

116TH CONGRESS  
1ST SESSION

# S. 1850

To direct the Federal Trade Commission to prescribe rules to protect consumers from unfair and deceptive acts and practices in connection with primary and secondary ticket sales, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JUNE 13, 2019

Mr. BLUMENTHAL introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

## A BILL

To direct the Federal Trade Commission to prescribe rules to protect consumers from unfair and deceptive acts and practices in connection with primary and secondary ticket sales, 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 Oversight of  
5 Secondary Sales and Accountability in Concert Ticketing  
6 Act of 2019”.

7 **SEC. 2. DEFINITIONS.**

8 As used in this Act, the following definitions apply:

1           (1) The term “ancillary charges” means all fees  
2           that must be paid in order to secure a ticket from  
3           a primary ticket seller or secondary ticket market-  
4           place, including service fees, convenience charges,  
5           parking fees, taxes and other charges.

6           (2) The term “base price” means the price  
7           charged for a ticket other than any ancillary  
8           charges.

9           (3) The term “box office” means a physical lo-  
10          cation where tickets are offered for primary sale.

11          (4) The term “bundled series tickets” means  
12          packages of tickets for multiple events that are part  
13          of the same entertainment series.

14          (5) The term “distribution method” means the  
15          manner in which a primary ticket seller distributes  
16          tickets to a particular event, whether through pri-  
17          mary sale, limited presale promotions, donations to  
18          charity, reservations of season ticket holders, or allo-  
19          cated to the primary ticket seller, team, artist, or  
20          venue.

21          (6) The term “primary sale”, with regards to a  
22          ticket, means the initial sale of a ticket that has not  
23          been sold previous to such sale, by a primary ticket  
24          seller to the general public on or after the advertised  
25          date of such sale.

1           (7) The term “primary ticket seller” means an  
2 owner or operator of a venue or a sports team, a  
3 manager or provider of an event, or a provider of  
4 ticketing services (or an agent of such owner, oper-  
5 ator, manager, or provider) that engages in the pri-  
6 mary sale of tickets for an event or retains the au-  
7 thority to otherwise distribute tickets.

8           (8) The term “purchaser” means any person  
9 who purchases a ticket from a primary ticket seller  
10 or a secondary ticket sales marketplace.

11          (9) The terms “resale” or “secondary sale”,  
12 with regards to a ticket, mean any sale of a ticket  
13 that occurs after the primary sale of the ticket.

14          (10) The term “secondary ticket sales market-  
15 place” means a business, including a website, soft-  
16 ware application for a mobile device, any other dig-  
17 ital platform, or portion thereof, of a physical seller  
18 whose primary purpose is to facilitate the resale of  
19 tickets to purchasers.

20          (11) The term “ticket” means a ticket of ad-  
21 mission to a sporting event, theater, musical per-  
22 formance, or place of public amusement of any kind,  
23 including bundled series tickets.

1 **SEC. 3. RULES ON TRANSPARENCY OF TICKET MARKETING,**  
2 **DISTRIBUTION, AND PRICING BY PRIMARY**  
3 **TICKET SELLERS.**

4 Not later than 180 days after the date of enactment  
5 of this Act, the Federal Trade Commission shall promul-  
6 gate rules in accordance with section 553 of title 5, United  
7 States Code, that include the following requirements and  
8 prohibitions with regard to the primary sale, distribution,  
9 and pricing of tickets:

10 (1) A requirement that a primary ticket seller  
11 disclose and display on the website and at the box  
12 office of such primary ticket seller the total number  
13 of tickets offered for sale to the general public by  
14 such primary ticket seller not less than 7 days be-  
15 fore the date on which tickets shall be available for  
16 primary sale.

17 (2) A requirement that the primary ticket seller  
18 clearly and conspicuously disclose all ancillary  
19 charges to purchasers at the beginning of a trans-  
20 action before a ticket is selected for purchase. A pri-  
21 mary ticket seller shall display the total cost of the  
22 ticket including all ancillary charges in all price  
23 quotes and advertisements. The price of the ticket  
24 may not change during the purchase process.

25 (3) A requirement that a primary ticket seller  
26 include the total cost of a ticket in including all an-

1 cillary charges in any refund of a ticket that is pro-  
2 vided for in the primary ticket seller's refund poli-  
3 cies.

4 (4) A prohibition on restricting the ability of a  
5 purchaser who has purchased tickets from a primary  
6 ticket seller to resell any such tickets.

7 (5) A prohibition on requiring a minimum price  
8 for the resale of any tickets purchased from a pri-  
9 mary ticket seller.

10 (6) A requirement that the primary ticket seller  
11 shall disclose any guarantee or refund policy before  
12 the completion of the sale of a ticket.

