

118TH CONGRESS  
1ST SESSION

# S. 916

To limit and eliminate excessive, hidden, and unnecessary fees imposed on consumers, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 22, 2023

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

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## A BILL

To limit and eliminate excessive, hidden, and unnecessary fees imposed on consumers, 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 “Junk Fee Prevention  
5 Act”.

6 **SEC. 2. PROTECTING CONSUMERS FROM EXCESSIVE AND**  
7 **HIDDEN FEES.**

8 (a) PROTECTING CONSUMERS FROM HIDDEN  
9 FEES.—A covered entity shall clearly and conspicuously  
10 display, in each advertisement and when a price is first

1 shown to a consumer, the total price of the good or service  
2 provided by the covered entity, including any mandatory  
3 fees a consumer would incur during the transaction, which  
4 shall not change during the purchase process.

5 (b) EXCESSIVE FEES.—A covered entity shall not im-  
6 pose on a consumer or advertise any mandatory fees that  
7 are excessive or deceptive for any good or service offered  
8 by the covered entity.

9 (c) TICKET HOLDBACKS.—If a good or service pro-  
10 vided by a covered entity is a ticket to a sporting event,  
11 theater, musical performance, or an event at a place of  
12 public amusement of any kind, the covered entity shall,  
13 not less than 72 hours prior to the first public sale or  
14 presale of such ticket, clearly and conspicuously disclose  
15 to the public, including at the point of sale, the total num-  
16 ber of tickets offered for sale by the covered entity or  
17 available for the given event.

18 (d) PROTECTING REFUNDS.—A covered entity shall  
19 clearly and conspicuously disclose any guarantee or refund  
20 policy prior to the completion of a transaction by the con-  
21 sumer and, in the event of a refund, provide a refund in  
22 the amount of the total cost of the ticket including any  
23 mandatory fees.

1 (e) SPECULATIVE TICKETING.—If a covered entity  
2 does not possess a ticket at the time of the sale, it shall  
3 provide to the consumer—

4 (1) a clear and conspicuous notice that the cov-  
5 ered entity does not possess the ticket; and

6 (2) a full refund if the covered entity cannot  
7 provide the ticket advertised to the consumer in a  
8 timely manner prior to the event.

9 (f) RULEMAKING ON EXCESSIVE AND HIDDEN  
10 FEES.—The Federal Trade Commission may promulgate  
11 rules in accordance with section 553 of title 5, United  
12 States Code, regarding the disclosure and imposition of  
13 mandatory or deceptive fees, including any such fee not  
14 described in subsections (a) through (e).

15 (g) EXCESSIVE FEES.—In considering whether a  
16 mandatory fee is excessive, the Federal Trade Commission  
17 or court shall take into consideration—

18 (1) whether the fee is reasonable and propor-  
19 tional to the cost of the good or service provided by  
20 the covered entity;

21 (2) the reason for which the covered entity  
22 charges such fee; and

23 (3) any other factors determined appropriate by  
24 the Federal Trade Commission or the court.

25 (h) ENFORCEMENT.—

1 (1) ENFORCEMENT BY THE COMMISSION.—

2 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
3 TICES.—A violation this section or a regulation  
4 promulgated thereunder shall be treated as a  
5 violation of a rule defining an unfair or decep-  
6 tive act or practice under section 18(a)(1)(B) of  
7 the Federal Trade Commission Act (15 U.S.C.  
8 57a(a)(1)(B)).

9 (B) POWERS OF THE COMMISSION.—

10 (i) IN GENERAL.—The Federal Trade  
11 Commission shall enforce this section in  
12 the same manner, by the same means, and  
13 with the same jurisdiction, powers, and du-  
14 ties as though all applicable terms and pro-  
15 visions of the Federal Trade Commission  
16 Act (15 U.S.C. 41 et seq.) were incor-  
17 porated into and made a part of this sec-  
18 tion.

19 (ii) PRIVILEGES AND IMMUNITIES.—  
20 Any person who violates this section or a  
21 regulation promulgated thereunder shall be  
22 subject to the penalties and entitled to the  
23 privileges and immunities provided in the  
24 Federal Trade Commission Act (15 U.S.C.  
25 41 et seq.).

1 (iii) AUTHORITY PRESERVED.—Noth-  
2 ing in this section shall be construed to  
3 limit the authority of the Federal Trade  
4 Commission under any other provision of  
5 law.

