill simply tries to make the practice of selling tickets that way illegal so something can be done about it.

The more we have gotten into this issue the more we have realized that our friends at places like Cirque du Soleil, AEG Live, the major gamers, Vegas Golden Knights hockey team, and others are very supportive of this bill because it is going to make it better for families. All we are asking is that regular people who live in our state have a chance to buy tickets at our price, at the affordable price, and not at the inflated secondary price.

Alfredo Alonso, representing Black Knight Entertainment; and Vegas Golden Knights:

Mr. Martin is correct. When he first introduced this bill, many people saw it as an opportunity to finally start reclaiming the primary market. That is an important piece to this because in all of what you have heard, what has not been talked about is that these individuals who are selling these tickets are taking a product. Whether it is a product of someone who is at The Smith Center, a hockey game, or the Ultimate Fighting Championship (UFC), these are huge investments. To even consider putting the secondary market in the same category as those who are spending \$4 billion for UFC, \$500 million for a hockey team, or the countless dollars that are raised at The Smith Center, to me, is frankly silly. This bill started out doing much more. What you have before you now is a first step in trying to reclaim the ability to sell tickets to families—to people who cannot afford to pay \$600 to \$1,000 in the secondary market.

When the Golden Knights set up their scheme for ticket prices, they were very careful in their intent—they needed to create a hockey fan base in Las Vegas. So part of the National Hockey League's (NHL) plan was to create the equivalent of a little league for hockey throughout the valley. Part of their plan is that those families can go to these games. When they priced it, they priced the seats closer to the ice more expensively than the average NHL prices. You are going to pay a little more than you would at other NHL facilities; however, your less expensive seats are less than anywhere else in the country. We want to keep it that way. We do not yet have a hockey team. We do not have a team or a schedule but, unfortunately, there are already sites selling tickets—that is impossible and wrong. Those prices are exorbitant, and it skews the entire marketplace. When we go onto a site that we believe to be the site of that entity, we want to know that we are going to get a ticket, that there is a ticket, and the entity will get it to us.

There are a few issues to the bill that need to be worked on. The first is with the authorized person in section 5. It is very important that it reflect that our intent was always that the owner of the ticket is also the authorized person. What we do in the bill is very simple—we make it very clear that using Internet robots are illegal; they are illegal at the federal level.

You can buy hundreds of tickets with these robots. The bigger the event, the more we see this. When you go to a site to purchase a ticket and find that they are sold out, they are not really sold out because individuals like us bought those tickets; it is because someone is making more money in a secondary market. The secondary market has its place, and this bill does not harm that industry. The bill says that you cannot sell a ticket before there is a date for the event. We do not have a date set yet for our season, so you cannot sell a ticket you do not have. I know that *Hamilton* is going to come to Las Vegas; it has not come yet, but you will find plenty of websites that will tell you they will sell you a ticket. They are not saying we will find you tickets, the implication is that they have them.

Second and extremely important is that you cannot copy URLs or tickets, and you cannot imply that you are The Smith Center before you sell a ticket. If people are trying to purchase tickets for a sold-out event, at least they understand that it is not the site that belongs to the event and they have the knowledge. That is the hope here. Throughout section 15, there were unique circumstances: whether it is the playoffs or fight promoters, tickets are doled out. A section of seats may be given to the brokers because they need to sell out. We are accommodating those circumstances in this bill. We want to make sure that the brokers who are doing the right thing are abiding by a set of rules that the public will understand. The latter half of the bill mainly deals with a private right of action with respect to the robots. If anyone discovers that someone is still using robots to get tickets, they will be able to take legal action against them. Even though there is a federal prohibition, it is difficult to administer and enforce, and there are still ways for them to get around it.

Michael Schneider:

Mr. Martin and I spoke with the general manager of Cirque du Soleil, and he told us that they got hit last year for \$6 million in bad tickets. That is just one production, so you can get the gravity of the problem. We are one of the top three cities in the nation that are preyed upon by illegal ticket organizations.

Chairman Yeager:

There are a number of proposed amendments that should be on Nevada Electronic Legislative Information System (NELIS), and Mr. Alonso, I think you have referred to an amendment that talks about the authorized seller being a person who is in control of a ticket. I have an amendment from Kaempfer Crowell ([Exhibit C](#)); is that the amendment you are referring to?

Alfredo Alonso:

Correct. I believe they represent Bravo Tickets. If I own a set of season tickets and I want to sell those, I should be able to do so. That was the intent.

Chairman Yeager:

I take it the Kaempfer Crowell amendment is a friendly amendment? Are the other amendments friendly, or is the Kaempfer Crowell the only one you consider friendly at this point?

Alfredo Alonso:

The Kaempfer Crowell amendment is the only one we would consider friendly. We think a disclosure saying that you do not have the ticket on a website is important. That is a problem for some people. It is about letting the public know that they are buying a ticket that does not exist right now on that website. There are others we have heard about, but the only friendly one is the Kaempfer Crowell amendment.

Assemblyman Elliot T. Anderson:

What is your recourse currently? I understand there is already a federal law pertaining to one of the issues in the bill. What do you do currently if you find a fake website?

Alfredo Alonso:

There is a protocol where you can ask people to take a website down. If you ever get it accomplished, it takes a long time. More importantly, what happens now in terms of ticketing, when someone buys a pair of tickets and sells it multiple times, if it is sold five times, five sets of people come to The Smith Center and try to use the same tickets. The first set of people get in but the next four sets of people are turned away. While we will always try to accommodate people, when we do, it is at our cost because we are letting people in for free who did not pay us a penny for the ticket. The truth is that often our shows are sold out and we do not have extra seats, so four sets of people are turned away. This happens to more venues than just ours.

Assemblyman Watkins:

As far as I could tell, everything that is in the bill is currently illegal or prohibited in some fashion. In one instance in particular, section 14 is talking about the definition of "substantially similar." That is actually a lower standard than what would be in place for copyright or trademark infringement if you were to go to federal court. How would this make it easier for us to get the bad people than what already exists? To the extent that you have a problem now, is there some government entity that you go to—do you go to the Attorney General, or local district attorney's office? What do you do, because the remedies exist and I do not know how saying the remedies are now tougher is going to make it any better?

Alfredo Alonso:

We believe that current law allows Clark County to prohibit someone to be on the corner selling, so frankly, there is nothing right now. This bill is not perfect; we look at this as a start. It is not just the fraud; there are many things happening right now that would cost us a lot of money to go after these people. The selling of the tickets before they exist, selling tickets before there is a date, and all of those things hurt the market and our customers. There is only one person they blame—they come after us. I will give you an example. Many

of these sites and brokers that we are talking about have a refund policy. That is great, but when I buy a ticket, you sold two of the same ticket so I get my money back, but I have missed the show. I may have flown here from Atlanta, and now I do not get to see the show and I am not going to come back to Las Vegas. Now I am mad at the facility. This is an attempt to get a handle on this issue.

From a legal standpoint, you might be absolutely correct, but we strongly feel if we can get something on the books, we will get a start on understanding how to fix this problem. For those of us that invest in these products, it is not just how do we deal with them, it is how do we deal with the public after the ticket has gone bad? We now have a hotline that will help us over the interim. Most of our group would like this bill to be stronger, but there has been a lot of compromise with the brokers to get this bill to where it is today. This compromise gets us halfway there, if we are lucky.

Assemblywoman Cohen:

In section 16, subsection 2, it talks about having a civil action being brought in district court. Why district court? Why could you not go to justice court?

Alfredo Alonso:

This is the robot language, so it would have to be federal district court.

