

Natural Resources. As you are aware, the bill also was referred to the Committee on Energy and Commerce. I wanted to notify you that the Committee on Energy and Commerce will forgo action on S. 1579 so that it may proceed expeditiously to the House floor for consideration.

This is done with the understanding that the Committee on Energy and Commerce's jurisdictional interests over this and similar legislation are in no way diminished or altered.

I would appreciate your response confirming this understanding with respect to S. 1579 and ask that a copy of our exchange of letters on this matter be included in the Congressional Record during consideration of the bill on the House floor.

Sincerely,

FRED UPTON,  
Chairman.

Mrs. RADEWAGEN. Mr. Speaker, I urge adoption of S. 1579, and I reserve the balance of my time.

Mr. SABLAN. Mr. Speaker, I yield myself such time as I may consume.

Like many other communities around the country, tribes and tribal organizations are looking for ways to attract the business of overseas tourists; and there is a significant opportunity for tribes and Native people to share and reinforce their cultures, generate income, create jobs, and improve their quality of life through increased tourism.

According to the Department of Commerce, as my colleague alluded to earlier, tourism was almost a quarter-of-a-trillion-dollar industry in 2014, with almost 34 million overseas travelers visiting the United States. And overseas travelers to the United States who visit national parks or tribal lands tend to stay longer in the United States, visit more destinations within the country, and are more likely to be repeat visitors.

However, there are currently no tourism initiatives at the Federal level that include tribes and tribal organizations. The NATIVE Act would remedy that situation by encouraging Federal programs that support tourism and tourism infrastructure to engage with our Native American communities. This will increase tribal opportunity to showcase the rich and diverse history of the indigenous peoples of the United States.

I commend Senator SCHATZ of Hawaii for this legislation. I ask my colleagues to support S. 1579.

Having no further speakers, I yield back the balance of my time.

Mrs. RADEWAGEN. Mr. Speaker, I yield back the balance of my time.

Mr. FARR. Mr. Speaker, I am pleased to support S. 1579, the Native American Tourism and Improving Visitor Experience (NATIVE) Act. This bill will advance Indian Country tourism by requiring federal agencies with recreational travel and tourism functions to include Indian tribes and tribal organizations in updated management plans and develop Native American tourism.

Anecdotally, we know the foreign tourists have a keen interest in our Indian history and culture. This bill will enable the collection of vital travel and tourism data and analysis and,

importantly, increase integration of federal assets to Indian Country so they can advance their economic development goals and tribal sovereignty.

Indian Country is a mosaic with vibrant cultures and a rich assortment of languages and traditions. By promoting this vast array of authentic Native tourism assets, the United States can increase its ability to compete for international visitors seeking a uniquely American experience while ensuring that diverse Native communities contribute to, and benefit from, the economic benefits that travel affords.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from American Samoa (Mrs. RADEWAGEN) that the House suspend the rules and pass the bill, S. 1579.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### BETTER ON-LINE TICKET SALES ACT OF 2016

Mr. BURGESS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5104) 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, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5104

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

##### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Better On-line Ticket Sales Act of 2016" or the "BOTS Act".*

##### SEC. 2. UNFAIR AND DECEPTIVE ACTS AND PRACTICES RELATING TO USE OF TICKET ACCESS CIRCUMVENTION SOFTWARE.

(a) *SALE OF SOFTWARE.*—It shall be unlawful for any person to sell or offer to sell, in commerce, any computer software, or part thereof, that—

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

(2) *has only limited commercially significant purpose or use other than to circumvent a technological measure that limits purchases made via a computerized event ticketing system;* or

(3) *is marketed by that person for use in circumventing a technological measure that limits purchases made via a computerized event ticketing system.*

(b) *USE OF SOFTWARE.*—It shall be unlawful for any person to use any computer software, or part thereof, described in subsection (a) of this section, to purchase an event ticket via a computerized event ticketing system in violation of the system operator's posted limits on the sequence or number of transactions, frequency of transactions, or quantity of tickets purchased by a single user of the system, or on the geographic location of any transactions.