13 **SEC. 4. RULES FOR SECONDARY TICKET SALES MARKET-**  
14 **PLACES.**

15 Not later than 180 days after the date of enactment  
16 of this Act, the Federal Trade Commission shall promul-  
17 gate rules in accordance with section 553 of title 5, United  
18 States Code, that include the following requirements and  
19 prohibitions with regard to the secondary sale, distribu-  
20 tion, and pricing of tickets:

21 (1) A requirement that if the secondary ticket  
22 sales marketplace does not possess the ticket at the  
23 time of the sale that such secondary ticket sales  
24 marketplace provide—

1 (A) a clear and conspicuous statement that  
2 the secondary ticket sales marketplace does not  
3 possess the ticket; and

4 (B) an explanation of how to obtain a re-  
5 fund from the secondary ticket sales market-  
6 place if the purchaser receives a ticket that does  
7 not match the description of the ticket by the  
8 secondary ticket sales marketplace.

9 (2) A requirement that a secondary ticket sales  
10 marketplace disclose to a purchaser when the sec-  
11 ondary ticket sales marketplace is also the primary  
12 ticket seller, venue, team, or artist associated with  
13 the event.

14 (3) A requirement that a secondary ticket sales  
15 marketplace disclose all ancillary charges to pur-  
16 chasers at the beginning of a transaction before a  
17 ticket is selected for purchase. A secondary ticket  
18 sales marketplace shall display the total cost of the  
19 ticket including all ancillary charges in all price  
20 quotes and advertisements. The price of the ticket  
21 may not change in the selection or during the pur-  
22 chase process.

23 (4) A requirement that a secondary ticket sales  
24 marketplace disclose upon offering a ticket for re-  
25 sale—

1 (A) the distribution method and the total  
2 cost of each ticket including all ancillary  
3 charges;

4 (B) the precise location of the seat or  
5 space to which the ticket would entitle the bear-  
6 er, or, if information about the precise location  
7 of the seat or space is not available, descriptive  
8 information about the location of the seat or  
9 space, such as a description of a section or  
10 other area within the venue where the seat or  
11 space is located; and

12 (C) if the secondary ticket sales market-  
13 place purchased the ticket during a public sale  
14 of tickets to the event, the date and time of the  
15 purchase of the ticket by the secondary ticket  
16 sales marketplace.

17 (5) A requirement that, if a secondary ticket  
18 sales marketplace guarantees delivery of tickets to a  
19 purchaser and fails to deliver such tickets, the sec-  
20 ondary ticket sales marketplace shall provide a full  
21 refund for the total cost of the ticket, including all  
22 ancillary charges, barring non-delivery due to causes  
23 beyond reasonable control of the seller including a  
24 natural disaster, civil disturbance, or otherwise un-  
25 foreseeable impediment.

1           (6) A requirement that the secondary ticket  
2           sales marketplace disclose to a person purchasing a  
3           ticket any delivery guarantee policy described in  
4           paragraph (5) before completion of the sale of the  
5           ticket.

6           (7) A requirement that a secondary ticket sales  
7           marketplace—

8                   (A) not make any representation of affili-  
9                   ation or endorsement with a venue, team, or  
10                  artist, as the case may be, without the express  
11                  written consent of the venue, team, or artist, as  
12                  applicable, except when it constitutes fair use  
13                  and is consistent with applicable laws; and

14                  (B) in the case of an online secondary tick-  
15                  et sales marketplace, post a clear and con-  
16                  spicuous notice that the website or mobile appli-  
17                  cation is engaged in the secondary sale of tick-  
18                  ets and require purchasers to confirm having  
19                  read such notice before registering for an ac-  
20                  count with the secondary ticket sales market-  
21                  place or starting a transaction.

22           (8) A prohibition on the secondary sale of a  
23           ticket by an individual employee of any venue, pri-  
24           mary ticket seller, team, artist, online resale market-  
25           place, or box office that is involved in hosting, pro-



1 moting, performing in, or selling tickets if such sec-  
 2 ondary sale—

3 (A) is for a higher price than the primary  
 4 sale of the ticket; or

5 (B) is made to any third party and the em-  
 6 ployee has actual knowledge, or knowledge fair-  
 7 ly implied on the basis of objective cir-  
 8 cumstances, that the third party intends to sell  
 9 the ticket for a higher price than total cost of  
 10 the ticket, including all ancillary charges.

11 (9) A prohibition on the secondary sale of a  
 12 ticket for the same seat to more than one person at  
 13 the same time.

14 (10) A requirement that no purchaser shall be  
 15 sanctioned or denied admission to an event on the  
 16 basis that such purchaser resold a ticket, gifted, or  
 17 purchased a resold ticket.

18 **SEC. 5. ENFORCEMENT.**

19 (a) FEDERAL TRADE COMMISSION.—A violation of a  
 20 rule prescribed pursuant to section 3 or 4 shall be treated  
 21 as a violation of a rule defining an unfair or deceptive  
 22 act or practice prescribed under section 18(a)(1)(B) of the  
 23 Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).  
 24 The Federal Trade Commission shall enforce this Act in  
 25 the same manner, by the same means, and with the same

1 jurisdiction as though all applicable terms and provisions  
2 of the Federal Trade Commission Act were incorporated  
3 into and made a part of this Act.