Assemblywoman Cohen:

If I buy a ticket from someone online who does not have a ticket, I cannot go to my local justice court because the ticket was less than \$100 and I do not want to spend a lot of money to bring the case to court.

Alfredo Alonso:

You would have that ability to go after someone who sold you a ticket that did not turn out to be what you expected. This section is specifically the federal robot language. This is saying that if they are using that robot and the venue finds out, the venue can sue them in district court.

Assemblywoman Cohen:

Can you explain businesses First Amendment rights to have similar names to The Smith Center and such? Has that been addressed by any courts?

Alfredo Alonso:

I do not know, but I could probably find you that information.

Assemblyman Ohrenschall:

Section 16, subsection 2, regarding the harmed person who has the right to file the civil action, would that include the original seller?

Alfredo Alonso:

Not being a lawyer, I do not know the answer, but I could get it for you.

Assemblyman Ohrenschall:

Let me rephrase it; do you want it to include the original seller of the ticket?

Alfredo Alonso:

That is the point, yes. Let us say The Smith Center intends to sell their ticket for a certain price, and a robot is used to buy a large quantity. The Smith Center would have the ability to sue the entity that used the robot.

Assemblyman Ohrenschall:

I agree with wanting to catch the bad actors, but I am concerned about who else might be caught up in the net. Section 17.5 has the criminal penalties: the gross misdemeanor if the value is \$1,000 or less and the category D felony if it is over \$1,000 for the value of the tickets. I am looking at section 10, where a reseller could be me, you, or the person I met a block from The Smith Center when I bought tickets for my wife and me to see *Wicked*. I found them on Craigslist—the tickets were good, and we had a great time. It is a wonderful thing you have done at The Smith Center, Mr. Martin and Senator Schneider. Nevertheless, the seller did not disclose to me any of the things that are going to be required in section 15 about right to refund and all the other provisions there. I am worried that we may catch people in the criminal justice system with these severe penalties who may have failed to disclose under section 15.

While I agree, I want to catch the bad guys, but I am worried about the good guys who could not go to the show, have five or six tickets totaling over \$1,000, and could be looking at a category D felony, which carries 1 to 4 years in prison. In our sister committee—the Assembly Committee on Corrections, Parole, and Probation—we have had Nevada Department of Corrections Director James Dzurenda talk about the prisons having people sleeping on cots because there are not enough cells. This session we have looked a lot at trying to be smart and tough on crime while trying to look at some art in sentencing when it is a nonviolent offense. I think these charges are too harsh. I wonder what your thoughts are and why you have such severe penalties in the bill?

Alfredo Alonso:

That was in the original bill; I believe it had something to do with Senator Schneider, when he was known as the Hanging Senator. We have had that discussion and would be amenable to that. With changing or adding the Bravo amendment, where the individual is the authorized person, you get most of that anyway. That takes care of the person who is trying to sell their personal ticket. I agree with you, and we would be agreeable to talking about the penalties. We want to get at the problem and start somewhere.

Assemblyman Ohrenschall:

I think I need some movement on that because those penalties trouble me.

Assemblyman Pickard:

Many of my questions have been addressed, although I do not know if they have been fully answered. I am still struggling with the overarching question of whether this bill is even necessary from a practical standpoint. Fraud is already illegal. If someone sells something they do not own or they sell it to multiple buyers, it is already illegal. If someone is using a trademarked name or registered mark, it is already illegal. It is my understanding, and correct me if I am wrong, but The Smith Center sells everybody the tickets for the same price. You do not sell them in bulk to brokers at a discount. I understand that if you have multiple people showing up on the same ticket and now, in an effort of customer service, you seat them if you have one available, then you lose money on that. That would incentivize going after the fraudulent seller. I am curious to know what you do now. I know Assemblyman Watkins was alluding to this. What do you do now to pursue these people? Do you take it under your own to do this, or do you report it to law enforcement? I am actually interested in hearing from law enforcement to see if they are even going to touch this, because it seems complex and a big net.

Myron Martin:

This is our challenge. You are right, buying something once and selling it multiple times should be covered under fraud already. Where do I find out who owns this nonprofit in Las Vegas to go find a remedy? It is hard; do I go to the Las Vegas Metropolitan Police Department (LVMPD)? It is really not their thing. For the district attorneys, it is not their area. Where do I take it? This bill is meant to find a place where consumers and venues can now file a complaint. We know that when the consumers are upset because they were turned away, there will be a place where they can say to the state of Nevada that they were defrauded. It does not exist today. Where do I take those multiple tickets that were printed for the same seats? I do not know. This bill, as simple as it is and as watered down as it may have gotten, at least gives us that. It gives venues like mine a place we know that the consumers can be heard when they are defrauded and, right now, I do not know where that would be.

Assemblyman Pickard:

That is at the crux of my question—you already have a right of action; you could sue for fraud, but you cannot sue on a criminal charge. That is the exclusive province of the district attorney. What I do not understand is how this fixes the problem at all. It is not allowing you to pursue the criminal action—that is left to police and the district attorney and, frankly, this is not the job civil attorneys do. We presumably have the defense bar representing civil actions. I do not understand how that works, and maybe you can help me.

Alfredo Alonso:

I guess the best way to explain this is that every session this body takes on things where there are other remedies. What you do is combine them. In particular, an issue like this really is the Wild West—we have nothing on the books. You have gone in a short number of years from a person on the corner selling paper tickets to someone who has a server in their living room. You are absolutely right, we are not going to get to the person who is operating on the Internet from another state, and you are not going to get to the people who are doing it illegally from abroad. We do not expect to with this. This is trying to get at the basics, and it is a start. We can yell at someone and tell him or her to stop selling our season tickets when that person does not have them yet. Most businesses have their policies written on the tickets. Those are as good as the paper they are written on. Frankly, paper is also something that we are getting away from—it is all electronic.

Our feeling on this was let us start somewhere. It is not going to be perfect. We can get at 20 or 30 percent of the problem and start bringing in some reasonableness with a law on the books that says you have to have a ticket before you sell it. At least the public will know that there is a disclosure method—that you can get a ticket because they actually have it to sell. If we litigated every single one of these issues, I do not know how you would find them. You have websites out there that are linked to affiliates that are owned by the same company but they have a different affiliate that pops up depending on your region. That is how sophisticated these are, with different pricing mechanisms. Not one of them has the ticket to sell. Once we understand this world better we can regulate it better, and believe me, I do not think any of us originally understood ticketing as we do now. Are you right? Yes. Are we trying to get somewhere and have a starting point where we can start protecting the public and protecting our product? We believe yes.

Chairman Yeager:

I have some additional questions, and I want to remind the Committee members to keep your questions concise and the answers concise because I want to make sure that we give the opposition time as well. As everyone knows, there is a lot going on in the building.

Assemblyman Pickard:

I would like to take the discussion offline because I do not want to take more time here. One of the other things I would like to know is what the venues have done so far under existing law. It sounds like a lot of this is covered under existing law. Have they taken action and failed to get results?

Assemblywoman Krasner:

The owner of the ticket can still sell their ticket, correct? That says that the secondary market cannot sell their ticket before there is a date set for the event. That is correct too. You cannot copy the website or the ticket and then pretend you are The Smith Center or the Golden Knights. There are already federal laws on point, but you want to put this into Nevada law so that a consumer can go somewhere to file a complaint when this happens to them. Is that correct?

I have talked to parents who have said that it is so expensive for a family of four to try and take their kids to an event: the tickets say \$65, but they are sold out months before the event and therefore they have to pay \$175. Then when they get there, they want to buy their kids a burger or soda. I think this bill seems very reasonable. What are the opponents saying?