6 (2) ENFORCEMENT BY STATES.—

7 (A) IN GENERAL.—If the attorney general  
8 of a State has reason to believe that a covered  
9 entity has violated or is violating this section or  
10 a regulation promulgated thereunder that af-  
11 fects the residents of that State, the State, as  
12 *parens patriae*, may bring a civil action in any  
13 appropriate district court of the United States,  
14 to—

15 (i) enjoin any further violation by the  
16 covered entity;

17 (ii) enforce compliance with this sec-  
18 tion or such regulation;

19 (iii) obtain other remedies permitted  
20 under State law; and

21 (iv) obtain damages, restitution, or  
22 other compensation on behalf of residents  
23 of the State.

24 (B) NOTICE.—The attorney general of a  
25 State shall provide prior written notice of any

1           action under subparagraph (A) to the Commis-  
2           sion and provide the Commission with a copy of  
3           the complaint in the action, except in any case  
4           in which such prior notice is not feasible, in  
5           which case the attorney general shall serve such  
6           notice immediately upon instituting such action.

7           (C) INTERVENTION BY THE COMMIS-  
8           SION.—Upon receiving notice under subpara-  
9           graph (B), the Commission shall have the  
10          right—

11                   (i) to intervene in the action;

12                   (ii) upon so intervening, to be heard  
13                   on all matters arising therein; and

14                   (iii) to file petitions for appeal.

15          (D) LIMITATION ON STATE ACTION WHILE  
16          FEDERAL ACTION IS PENDING.—If the Commis-  
17          sion has instituted a civil action for violation of  
18          this section or a regulation promulgated there-  
19          under, no State attorney general, or official or  
20          agency of a State, may bring a separate action  
21          under subparagraph (A) during the pendency of  
22          that action against any defendant named in the  
23          complaint of the Commission for any violation  
24          of this section or a regulation promulgated  
25          thereunder that is alleged in the complaint. A

1 State attorney general, or official or agency of  
 2 a State, may join a civil action for a violation  
 3 of this section or a regulation promulgated  
 4 thereunder filed by the Commission.

5 (E) RULE OF CONSTRUCTION.—For pur-  
 6 poses of bringing a civil action under subpara-  
 7 graph (A), nothing in this section shall be con-  
 8 strued to prevent the chief law enforcement of-  
 9 ficer or official or agency of a State, from exer-  
 10 cising the powers conferred on such chief law  
 11 enforcement officer or official or agency of a  
 12 State, by the laws of the State to conduct inves-  
 13 tigation, administer oaths or affirmations, or  
 14 compel the attendance of witnesses or the pro-  
 15 duction of documentary and other evidence.

16 (i) DEFINITIONS.—In this section:

17 (1) COVERED ENTITY.—

18 (A) IN GENERAL.—The term “covered en-  
 19 tity” means—

20 (i) a provider of short-term lodging or  
 21 an entity that advertises rates or the pur-  
 22 chase of short-term lodging;

23 (ii) a provider of a ticketing service  
 24 that sells tickets for an event or retains the  
 25 authority to otherwise distribute tickets for

1 such event, whether as a primary seller of  
2 tickets or in the secondary marketplace for  
3 ticket sales; or

4 (iii) any other entity determined ap-  
5 propriate by the Commission through a  
6 rulemaking in accordance with section 553  
7 of title 5, United States Code.

8 (B) SHORT-TERM LODGING.—For purposes  
9 of subparagraph (A), the term “short-term  
10 lodging” means any lodging that is offered for  
11 an occupancy of less than 6 months.

12 (2) MANDATORY FEE.—The term “mandatory  
13 fee” includes—

14 (A) any fee or surcharge that a consumer  
15 is required to pay to purchase a good or service  
16 being advertised;

17 (B) a fee or surcharge that is not reason-  
18 ably avoidable;

19 (C) a fee or surcharge for a good or service  
20 that a reasonable consumer would not expect to  
21 be included with the purchase of the good or  
22 service being advertised; or

23 (D) any other fee or surcharge determined  
24 appropriate by the Commission.

1 **SEC. 3. COMMUNICATIONS SERVICE FEES.**

2 (a) **ENDING EARLY TERMINATION FEES.**—

3 (1) **IN GENERAL.**—A provider of a covered serv-  
4 ice may not charge a fee to, or impose a requirement  
5 that is excessive or unreasonable on, a consumer for  
6 the early termination of a covered service.

