

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2713
OFFERED BY MRS. HARSHBARGER OF TENNESSEE

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Mitigating Automated
3 Internet Networks for Event Ticketing Act” or the
4 “MAIN Event Ticketing Act”.

5 SEC. 2. STRENGTHENING THE BOTS ACT.

6 (a) IN GENERAL.—Section 2 of the Better Online
7 Ticket Sales Act of 2016 (15 U.S.C. 45c) is amended—

8 (1) in subsection (a)(1)—

9 (A) in subparagraph (A)—

10 (i) by inserting “online” before “ticket
11 issuer”; and

12 (ii) by striking “; or” and inserting a
13 semicolon;

14 (B) in subparagraph (B), by striking the
15 period at the end and inserting “; or”; and

16 (C) by adding at the end the following new
17 subparagraph:

1 “(C) to use or cause to be used an applica-
2 tion that performs automated tasks to purchase
3 event tickets from an Internet website or online
4 service in circumvention of posted online ticket
5 purchasing order rules of the Internet website
6 or online service, including a software applica-
7 tion that circumvents an access control system,
8 security measure, or other technological control
9 or measure.”;

10 (2) by redesignating subsections (b) and (c) as
11 subsections (c) and (d), respectively;

12 (3) by inserting after subsection (a) the fol-
13 lowing new subsection:

14 “(b) REQUIRING ONLINE TICKET ISSUERS TO PUT
15 IN PLACE SITE POLICIES AND ESTABLISH SAFEGUARDS
16 TO PROTECT SITE SECURITY.—

17 “(1) REQUIREMENT TO ENFORCE SITE POLI-
18 CIES.—Each ticket issuer that owns or operates an
19 Internet website or online service that facilitates or
20 executes the sale of event tickets shall ensure that
21 such website or service has in place an access control
22 system, security measure, or other technological con-
23 trol or measure to enforce posted event ticket pur-
24 chasing limits.

1 “(2) REQUIREMENT TO ESTABLISH SITE SECU-
2 RITY SAFEGUARDS.—

3 “(A) IN GENERAL.—Each ticket issuer
4 that owns or operates an Internet website or
5 online service that facilitates or executes the
6 sale of event tickets shall establish, implement,
7 and maintain reasonable administrative, tech-
8 nical, and physical safeguards to protect the se-
9 curity, confidentiality, integrity, or availability
10 of the website or service.

11 “(B) CONSIDERATIONS.—In establishing
12 the safeguards described in subparagraph (A),
13 each ticket issuer described in such paragraph
14 shall consider—

15 “(i) the administrative, technical, and
16 physical safeguards that are appropriate to
17 the size and complexity of the ticket issuer;

18 “(ii) the nature and scope of the ac-
19 tivities of the ticket issuer;

20 “(iii) the sensitivity of any customer
21 information at issue; and

22 “(iv) the range of security risks and
23 vulnerabilities that are reasonably foresee-
24 able or known to the ticket issuer.

1 “(C) THIRD PARTIES AND SERVICE PRO-
2 VIDERS.—

3 “(i) IN GENERAL.—Where applicable,
4 a ticket issuer that owns or operates an
5 Internet website or online service that fa-
6 cilitates or executes the sale of event tick-
7 ets shall implement and maintain proce-
8 dures to require that any third party or
9 service provider that performs services with
10 respect to the sale of event tickets or has
11 access to data regarding event ticket pur-
12 chasing on the website or service maintains
13 reasonable administrative, technical, and
14 physical safeguards to protect the security
15 and integrity of the website or service and
16 that data.

17 “(ii) OVERSIGHT PROCEDURE RE-
18 QUIREMENTS.—The procedures imple-
19 mented and maintained by a ticket issuer
20 in accordance with clause (i) shall include
21 the following:

22 “(I) Taking reasonable steps to
23 select and retain service providers
24 that are capable of maintaining ap-

1 appropriate safeguards for the customer
2 information at issue.

3 “(II) Requiring service providers
4 by contract to implement and main-
5 tain adequate safeguards.

6 “(III) Periodically assessing serv-
7 ice providers based on the risk they
8 present and the continued adequacy of
9 their safeguards.