Alfredo Alonso:

I have heard everything from, "We are destroying the entire secondary market" to "This will hurt tourism," or "the sky is falling and all is going to end as we know it." That is simply not true. What it is going to do is establish some sensibility with respect to the primary market so that there is some concern before you go out and do something illegal—like the robot, which is already illegal federally. There might be a little more bite in Nevada with this bill. One of our properties might actually sue and you may not want that. It is bringing it back to where it should be. Even if we gain 10 percent more for the public, that is a win. That is how we look at it.

Myron Martin:

You are getting to the heart of why we first talked about this bill. I have talked to the same families who said, "I could not get tickets," or "I bought tickets online and they were \$250." I tell them that they did not buy them from us because we do not have tickets for that price for that show. It is important for all of you to understand that when Senator Schneider says that tickets cover only 75 percent of our costs, it is because we are very mindful about selling tickets at an affordable price since we were built for people who live in the state of Nevada, unlike so many of the venues that were built for tourists. Then you add to that the tours that come through.

The average ticket at The Smith Center is about \$65, and out of that we pay the artist, cast, orchestra, touring costs, the travel to get them here and for their hotels, as well as the intellectual property they are representing on stage. We are paying for ushers and security and stagehands and those who put on the show. That \$65 has to cover all of those things. Your friend buys a ticket online for \$150, which means that the difference of \$85 went to a ticket broker. The artist got none of it, nothing was paid for the intellectual property, and the venue got nothing. They are sharing only that small amount of \$65, yet the secondary market is cashing out \$85 for taking no risks at all. You are getting to the heart of why this is so important.

Getting back to the Assemblyman's questions, it is important that venues have a place and consumers have a place where they can make a complaint, which does not exist today. That is why this is so important.

Assemblyman Hansen:

This bill reminds me of why we had a need for an inspector general bill and a consumer advocate bill, so I would like to compliment my colleague at the other end for trying to come up with some kind of mechanism. The real problem I see here as a consumer, not a lawyer, is that I am going to take my kids to The Smith Center and I have no clue what the ticket price should be. If you have someone offering tickets for \$699 to \$1,800; I am then thinking

I cannot take my kids to this play. Maybe I can get one or two tickets without realizing I am getting gouged horribly. Some phenomenal profit margins are being made in that market. There is the crux of the problem. It reminds me of the loan shark issue and taking advantage of vulnerable people.

I am sympathetic to where you are going with this. It seems there are two problems: first, there is a lack of enforcement on existing law, and second, there is no consumer advocate base for you to go to. I do not know if this bill solves all the problems, but I certainly see where the problem lies and why we need to do something about it. I can also see that you do not want to totally destroy the secondary market. However, there are elements of the secondary market that would not hurt me at all if they were destroyed because of these incredible opportunities to take advantage of vulnerable consumers.

Assemblyman Fumo:

This is not the first time I have had to stick up for Las Vegas Metropolitan Police Department and the district attorney this session. I can assure the Committee that the Las Vegas Metropolitan Police Department has no problem charging a person or arresting them if they get the information. The district attorney's office also has no problem evaluating it. I can sympathize why you have presented this, but what is the policy behind section 13 where you have all the carve-outs, could you not prevent that by not selling the block tickets? Secondly, how will this help you, where *Nevada Revised Statutes* (NRS) 205, with its fraudulent acts will not, if we do not get the victims to the Las Vegas Metropolitan Police Department?

Alfredo Alonso:

It is a difficult thing, and this is not a perfect bill. I think we had a perfect bill at one time, but as you know in this process, there is a lot of give and take. Nevada is unique because you do not have things in this state that exist in other states. Boxing for one, is unique in the way that they sell and promote a fight. They use brokers and a unique system where they are promising blocks of tickets but they do not actually give them to you until just before the fight. We have carve-outs for that situation, for playoffs, and in some cases we thought it was at least a narrow enough carve-out that the secondary market could continue doing what they do. The hope here is that we get started and the public has a place to go. They will know that if they go to a site they have a choice; there will be one person who has the ticket in hand and can send it to me electronically and another who does not have a ticket. That is information we do not know at this time. From a standpoint for all of us, it will help us compile information. Over the next two years, we will be able to come back to you and tell you what is working and what is not. It is an important piece of this that has to be put out there.

Assemblyman Fumo:

If you look at NRS Chapter 205, it does have all the forgery statutes, organized theft statutes, retail statutes, and advertising goods with false trademark statutes. They are all in that statute, so how will this benefit you where those laws do not?

Alfredo Alonso:

You are going to be able to have a system in which the Attorney General gets notified through the hotline. The public and the venues will have a place to go. Right now, the public yells at us. If you go to The Smith Center and you cannot be seated, whom are you going to be mad at? Initially you are going to be upset with The Smith Center. Again, it gives the public an outlet to not only go back to the person they purchased the ticket from—we will do what we can for you—but here is a number where you can file a complaint and we can file a complaint. That is something we do not have today that will be very important. The brokers do a good job for the most part.

One thing that goes back to the tourist issue is if you buy a ticket, there are very few that you can guarantee you are going to get. It is sort of a leap of faith in some cases because there is no regulation. The hope, again, is with these steps; we will come back to you in two years, tell you how it is working, and tweak it. What we miss today we hope to come back to you with and fix it again. This problem is not going away; it is getting bigger.

Imagine professional sports coming to Nevada—the Golden Knights will begin playing in October. You are going to have professional football also. This situation will grow ten times when the professional sports come into our state. That is the importance of doing something today.

Michael Schneider:

When we first started on this, I told Mr. Martin that I needed some language so we could get this to the Legislature. He called the Broadway League, and they provided us with model legislation. I would guess that New York has a lot more laws on the books than Nevada. New York is having a huge problem. New York, Los Angeles, and Las Vegas are having the largest problems with this issue. We started out with this model legislation that we thought was very good and then the ticket brokers lobbied-up. They have hundreds of millions of dollars at stake that they could lose. What you see behind me here are the lobbyists for the ticket brokers. I know many of you are fairly new to this Legislature, but I can tell you that Brad Wilkinson has seen it all over the decades. He could enlighten you if you went and talked to him behind closed doors. He has seen these issues come and go and how we have to get in, get started on them, and then we grow from there.

Over the two decades I was here, homeowners' associations began, and every session it got bigger. That was an industry where the homeowners' associations were not licensed and had no regulations. They were handling millions of dollars in these associations with no regulations. We started with getting them licensed and grew from there with regulations and controls. We have the facilities and we do not want anyone stealing our facilities from us, and that is what is happening. We will start with this and then we will be back and make any adjustments that your constituents will want. You want your constituents to still be able to buy a \$29 ticket to see a Broadway play. We are one of the top ten facilities in the world—that is what we are here fighting for.

Chairman Yeager:

I will concur with you that Mr. Wilkinson teaches me something almost every day. We are lucky to have him here on this Committee. I would ask you not to mention homeowners' association (HOA) legislation in this Committee, please. We have had enough; we are waving a white flag on HOA legislation. Seeing no further questions, I want to thank the three of you for presenting and answering questions. Is there anyone else here in support of S.B. 235 (R2)?

