

Calendar No. 648114TH CONGRESS
2^D 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, Mr. BLUMENTHAL, Mr. NELSON, Ms. KLOBUCHAR, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 27, 2016

Reported by Mr. THUNE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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,*

1 **SECTION 1. SHORT TITLE.**

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

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

7 (a) **CONDUCT PROHIBITED.**—It shall be unlawful for
8 any person—

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

15 (2) to offer for sale any event ticket in inter-
16 state commerce knowingly obtained in violation of
17 paragraph (1).

18 (b) **ENFORCEMENT BY THE FEDERAL TRADE COM-**
19 **MISSION.**—

20 (1) **UNFAIR OR DECEPTIVE ACTS OR PRA-**
21 **TICES.**—A violation of subsection (a) shall be treated
22 as a violation of a rule defining an unfair or a de-
23 ceptive act or practice under section 18(a)(1)(B) of
24 the Federal Trade Commission Act (15 U.S.C.
25 57a(a)(1)(B)).

26 (2) **POWERS OF COMMISSION.**—

1 (A) ~~IN GENERAL.~~—The Commission shall
2 enforce this section in the same manner, by the
3 same means, and with the same jurisdiction,
4 powers, and duties as though all applicable
5 terms and provisions of the Federal Trade
6 Commission Act (15 U.S.C. 41 et seq.) were in-
7 corporated into and made a part of this section.

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

13 (c) ~~ENFORCEMENT BY STATES.~~—

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

24 (A) to enjoin further violation of such sub-
25 section by such person;

1 (B) to compel compliance with such sub-
2 section; and

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

5 (2) RIGHTS OF FEDERAL TRADE COMMIS-
6 SION.—

7 (A) NOTICE TO FEDERAL TRADE COMMIS-
8 SION.—

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

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

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

1 the Commission immediately upon insti-
2 tuting the civil action.

3 ~~(B)~~ INTERVENTION BY FEDERAL TRADE
4 COMMISSION.—The Commission may—

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

8 (ii) upon intervening—

9 (I) be heard on all matters aris-
10 ing in the civil action; and

11 (II) file petitions for appeal of a
12 decision in the civil action.

13 ~~(3)~~ INVESTIGATORY POWERS.—Nothing in this
14 subsection may be construed to prevent the attorney
15 general of a State from exercising the powers con-
16 ferred on the attorney general by the laws of the
17 State to conduct investigations; to administer oaths
18 or affirmations; or to compel the attendance of wit-
19 nesses or the production of documentary or other
20 evidence.

21 ~~(4)~~ PREEMPTIVE ACTION BY FEDERAL TRADE
22 COMMISSION.—If the Commission institutes a civil
23 action or an administrative action with respect to a
24 violation of subsection (a), the attorney general of a
25 State may not, during the pendency of such action,

1 bring a civil action under paragraph (1) against any
2 defendant named in the complaint of the Commis-
3 sion for the violation with respect to which the Com-
4 mission instituted such action.

5 ~~(5) VENUE; SERVICE OF PROCESS.—~~

6 ~~(A) VENUE.—Any action brought under~~
7 ~~paragraph (1) may be brought in—~~

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

12 ~~(ii) another court of competent juris-~~
13 ~~diction.~~

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

17 ~~(i) is an inhabitant; or~~

18 ~~(ii) may be found.~~

19 ~~(6) ACTIONS BY OTHER STATE OFFICIALS.—~~

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

1 and limitations that apply under this subsection
 2 to civil actions brought by attorneys general.

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

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) COMMISSION.—The term “Commission”
 12 means the Federal Trade Commission.

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

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

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

23 (3) EVENT TICKET.—The term “event ticket”
 24 means any physical, electronic, or other form of a
 25 certificate, document, voucher, token, or other evi-

1 dence indicating that the bearer, possessor, or per-
 2 son entitled to possession through purchase or other-
 3 wise has—

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

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

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

15 (A) the operator of the venue;

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

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

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

22 (E) an agent for any such person.

23 **SECTION 1. SHORT TITLE.**

24 *This Act may be cited as the “Better Online Ticket*
 25 *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.*—

5 (1) *IN GENERAL.*—*Except as provided in para-*
6 *graph (2), it shall be unlawful for any person—*

7 (A) *to circumvent a security measure, access*
8 *control system, or other technological control or*
9 *measure on an Internet website or online service*
10 *that is used by the ticket issuer to enforce posted*
11 *event ticket purchasing limits or to maintain the*
12 *integrity of posted online ticket purchasing order*
13 *rules; or*

14 (B) *to sell or offer to sell any event ticket*
15 *in interstate commerce obtained in violation of*
16 *subparagraph (A) if the person selling or offering*
17 *to sell the ticket either—*

18 (i) *participated directly in or had the*
19 *ability to control the conduct in violation of*
20 *subparagraph (A); or*

21 (ii) *knew or should have known that*
22 *the event ticket was acquired in violation of*
23 *subparagraph (A).*

24 (2) *EXCEPTION.*—*It shall not be unlawful under*
25 *this section for a person to create or use any com-*
26 *puter software or system—*

1 (A) to investigate, or further the enforce-
 2 ment or defense, of any alleged violation of this
 3 section or other statute or regulation; or

4 (B) to engage in research necessary to iden-
 5 tify and analyze flaws and vulnerabilities of
 6 measures, systems, or controls described in para-
 7 graph (1)(A), if these research activities are con-
 8 ducted to advance the state of knowledge in the
 9 field of computer system security or to assist in
 10 the development of computer security product.