(c) *RESALE OF TICKETS.*—It shall be unlawful for any person to engage in the practice of reselling in commerce, event tickets acquired in violation of subsection (b) of this section if the person either—

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

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

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

(1) *the term "computerized event ticketing system" means a system of selling event tickets, in commerce, via an online interactive computer system that effectively limits the sequence or number of ticket purchase transactions, frequency of ticket purchase transactions, quantity of tickets purchased, or geographic location of any ticket purchase transactions;*

(2) *the term "event ticket" means a ticket entitling one or more individuals to attend, in person, one or more events to occur on specific dates, times, and geographic locations; and*

(3) *to "circumvent a technological measure" means to avoid, bypass, remove, deactivate, or impair a technological measure, without the authority of the computerized event ticketing system operator.*

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

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

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

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

(g) *ENFORCEMENT BY STATES.*—

(1) *AUTHORIZATION.*—Subject to paragraph (2), in any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by a violation of subsection (a), (b), or (c), the attorney general of the State may, as parens patriae, bring a civil action on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate relief.

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

(A) *NOTICE TO FTC.*—

(i) *IN GENERAL.*—Except as provided in clause (iii), the attorney general of a State shall notify the Federal Trade Commission in writing that the attorney general intends to bring a civil action under paragraph (1) before initiating the civil action against a person for a violation of subsection (a), (b), or (c).

(ii) *CONTENTS.*—The notification required by clause (i) with respect to a civil action shall include a copy of the complaint to be filed to initiate the civil action.

(iii) *EXCEPTION.*—If it is not feasible for the attorney general of a State to provide the notification required by clause (i) before initiating a civil action under paragraph (1), the attorney general shall notify the Commission immediately upon instituting the civil action.

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

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

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

(3) *PENDING ACTION BY THE FEDERAL TRADE COMMISSION.*—If the Federal Trade Commission institutes a civil action or an administrative action with respect to a violation of subsection (a), (b), or (c), the attorney general of a State may

not, during the pendency of such action, bring a civil action under paragraph (1) against any defendant named in the complaint of the Commission for the violation with respect to which the Commission instituted such action.

The SPEAKER pro tempore (Mr. KELLY of Mississippi). Pursuant to the rule, the gentleman from Texas (Mr. BURGESS) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. BURGESS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and insert extraneous materials into the RECORD on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURGESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of several bipartisan bills that have resulted from the focus on the industries creating the jobs of tomorrow within the Subcommittee on Commerce, Manufacturing, and Trade.

In particular, we examined the Federal Trade Commission's oversight of and impact on innovation. We considered several bills to streamline the Federal Trade Commission's authority in emerging areas. These bills build on the Federal Trade Commission's work in overseeing the most cutting edge industries as well as threats to consumer protection presented, in part, by technological advances.

Mr. Speaker, the Federal Trade Commission has a good model for policing unfair and deceptive practices in economic sectors driven by emerging technology. We highlighted this in our Disrupters Series of hearings, focusing on new and game-changing technologies. The Federal Trade Commission operates under a flexible framework, and this session we sought to make improvements.

Before I get into the bills we consider today, I want to highlight H.R. 5510, the Federal Trade Commission Process and Transparency Reform Act, which would strengthen the Federal Trade Commission's model by ensuring it has the right tools, the right restraints, and, of course, transparency.

This legislation is the sum of several measures from a number of members of the subcommittee who each contributed some targeted reforms to ensure that the Federal Trade Commission continues to strike the right balance between mitigating consumer harm and fostering innovative products and services.

The Federal Trade Commission was last reauthorized in 1996, and the last time substantial changes were made to its broad authorities was 1994. A lot has changed in the tech-driven sectors under the Federal Trade Commission's purview since then, and H.R. 5510 would

make small reforms to ensure that Federal law keeps up with the rest of the world.

Two of the four bills from my subcommittee we will consider today clarify the Federal Trade Commission's ability to stop certain practices that have taken advantage of consumers over the Internet.

One of our bills, the BOTS Act, H.R. 5104, is a targeted measure to ensure that consumers have fair access to tickets at reasonable prices. The Internet has created great opportunities for fans to engage with their favorite teams, their favorite performers, and their favorite artists; but ticket bots have detracted from these relationships and, in fact, thwarted the efforts to obtain event tickets at their intended prices. The BOTS Act is necessary to ensure that consumers reap the full benefits of having online access to event tickets. I thank Congresswoman BLACKBURN for her leadership in authoring this bill and pushing it forward through our subcommittee.