Jonathan P. Leleu, representing Live Nation Entertainment:

We are here in full support of S.B. 235 (R2). I wish Assemblyman Pickard were here because during his questioning I got the impression that there is a misunderstanding of what this bill does. There is an impression that we are only dealing with criminal statutes and trying to criminalize additional bad acts, and that is not the case. This bill does two things: one, it deals with the criminal statutes that we have beaten up for an hour, but it also regulates a market that is not regulated. Ticketmaster also owns Ticket Exchange, which is a secondary purveyor of tickets. We are here in support of this bill because we are at the very beginning of a massive problem. Nevada is in its adolescence right now. I know it is hard to imagine because none of us have gone through this. The reality of the situation is that Nevada does not have professional sports yet. Nevada does not have the massive amount of shows that exist in a major metropolitan area yet. In two years, Nevada will have that, and we do not want to still be in the adolescent stage. In two years, we are going to see the ticket fraud that you see in Los Angeles and Sacramento. The Golden State Warriors is the largest ticket fraud source that exists right now. If you Google "Golden State Warrior ticket fraud" you will see story after story about ticket fraud related to the Golden State Warriors.

We do not want to be there, we want to head this off, and that is the thrust of this bill; it is not about the criminalization. I understand that is an important part that needs to be addressed. It is about regulating something that is not regulated right now. We want to get ahead of the curve because once we have professional sports and massive amounts of shows, you are going to see ticket fraud skyrocket. If we do not have the framework in place to combat that, we are going to be in a world of hurt. If we come back in 2019 to tweak what should be the skeletal framework of our secondary market ticketing law and there is no statute to tweak, everything will be on fire; we will have to start from scratch, and that is not a place we want to be. Let us get it in place now and prepare Nevada to take its next step forward.

Michael G. Alonso, representing Caesars Entertainment:

We support S.B. 235 (R2). I want to echo what Mr. Leleu said as I think it is very important to set up the framework. It is just going to get worse and I think he is absolutely right that we need to set up that framework and come back with information to make this stronger as we go along.

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

We are here in support of the bill with the proposed amendments. Some comments have been made about these cases and existing law; it is correct that there are some laws on the books that somewhat address this issue such as fraud, obtaining money under false pretenses, and uttering a forged instrument. We do have a fraud forgery unit that investigates these types of crimes in addition to a cybercrimes unit. We work in coordination with both the Office of the Attorney General and the Federal Bureau of Investigation. Nevertheless, the fact of the matter is that some of these laws do not perfectly fit this kind of criminal activity, and in addition, these crimes can be difficult to investigate and hold people accountable for. First of all, most of them are Internet-based. People buy the tickets over the Internet, sometimes the site may be fake, and after the tickets are purchased it disappears. Even if the site is available, we have to get court orders or subpoenas to get the IP address and track that site down. We often find out it is a fake website that was set up, and it is difficult to trace back who is responsible. Sometimes the activity is occurring from out of state.

Another problem is that victims do not come forward. Sometimes they purchase these tickets and days, weeks, or months go by from the time they purchase until they go in to attend the event and find out that they have been sold a fake ticket. By then, trying to go back to find the website they bought the ticket from can be very difficult. Often at that point, victims do not want to go through the hassle and they chalk up the loss, especially if there are seats available and The Smith Center lets them have the seat. Why pursue trying to prosecute; you got your ticket. Even if we track the people down, we have to prove they were intentionally selling fake tickets, that they knew the ticket was a duplicate or was not a real ticket.

I believe a felony is an appropriate crime for these because of the resources involved and the impact it has on our tourists, public, economy, and businesses. It will be good for this type of crime to have a location where people can go to report, to have an educational component where people are made aware there is fraud out there, and to remind them to be careful when they buy these tickets. If the industry was able to pursue some type of security measures where the people can verify before the purchase that the ticket is real, it will give law enforcement better tools.

I want to thank Assemblyman Fumo for his kind comments about us and how we pursue these cases.

Chairman Yeager:

Can you give the Committee a sense of how often a matter like this has been brought to local law enforcement's attention?

Chuck Callaway:

Unfortunately, I do not know. I would have to reach out to our fraud unit and try to get an idea of how many times these cases have been reported and what the outcome of that was. I can report back to you.

Assemblywoman Tolles:

Mr. Leleu, you stated that you represented other states on this issue. Could you speak to whether other states have frameworks set up or have passed similar legislation and if it was successful?

Jonathan Leleu:

Senator Settlemeyer asked me that question, and the answer is yes. As was testified to during the initial presentation, the original draft of S.B. 235 (R2) came from a model statute that was provided by the Broadway League. We have seen versions of that put in place all over the country. When Senator Settlemeyer asked me what I see nationwide, I told him this was it. The original draft of S.B. 235 (R2) is exactly what we deal with nationwide—it is almost verbatim and it works. The original draft of this bill has been whittled back, and what we had is now back to a start, but we are happy to do a start. If we were to whittle it back even more, at that point the amendments would swallow the rules and we would not have much protection for our state.

Assemblywoman Tolles:

There are other states that have kept that in place and have not made any changes since it was implemented?

Jonathan Leleu:

Every state does things differently, so there have been changes over time; however, the general ideas are still in place.

John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office:

I want to clarify a few things with respect to your question, Chairman Yeager. I did talk to my screening division about how many types of these cases we see. They were not able to give me exact numbers, but they do see them on occasion. When we do get them, we typically charge a violation NRS 205.380, which is an obtaining money under false pretenses charge. That charge says that anyone who obtains goods with the intent to cheat or defraud another is guilty of that crime. The penalties range from a misdemeanor to a category B felony. The threshold for the difference between the two is \$650. If you sell tickets worth more than \$650, it is a felony; if they are under \$650, it is typically a misdemeanor; and according to my screening division, it is typically a misdemeanor offense that we see.

The bill as amended now with the Kaempfer Crowell amendments ([Exhibit C](#)) on behalf of Bravo Tickets put these new changes in NRS Chapter 598, which is the deceptive trade practices statute. That statute is specifically prosecuted by the Attorney General's Office. It gives the Attorney General both civil and criminal remedies with respect to going after these specific offenses.

With that, Mr. Chairman, I want to make it clear that my office is in support of this bill with the Kaempfer Crowell amendment.

Jennifer Lazovich, representing Bravo Tickets, LLC:

Bravo Tickets is a locally owned ticket broker company in Las Vegas with a brick-and-mortar location near the Strip and has several employees. We appreciate the proponents of the bill working with us on language that we had agreed upon in the Senate, but unfortunately as the bill came over to your house, a couple of key points that are very important to us were left out. With your permission, Mr. Hillerby will run through those amendments.

Michael D. Hillerby, representing Bravo Tickets, LLC:

The Committee has already heard section 5 addressed, regarding the definition of "authorized person" in subsection 2, and our amendment ([Exhibit C](#)) again making clear that the person that initially purchases the ticket is authorized. The proposed amendment also includes language in section 15, subsection 4, specifically with the athletics and playoffs where you know they are happening, but the dates have not yet been announced. In the postseason, the next set of postseason games is dependent upon the winner of a different set of postseason games and those dates are not yet known.

I wanted to make it clear that in the cases of these athletic events, a season ticket holder is offered to buy postseason tickets, and they come with the entire block of tickets from the beginning to the end of the postseason whether the team makes it past the first game or not, and refunds are given. They are often sold and distributed to the original buyers and season ticket holders without specific dates on them, but this amendment will allow us to be sure ticket brokers could buy and resell those tickets before they have dates. On page 2 of the amendment, it makes sure a reseller could qualify and abide by the provisions in section 15 by using that secondary ticket exchange, making sure we have captured everybody that is subject to the provisions of section 15, and for all of the provisions including the penalties for engaging in fraudulent behavior.

Chairman Yeager:

Is there anyone else in support of S.B. 235(R2)? [There was no one.] Before we take opposition testimony, we are going to put this hearing on pause for a moment and do a quick work session on one bill.

