

114TH CONGRESS
2D SESSION

S. 3183

To prohibit the circumvention of control measures used by Internet ticket sellers to ensure equitable consumer access to tickets for any given event, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2016

Mr. MORAN (for himself, Mr. SCHUMER, Mrs. FISCHER, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To prohibit the circumvention of 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Better Online Ticket
5 Sales Act of 2016” or the “BOTS Act of 2016”.

1 **SEC. 2. UNFAIR AND DECEPTIVE ACTS AND PRACTICES RE-**
2 **LATING TO CIRCUMVENTION OF TICKET AC-**
3 **CESS CONTROL MEASURES.**

4 (a) CONDUCT PROHIBITED.—It shall be unlawful for
5 any person—

6 (1) to knowingly circumvent a security measure,
7 access control system, or other control or measure
8 on an Internet website of a ticket issuer that is used
9 by the ticket issuer to enforce event ticket pur-
10 chasing limits or to maintain the integrity of online
11 ticket purchasing order rules; or

12 (2) to offer for sale any event ticket in inter-
13 state commerce knowingly obtained in violation of
14 paragraph (1).

15 (b) ENFORCEMENT BY THE FEDERAL TRADE COM-
16 MISSION.—

17 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
18 TICES.—A violation of subsection (a) shall be treated
19 as a violation of a rule defining an unfair or a de-
20 ceptive act or practice under section 18(a)(1)(B) of
21 the Federal Trade Commission Act (15 U.S.C.
22 57a(a)(1)(B)).

23 (2) POWERS OF COMMISSION.—

24 (A) IN GENERAL.—The Commission shall
25 enforce this section in the same manner, by the
26 same means, and with the same jurisdiction,

1 powers, and duties as though all applicable
2 terms and provisions of the Federal Trade
3 Commission Act (15 U.S.C. 41 et seq.) were in-
4 corporated into and made a part of this section.

5 (B) PRIVILEGES AND IMMUNITIES.—Any
6 person who violates subsection (a) shall be sub-
7 ject to the penalties and entitled to the privi-
8 leges and immunities provided in the Federal
9 Trade Commission Act (15 U.S.C. 41 et seq.).

10 (c) ENFORCEMENT BY STATES.—

11 (1) IN GENERAL.—In any case in which the at-
12 torney general of a State has reason to believe that
13 an interest of the residents of the State has been or
14 is threatened or adversely affected by the engage-
15 ment of any person subject to subsection (a) in a
16 practice that violates such subsection, the attorney
17 general of the State may, as *parens patriae*, bring
18 a civil action on behalf of the residents of the State
19 in an appropriate district court of the United
20 States—

21 (A) to enjoin further violation of such sub-
22 section by such person;

23 (B) to compel compliance with such sub-
24 section; and

1 (C) to obtain damages, restitution, or other
2 compensation on behalf of such residents.

3 (2) RIGHTS OF FEDERAL TRADE COMMIS-
4 SION.—

5 (A) NOTICE TO FEDERAL TRADE COMMIS-
6 SION.—

7 (i) IN GENERAL.—Except as provided
8 in clause (iii), the attorney general of a
9 State shall notify the Commission in writ-
10 ing that the attorney general intends to
11 bring a civil action under paragraph (1)
12 not later than 10 days before initiating the
13 civil action.

14 (ii) CONTENTS.—The notification re-
15 quired by clause (i) with respect to a civil
16 action shall include a copy of the complaint
17 to be filed to initiate the civil action.

18 (iii) EXCEPTION.—If it is not feasible
19 for the attorney general of a State to pro-
20 vide the notification required by clause (i)
21 before initiating a civil action under para-
22 graph (1), the attorney general shall notify
23 the Commission immediately upon insti-
24 tuting the civil action.

1 (B) INTERVENTION BY FEDERAL TRADE
2 COMMISSION.—The Commission may—

3 (i) intervene in any civil action
4 brought by the attorney general of a State
5 under paragraph (1); and

6 (ii) upon intervening—

7 (I) be heard on all matters arising
8 in the civil action; and

9 (II) file petitions for appeal of a
10 decision in the civil action.

11 (3) INVESTIGATORY POWERS.—Nothing in this
12 subsection may be construed to prevent the attorney
13 general of a State from exercising the powers conferred
14 on the attorney general by the laws of the
15 State to conduct investigations, to administer oaths
16 or affirmations, or to compel the attendance of witnesses
17 or the production of documentary or other
18 evidence.

19 (4) PREEMPTIVE ACTION BY FEDERAL TRADE
20 COMMISSION.—If the Commission institutes a civil
21 action or an administrative action with respect to a
22 violation of subsection (a), the attorney general of a
23 State may not, during the pendency of such action,
24 bring a civil action under paragraph (1) against any
25 defendant named in the complaint of the Commis-

1 sion for the violation with respect to which the Com-
2 mission instituted such action.

3 (5) VENUE; SERVICE OF PROCESS.—

4 (A) VENUE.—Any action brought under
5 paragraph (1) may be brought in—

6 (i) the district court of the United
7 States that meets applicable requirements
8 relating to venue under section 1391 of
9 title 28, United States Code; or

10 (ii) another court of competent juris-
11 diction.

12 (B) SERVICE OF PROCESS.—In an action
13 brought under paragraph (1), process may be
14 served in any district in which the defendant—

15 (i) is an inhabitant; or

16 (ii) may be found.

17 (6) ACTIONS BY OTHER STATE OFFICIALS.—

18 (A) IN GENERAL.—In addition to civil ac-
19 tions brought by attorneys general under para-
20 graph (1), any other consumer protection offi-
21 cer of a State who is authorized by the State
22 to do so may bring a civil action under para-
23 graph (1), subject to the same requirements
24 and limitations that apply under this subsection
25 to civil actions brought by attorneys general.

1 (B) SAVINGS PROVISION.—Nothing in this
2 subsection may be construed to prohibit an au-
3 thorized official of a State from initiating or
4 continuing any proceeding in a court of the
5 State for a violation of any civil or criminal law
6 of the State.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) COMMISSION.—The term “Commission”
10 means the Federal Trade Commission.

11 (2) EVENT.—The term “event” means any con-
12 cert, theatrical performance, sporting event, show, or
13 similarly scheduled activity, taking place in a venue
14 with a seating or attendance capacity exceeding 200
15 persons that—

16 (A) is open to the general public; and

17 (B) is promoted, advertised, or marketed
18 in interstate commerce or for which event tick-
19 ets are generally sold or distributed in inter-
20 state commerce.

21 (3) EVENT TICKET.—The term “event ticket”
22 means any physical, electronic, or other form of a
23 certificate, document, voucher, token, or other evi-
24 dence indicating that the bearer, possessor, or per-

1 son entitled to possession through purchase or other-
 2 wise has—

3 (A) a right, privilege, or license to enter an
 4 event venue or occupy a particular seat or area
 5 in an event venue with respect to one or more
 6 events; or

7 (B) an entitlement to purchase such a
 8 right, privilege, or license with respect to one or
 9 more future events.

10 (4) TICKET ISSUER.—The term “ticket issuer”
 11 means any person who makes event tickets available,
 12 directly or indirectly, to the general public, and may
 13 include—

14 (A) the operator of the venue;

15 (B) the sponsor or promoter of an event;

16 (C) a sports team participating in an event
 17 or a league whose teams are participating in an
 18 event;

19 (D) a theater company, musical group, or
 20 similar participant in an event; and

21 (E) an agent for any such person.

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