Another bill, H.R. 5111, would ensure that online consumer reviews are no longer subject to gag orders. Some bad actors have penalized consumers for giving their products or services a bad review. This is holding back progress and accountability; and our legislation, the Consumer Review Fairness Act, would help put a stop to it. Congressman LANCE is the author of this legislation, and I thank him for his work in making certain that this becomes law.

We also have before us H. Res. 847, a measure that recognizes the potential of the Internet of things. A national strategy is needed for the Internet of things. In order to reap the potentially enormous benefits of connected devices, we must ensure that the bureaucracy stays out of the way of innovation, stays out of the way of progress in the marketplace, but that the government is also using the technology to reduce costs to taxpayers.

Similarly, we are putting forward a resolution authored by Mr. KINZINGER of Illinois and Mr. CÁRDENAS, H. Res. 835. This measure recognizes the growing importance of advanced financial technology, what they call fintech. Fintech has driven forward the development of blockchain technologies, which are poised to revolutionize several economic sectors.

Blockchain technology may help solve problems related to transaction costs and is especially well suited to address security concerns in cyberspace.

□ 1700

In addition to the four bills from subcommittee, we will also be considering three bills from other subcommittees within Energy and Commerce. The Amateur Radio Parity Act would require the Federal Communications Commission to adopt rules that allow amateur radio operators to use their equipment in deed-restricted communities. The Advanced Nuclear Tech-

nology Development Act would provide certainty for scientists and industry that advance nuclear technologies that can be reviewed, licensed, and commercially deployed, helping the United States remain the world leader in nuclear technology development. Finally, the Sports Medicine Licensure Clarity Act would ensure doctors traveling with athletic teams across State borders are properly covered by malpractice insurance.

Again, I want to thank all Members of the subcommittee and the full committee who sponsored these measures and the stakeholders who helped us perfect them.

Mr. Speaker, I reserve the balance of my time.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today because this is a bipartisan day where we have a number of pieces of legislation we agreed to. I will talk about each of them, but I do want to say that I am a bit disappointed that my chairman decided to focus on a partisan bill on which there is a good deal of disagreement, H.R. 5510, the FTC Process and Transparency Reform Act. The bill, in the view of the Democrats, would undermine consumer protections at the FTC and it would make it harder for the FTC to take action in the case of noneconomic harm, like privacy violations, such as a 2012 cyber peeping case that we have been talking about. So I am hoping that we can, from now on, focus on bills that we, fortunately, do agree on and move them forward.

I am talking now about H.R. 5104, the Better On-line Ticket Sales Act, the BOTS Act, sponsored by MARSHA BLACKBURN. I thank Representative BLACKBURN for authoring the legislation and Representative TONKO for co-sponsoring that legislation.

The legislation addresses a real problem in the ticket marketplace. Anyone who has tried to buy tickets, let's say, to Adele, Beyonce, or Hamilton knows how difficult it can be to buy online. The Chicago production of Hamilton, I'm sorry to say, sold out almost immediately when tickets were put on sale this summer, and that is not just because everybody was ahead of me online.

Ticket buyers are competing not only against other fans, but in many cases, they are up against sophisticated bots that buy up tickets to resell on the secondary market at a jacked-up price. The BOTS Act empowers the Federal Trade Commission to go after these bots, and I support that.

However, there is more we could do to help consumers in the ticket marketplace. Not only are tickets scooped up by bots, but a significant share of seats is held back for the artist, fan clubs, promotions, and other special groups. There is little transparency about what is actually being put up for general sale.

When you buy a ticket online, the first price you see is often not the price you end up paying. Service and convenience charges can surprise consumers, adding several dollars to the end price.

In subcommittee and full committee, we considered a Democratic amendment based on Congressman PASCRELL's BOSS Act to create more transparency on the price and availability of tickets. This would improve the overall environment for ticket buyers. The committee also considered, but did not adopt, an amendment to have the Government Accountability Office study the ticket market.

The ticket market has changed a lot in recent years, and more tickets are being sold in secondary markets online. Ticket sellers are experimenting with nontransferable tickets.

We need to better understand this market if we are going to adequately protect consumers. The BOTS Act will do some good to prevent tickets from being scooped up right away for resale.

I see this legislation as a first step, and I hope my colleagues across the aisle would agree. It is not the only improvement that we need to make to help ticket buyers.

I reserve the balance of my time, Mr. Speaker.