**Senate Bill 203 (1st Reprint): Revised provisions related to domestic corporations.
(BDR 7-71)**

Diane C. Thornton, Committee Policy Analyst:

Senate Bill 203 (1st Reprint) was sponsored by the Senate Committee on Judiciary and was heard in Committee on May 25, 2017 ([Exhibit D](#)). This bill expresses the intent of the Nevada Legislature that Nevada statutes concerning corporate law must not be supplanted or modified by the law of other jurisdictions. The bill also provides that, in order to establish liability to stockholders or creditors on the part of a director or officer of a domestic corporation, a breach of fiduciary duty accompanied by intentional misconduct, actual fraud, or a knowing violation of law is necessary to rebut the presumption that the director or officer is not liable. The bill also clarifies the powers a director or officer may exercise under certain circumstances and revises the elements that a director or officer may take into account in making a business decision. There are no amendments to the bill.

Chairman Yeager:

At this time, I will take a motion to do pass S.B. 203 (R1).

ASSEMBLYMAN WATKINS MADE A MOTION TO DO PASS
SENATE BILL 203 (1ST REPRINT).

ASSEMBLYMAN PICKARD SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, THOMPSON,
AND WHEELER WERE ABSENT FOR THE VOTE.)

I will take the floor statement. We will resume our hearing on Senate Bill 235 (R2). I will open it up for testimony in opposition.

William C. Horne, representing StubHub:

StubHub is the world's largest online secondary market ticket exchange. To give you an idea of the volume of tickets sold on our site, one ticket is sold every second of every day worldwide. Of those tickets sold, StubHub finds that approximately half a percent require a refund or exchange ticket due to some type of fraud or other activity preventing a customer from being able to attend an event. This refund policy is called FanProtect Guarantee. Today you will hear from other members of the secondary ticket exchange market and a unified voice, with the exception of Bravo Tickets. We will talk about how bad this policy is currently. Its passage risks losing good actors like StubHub and others from providing services in Nevada. I would like to make it clear that there has never been an agreement or deal between the proponent of this bill and those of us representing the secondary market. We have always opposed the bill that is before you and the earlier versions of this bill that were in the Senate. That does not mean we have not made numerous efforts to address the initial concerns expressed by Senator Woodhouse and Mr. Martin of The Smith Center. However, those concerns have not been given much credence.

It was good to hear that Mr. Martin does not want to hurt the secondary market, and those of us here today in opposition agree with that and have taken great efforts to provide amendment language to address their concerns while keeping the secondary market in business in Nevada.

It is important to know what the secondary ticketing market exchange is. The tickets purchased on the secondary market have already been purchased from the primary market and the taxes have been paid. The secondary market fills a supply and demand need for various entertainment and sporting events. While some tickets may fetch more than the original face value of the ticket, approximately 40 percent of tickets sold sell below the original face value because some of the people want to recoup some of the money they spent for sporting events or some type of entertainment event. For instance, if the Chairman has season tickets for Raiders games and they make it to the championship game, it is a good chance those tickets are going to be sold at a greater price than the face value of those tickets. However, let us say he bought tickets to Disney on Ice starring Alfredo Alonso and William Horne but, unfortunately, he has a root canal on that same date and will not be able to attend that show put on by his favorite lobbyist and bill sponsor. Chances are that he will not get what he paid for the tickets originally because Alfredo and I probably do not have a great draw for putting people in those seats. The secondary market serves an important role in our economy by placing bodies in seats for sporting events that may not be the National Football League, NHL, or Beyoncé concerts, but for less popular shows.

It was interesting to note that while there was a concern about inflated prices for tickets, Mr. Alonso alluded to boxing events where they sell the tickets to the brokers who in turn can and do sell those tickets at a higher price. It is only because they have sold them to the brokers—that is what we are trying to get at here—those legitimate secondary market providers who operate and have been operating in our state for a very long time and provide this service. This bill will place a severe burden on the secondary market in Nevada.

It would place good actors in our state in jeopardy of criminal penalties—category D felony penalties—for unintentional errors, and would chill the marketplace for visitors who rely upon coming to our state to see these events whether they are high-end or low-end events.

I have submitted two documents for your review and consideration. The first is a flow chart ([Exhibit E](#)) which illustrates the complexity of the secondary market. Looking through that you will see the complexity on how a ticket is issued. The second is a proposed amendment ([Exhibit F](#)), which encompasses the suggestions from StubHub. On a side note, StubHub did submit an amendment in the Senate that Mr. Martin told me was acceptable, but it was not considered. Other members of the secondary market here are likely to have amendments that address their particular concerns on their business model. However, there is an amendment submitted by the Clark County Office of the District Attorney ([Exhibit G](#)) that we, as a group, have agreed is a good amendment. It addresses the criminality concerns that have been expressed.

I find it interesting that there is an 800 number and we want to have a website so people have a place to go to get help. This is not a bill seeking to create a website and an 800 number to send people to a place to get their remedy for criminal violations that are already on the books. Let us repeat that again. As Assemblyman Fumo pointed out, many of these criminal statutes are already on the books and can be enforced. This bill does not address the problem which all of us came to the table early on in the session trying to fix. It was stated that this is model legislation—it is not; it has not been adopted anywhere, particularly in New York where they cited that it was language from the Broadway League. The Broadway League may have drafted and worked on it, but it has not been adopted, and that is what makes it model legislation.

I would like to walk you through the amendment that was submitted by StubHub ([Exhibit F](#)).

Chairman Yeager:

Before you do that, Mr. Horne, I would like to say that if indeed you and Mr. Alonso were going to be in Disney on Ice, I would pay a lot of money for that ticket, and I think the rest of the Committee feels that way as well. Do not sell yourself short on the secondary market.

William Horne:

Duly noted, Mr. Chairman. In section 4 ([Exhibit F](#)), the definition of "athletic contest" was previously agreed to in conversations we had, and it would provide consistency throughout the bill. That is the same with section 5, subsection 2—this was also in previous versions that did not make it into the bill. In section 8, we added the language "held or located in the State." We talk about the conduct that is occurring of selling tickets for activities in the state and this adds consistency throughout the bill. In section 10.5, we add the definition of the secondary ticket exchange that had been taken out. We think it is important to provide that definition. In section 14 we added "Resales that occur through a secondary ticket exchange that meets the requirements of section 15 shall be deemed compliant with this provision." There were no qualifications set forth in the bill for authorized persons. There was basically going to be one group defining who was going to be authorized and who was not. This is not how this should operate.

Section 14, subsection 3, states "The Internet website of a reseller or secondary ticket exchange" We have added that. It was not enough to address the reseller because the secondary market is also conducting business, so you had to add the secondary market. In section 15, the secondary ticket exchange language was added because in previous discussions we felt it was necessary to have that language and would like to have that added back in. Section 15, subsection 1 allows for the standard to be in compliance. In section 15, subsection 2, paragraph (b) we have added "the sponsor, promotor or venue of such," deleted "a person authorized to issue tickets to the," eliminated the period, and added "or." As you read down through that, without separating them apart, the ones who would be allowed to authorize, you would have to be compliant with each one of these. We believe separating it with an "or" then means that being compliant with one of these things makes you an authorized seller.

In section 15, subsection 2, paragraph (d), we have added "Knowingly." In paragraph (c) we eliminated "or offer for sale" because we believe that you should be able to offer it on multiple sites but only sell it once. In section 15, subsection 5, we deleted the language "not more than 21 days before the earliest date . . ." because we believe that is an arbitrary timeline. We added section 15, subsection 7. This section talks about resale and was added for consistency. It was in previous agreements. When we spoke about this section with Mr. Martin, he had agreed with it. In section 17 we have added "willfully and knowingly" language. I believe those are the changes requested by StubHub's amendment.

