

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5104**

OFFERED BY _____

Strike all after the enacting clause and insert the following:

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

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

5 (b) USE OF SOFTWARE.—It shall be unlawful for any
6 person to use any computer software, or part thereof, de-
7 scribed in paragraph (a) of this section, to purchase an
8 event ticket via a computerized event ticketing system in
9 violation of the system operator’s posted limits on the se-
10 quence or number of transactions, frequency of trans-
11 actions, or quantity of tickets purchased by a single user
12 of the system, or on the geographic location of any trans-
13 actions.

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

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

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

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

23 (1) the term “computerized event ticketing sys-
24 tem” means a system of selling event tickets, in
25 commerce, via an online interactive computer system

1 that effectively limits the sequence or number of
2 ticket purchase transactions, frequency of ticket pur-
3 chase transactions, quantity of tickets purchased, or
4 geographic location of any ticket purchase trans-
5 actions;

6 (2) the term “event ticket” means a ticket enti-
7 tling one or more individuals to attend, in person,
8 one or more events to occur on specific dates, times,
9 and geographic locations; and

10 (3) to “circumvent a technological measure”
11 means to avoid, bypass, remove, deactivate, or im-
12 pair a technological measure, without the authority
13 of the computerized event ticketing system operator.

14 (e) RULE OF CONSTRUCTION.—Notwithstanding the
15 prohibitions set forth in subsections (a) and (b), it shall
16 not be unlawful under this section to create or use any
17 computer software, or part thereof to—

18 (1) investigate or further the enforcement or
19 defense of any alleged violation of this section; or

20 (2) engage in research necessary to identify and
21 analyze flaws and vulnerabilities of a computerized
22 event ticketing system, if these research activities
23 are conducted to advance the state of knowledge in
24 the field of computer system security or to assist in
25 the development of computer security products.

1 (f) ENFORCEMENT BY THE FEDERAL TRADE COM-
2 MISSION.—

3 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
4 TICES.—A violation of subsection (a), (b), or (c),
5 shall be treated as an unfair and deceptive act or
6 practice in violation of a regulation issued under sec-
7 tion 18(a)(1)(B) of the Federal Trade Commission
8 Act (15 U.S.C. 57a(a)(1)(B)).

9 (c) ENFORCEMENT BY STATES.—

10 (1) AUTHORIZATION.—Subject to paragraph
11 (2), in any case in which the attorney general of a
12 State has reason to believe that an interest of the
13 residents of the State has been or is threatened or
14 adversely affected by a violation of subsection (a),
15 (b), or (c), the attorney general of the State may,
16 as *parens patriae*, bring a civil action on behalf of
17 the residents of the State in an appropriate district
18 court of the United States to obtain appropriate re-
19 lief.

20 (2) RIGHTS OF FEDERAL TRADE COMMIS-
21 SION.—

22 (A) NOTICE TO FTC.—

23 (i) IN GENERAL.—Except as provided
24 in clause (iii), the attorney general of a
25 State shall notify the Federal Trade Com-

1 mission in writing that the attorney gen-
2 eral intends to bring a civil action under
3 paragraph (1) before initiating the civil ac-
4 tion against a person for a violation of
5 subsection (a), (b), or (c).

6 (ii) CONTENTS.—The notification re-
7 quired by clause (i) with respect to a civil
8 action shall include a copy of the complaint
9 to be filed to initiate the civil action.

10 (iii) EXCEPTION.—If it is not feasible
11 for the attorney general of a State to pro-
12 vide the notification required by clause (i)
13 before initiating a civil action under para-
14 graph (1), the attorney general shall notify
15 the Commission immediately upon insti-
16 tuting the civil action.

17 (B) INTERVENTION BY THE FTC.—The
18 Federal Trade Commission may—

19 (i) intervene in any civil action
20 brought by the attorney general of a State
21 under paragraph (1); and

22 (ii) upon intervening, be heard on all
23 matters arising in the civil action, and file
24 petitions for appeal of a decision in the
25 civil action.

1 (4) PENDING ACTION BY THE FEDERAL TRADE
2 COMMISSION.—If the Federal Trade Commission in-
3 stitutes a civil action or an administrative action
4 with respect to a violation of subsection (a), (b), or
5 (c) the attorney general of a State may not, during
6 the pendency of such action, bring a civil action
7 under paragraph (1) against any defendant named
8 in the complaint of the Commission for the violation
9 with respect to which the Commission instituted
10 such action.