Mr. BURGESS. Mr. Speaker, I yield 5 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN), the author of this legislation.

Mrs. BLACKBURN. Mr. Speaker, I do rise today to support the Better Online Ticket Sales Act, H.R. 5104, or as you have heard it called today, the BOTS Act. It is bipartisan legislation. Mr. TONKO of New York has done a tremendous job working on this with me. Together, we have worked with the Senators to make certain that we have legislation that can be signed into law that will address a problem that so many of our constituents face. Now, we know it is not going to be something that does everything everyone would want, but we do know this is the first step in working with the FTC making certain that we address these bots.

The problem is this: we have some individuals or groups that deploy hacking software—it is called bots. Short for robots, of course—that launch thousands of simultaneous requests for tickets on a ticket site.

Now, I am certain many of us have tried to buy a ticket as soon as they go on sale, just as Ms. SCHAKOWSKY was talking about the performance of Hamilton. We see this a lot with concerts that are coming into Nashville. You go on. You log on. You want to buy that ticket for that sporting event or for that concert, and the bots overwhelm the site and cherry-pick the very best tickets. Then what do you find? You don't have the ability to purchase a ticket.

This has become so frustrating to consumers because they do plan to go on and they do plan to buy that ticket. The site just slows to a crawl, and then when they get through, the tickets are sold out.

This is something that has been very frustrating not only to consumers, but to artists, to entertainers, to fans of live entertainment, and to sports teams.

The artists and the teams often price tickets well below the highest possible price they might be able to get from the fans for any particular event. They do this as a way to invest in that long-term relationship with their fans.

The BOTS Act would make it an unfair and deceptive practice under the FTC Act to use a bot to violate both the terms and conditions of the ticketing site. Also, it creates a mechanism where the State Attorneys General can bring a cause of action against the botsters.

The BOTS Act will stop people from gaming the ticketing system, and it will increase access to events for fans of live entertainment.

Ms. SCHAKOWSKY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. TONKO).

Mr. TONKO. Mr. Speaker, I rise in strong support of H.R. 5104, the Better Online Ticket Sales Act, on which I joined in introducing with my colleague and friend from Tennessee, Mrs. BLACKBURN.

This bill would target the unfair practice of using software bots by scalpers to automate the process of purchasing event tickets from online vendor platforms.

As we saw at our legislative hearing on the matter in the Energy and Commerce Committee, the current lack of any Federal statute to deter the practice of using bots has turned the ticket industry in the United States into a rigged system.

For instance on December 8, 2014, a single broker used a bot to purchase over 1,000 tickets for a U2 concert at Madison Square Garden within the first minute of sale. By the end of that day, the same broker and one other had amassed more than 15,000 tickets to U2 shows across North America.

According to an exhaustive investigation by New York State Attorney General Eric Schneiderman, tickets purchased in this manner are then resold on secondary markets at an average of 49 percent above face value, though there are plenty of examples where the markup was more than 1,000 percent.

The people in the capital region of New York and across the rest of our great country worked far too hard to save money enough to see a performance or a game. They should not be shut out from buying tickets online at a reasonable price because a computer program beats them to the punch.

By following the example set by States like New York where unlawful ticket brokers have had to pay stiff penalties for their given actions, we can start to reel in these unfair practices and make sure that Americans have the access to events that they truly deserve.

The BOTS Act expands upon the work of these States by prohibiting the intentional use or the sale of bots software and by barring any tickets acquired in this manner from entry into an event.

This legislation would also establish civil penalties for this behavior on a national level, instructing the FTC or the Attorney General of a State to bring civil action against any persons found in violation.

There is clearly a great deal more that can be done to protect consumers and bring more transparency to the ticket market, but I do believe the BOTS Act represents an excellent step in the right direction for bringing accountability and trust to this industry.

I thank my colleague, Mrs. BLACKBURN, for her hard work on this measure. We have enjoyed working together to come together with this bill, and look forward to continued progress.

I encourage my colleagues to support the measure.

Mr. BURGESS. Mr. Speaker, I reserve the balance of my time.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself such time as I may consume.

Well, as I said earlier, the BOTS Act is a positive step to improve the ticket market. Today we will advance this bill on a bipartisan basis, which is always good; but I certainly do hope we can work together on further changes to increase transparency and fairness for ticket buyers.

I yield back the balance of my time.