David Goldwater, representing Nevada Association of Ticket Brokers:

This is a group of companies that live, work, raise families, pay taxes, and do business in Nevada. I have provided an infographic that is a good primer on the secondary ticket market ([Exhibit H](#)) and a document titled "The Secondary Ticketing Market"([Exhibit I](#)). I have also provided some articles from states and cities around the country where similar legislation has been tried but failed ([Exhibit J](#)). Lastly, I have provided a memo that includes two suggested amendments ([Exhibit K](#)) that go to the real problem we all seem to agree on. If the Committee sees fit to adopt that amendment, the Nevada Association of Ticket Brokers puts itself into the exempt category like so many others.

At no time throughout this process has there been a deal on this issue, so to speak. The concerns of your local ticket brokers—gatekeepers to the dreams of people who attend these events—have not been addressed. The issues are not as described by Mr. Alonso, when he said that there were problems with disclosures. At no time has the Nevada Association of Ticket Brokers or anyone in our group had an issue with disclosures. That is simply untrue, and it is a shame that so much false information has been spewed here because we all share the same interest—consumer protection. If this bill was truly about consumer protection, then why are there so many exemptions in this bill for various parties?

I state that again—why are there so many exemptions from the provisions of this bill by creating the concept of authorized people and by exempting different people? If it were truly about consumer protection, what we were getting after, would not getting everybody in there matter? I will tell you why—this is the worst kind of special interest legislation that this body looks at. What it does specifically under the authorized person language is attempt to create market winners and losers. There is a reason the Golden Knights are up here trying to pass this legislation. There is a reason Ticketmaster is in favor of this legislation—because under this bill, consumers are not protected, but all of a sudden those organizations become king makers.

They can pick secondary market participants. By virtue of the fact that they can choose these secondary market participants, there are fewer secondary markets. Fewer people will go to events and fewer people will be in seats, which means less tax revenue, higher prices, and less consumer choice. For example, a girl goes up and uses a ticket for *Wicked* and she is denied at the door because someone had copied that ticket. If that person who copied the

ticket had purchased that ticket, they are exempt under this bill. They become an authorized person. However, if you cannot go see "Horne and Alonso on Ice" and you call your local ticket broker to unload your ticket, if that ticket broker contacted another ticket broker or used the network and that person was not authorized, that person would be guilty of a category D felony.

A robust secondary market is essential for putting people in seats, and that is important in Nevada. Not for the big stuff—not for Oakland Raiders games, not for Beyoncé—but for the smaller, less popular events that occur. I would challenge my friend Mr. Leleu who condescendingly called my home state of Nevada in its infancy related to public sports or professional sports. I believe that every boxer who has fought in this state would challenge that they are professional; the NASCAR race held here is professional; and we have hosted the National Basketball Association (NBA) All Star game. Those people are professionals. We have had two professional hockey teams in Nevada. We have had an NBA preseason game, and we host Major League Baseball games. These are all professional sports; we are not infants. We are experienced. Your local Nevada ticket brokers have been working in this industry for a long time and doing a great job providing a good service to your constituents.

Mr. Alonso said something that was true. This is an imperfect bill, but it is a start. I do not want to take a chance on an imperfect regulatory scheme for people working in Nevada and who have made their careers selling tickets and building this industry. The Nevada Association of Ticket Brokers has always had a policy of at least a 200 percent refund for their customers. Never has any customer of the Nevada Association of Ticket Brokers experienced any sort of problems, and if they have, they can report to the people that sold them the ticket and we will refund it.

I conclude by saying this is a bad bill; it is special interest legislation, and it does not get at the consumer protections that we all want to achieve, whether with disclosure or prosecuting people who truly commit fraud. It does affect in a significant way people who have been working in this industry and want to continue working in this industry in the state.

Chairman Yeager:

Thank you, Mr. Goldwater, for what I characterize as intense testimony in opposition. We do not have any questions and, frankly, we do not have a lot of time for them. We have to be on the Assembly floor soon, so I would like to continue taking testimony in opposition.

Brian Mueller, Senior Director of Operations, Vivid Seats, Chicago, Illinois:

[Supplemented with prepared testimony ([Exhibit L](#)).] Vivid Seats is one of the largest ticket resale companies. We are a competitor of StubHub. Many Nevada ticket brokers and consumers use our exchange to list or purchase their tickets. We are partnered with ESPN, *Sports Illustrated*, pro teams such as the Chicago Bears, Los Angeles Rams, and many universities.

We recognize that the proposed S.B. 235 (R2) was drafted with good intentions. Most of the aspects of the bill are beneficial to consumers, such as requiring refunds if an event is canceled. These are already policies that we have in place, follow, and enforce with all of the sellers using our marketplace. In the name of consumer protection, this bill enacts artificial barriers within the industry, creating a dichotomy where some resellers have to follow rules and others do not. It also eliminates consumer choice, leaving consumers vulnerable to monopolistic abuses.

Section 14 is both unnecessary and distressingly vague. Even if we apply the "reasonable person" standard, this is a gray area and a matter of judgment. As Assemblyman Watkins mentioned, companies already have rights under current state and federal law to protect their own intellectual property from infringement; we do not need to criminalize intellectual property disputes between private companies. If we must, we suggest the Committee use more specific language by borrowing from a Federal Trade Commission (FTC) settlement with TicketNetwork. The FTC essentially said that ticket companies could not use the word "official" and claim they are an official resale channel. It also set some rules about how they can use the names of venues. It is much less vague than the legislation that has been proposed.

Section 15 is confusing and will be difficult or impossible to regulate. Concepts such as an event being announced or scheduled and tickets being issued, possessed, or owned do not have clear definitions. If a season ticketholder can renew their tickets for next year, at what point are they the "owner" of those tickets? If I have a personal seat license and I have a right to purchase tickets for a concert at that football stadium, at what point am I deemed to have possession of those tickets. If I have purchased tickets and paid The Smith Center already but they have not yet delivered them, do I own the tickets yet, or not until I hold them in my hand? These things are very troubling.

Even if the tickets are not issued yet, why should that matter? If I want to make sure that I get a new video game right when it comes out, I can go to a distributor such as Amazon or GameStop and place a preorder. That company made a commitment to get the game for me, and I know that if the worst happens and they cannot fill the order, I will at least get a refund. Why should ticket distributors not be able to offer that same preorder option to customers trying to purchase event tickets? It was mentioned that some sites do not disclose that the tickets are not owned yet. At Vivid Seats, we only allow our reputable sellers with a good track record to sell these tickets in advance. We do require these disclosures and are very transparent to consumers. All of those purchases are subject to our 100% Buyer Guarantee, very similar to StubHub's FanProtect Guarantee. All of the reputable players in the industry are already trying to do right by consumers.

Perhaps the biggest problem with section 15 is that it only applies to select parties. Sanctioned resale channels, such as Ticketmaster's resale channel, are affiliated with the originator of the ticket, so they are not required to follow any of the rules in this bill. If our goal is to protect consumers, then the rules should apply to every ticket reseller, not just to unofficial ones.

If we truly want to protect consumers, there are certain steps we can take. The language in the bill outlawing the use of bots to purchase inventory in bulk is something that almost everyone here supports. Require that sellers establish reasonable refund policies by offering a 100 percent refund if an event is canceled and not rescheduled, and refund or offer comparable or better replacement tickets if ordered tickets are not delivered. Require that sellers make reasonable disclosures that tickets are being purchased from a reseller, not the ticket originator (such as the venue box office); that they estimate the delivery date; that tickets are not yet owned (if applicable); and a description of any refund policy.

