

# Union Calendar No. 569

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

# H. R. 5104

[Report No. 114-733]

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2016

Mrs. BLACKBURN (for herself, Mr. TONKO, Mr. BURGESS, Mr. ISRAEL, Mr. TIBERI, Mr. COHEN, Mr. DESJARLAIS, Mr. COOPER, Mr. BYRNE, Mr. NADLER, Mr. BISHOP of Michigan, Mr. COSTELLO of Pennsylvania, Ms. JENKINS of Kansas, Mr. HARPER, Mr. ROSS, and Mr. CÁRDENAS) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER 9, 2016

Additional sponsors: Mr. MCNERNEY, Mr. HUFFMAN, and Mrs. CAROLYN B. MALONEY of New York

SEPTEMBER 9, 2016

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on April 28, 2016]

# **A BILL**

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.

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 On-line Ticket*  
5 *Sales Act of 2016” or the “BOTS Act”.*

6 **SEC. 2. UNFAIR AND DECEPTIVE ACTS AND PRACTICES RE-**  
7 **LATING TO USE OF TICKET ACCESS CIR-**  
8 **CUMVENTION SOFTWARE.**

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

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

16 *(2) has only limited commercially significant*  
17 *purpose or use other than to circumvent a techno-*  
18 *logical measure that limits purchases made via a*  
19 *computerized event ticketing system; or*

20 *(3) is marketed by that person for use in circum-*  
21 *venting a technological measure that limits purchases*  
22 *made via a computerized event ticketing system.*

23 *(b) USE OF SOFTWARE.—It shall be unlawful for any*  
24 *person to use any computer software, or part thereof, de-*  
25 *scribed in subsection (a) of this section, to purchase an*

1 *event ticket via a computerized event ticketing system in*  
2 *violation of the system operator’s posted limits on the se-*  
3 *quence or number of transactions, frequency of transactions,*  
4 *or quantity of tickets purchased by a single user of the sys-*  
5 *tem, or on the geographic location of any transactions.*

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

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

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

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

15 (1) *the term “computerized event ticketing sys-*  
16 *tem” means a system of selling event tickets, in com-*  
17 *merce, via an online interactive computer system that*  
18 *effectively limits the sequence or number of ticket pur-*  
19 *chase transactions, frequency of ticket purchase trans-*  
20 *actions, quantity of tickets purchased, or geographic*  
21 *location of any ticket purchase transactions;*

22 (2) *the term “event ticket” means a ticket enti-*  
23 *tling one or more individuals to attend, in person,*  
24 *one or more events to occur on specific dates, times,*  
25 *and geographic locations; and*

1           (3) to “circumvent a technological measure”  
2           means to avoid, bypass, remove, deactivate, or impair  
3           a technological measure, without the authority of the  
4           computerized event ticketing system operator.

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

9           (1) investigate or further the enforcement or de-  
10          fense of any alleged violation of this section; or

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

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

22          (g) *ENFORCEMENT BY STATES.*—

23          (1) *AUTHORIZATION.*—Subject to paragraph (2),  
24          in any case in which the attorney general of a State  
25          has reason to believe that an interest of the residents

1       *of the State has been or is threatened or adversely af-*  
2       *ected by a violation of subsection (a), (b), or (c), the*  
3       *attorney general of the State may, as parens patriae,*  
4       *bring a civil action on behalf of the residents of the*  
5       *State in an appropriate district court of the United*  
6       *States to obtain appropriate relief.*

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

8                       (A) *NOTICE TO FTC.—*

9                               (i) *IN GENERAL.—Except as provided*  
10                               *in clause (iii), the attorney general of a*  
11                               *State shall notify the Federal Trade Com-*  
12                               *mission in writing that the attorney general*  
13                               *intends to bring a civil action under para-*  
14                               *graph (1) before initiating the civil action*  
15                               *against a person for a violation of sub-*  
16                               *section (a), (b), or (c).*

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

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

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

3           (B) *INTERVENTION BY THE FTC.*—The Fed-  
4           eral Trade 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, be heard on all*  
9                   *matters arising in the civil action, and file*  
10                  *petitions for appeal of a decision in the*  
11                  *civil action.*

12           (3) *PENDING ACTION BY THE FEDERAL TRADE*  
13           *COMMISSION.*—*If the Federal Trade Commission in-*  
14           *stitutes a civil action or an administrative action*  
15           *with respect to a violation of subsection (a), (b), or*  
16           *(c), the attorney general of a State may not, during*  
17           *the pendency of such action, bring a civil action*  
18           *under paragraph (1) against any defendant named in*  
19           *the complaint of the Commission for the violation*  
20           *with respect to which the Commission instituted such*  
21           *action.*

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