4 (b) STATE ATTORNEYS GENERAL.—

5 (1) IN GENERAL.—Except as provided in para-  
6 graph (6), in any case in which the attorney general  
7 of a State has reason to believe that an interest of  
8 the residents of that State has been or is threatened  
9 or adversely affected by the engagement of any per-  
10 son in a practice that violates a rule prescribed  
11 under section 3 or 4, the State, as *parens patriae*,  
12 may bring a civil action on behalf of the residents  
13 of the State in an appropriate district court of the  
14 United States or other court of competent jurisdic-  
15 tion to—

16 (A) enjoin that practice;

17 (B) enforce compliance with the rule;

18 (C) obtain damages, restitution, or other  
19 compensation on behalf of residents of the  
20 State; and

21 (D) obtain such other relief as the court  
22 may consider to be appropriate.

23 (2) NOTICE.—The State shall serve written no-  
24 tice to the Commission of any civil action under  
25 paragraph (1) at least 60 days prior to initiating

1 such civil action. The notice shall include a copy of  
2 the complaint to be filed to initiate such civil action,  
3 except that if it is not feasible for the State to pro-  
4 vide such prior notice, the State shall provide notice  
5 immediately upon instituting such civil action.

6 (3) INTERVENTION BY FTC.—Upon receiving  
7 the notice required by paragraph (2), the Commis-  
8 sion may intervene in such civil action and upon in-  
9 tervening—

10 (A) be heard on all matters arising in such  
11 civil action;

12 (B) remove the action to the appropriate  
13 United States district court; and

14 (C) file petitions for appeal of a decision in  
15 such civil action.

16 (4) SAVINGS CLAUSE.—Nothing in this sub-  
17 section shall prevent the attorney general of a State  
18 from exercising the powers conferred on the attorney  
19 general by the laws of such State to conduct inves-  
20 tigations or to administer oaths or affirmations or to  
21 compel the attendance of witnesses or the production  
22 of documentary and other evidence. Nothing in this  
23 section shall prohibit the attorney general of a State,  
24 or other authorized State officer, from proceeding in

1 State or Federal court on the basis of an alleged vio-  
2 lation of any civil or criminal statute of that State.

3 (5) VENUE; SERVICE OF PROCESS; JOINDER.—

4 In a civil action brought under paragraph (1)—

5 (A) the venue shall be a judicial district in  
6 which the defendant or a related party is found,  
7 is an inhabitant, or transacts business, or wher-  
8 ever venue is proper under section 1391 of title  
9 28, United States Code;

10 (B) process may be served without regard  
11 to the territorial limits of the district or of the  
12 State in which the civil action is instituted; and

13 (C) a person who participated with a de-  
14 fendant or related party in an alleged violation  
15 that is being litigated in the civil action may be  
16 joined in the civil action without regard to the  
17 residence of the person.

18 (6) PREEMPTIVE ACTION BY FTC.—Whenever a  
19 civil action or an administrative action has been in-  
20 stituted by or on behalf of the Commission for viola-  
21 tion of any rule described under paragraph (1), no  
22 State may, during the pendency of such action insti-  
23 tuted by or on behalf of the Commission, institute  
24 a civil action under paragraph (1) against any de-

1        fendant named in the complaint in such action for  
 2        violation of any rule as alleged in such complaint.

3            (7) AWARD OF COSTS AND FEES.—If a State  
 4        prevails in any civil action under paragraph (1), the  
 5        State can recover reasonable costs and attorney fees  
 6        from the lender or related party.

7            (c) PRIVATE RIGHT OF ACTION.—Any person who  
 8        suffers injury as a result of another person’s violation of  
 9        a rule prescribed pursuant to section 3 or 4, may bring  
 10       a civil action against such person in a United States dis-  
 11       trict court and may recover from such person damages  
 12       for such injury plus \$1,000 for each requirement or pro-  
 13       hibited act set forth in such sections that such person vio-  
 14       lated with respect to a ticket sold to the person bringing  
 15       such action, and reasonable attorneys’ fees and costs.

16    **SEC. 6. NONPREEMPTION.**

17        Nothing in this Act shall affect the authority of any  
 18        State or local government to establish or continue in effect  
 19        a provision of law of the State or local government relating  
 20        to the regulation of the resale of tickets to events or the  
 21        pricing of such tickets for resale, except to the extent that  
 22        such provision is inconsistent with this Act or a regulation  
 23        promulgated under this Act, and then only to the extent  
 24        of the inconsistency. A provision of law of a State or local  
 25        government is not inconsistent with this Act or a regula-

1 tion promulgated under this Act if such provision provides  
2 equal or greater protection to purchasers than the protec-  
3 tion provided under this Act or such regulation.

4 **SEC. 7. FTC STUDY OF TICKET MARKET.**

5       The Federal Trade Commission shall conduct a study  
6 of the ticket market to determine the effect of the  
7 Commission's enforcement actions of the BOTS Act  
8 (Public Law 114–274) since it was enacted on December  
9 14, 2016. The Commission shall transmit a report to Con-  
10 gress that details all enforcement actions taken since the  
11 enactment of the BOTS Act (Public Law 114–274) and  
12 assesses the use of fraudulent identities to circumvent se-  
13 curity measures of a ticket selling website in violation of  
14 such Act.

○