7 (2) **DEVICE PURCHASE AND RETURN.**—Sub-  
8 section (a) shall not prevent a provider of a covered  
9 service from charging a consumer for—

10 (A) the cost of rental or loan equipment  
11 that is not returned to the provider within a  
12 reasonable period of time; or

13 (B) the outstanding cost of a purchased  
14 device.

15 (3) **REGULATIONS.**—The Federal Communica-  
16 tions Commission may promulgate regulations to  
17 carry out this subsection.

18 (b) **RULEMAKING ON MANDATORY FEES.**—Not later  
19 than 180 days after the date of enactment of this Act,  
20 the Federal Communications Commission shall commence  
21 a rulemaking proceeding—

22 (1) to consider whether and how the Federal  
23 Communications Commission should—

24 (A) require the disclosure of mandatory  
25 fees with respect to a covered service; or

1 (B) prohibit the imposition of mandatory  
2 fees with respect to a covered service, in par-  
3 ticular any such fee that a consumer would rea-  
4 sonably assume to be included in the advertised  
5 price of such service; and

6 (2) in which the Federal Communications Com-  
7 mission may promulgate regulations to implement  
8 the requirements or prohibitions described in para-  
9 graph (1).

10 (c) ENFORCEMENT.—

11 (1) IN GENERAL.—A violation of this section or  
12 a regulation promulgated under this section shall be  
13 treated as a violation of the Communications Act of  
14 1934 (47 U.S.C. 151 et seq.) or a regulation pro-  
15 mulgated under that Act.

16 (2) MANNER OF ENFORCEMENT.—The Federal  
17 Communications Commission shall enforce this sec-  
18 tion and the regulations promulgated under this sec-  
19 tion in the same manner, by the same means, and  
20 with the same jurisdiction, powers, and duties as  
21 though all applicable terms and provisions of the  
22 Communications Act of 1934 (47 U.S.C. 151 et  
23 seq.) were incorporated into and made a part of this  
24 section.

25 (d) DEFINITIONS.—In this section:

1           (1) COVERED SERVICE.—The term “covered  
2 service”—

3           (A) means—

4               (i) internet service;

5               (ii) voice service (as defined in section  
6 227(e)(8) of the Communications Act of  
7 1934 (47 U.S.C. 227(e)(8));

8               (iii) commercial mobile service (as de-  
9 fined in section 332(d) of the Communica-  
10 tions Act of 1934 (47 U.S.C. 332(d));

11              (iv) commercial mobile data service  
12 (as defined in section 6001 of the Middle  
13 Class Tax Relief and Job Creation Act of  
14 2012 (47 U.S.C. 1401)); or

15              (v) a service provided by a multi-  
16 channel video programming distributor (as  
17 defined in section 602 of the Communica-  
18 tions Act of 1934 (47 U.S.C. 522)), to the  
19 extent that such distributor is acting as a  
20 multichannel video programming dis-  
21 tributor; and

22           (B) includes any other service offered or  
23 provided as part of a bundle or package with  
24 any service described in clauses (i) through (v)  
25 of subparagraph (A).

1 (2) MANDATORY FEE.—The term “mandatory  
2 fee” includes—

3 (A) any fee or surcharge that a consumer  
4 is required to pay to purchase a good or service  
5 being advertised;

6 (B) a fee or surcharge that is not reason-  
7 ably avoidable;

8 (C) a fee or surcharge for a good or service  
9 that a reasonable consumer would not expect to  
10 be included with the purchase of the good or  
11 service being advertised; or

12 (D) any other fee or surcharge determined  
13 appropriate by the Federal Communications  
14 Commission.

15 **SEC. 4. SEATING YOUNG CHILDREN ADJACENT TO AN AC-**  
16 **COMPANYING ADULT PASSENGER.**

17 (a) IN GENERAL.—Subchapter I of chapter 417 of  
18 title 49, United States Code is amended by adding at the  
19 end the following:

20 **“§ 41727. Seating young children adjacent to an ac-**  
21 **companying adult on aircraft.**

22 “(a) APPLICABILITY.—The requirements of this sec-  
23 tion apply for the purposes of each scheduled flight seg-  
24 ment to or from any airport in the United States.

