

114TH CONGRESS
2D SESSION

H. R. 5104

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2016

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To prohibit, as an unfair and deceptive act or practice in commerce, the sale or use of certain software to circumvent control measures used by Internet ticket sellers to ensure equitable consumer access to tickets for any given event, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Better On-line Ticket
3 Sales Act of 2016” or the “BOTS Act”.

4 **SEC. 2. UNFAIR AND DECEPTIVE ACTS AND PRACTICES RE-**
5 **LATING TO USE OF TICKET ACCESS CIR-**
6 **CUMVENTION SOFTWARE.**

7 (a) SALE OF SOFTWARE.—It shall be unlawful for
8 any person to sell or offer to sell, in commerce, any com-
9 puter software, or part thereof, that—

10 (1) is primarily designed or produced for the
11 purpose of circumventing a technological measure
12 that limits purchases made via a computerized event
13 ticketing system;

14 (2) has only limited commercially significant
15 purpose or use other than to circumvent a techno-
16 logical measure that limits purchases made via a
17 computerized event ticketing system; or

18 (3) is marketed by that person for use in cir-
19 cumventing a technological measure that limits pur-
20 chases made via a computerized event ticketing sys-
21 tem.

22 (b) USE OF SOFTWARE.—It shall be unlawful for any
23 person to use any computer software, or part thereof, de-
24 scribed in subsection (a) of this section, to purchase an
25 event ticket via a computerized event ticketing system in
26 violation of the system operator’s posted limits on the se-

1 quence or number of transactions, frequency of trans-
2 actions, or quantity of tickets purchased by a single user
3 of the system, or on the geographic location of any trans-
4 actions.

5 (c) RESALE OF TICKETS.—It shall be unlawful for
6 any person to engage in the practice of reselling in com-
7 merce, event tickets acquired in violation of subsection (b)
8 of this section if the person either—

9 (1) participated directly in or had the ability to
10 control the conduct in violation of subsection (b); or

11 (2) knew or should have known that the event
12 tickets were acquired in violation of subsection (b).

13 (d) DEFINITIONS.—As used in this section—

14 (1) the term “computerized event ticketing sys-
15 tem” means a system of selling event tickets, in
16 commerce, via an online interactive computer system
17 that effectively limits the sequence or number of
18 ticket purchase transactions, frequency of ticket pur-
19 chase transactions, quantity of tickets purchased, or
20 geographic location of any ticket purchase trans-
21 actions;

22 (2) the term “event ticket” means a ticket enti-
23 tling one or more individuals to attend, in person,
24 one or more events to occur on specific dates, times,
25 and geographic locations; and

1 (3) to “circumvent a technological measure”
2 means to avoid, bypass, remove, deactivate, or im-
3 pair a technological measure, without the authority
4 of the computerized event ticketing system operator.

5 (e) RULE OF CONSTRUCTION.—Notwithstanding the
6 prohibitions set forth in subsections (a) and (b), it shall
7 not be unlawful under this section to create or use any
8 computer software, or part thereof, to—

9 (1) investigate or further the enforcement or
10 defense of any alleged violation of this section; or

11 (2) engage in research necessary to identify and
12 analyze flaws and vulnerabilities of a computerized
13 event ticketing system, if these research activities
14 are conducted to advance the state of knowledge in
15 the field of computer system security or to assist in
16 the development of computer security products.

17 (f) ENFORCEMENT BY THE FEDERAL TRADE COM-
18 MISSION.—A violation of subsection (a), (b), or (c) shall
19 be treated as an unfair and deceptive act or practice in
20 violation of a regulation issued under section 18(a)(1)(B)
21 of the Federal Trade Commission Act (15 U.S.C.
22 57a(a)(1)(B)).

23 (g) ENFORCEMENT BY STATES.—

24 (1) AUTHORIZATION.—Subject to paragraph
25 (2), in any case in which the attorney general of a

1 State has reason to believe that an interest of the
2 residents of the State has been or is threatened or
3 adversely affected by a violation of subsection (a),
4 (b), or (c), the attorney general of the State may,
5 as *parens patriae*, bring a civil action on behalf of
6 the residents of the State in an appropriate district
7 court of the United States to obtain appropriate re-
8 lief.

9 (2) RIGHTS OF FEDERAL TRADE COMMIS-
10 SION.—

11 (A) NOTICE TO FTC.—

12 (i) IN GENERAL.—Except as provided
13 in clause (iii), the attorney general of a
14 State shall notify the Federal Trade Com-
15 mission in writing that the attorney gen-
16 eral intends to bring a civil action under
17 paragraph (1) before initiating the civil ac-
18 tion against a person for a violation of
19 subsection (a), (b), or (c).

20 (ii) CONTENTS.—The notification re-
21 quired by clause (i) with respect to a civil
22 action shall include a copy of the complaint
23 to be filed to initiate the civil action.

24 (iii) EXCEPTION.—If it is not feasible
25 for the attorney general of a State to pro-

1 vide the notification required by clause (i)
2 before initiating a civil action under para-
3 graph (1), the attorney general shall notify
4 the Commission immediately upon insti-
5 tuting the civil action.

6 (B) INTERVENTION BY THE FTC.—The
7 Federal Trade Commission may—

8 (i) intervene in any civil action
9 brought by the attorney general of a State
10 under paragraph (1); and

11 (ii) upon intervening, be heard on all
12 matters arising in the civil action, and file
13 petitions for appeal of a decision in the
14 civil action.

15 (3) PENDING ACTION BY THE FEDERAL TRADE
16 COMMISSION.—If the Federal Trade Commission in-
17 stitutes a civil action or an administrative action
18 with respect to a violation of subsection (a), (b), or
19 (c), the attorney general of a State may not, during
20 the pendency of such action, bring a civil action
21 under paragraph (1) against any defendant named
22 in the complaint of the Commission for the violation

1 with respect to which the Commission instituted
2 such action.

Passed the House of Representatives September 12,
2016.

Attest:

KAREN L. HAAS,

Clerk.