

Committee Print

SHOWING THE TEXT OF H.R. 5104 AS FORWARDED BY THE SUBCOMMITTEE
ON COMMERCE, MANUFACTURING, AND TRADE, JUNE 9, 2016

114TH CONGRESS
2D SESSION

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.

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

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Better On-line Ticket
3 Sales Act of 2016” or the “BOTS Act”.

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

7 (a) SALE OF SOFTWARE.—It shall be unlawful for
8 any person to sell or offer to sell, in commerce, any com-
9 puter software, or part thereof, that—

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

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

18 (3) is marketed by that person for use in cir-
19 cumventing a technological measure that limits pur-
20 chases made via a computerized event ticketing sys-
21 tem.

22 (b) USE OF SOFTWARE.—It shall be unlawful for any
23 person to use any computer software, or part thereof, de-
24 scribed in paragraph (a) of this section, to purchase an
25 event ticket via a computerized event ticketing system in
26 violation of the system operator’s posted limits on the se-

1 quence or number of transactions, frequency of trans-
2 actions, or quantity of tickets purchased by a single user
3 of the system, or on the geographic location of any trans-
4 actions.

5 (c) RESALE OF TICKETS.—It shall be unlawful for
6 any person to engage in the practice of reselling in com-
7 merce, event tickets acquired in violation of paragraph (b)
8 of this section if the person either—

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

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

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

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

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 im-
3 pair a technological measure, without the authority
4 of the 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
8 computer software, or part thereof to—

9 (1) investigate or further the enforcement or
10 defense 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
14 are conducted to advance the state of knowledge in
15 the field of computer system security or to assist in
16 the development of computer security products.

17 (f) **ENFORCEMENT BY THE FEDERAL TRADE COM-**
18 **MISSION.**—

19 (1) **UNFAIR OR DECEPTIVE ACTS OR PRAC-**
20 **TICES.**—A violation of subsection (a), (b), or (c),
21 shall be treated as an unfair and deceptive act or
22 practice in violation of a regulation issued under sec-
23 tion 18(a)(1)(B) of the Federal Trade Commission
24 Act (15 U.S.C. 57a(a)(1)(B)).

25 (c) **ENFORCEMENT BY STATES.**—

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

11 (2) RIGHTS OF FEDERAL TRADE COMMIS-
12 SION.—

13 (A) NOTICE TO FTC.—

14 (i) IN GENERAL.—Except as provided
15 in clause (iii), the attorney general of a
16 State shall notify the Federal Trade Com-
17 mission in writing that the attorney gen-
18 eral intends to bring a civil action under
19 paragraph (1) before initiating the civil ac-
20 tion against a person for a violation of
21 subsection (a), (b), or (c).

22 (ii) CONTENTS.—The notification re-
23 quired by clause (i) with respect to a civil
24 action shall include a copy of the complaint
25 to be filed to initiate the civil action.

1 (iii) EXCEPTION.—If it is not feasible
2 for the attorney general of a State to pro-
3 vide the notification required by clause (i)
4 before initiating a civil action under para-
5 graph (1), the attorney general shall notify
6 the Commission immediately upon insti-
7 tuting the civil action.

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

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

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

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

1 with respect to which the Commission instituted
2 such action.