

111TH CONGRESS
1ST SESSION

H. R. 2669

To direct the Federal Trade Commission to prescribe rules to protect consumers from unfair and deceptive acts and practices in connection with primary and secondary ticket sales.

IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 2009

Mr. PASCRELL introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To direct the Federal Trade Commission to prescribe rules to protect consumers from unfair and deceptive acts and practices in connection with primary and secondary ticket sales.

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 Oversight of
5 Secondary Sales and Accountability in Concert Ticketing
6 Act of 2009”.

1 **SEC. 2. RULES ON TRANSPARENCY OF TICKET MARKETING,**
2 **DISTRIBUTION, AND PRICING BY PRIMARY**
3 **TICKET SELLERS.**

4 Not later than 180 days after the date of enactment
5 of this Act, the Federal Trade Commission shall promul-
6 gate rules in accordance with section 553 of title 5, United
7 States Code, that include the following requirements with
8 regard to the primary sale, distribution, and pricing of
9 tickets:

10 (1) A requirement that a primary ticket seller
11 disclose and display on the website of such primary
12 ticket seller the total number of tickets offered for
13 sale by such primary ticket seller not less than 7
14 days before the date on which tickets shall be avail-
15 able for primary sale.

16 (2) A requirement that a primary ticket seller
17 make publicly available, not less than 7 days before
18 the day on which tickets shall be available for pri-
19 mary sale, the total number and distribution method
20 of all tickets not made available for sale to the gen-
21 eral public, the distribution of which is the responsi-
22 bility of that primary ticket seller.

23 (3) A requirement that the distribution method
24 for each particular ticket and the date and time of
25 the primary sale be printed on each such ticket.

1 (4) A requirement that the primary ticket seller
2 include, with any listing of the price of a ticket on
3 the primary ticket seller’s website or in any pro-
4 motional material where the ticket price is listed, all
5 ancillary charges related to the purchase of a ticket,
6 and include such charges and the total cost to the
7 consumer on each individual ticket.

8 (5) A requirement that a primary ticket seller
9 include all ancillary charges in any refund of a ticket
10 that is provided for in the primary ticket seller’s re-
11 fund policies.

12 **SEC. 3. RULES FOR SECONDARY TICKET SELLERS.**

13 Not later than 180 days after the date of enactment
14 of this Act, the Federal Trade Commission shall promul-
15 gate rules in accordance with section 553 of title 5, United
16 States Code, that include the following requirements and
17 prohibitions with regard to the secondary sale, distribu-
18 tion, and pricing of tickets:

19 (1) A requirement that if the secondary ticket
20 seller does not possess the ticket at the time of the
21 sale that such secondary ticket seller provide—

22 (A) a clear statement that the secondary
23 ticket seller does not possess the ticket; and

24 (B) an explanation of procedures to be fol-
25 lowed by the purchaser to obtain a refund from

1 the secondary ticket seller if the ticket the pur-
2 chaser ultimately receives does not match the
3 description of the ticket by the secondary ticket
4 seller.

5 (2) A prohibition on the purchase by a sec-
6 ondary ticket seller of a ticket during the first 48
7 hours after such ticket is first available for primary
8 sale. The prohibition in this paragraph shall not
9 apply with respect to season tickets or bundled se-
10 ries tickets.

11 (3) A requirement that a secondary ticket seller
12 and online resale marketplace disclose upon offering
13 a ticket for resale—

14 (A) the distribution method and face value
15 of each ticket;

16 (B) the precise location of the seat or
17 space to which the ticket would entitle the bear-
18 er, or, if information about the precise location
19 of the seat or space is not available, descriptive
20 information about the location of the seat or
21 space, such as a description of a section or
22 other area within the venue where the seat or
23 space is located;

24 (C) if the secondary ticket seller purchased
25 the ticket during a public sale of tickets to the

1 event, the date and time of the purchase of the
2 ticket by the secondary ticket seller; and

3 (D) the number or identifier assigned to
4 them pursuant to section 4(b).

5 (4) A requirement that an online resale market-
6 place post clear and conspicuous notice on the
7 website of such online resale marketplace that the
8 website is for the secondary sale of tickets and a re-
9 quirement that the user confirm having read such
10 notice before starting any transaction.