11 (b) *ENFORCEMENT BY THE FEDERAL TRADE COMMIS-*
 12 *SION.—*

13 (1) *UNFAIR OR DECEPTIVE ACTS OR PRAC-*
 14 *TICES.—*A violation of subsection (a) shall be treated
 15 as a violation of a rule defining an unfair or a decep-
 16 tive act or practice under section 18(a)(1)(B) of the
 17 *Federal Trade Commission Act (15 U.S.C.*
 18 *57a(a)(1)(B)).*

19 (2) *POWERS OF COMMISSION.—*

20 (A) *IN GENERAL.—*The Commission shall
 21 enforce this section in the same manner, by the
 22 same means, and with the same jurisdiction,
 23 powers, and duties as though all applicable
 24 terms and provisions of the Federal Trade Com-

1 *mission Act (15 U.S.C. 41 et seq.) were incor-*
2 *porated into and made a part of this section.*

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

8 (C) *AUTHORITY PRESERVED.*—*Nothing in*
9 *this section shall be construed to limit the au-*
10 *thority of the Federal Trade Commission under*
11 *any other provision of law.*

12 (c) *ENFORCEMENT BY STATES.*—

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

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

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

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

3 (2) *RIGHTS OF FEDERAL TRADE COMMISSION.*—

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

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

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14 *quired by clause (i) with respect to a civil*
15 *action shall include a copy of the complaint*
16 *to be filed to initiate the civil action.*

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20 *before initiating a civil action under para-*
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22 *the Commission immediately upon insti-*
23 *tuting the civil action.*

24 (B) *INTERVENTION BY FEDERAL TRADE*
25 *COMMISSION.*—*The Commission may—*

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

4 (ii) *upon intervening—*

5 (I) *be heard on all matters arising*
6 *in the civil action; and*

7 (II) *file petitions for appeal of a*
8 *decision in the civil action.*

9 (3) *INVESTIGATORY POWERS.—Nothing in this*
10 *subsection may be construed to prevent the attorney*
11 *general of a State from exercising the powers con-*
12 *ferred on the attorney general by the laws of the State*
13 *to conduct investigations, to administer oaths or affir-*
14 *mations, or to compel the attendance of witnesses or*
15 *the production of documentary or other evidence.*

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

25 (5) *VENUE; SERVICE OF PROCESS.—*

1 (A) *VENUE.*—*Any action brought under*
2 *paragraph (1) may be brought in—*

3 (i) *the district court of the United*
4 *States that meets applicable requirements*
5 *relating to venue under section 1391 of title*
6 *28, United States Code; or*

7 (ii) *another court of competent juris-*
8 *diction.*

9 (B) *SERVICE OF PROCESS.*—*In an action*
10 *brought under paragraph (1), process may be*
11 *served in any district in which the defendant—*

12 (i) *is an inhabitant; or*

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

23 (B) *SAVINGS PROVISION.*—*Nothing in this*
24 *subsection may be construed to prohibit an au-*
25 *thorized official of a State from initiating or*

1 *continuing any proceeding in a court of the*
2 *State for a violation of any civil or criminal law*
3 *of the State.*

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9 *cert, theatrical performance, sporting event, show, or*
10 *similarly scheduled activity, taking place in a venue*
11 *with a seating or attendance capacity exceeding 200*
12 *persons that—*

13 (A) *is open to the general public; and*

14 (B) *is promoted, advertised, or marketed in*
15 *interstate commerce or for which event tickets*
16 *are generally sold or distributed in interstate*
17 *commerce.*

18 (3) *EVENT TICKET.*—*The term “event ticket”*
19 *means any physical, electronic, or other form of a cer-*
20 *tificate, document, voucher, token, or other evidence*
21 *indicating that the bearer, possessor, or person enti-*
22 *tled to possession through purchase or otherwise has—*

23 (A) *a right, privilege, or license to enter an*
24 *event venue or occupy a particular seat or area*

1 *in an event venue with respect to one or more*
2 *events; or*

3 *(B) an entitlement to purchase such a right,*
4 *privilege, or license with respect to one or more*
5 *future events.*

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7 *means any person who makes event tickets available,*
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13 *or a league whose teams are participating in an*
14 *event;*

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16 *similar participant in an event; and*

17 *(E) an agent for any such person.*

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A BILL

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