25 “(b) GENERAL REQUIREMENT.—

1           “(1) ASSIGNED SEATS.—Subject to subsection  
2           (f), an air carrier or foreign air carrier that assigns  
3           seats, or allows individuals to select seats, in ad-  
4           vance of the date of departure of a flight shall seat  
5           each young child adjacent to an accompanying adult,  
6           provided that adjacent seat assignments are avail-  
7           able at any time after the ticket is issued for the  
8           young child and before the first passenger boards  
9           the flight.

10           “(2) UNASSIGNED SEATS.—Subject to sub-  
11           section (f), an air carrier or foreign air carrier that  
12           does not assign seats or allow individuals to select  
13           seats in advance of the date of departure shall board  
14           customers in a manner that ensures each young  
15           child is seated adjacent to an accompanying adult.

16           “(3) PROHIBITION ON FEES.—

17           “(A) IN GENERAL.—An air carrier or for-  
18           eign air carrier may not charge a fee or impose  
19           an additional cost to seat a young child adja-  
20           cent to an accompanying adult within the same  
21           class of service.

22           “(B) CLASS OF SERVICE REQUIREMENT.—  
23           Every class of service an air carrier or foreign  
24           air carrier offers must allow for seating of a  
25           young child adjacent to an accompanying adult.

1           “(C) PROHIBITION ON AVAILABILITY LIM-  
2           ITS.—An air carrier or foreign air carrier may  
3           not limit the availability of adjacent seats in a  
4           manner that results in an undue burden on the  
5           ability of a young child to receive an advance  
6           seat assignment adjacent to an accompanying  
7           adult.

8           “(c) ADDITIONAL REQUIREMENTS FOR ADVANCE  
9           SEATING.—

10           “(1) IN GENERAL.—Subject to subsection (f),  
11           an air carrier or foreign air carrier that allows indi-  
12           viduals to select seats or that assigns seats at the  
13           time of booking a flight shall provide, not later than  
14           48 hours after the issuance of the ticket for each  
15           young child—

16           “(A) a seat assignment for the young child  
17           adjacent to the seat assignment of an accom-  
18           panying adult for each flight segment of the  
19           ticket at no additional cost, provided that adja-  
20           cent seat assignments are available; or

21           “(B) in the event that adjacent seat as-  
22           signments are not available as described in sub-  
23           paragraph (A), an accompanying adult the  
24           choice of—

1                   “(i) a full refund of the cost of the  
2 tickets for the young child and the accom-  
3 panying adult, as well as any other indi-  
4 vidual on the same reservation; or

5                   “(ii) waiting for adjacent seat assign-  
6 ments to be provided by the carrier.

7                   “(2) REQUIRED OPTION PERIOD.—The air car-  
8 rier or foreign air carrier shall provide the accom-  
9 panying adult a period of not less than 7 days from  
10 the date of notification of the choice described in  
11 paragraph (1)(B) to make a selection between the  
12 options described in clauses (i) and (ii) of such para-  
13 graph.

14                   “(3) NO AVAILABLE ADJACENT SEAT ASSIGN-  
15 MENT.—In the event that an accompanying adult  
16 chooses the option described in paragraph (1)(B)(ii)  
17 and adjacent seat assignments for the young child  
18 and the accompanying adult on a ticketed flight seg-  
19 ment do not become available before the first pas-  
20 senger boards the flight, the air carrier or foreign  
21 air carrier shall, at the choice of an accompanying  
22 adult—

23                   “(A) rebook the young child and the ac-  
24 companying adult, as well as any other indi-

1           vidual on the same reservation, on the next  
2           available flight at no additional cost; or

3           “(B) transport the young child and the ac-  
4           companying adult on their original ticketed  
5           flight segment in seats that are not adjacent,  
6           when seats on the aircraft are available.

7           “(d) ADDITIONAL REQUIREMENTS TO MITIGATE  
8           PASSENGER HARM IN EVENT OF VIOLATION.—An air car-  
9           rier or foreign air carrier that violates subsection (b) or  
10          (c) shall, at the choice of an accompanying adult—

11           “(1) rebook the young child and the accom-  
12          panying adult, as well as any other individual on the  
13          same reservation, on the next available flight at no  
14          additional cost;

15           “(2) provide—

16           “(A) a full refund of the cost of the tickets  
17          for the young child and the accompanying  
18          adult, as well as any other individual on the  
19          same reservation; and

20           “(B) if such individuals are at a con-  
21          necting airport, return air transportation for  
22          such individuals to their origination airport at  
23          no additional cost; or

24           “(3) transport the young child and the accom-  
25          panying adult on their original ticketed flight seg-

1 ment in seats that are not adjacent, when seats on  
2 the aircraft are available.