11 (5) A prohibition on the resale of a ticket by an
12 individual employee of any venue, primary ticket
13 seller, artist, online resale marketplace, or box office
14 that is involved in hosting, promoting, performing
15 in, or selling tickets if such resale—

16 (A) is for a higher price than face value of
17 the ticket; or

18 (B) is made to any third party and the em-
19 ployee has actual knowledge, or knowledge fair-
20 ly implied on the basis of objective cir-
21 cumstances, that the third party intends to sell
22 the ticket for a higher price than face value of
23 the ticket.

24 (6) A requirement that an online resale market-
25 place disclose to the consumer when the secondary

1 ticket seller of a ticket is the primary ticket seller,
2 venue, or artist associated with the event to which
3 the ticket relates.

4 **SEC. 4. REGISTRATION OF SECONDARY TICKET SELLERS**
5 **AND ONLINE RESALE MARKETPLACES.**

6 (a) **REGISTRATION REQUIRED.**—

7 (1) **IN GENERAL.**—Beginning on the date on
8 which final regulations are promulgated pursuant to
9 sections 2 and 3, a secondary ticket seller may not
10 engage in, and an online resale marketplace may not
11 permit the use of the marketplace for, the resale of
12 tickets to events unless the secondary ticket seller or
13 the online resale marketplace (as the case may be)
14 registers with the Federal Trade Commission under
15 this section.

16 (2) **REGISTRATION INFORMATION.**—When reg-
17 istering with the Federal Trade Commission under
18 paragraph (1), a secondary ticket seller or an online
19 resale marketplace (as the case may be) shall pro-
20 vide a viable street address, telephone number, and
21 email address for the secondary ticket seller or the
22 online resale marketplace (as the case may be) to
23 the Commission.

24 (3) **ANNUAL UPDATES.**—Any secondary ticket
25 seller or online resale marketplace registered with

1 the Federal Trade Commission under paragraph (1)
2 shall verify the accuracy of the information required
3 under paragraph (2) not less frequently than annu-
4 ally.

5 (b) REGISTRATION NUMBER.—The Federal Trade
6 Commission shall assign a unique number or other identi-
7 fier to each secondary ticket seller and each online resale
8 marketplace that registers with the Commission under
9 subsection (a)(1).

10 **SEC. 5. ENFORCEMENT.**

11 (a) FEDERAL TRADE COMMISSION.—A violation of a
12 rule prescribed pursuant to section 2 or 3 or a violation
13 of section 4(a)(1) shall be treated as a violation of a rule
14 defining an unfair or deceptive act or practice prescribed
15 under section 18(a)(1)(B) of the Federal Trade Commis-
16 sion Act (15 U.S.C. 57a(a)(1)(B)). The Federal Trade
17 Commission shall enforce this Act in the same manner,
18 by the same means, and with the same jurisdiction as
19 though all applicable terms and provisions of the Federal
20 Trade Commission Act were incorporated into and made
21 a part of this Act.

22 (b) STATE ATTORNEYS GENERAL.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (6), in any case in which the attorney general
25 of a State has reason to believe that an interest of

1 the residents of that State has been or is threatened
2 or adversely affected by the engagement of any per-
3 son in a practice that violates a rule prescribed
4 under section 2 or 3, the State, as *parens patriae*,
5 may bring a civil action on behalf of the residents
6 of the State in an appropriate district court of the
7 United States or other court of competent jurisdic-
8 tion to—

9 (A) enjoin that practice;

10 (B) enforce compliance with the rule;

11 (C) obtain damages, restitution, or other
12 compensation on behalf of residents of the
13 State;

14 (D) obtain penalties provided for under
15 section 2(b); and

16 (E) obtain such other relief as the court
17 may consider to be appropriate.

18 (2) NOTICE.—The State shall serve written no-
19 tice to the Commission of any civil action under
20 paragraph (1) at least 60 days prior to initiating
21 such civil action. The notice shall include a copy of
22 the complaint to be filed to initiate such civil action,
23 except that if it is not feasible for the State to pro-
24 vide such prior notice, the State shall provide notice
25 immediately upon instituting such civil action.

1 (3) INTERVENTION BY FTC.—Upon receiving
2 the notice required by paragraph (2), the Commis-
3 sion may intervene in such civil action and upon in-
4 tervening—

5 (A) be heard on all matters arising in such
6 civil action;

7 (B) remove the action to the appropriate
8 United States district court; and

9 (C) file petitions for appeal of a decision in
10 such civil action.