We support those disclosures, we support the refund requirements, and we support the ticket bots language. We are already doing that on our exchanges. If we want to statutorily require these few things, it could help protect consumers without disrupting the overall industry. This bill does not do that. Instead, this bill makes it more difficult for the reputable players in our industry to participate, which is only going to harm consumers by limiting competition. I urge you not to act without carefully considering the impact this legislation may have. In its current state, it could be very damaging to fans, venues, and small businesses in Nevada.

Bryce Landier, President, Event Ticket Marketing Association:

[Supplemented with written testimony ([Exhibit M](#)).] I am a resident of the state of Nevada. My company owns and operates Seats.com, so this is a bill I am very interested in from a local perspective. The first thing I want to clarify is that most of the discussion in favor of this bill has to do with stopping fraud with multiple tickets being issued and people not being able to sit in a seat when they think they have purchased a ticket for that seat. That is something that I am absolutely in favor of, and everyone behind me is absolutely in favor of as well. We have all submitted an amendment ([Exhibit G](#)) that would support that. We are also in favor of bot regulations, but this bill does so much more. It is so much more part that does not get enough discussion, at least when the proponents are up.

An excellent question was asked as to whether there are laws enacted in other states on this issue that are similar to this law. If there were, I would love to see them, because we have done a ton of research. This is very much an experimental law and not something that is a model law. That is something that this Committee should consider. The testimony you have heard from the proponents has been along the lines of, "Please pass this law today, and once we understand the world better, we are going to make adjustments two years from now." I would argue that you should understand the world very well before you try to change it today.

What is sinister about this law is the "authorized person" language that sets up two classes of individuals. The first class is if you had a relationship with the venue, in which case none of the rules would apply to you. That is why Ticketmaster is so much in favor of this—they do not have to play by the rules. If you are a seller and you were to sell your tickets on the non-authorized reseller, you are put into a position where you have to worry that if a disclosure was not made along the way or if you fail to do this or that, you could be facing several years in prison. Conversely, the second problem is that I could use the official ticket

exchange for the secondary market provided by Ticketmaster, and I would not have to worry about being incarcerated. This sets up a market situation where it is an enormous competitive advantage for one company against the rest of the industry. That is something we are very much afraid of and why we stand in opposition to those portions of the bill.

It has been submitted for the record ([Exhibit M](#)), but the position of the Golden Knights is very connected to the idea of the secondary exchange by Ticketmaster. In fact, if you buy season tickets to the Golden Knights, you sign a contract. Within that contract, there are provisions—scare tactics—that say it is a violation of a city ordinance and you may be fined or imprisoned if you attempt to resell your tickets on or near the premises. However, if you want to resell your tickets, you can do so through their preferred retail ticketing partner. This has been submitted to this panel for review at your own leisure. That is what is being set up for the Golden Knights. They get to auction off of their official reseller. This bill, if passed, increases the value of how much they can sell that right for. This disrupts the market.

Gail Tuzzolo, representing Event Ticket Marketing Association:

When I was asked to work on this project at the beginning of the session, we were in a room with about 15 people in Senator Woodhouse's office. I made it clear to my client and everyone in the room that I would work on this project if we could solve The Smith Center's problems. We went forward working for two to three weeks dealing heavily with each and every complaint that The Smith Center had. That is what you heard in the StubHub amendment ([Exhibit C](#)). Most of those issues were dealt within that. Since then, we have not been able to have any input.

Section 15, subsection 2, paragraphs (c) and (d) are meant to address fraudulent and counterfeit ticketing issues. However, under section 13, subsection 2, it would exempt a fraudulent ticket seller who is actually in possession of a ticket immediately available for delivery. Therefore, someone who has possession of a ticket could take that ticket, sell it ten times, and this bill would not apply to them. That was one of the key factors that The Smith Center told us they wanted to solve, yet it is not solved in this current bill.

We also did a lot of research. We found recent statutes in New York and Illinois. This sort of goes against what Mr. Leleu said, but those statutes are making ticket selling more liberal and taking away restrictions, because that is the way the market is evolving.

It might not be as exciting as ice skating with Mr. Horne and Mr. Alonso, but my ten-year-old son played halftime in a Celtics game this year. It was a Sunday afternoon with a full stadium. It was very exciting, but they only had two tickets. Grandma went ahead and bought a whole box at the Celtics game. The Celtics were not in the championship line yet, but they were getting there. Shortly thereafter, I got an email saying, "Reserve your seats now for the Celtics to be in the championship game." There were no tickets, seats, or dates available because they did not know how long they were going to go or even if they were going to make it.

I hope that you will look at the Clark County District Attorney's amendment ([Exhibit G](#)) for fraud and eliminate some of the catastrophic provisions.

Samuel P. McMullen, representing Event Ticket Marketing Association:

The Event Ticket Marketing Association includes both Nevada-based businesses and out-of-state businesses on the Internet. Some of these do not purchase or sell; they only provide a conduit for marketing. For Nevada, that is key because most of our sales for our events come from out of state. They are a core piece of all of this.

We have tried to put together a combined amendment ([Exhibit G](#)) thanks to the help of the district attorneys and law enforcement. They developed it and I submitted it because we have always said that we would listen to what The Smith Center said. One of the things they said they wanted handled was fraudulently written tickets or fraudulent electronic tickets. We wanted to make sure that there was a crime developed. You heard Mr. Jones indicate that this bill pulls so much of this out and pushes it to the Attorney General's Office. We are looking at it the other way by trying to get it out of deceptive trade practices and get it down to LVMPD and the district attorney's office where it could be locally handled in a way that it was actually a crime with provable elements. If you put together a mess of legislation like this that cannot really be enforced, you will find that prosecutors and investigators will not look at it because it is too difficult.

They have already testified and put their position on the record, but I want to thank them for helping us develop criminalizing language for the offering of fraudulent or counterfeit tickets. We agree with Mr. Alonso that there does need to be a start. We think that our start should be the anti-ticketbot language and the criminal statutes that relate to fraudulent or counterfeit tickets. The rest of it is disruptive, as you have heard. Nevada's economy and entertainment industry is not the place where we want to do any experimenting. A lot of our revenue comes from those people.

If somebody six months before their visit wants to plan a trip and make sure that they can get to a show, it is the secondary market that allows them to find that seat and make sure that they have seats. As Mr. Horne said, the level of failure and complaints on these tickets is so low that it shows you exactly what this industry is about. The tourists know that they can plan their ticket. On the other hand, if they are a week or two out and they want to come to see Mr. Horne and Mr. Alonso ice skating, they can get that because they can go into the secondary market, and there are tickets available. That is how our economy works. Before you do anything as disruptive as this bill, we need to be very careful. As tough as it is to balance the budget this year, it will be tougher in following years if we start screwing up the revenue structure, which this will do.

When they talk about the problems with online ticket sales, we have identified that Craigslist is one that says they are online, but they are not online like we are. These are sophisticated companies regulated by the FTC. They have customer satisfaction issues that are never allowed to happen. If they have a set of rules that they cannot even decipher to comply with, what will happen that scares the heck out of us is that they will not sell tickets in Nevada.

If you are going to have deceptive trade practices that can go up to a category D felony—the same as child abduction—and you can get a private right of action which usually turns into a class action, those things are so scary to a company that is all about compliance but does not know how to comply with very confused regulations and provisions, then we will see the number of ticket sales for Nevada venues and events go down. We would really like to start small with our combined amendment. If you do not, there are other amendments you can consider. We do not have any problem with the StubHub amendment, but we do not think we need all of the extra verbiage.