3 “(e) ENFORCEMENT.—

4 “(1) IN GENERAL.—An air carrier or foreign  
5 air carrier that violates a requirement of this section  
6 is subject to civil penalties as set forth in section  
7 46301 and other applicable remedies under this  
8 part.

9 “(2) INVESTIGATIONS OF COMPLAINTS.—

10 “(A) IN GENERAL.—The Secretary shall  
11 promptly investigate each complaint alleging a  
12 violation of this section that is received by the  
13 Department of Transportation.

14 “(B) PUBLICATION OF DATA.—The Sec-  
15 retary shall publish data on complaints alleging  
16 violations of this section in a manner com-  
17 parable to other consumer complaint data.

18 “(f) EXCEPTIONS.—Subsections (b) and (c) shall not  
19 apply to the extent that—

20 “(1) the young child does not have an accom-  
21 panying adult traveling with such child;

22 “(2) an accompanying adult selects a seat apart  
23 from the young child or declines to accept a seat as-  
24 signment or a seat that is adjacent to the seat as-  
25 signment or seat of the young child offered without

1 additional cost by the air carrier or foreign air car-  
2 rier;

3 “(3) the number of young children traveling in  
4 the same party make it impossible for the air carrier  
5 or foreign air carrier to seat all the young children  
6 adjacent to an accompanying adult based on the seat  
7 layout of the aircraft; or

8 “(4) an exception to subsection (b) or (c)  
9 deemed appropriate by final rule of the Secretary  
10 applies.

11 “(g) DEFINITIONS.—In this section:

12 “(1) ACCOMPANYING ADULT.—The term ‘ac-  
13 companying adult’ means, with respect to a young  
14 child, an individual who is—

15 “(A) 14 years of age or older on the date  
16 of the scheduled departure of the flight; and

17 “(B) on the same reservation record as the  
18 young child.

19 “(2) ADJACENT.—The term ‘adjacent’ means,  
20 with respect to the seat of a young child, a seat that  
21 is—

22 “(A) next to and in the same row of the  
23 aircraft as the seat of the young child; and

24 “(B) not separated by an aisle.

1           “(3) AVAILABLE.—The term ‘available’, when  
2 used in connection with seats or seat assignments,  
3 means capable of assignment by the air carrier or  
4 foreign air carrier without—

5                   “(A) an upgrade of a young child or an ac-  
6           companying adult to a different class of service  
7           than ticketed; and

8                   “(B) displacing an individual with an as-  
9           signed seat.

10           “(4) CLASS OF SERVICE.—The term ‘class of  
11 service’ means first class, business class, general  
12 economy (including basic economy), or premium  
13 economy.

14           “(5) NO ADDITIONAL COST.—The term ‘no ad-  
15 ditional cost’ means no added charge for the seat be-  
16 yond the fare.

17           “(6) SECRETARY.—The term ‘Secretary’ means  
18 the Secretary of Transportation.

19           “(7) YOUNG CHILD.—The term ‘young child’  
20 means an individual who is 13 years of age or  
21 younger on the date of the scheduled departure of  
22 the flight.

23           “(h) REGULATIONS.—The Secretary may issue regu-  
24 lations to implement this section, including regulations  
25 that amend the definitions in subsection (g).

1       “(i) EFFECTIVE DATE.—This section shall take ef-  
2       fect on the date that is 180 days after the date of the  
3       enactment of the this section.”.

4       (b) CLERICAL AMENDMENT.—The analysis of chap-  
5       ter 417 of title 49, United States Code, is amended by  
6       inserting after the item relating to section 41726 the fol-  
7       lowing:

      “41727. Seating young children adjacent to an accompanying adult on air-  
          craft.”.

8       (c) REPEAL OF FAA EXTENSION, SAFETY, AND SE-  
9       CURITY ACT OF 2016 FAMILY SEATING PROVISION.—Sec-  
10      tion 2309 of the FAA Extension, Safety, and Security Act  
11      of 2016 (49 U.S.C. 42301 note prec.) is repealed.

○