11 (4) SAVINGS CLAUSE.—Nothing in this sub-
12 section shall prevent the attorney general of a State
13 from exercising the powers conferred on the attorney
14 general by the laws of such State to conduct inves-
15 tigation or to administer oaths or affirmations or to
16 compel the attendance of witnesses or the production
17 of documentary and other evidence. Nothing in this
18 section shall prohibit the attorney general of a State,
19 or other authorized State officer, from proceeding in
20 State or Federal court on the basis of an alleged vio-
21 lation of any civil or criminal statute of that State.

22 (5) VENUE; SERVICE OF PROCESS; JOINDER.—
23 In a civil action brought under paragraph (1)—

24 (A) the venue shall be a judicial district in
25 which the defendant or a related party is found,

1 is an inhabitant, or transacts business, or wher-
2 ever venue is proper under section 1391 of title
3 28, United States Code;

4 (B) process may be served without regard
5 to the territorial limits of the district or of the
6 State in which the civil action is instituted; and

7 (C) a person who participated with a de-
8 fendant or related party in an alleged violation
9 that is being litigated in the civil action may be
10 joined in the civil action without regard to the
11 residence of the person.

12 (6) PREEMPTIVE ACTION BY FTC.—Whenever a
13 civil action or an administrative action has been in-
14 stituted by or on behalf of the Commission for viola-
15 tion of any rule described under paragraph (1), no
16 State may, during the pendency of such action insti-
17 tuted by or on behalf of the Commission, institute
18 a civil action under paragraph (1) against any de-
19 fendant named in the complaint in such action for
20 violation of any rule as alleged in such complaint.

21 (7) AWARD OF COSTS AND FEES.—If a State
22 prevails in any civil action under paragraph (1), the
23 State can recover reasonable costs and attorney fees
24 from the lender or related party.

1 **SEC. 6. DEFINITIONS.**

2 As used in this Act the following definitions apply:

3 (1) The term “ancillary charges” means service
4 fees, convenience charges, parking fees, and other
5 charges associated with the purchase of a ticket and
6 not included in the base price of the ticket.

7 (2) The term “base price” means the price
8 charged for a ticket other than any ancillary
9 charges.

10 (3) The term “box office” means a physical lo-
11 cation where tickets are offered for primary sale.

12 (4) The term “bundled series tickets” means
13 packages of tickets for multiple events that are part
14 of the same entertainment series.

15 (5) The term “distribution method” means the
16 manner in which a primary ticket seller distributes
17 tickets to a particular event, whether through pri-
18 mary sale, limited pre sale promotions, donations to
19 charity, reservations of season ticket holders, or allo-
20 cated to the primary ticket seller, artist, or venue.

21 (6) The term “face value” means the total price
22 of a ticket including both the base price and any an-
23 cillary charges.

24 (7) The term “primary sale”, with regards to a
25 ticket, means the initial sale of a ticket that has not
26 been sold previous to such sale, by a primary ticket

1 seller to the general public on or after the date ad-
2 vertised such sale.

3 (8) The term “primary ticket seller” means an
4 owner or operator of a venue or a sports team, a
5 manager or provider of an event, or a provider of
6 ticketing services (or an agent of such owner, oper-
7 ator, manager, or provider) that engages in the pri-
8 mary sale of tickets for an event or retains the au-
9 thority to otherwise distribute tickets.

10 (9) The terms “resale” or “secondary sale”,
11 with regards to a ticket, mean any sale of a ticket
12 that occurs after the initial sale of the ticket.

13 (10) The term “ticket” means a ticket of ad-
14 mission to a sporting event, theater, musical per-
15 formance, or place of public amusement of any kind.

16 (11) The term “online resale marketplace”
17 means an Internet website—

18 (A) that facilitates or enables the resale of
19 tickets by secondary ticket sellers; or

20 (B) on which secondary ticket sellers offer
21 tickets for resale.

22 (12) The term “secondary ticket seller” means
23 a person engaged in reselling tickets for an event
24 and who charges a premium in excess of the face
25 value. Such term does not include an individual who

1 resells fewer than 25 tickets during any 1-year pe-
2 riod.

3 **SEC. 7. NONPREEMPTION.**

4 Nothing in this Act shall affect the authority of any
5 State or local government to establish or continue in effect
6 a provision of law of the State or local government relating
7 to the regulation of the resale of tickets to events or the
8 pricing of such tickets for resale, except to the extent that
9 such provision is inconsistent with this Act or a regulation
10 promulgated under this Act, and then only to the extent
11 of the inconsistency. A provision of law of a State or local
12 government is not inconsistent with this Act or a regula-
13 tion promulgated under this Act if such provision provides
14 equal or greater protection to consumers than the protec-
15 tion provided under this Act or such regulation.

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