Danny L. Thompson, representing Event Ticket Marketing Association:

I would like to start by saying that I would pay \$1,600 to watch Mr. Horne and Mr. Alonso on ice because I could make more money off of the pictures at that event later. The Smith Center is a wonderful place. Mr. Schneider and Mr. Martin are dear friends of mine, but this is not about The Smith Center—this is about the economy of the state of Nevada. Almost 50 percent of the money in the budget you are going to pass comes from tourism and gaming. People are attracted here not just for the gaming, but also to attend events like the National Finals Rodeo, events at the Las Vegas Motor Speedway, and to see Céline Dion. They end up gambling and with their head in a bed. Las Vegas is all about heads in beds. Heads in the beds on the weekend are great, but heads in the beds by Wednesday falls off and so does your budget fall off.

I am a native of southern Nevada. I have seen everything from the beginning. To think that we are in our adolescence, we are not. We are an old-ager when it comes to this type of economy. In fact, every politician who has come through these doors has talked about diversifying our economy away from that. In the past two sessions, the Legislature has done more to diversify our economy than in the 38 years I have been coming to this building. Our economy is fragile right now. In northern Nevada, building tradesmen are all working. In southern Nevada, you still have 50 percent unemployment among those tradesmen. The construction industry is not back. There is a lot of stuff on the books, and you can look down the road and see a light at the end of the tunnel, but we are not there yet.

I would submit that during a special session, we passed legislation that is going to create greater diversity in our economy in that we are going to build the Raiders' stadium. A lot of people put their political life on the line to make that happen. Especially in the Assembly, it was a difficult vote for a lot of people, but ultimately we passed it. To be successful, that stadium has to have 47 events a year. In my previous job, I looked at every business plan for every stadium that has been proposed in the last 25 years by every billionaire you can think of. All of the successful ones included some sort of professional game, but also cheerleading competitions, band competitions, and monster truck events. Forty-seven events a year to break even in that stadium is a dangerous thing for all of us because we cannot allow that stadium to fail.

This is an experiment. This legislation does not exist in any other state in the nation. This is an experiment with the state's budget. I would submit that it is a bad experiment and it is not the time to do it. The Smith Center is a wonderful place and these are wonderful people. However, this is not the time to have an experiment like this, especially when we are going to be so dependent on this thing that we allowed for success.

Chairman Yeager:

Is there anyone who would like to testify in the neutral position?

Nick Vander Poel, representing Reno-Sparks Convention and Visitors Authority:

We are part of the conversation. We appreciate Mr. Alonso and Mr. McMullen and his team including us in the conversation and for providing language so we can provide a staff for review as it may impact the Reno-Sparks Convention and Visitors Authority.

Chairman Yeager:

I would invite the presenter back up for any concluding remarks.

Michael Schneider:

I appreciate the opposition; I have known them a long time, but they got off track with what they were doing and how this is going to collapse the economy of Las Vegas. In the Senate, the MGM Grand came forward and testified in favor of this legislation. They are not here today, but they still are in favor. Caesars Palace came forward earlier today and testified in favor of this. These two things are like the Nevada Resort Association. They dominate the market. They have tremendous venues. They do use ticket brokers, but they favor this legislation because they know that it is getting out of control. When they want to use a ticket broker, they still have the option to do that under this bill. I want to make that clear. This is not going to hurt our economy and actually, this helps the economy and the revenue driven to the casinos by their large venues.

Alfredo Alonso:

What I heard today was that if you do not renew your tickets, you could still sell them online. That to me is the comment that encapsulates the entire issue. If you are a consumer and you are looking for tickets online, you should know that they do not have the tickets yet, and you should know that that individual has not even purchased them yet. I can show you numbers that indicate that many season ticket holders often only hold those tickets for one season. They often do not renew. This is a very simple issue. If you do not sell tickets that you do not own, you do not sell tickets before there is a date, and you do not sell tickets fraudulently, then you should have no problems with this bill.

We do things a little differently in Nevada sometimes. We have a unique situation where Las Vegas is the entertainment capital. Not many states can say that. I am sure this is not applicable in Kansas—we are different. It is not an experiment; we are simply tackling problems that are unique to Las Vegas in this bill. As Assemblyman Fumo indicated, NRS Chapter 205 takes care of some of these issues, but not all of them. It certainly does not put in place somewhere that an individual can call when their family bought duplicate tickets or somehow did not get to see the event they wanted to. Now they have a structure.

The comparison to the rest of the country—the sky is not falling. If the Golden Knights want to do business with a specific secondary market dealer, they should be able to do that. They just spent \$500 million to bring hockey to the city of Las Vegas. I think they have that right.

Myron Martin:

It is very nice that the Senate heard these same conversations and they passed this bill. It is nice that today the District Attorney and LVMPD both came in support of this bill. It is nice that gaming, professional sports, and others came in support of this bill. What I heard from the opposition is that these are all upstanding companies that already do the things that we are asking them to do. Even the man who flew in from Chicago to testify said that their company does the things that we are asking them to do for the most part. If that is the case, then we are not asking very much. No one was saying, "I am a bad actor and I rip people off on a regular basis." Those are the people we are trying to prevent moving forward.

[All items submitted but not discussed will become part of the record ([Exhibit N](#)).]

Chairman Yeager:

We will formally close the hearing on Senate Bill 235 (2nd Reprint). Would anyone like to give public comment? [There was no one.] The meeting is adjourned [at 12:32 p.m.].

RESPECTFULLY SUBMITTED:

Janet Jones
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to Senate Bill 235 (2nd Reprint) presented by Michael D. Hillerby, representing Bravo Tickets.

[Exhibit D](#) is the Work Session Document for Senate Bill 203 (1st Reprint), dated May 26, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is a flow chart showing secondary ticket marketing relationships, presented by William C. Horne, representing StubHub.

[Exhibit F](#) is a proposed amendment to Senate Bill 235 (2nd Reprint) presented by William C. Horne, representing StubHub.

[Exhibit G](#) is a proposed amendment to Senate Bill 235 (2nd Reprint) presented by Bryce Landier, President, Event Ticket Marketing Association.

[Exhibit H](#) is an infographic regarding the secondary ticketing market presented by David Goldwater, representing Nevada Association of Ticket Brokers.

[Exhibit I](#) is a document titled "The Secondary Ticketing Market," presented by David Goldwater, representing Nevada Association of Ticket Brokers.

[Exhibit J](#) is material submitted by David Goldwater, representing Nevada Association of Ticket Brokers, consisting of the following:

1. A copy of an article from the *Miami News Times* titled "Marlins Refuse to Sell Season Package to Fan Who Resold Too Many Tickets," by Tim Elfrink, dated August 30, 2016.
2. A copy of an article from the *Minneapolis Star-Tribune* titled, "Fans burned by ticket scalping" by Chris Riemenschneider, dated July 2, 2016.
3. A copy of an article from the *Sun-Sentinel* titled "Marlins, others need to play fair with ticket holders," by Gary Adler, dated September 6, 2016.

[Exhibit K](#) is a copy of an email dated June 2, 2017, from David Goldwater, representing Nevada Association of Ticket Brokers to Chairman Yeager, including a proposed amendment to Senate Bill 235 (2nd Reprint).

[Exhibit L](#) is written testimony authored and submitted by Brian Mueller, Senior Director of Operations, Vivid Seats, Chicago, Illinois.

[Exhibit M](#) is written testimony submitted by the Event Ticket Marketing Association, dated June 2, 2017, presented by Bryce Landier, President, Event Ticket Marketing Association.

[Exhibit N](#) is a letter dated April 27, 2017, to Senator Ford in opposition to Senate Bill 235 (2nd Reprint), authored and submitted by Steven B. Wolfson, Clark County District Attorney; and Joseph Lombardo, Clark County Sheriff.