10 “(D) UPDATES.—A ticket issuer that owns
11 or operates an Internet website or online service
12 that facilitates or executes the sale of event
13 tickets shall regularly evaluate and make ad-
14 justments to the safeguards described in sub-
15 paragraph (A) in light of any material changes
16 in technology, internal or external threats to
17 system security, confidentiality, integrity, and
18 availability, and the changing business arrange-
19 ments or operations of the ticket issuer.

20 “(3) REQUIREMENT TO REPORT INCIDENTS OF
21 CIRCUMVENTION; CONSUMER COMPLAINTS.—

22 “(A) IN GENERAL.—A ticket issuer that
23 owns or operates an Internet website or online
24 service that facilitates or executes the sale of
25 event tickets shall report to the Commission

1 any incidents of circumvention of which the
2 ticket issuer has actual knowledge.

3 “(B) CONSUMER COMPLAINT WEBSITE.—
4 Not later than 180 days after the date of enact-
5 ment of the Mitigating Automated Internet
6 Networks for Event Ticketing Act, the Commis-
7 sion shall create a publicly available website (or
8 modify an existing publicly available website of
9 the Commission) to allow individuals to report
10 violations of this subsection to the Commission.

11 “(C) REPORTING TIMELINE AND PROC-
12 ESS.—

13 “(i) TIMELINE.—A ticket issuer that
14 owns or operates an Internet website or
15 online service that facilitates or executes
16 the sale of event tickets shall report inci-
17 dents of circumvention of which such
18 issuer has actual knowledge within a rea-
19 sonable period of time after the incident of
20 circumvention is discovered by the ticket
21 issuer, and in no case later than 30 days
22 after an incident of circumvention is dis-
23 covered by the ticket issuer.

24 “(ii) AUTOMATED SUBMISSION.—The
25 Commission may establish a reporting

1 mechanism to provide for the automatic
2 submission of reports required under this
3 subsection.

4 “(iii) COORDINATION WITH STATE AT-
5 TORNEYS GENERAL.—The Commission
6 shall—

7 “(I) share reports received from
8 ticket issuers under subparagraph (A)
9 with State attorneys general as appro-
10 priate; and

11 “(II) share consumer complaints
12 submitted through the website estab-
13 lished under subparagraph (B) with
14 State attorneys general as appro-
15 priate.

16 “(4) DUTY TO ADDRESS CAUSES OF CIR-
17 CUMVENTION.—A ticket issuer that owns or operates
18 an Internet website or online service that facilitates
19 or executes the sale of event tickets must take rea-
20 sonable steps to improve its access control systems,
21 security measures, and other technological controls
22 or measures to address any incidents of circumven-
23 tion of which the ticket issuer has actual knowledge.

24 “(5) RULE OF CONSTRUCTION.—A ticket issuer
25 shall not be considered to own or operate an Inter-

1 net website or online service that facilitates or exe-
2 cutes the sale of event tickets solely by reason of
3 providing a link to such website or service owned or
4 operated by another person.

5 “(6) FTC GUIDANCE.—Not later than 1 year
6 after the date of enactment of the Mitigating Auto-
7 mated Internet Networks for Event Ticketing Act,
8 the Commission shall publish guidance for ticket
9 issuers on compliance with the requirements of this
10 subsection.”;

11 (4) in subsection (c), as redesignated by para-
12 graph (2) of this subsection—

13 (A) by striking “subsection (a)” each place
14 it appears and inserting “subsection (a) or (b)”;

15 (B) in paragraph (2)—

16 (i) in subparagraph (A), by striking
17 “The Commission” and inserting “Except
18 as provided in paragraph (3), the Commis-
19 sion”; and

20 (ii) in subparagraph (B), by striking
21 “Any person” and inserting “Subject to
22 paragraph (3), any person”; and

23 (C) by adding at the end the following new
24 paragraphs:

25 “(3) CIVIL ACTION.—

1 “(A) IN GENERAL.—If the Commission has
2 reason to believe that any person has committed
3 a violation of subsection (a) or (b), the Commis-
4 sion may bring a civil action in an appropriate
5 district court of the United States to—

6 “(i) recover a civil penalty under
7 paragraph (4); and

8 “(ii) seek other appropriate relief, in-
9 cluding injunctive relief and other equi-
10 table relief.