Mr. BURGESS. Mr. Speaker, I yield myself the balance of my time.

I urge our colleagues to support this important legislation. I thank the gentlewoman from Tennessee for bringing it forward. I thank the members of the subcommittee for helping us get it to the floor, and I urge adoption of the bill.

I yield back the balance of my time.

Mr. CARTER of Georgia. Mr. Speaker, I rise today in support of H.R. 5104, the Better Online Ticket Sales Act, and to discuss what it means for consumers.

Congresswoman BLACKBURN introduced this legislation to combat an issue that many of us are probably very familiar with if you attend entertainment events. Too often, consumers are left in the dust as outside groups take advantage of the system and buy up tickets in large blocks. This results in fans not having access to those events or having to pay more to purchase tickets from a third party vendor. This harms the industry and fans looking to enjoy it on their free time.

Under this bill, software that enables this circumvention of those checks would be prohibited from being sold and tickets purchased in this manner would also be prohibited from being sold. The FTC would enforce these new requirements and people who were affected by these profiteering ventures would be able to bring a civil suit. For too long, these organization and individuals have sidestepped the system with the fan being the one that is most impacted.

Congresswoman BLACKBURN's legislation would overhaul this broken system and punish those who are unwilling to play by the rules. I applaud her work on this issue and the work of the Energy and Commerce Committee to rein in these actions and urge passage of this important legislation.

Mr. UPTON. Mr. Speaker, today I rise in support of seven bipartisan bills originating out

of four of our subcommittees that are direct evidence of a very busy and productive session in the Energy and Commerce Committee.

This package includes several measures that protect consumers and set Congress' sights forward to fostering next-generation technological development.

We will consider a measure introduced by Full Committee Vice Chairman BLACKBURN, to enhance penalties for the use of automated ticket scalping software. For too long, consumers have been gouged, as scalpers have used software to buy large numbers of event tickets—oftentimes preventing consumers from purchasing them at face value and then charging a 1,000 percent markup to resell those same tickets. This thoughtful legislation, the BOTS Act, is a targeted measure to prevent this practice and to ensure that consumers have fair access to tickets at reasonable prices.

We will also consider a measure authored by Mr. LANCE, along with Mr. KENNEDY, to ensure that online consumer reviews are no longer subject to gag orders—a practice ultimately affecting consumers as it hinders transparency and accountability in product reviews. Our legislation, the Consumer Review Fairness Act, does what it says and will help put a stop to this bad practice.

We will also consider a resolution that makes some important findings with respect to the Internet of Things. Back home in Michigan, folks are turning to smart devices to improve their access to health care, education, transportation, and other services that simplify their lives. This resolution sets forth Congress' unified belief that innovation in this space must be allowed to flourish and that the government must also take advantage of technology.

Similarly, we are putting forward a resolution authored by committee members Mr. KINZINGER and Mr. CÁRDENAS that encourages a unified strategy around advanced financial technologies. The FinTech industry has changed how consumers engage in commerce and control their financial information as it lowers cost and increases financial access worldwide. This chamber's support for consumer empowerment through innovation is solidified with this resolution.

On the Health front, today we are also considering Mr. GUTHRIE's Sports Medicine Licensure Clarity Act. H.R. 921 would ensure that team doctors, trainers, and other licensed health care professionals are covered by their malpractice insurance when providing care to their athletes outside of their primary state.

We will also vote on Mr. KINZINGER's H.R. 1301, which originated out of the Communications and Technology subcommittee, and will ensure amateur radio operators are not prohibited from pursuing their passion simply because they live in a deed-restricted community. Amateur radio plays an important role in emergency response, often able to establish communication in disaster areas when traditional communications networks fail. I urge my colleagues to support this common-sense bill.

Last, but certainly not least, we will consider a measure from Rep. BOB Latta to help provide certainty for innovators and entrepreneurs who are seeking to develop and license the next generation of nuclear technologies. These technologies may provide breakthroughs in safety and efficiency over the technology in use today. We should ensure that the Nuclear Regulatory Commission has

the expertise and resources to review and license the latest in advanced reactor technologies and this bill would do just that.

