

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3183

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## AN ACT

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.—

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

10 (A) to circumvent a security measure, ac-  
11 cess control system, or other technological con-  
12 trol or measure on an Internet website or online  
13 service that is used by the ticket issuer to en-  
14 force posted event ticket purchasing limits or to  
15 maintain the integrity of posted online ticket  
16 purchasing order rules; or

17 (B) to sell or offer to sell any event ticket  
18 in interstate commerce obtained in violation of  
19 subparagraph (A) if the person selling or offer-  
20 ing to sell the ticket either—

21 (i) participated directly in or had the  
22 ability to control the conduct in violation of  
23 subparagraph (A); or

24 (ii) knew or should have known that  
25 the event ticket was acquired in violation  
26 of subparagraph (A).

1           (2) EXCEPTION.—It shall not be unlawful  
2 under this section for a person to create or use any  
3 computer software or system—

4           (A) to investigate, or further the enforce-  
5 ment or defense, of any alleged violation of this  
6 section or other statute or regulation; or

7           (B) to engage in research necessary to  
8 identify and analyze flaws and vulnerabilities of  
9 measures, systems, or controls described in  
10 paragraph (1)(A), if these research activities  
11 are conducted to advance the state of knowl-  
12 edge in the field of computer system security or  
13 to assist in the development of computer secu-  
14 rity product.

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

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

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

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

15 (c) ENFORCEMENT BY STATES.—

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

1 (A) to enjoin further violation of such sub-  
2 section by such person;

3 (B) to compel compliance with such sub-  
4 section; and

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

7 (2) RIGHTS OF FEDERAL TRADE COMMIS-  
8 SION.—

9 (A) NOTICE TO FEDERAL TRADE COMMIS-  
10 SION.—

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

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

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

1 graph (1), the attorney general shall notify  
2 the Commission immediately upon insti-  
3 tuting the civil action.

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

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

9 (ii) upon intervening—

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

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

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

22 (4) PREEMPTIVE ACTION BY FEDERAL TRADE  
23 COMMISSION.—If the Commission institutes a civil  
24 action or an administrative action with respect to a  
25 violation of subsection (a), the attorney general of a

1 State may not, during the pendency of such action,  
2 bring a civil action under paragraph (1) against any  
3 defendant named in the complaint of the Commis-  
4 sion for the violation with respect to which the Com-  
5 mission instituted such action.

6 (5) VENUE; SERVICE OF PROCESS.—

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

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

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

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

18 (i) is an inhabitant; or

19 (ii) may be found.

20 (6) ACTIONS BY OTHER STATE OFFICIALS.—

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

1 graph (1), subject to the same requirements  
2 and limitations that apply under this subsection  
3 to civil actions brought by attorneys general.

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

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

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

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

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

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

24 (3) EVENT TICKET.—The term “event ticket”  
25 means any physical, electronic, or other form of a

1 certificate, document, voucher, token, or other evi-  
2 dence indicating that the bearer, possessor, or per-  
3 son entitled to possession through purchase or other-  
4 wise has—

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

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

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

16 (A) the operator of the venue;

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

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

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

1 (E) an agent for any such person.

Passed the Senate November 30, 2016.

Attest:

*Secretary.*



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