11 “(B) LITIGATION AUTHORITY.—Except as
12 otherwise provided in section 16(a)(3) of the
13 Federal Trade Commission Act (15 U.S.C.
14 56(a)(3)), the Commission shall have exclusive
15 authority to commence or defend, and supervise
16 the litigation of, any civil action authorized
17 under this paragraph and any appeal of such
18 action in its own name by any of its attorneys
19 designated by it for such purpose, unless the
20 Commission authorizes the Attorney General to
21 do so. The Commission shall inform the Attor-
22 ney General of the exercise of such authority
23 and such exercise shall not preclude the Attor-
24 ney General from intervening on behalf of the
25 United States in such action and any appeal of

1 such action as may be otherwise provided by
2 law.

3 “(C) RULE OF CONSTRUCTION.—Any civil
4 penalty or relief sought through a civil action
5 under this paragraph shall be in addition to
6 other penalties and relief as may be prescribed
7 by law.

8 “(4) CIVIL PENALTIES.—

9 “(A) IN GENERAL.—Any person who vio-
10 lates subsection (a) or (b) shall be liable for—

11 “(i) a civil penalty of not less than
12 \$10,000 for each day during which the vio-
13 lation occurs or continues to occur; and

14 “(ii) an additional civil penalty of not
15 less than \$1,000 per violation.

16 “(B) ENHANCED CIVIL PENALTY FOR IN-
17 TENTIONAL VIOLATIONS.—In addition to the
18 civil penalties under subparagraph (A), a per-
19 son that intentionally violates subsection (a) or
20 (b) shall be liable for a civil penalty of not less
21 than \$10,000 per violation.”;

22 (5) in subsection (d), as redesignated by para-
23 graph (2) of this subsection, by striking “subsection
24 (a)” each place it appears and inserting “subsection
25 (a) or (b)”;

1 (6) by adding at the end the following new sub-
2 sections:

3 “(e) LAW ENFORCEMENT COORDINATION.—

4 “(1) IN GENERAL.—The Federal Bureau of In-
5 vestigation, the Department of Justice, and other
6 relevant State or local law enforcement officials shall
7 coordinate as appropriate with the Commission to
8 share information about known instances of
9 cyberattacks on security measures, access control
10 systems, or other technological controls or measures
11 on an Internet website or online service that are
12 used by ticket issuers to enforce posted event ticket
13 purchasing limits or to maintain the integrity of
14 posted online ticket purchasing order rules. Such co-
15 ordination may include providing information about
16 ongoing investigations but may exclude classified in-
17 formation or information that could compromise a
18 law enforcement or national security effort, as ap-
19 propriate.

20 “(2) CYBERATTACK DEFINED.—In this para-
21 graph, the term ‘cyberattack’ means an attack, via
22 cyberspace, targeting an enterprise’s use of cyber-
23 space for the purpose of—

1 “(A) disrupting, disabling, destroying, or
2 maliciously controlling a computing environ-
3 ment or computing infrastructure; or

4 “(B) destroying the integrity of data or
5 stealing controlled information.

6 “(f) CONGRESSIONAL REPORT.—Not later than 1
7 year after the date of enactment of this paragraph, the
8 Commission shall report to Committee on Commerce,
9 Science, and Transportation of the Senate and the Com-
10 mittee on Energy and Commerce of the House of Rep-
11 resentatives on the status of enforcement actions taken
12 pursuant to this Act, as well as any identified limitations
13 to the Commission’s ability to pursue incidents of cir-
14 cumvention described in subsection (a)(1)(A).”.

15 (b) ADDITIONAL DEFINITION.—Section 3 of the Bet-
16 ter Online Ticket Sales Act of 2016 (15 U.S.C. 45c note)
17 is amended by adding at the end the following new para-
18 graph:

19 “(4) CIRCUMVENTION.—The term ‘circumven-
20 tion’ means the act of avoiding, bypassing, removing,
21 deactivating, or otherwise impairing an access con-
22 trol system, security measure, safeguard, or other
23 technological control or measure described in section
24 2(b)(1).”.