Individually, each of these bills are important but taken together they are evidence of the fine, bipartisan lawmaking that has come to define this committee, and further evidence of our ongoing bipartisan record of success.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and pass the bill, H.R. 5104, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### CONSUMER REVIEW FAIRNESS ACT OF 2016

Mr. BURGESS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5111) to prohibit the use of certain clauses in form contracts that restrict the ability of a consumer to communicate regarding the goods or services offered in interstate commerce that were the subject of the contract, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5111

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Consumer Review Fairness Act of 2016".*

#### SEC. 2. CONSUMER REVIEW PROTECTION.

(a) **DEFINITIONS.**—*In this section:*

(1) **COMMISSION.**—*The term "Commission" means the Federal Trade Commission.*

(2) **COVERED COMMUNICATION.**—*The term "covered communication" means a written, oral, or pictorial review, performance assessment of, or other similar analysis of, including by electronic means, the goods, services, or conduct of a person by an individual who is party to a form contract with respect to which such person is also a party.*

(3) **FORM CONTRACT.**—

(A) **IN GENERAL.**—*Except as provided in subparagraph (B), the term "form contract" means a contract with standardized terms—*

(i) *used by a person in the course of selling or leasing the person's goods or services; and*

(ii) *imposed on an individual without a meaningful opportunity for such individual to negotiate the standardized terms.*

(B) **EXCEPTION.**—*The term "form contract" does not include an employer-employee or independent contractor contract.*

(4) **PICTORIAL.**—*The term "pictorial" includes pictures, photographs, video, illustrations, and symbols.*

(b) **INVALIDITY OF CONTRACTS THAT IMPEDE CONSUMER REVIEWS.**—

(1) **IN GENERAL.**—*Except as provided in paragraphs (2) and (3), a provision of a form contract is void from the inception of such contract if such provision—*

(A) *prohibits or restricts the ability of an individual who is a party to the form contract to engage in a covered communication;*

(B) *imposes a penalty or fee against an individual who is a party to the form contract for engaging in a covered communication; or*

(C) *transfers or requires an individual who is a party to the form contract to transfer to any*

*person any intellectual property rights in review or feedback content, with the exception of a non-exclusive license to use the content, that the individual may have in any otherwise lawfully covered communication about such person or the goods or services provided by such person.*

(2) **RULE OF CONSTRUCTION.**—*Nothing in paragraph (1) shall be construed to affect—*

(A) *any duty of confidentiality imposed by law (including agency guidance);*

(B) *any civil cause of action for defamation, libel, or slander, or any similar cause of action;*

(C) *any party's right to remove or refuse to display publicly on an Internet website or webpage owned, operated, or otherwise controlled by such party any content of a covered communication that—*

(i) *contains the personal information or likeness of another person, or is libelous, harassing, abusive, obscene, vulgar, sexually explicit, or is inappropriate with respect to race, gender, sexuality, ethnicity, or other intrinsic characteristic;*

(ii) *is unrelated to the goods or services offered by or available at such party's Internet website or webpage; or*

(iii) *is clearly false or misleading; or*

(D) *a party's right to establish terms and conditions with respect to the creation of photographs or video of such party's property when those photographs or video are created by an employee or independent contractor of a commercial entity and solely intended for commercial purposes by that entity.*

(3) **EXCEPTIONS.**—*Paragraph (1) shall not apply to the extent that a provision of a form contract prohibits disclosure or submission of, or reserves the right of a person or business that hosts online consumer reviews or comments to remove—*

(A) *trade secrets or commercial or financial information obtained from a person and considered privileged or confidential;*

(B) *personnel and medical files and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;*

(C) *records or information compiled for law enforcement purposes, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;*

(D) *content that is unlawful or otherwise meets the requirements of paragraph (2)(C); or*

(E) *content that contains any computer viruses, worms, or other potentially damaging computer code, processes, programs, applications, or files.*

(c) **PROHIBITION.**—*It shall be unlawful for a person to offer a form contract containing a provision described as void in subsection (b).*

(d) **ENFORCEMENT BY COMMISSION.**—

(1) **UNFAIR OR DECEPTIVE ACTS OR PRACTICES.**—*A violation of subsection (c) by a person with respect to which the Commission is empowered under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).*

(2) **POWERS OF COMMISSION.**—

(A) **IN GENERAL.**—*The Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.*

(B) **PRIVILEGES AND IMMUNITIES.**—*Any person who violates this section shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).*

(e) **ENFORCEMENT BY STATES.**—

(1) **AUTHORIZATION.**—*Subject to paragraph (2), in any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of*