

118TH CONGRESS
1ST SESSION

S. _____

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

Mr. BLUMENTHAL (for himself, Ms. HIRONO, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

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 Stub Sales and Strengthening Well Informed and Fair
6 Transactions for Audiences of Concert Ticketing Act of
7 2023” or the “BOSS and SWIFT ACT of 2023”.

8 **SEC. 2. DEFINITIONS.**

9 In this Act:

1 (1) ANCILLARY CHARGE.—The term “ancillary
2 charge”—

3 (A) means any fee that must be paid in
4 order to secure a ticket from a primary ticket
5 seller or secondary ticket sales marketplace, in-
6 cluding a service fee, convenience charge, deliv-
7 ery and logistics fee, and any other mandatory
8 charge; and

9 (B) does not include taxes.

10 (2) BASE PRICE.—The term “base price”
11 means the price charged for a ticket other than any
12 ancillary charge and tax.

13 (3) BOX OFFICE.—The term “box office”
14 means a physical location where tickets are offered
15 for primary sale.

16 (4) BUNDLED SERIES TICKETS.—The term
17 “bundled series tickets” means a package of tickets
18 for multiple events that are part of the same enter-
19 tainment series.

20 (5) COMMISSION.—The term “Commission”
21 means the Federal Trade Commission.

22 (6) DOMAIN NAME.—The term “domain name”
23 means a globally unique, hierarchical reference to an
24 internet host or service, which is assigned through
25 centralized internet naming authorities, and which is

1 comprised of a series of character strings separated
2 by periods, with the right most string specifying the
3 top of the hierarchy.

4 (7) PRIMARY SALE.—The term “primary sale”
5 means, with regards to a ticket, the initial sale of a
6 ticket.

7 (8) PRIMARY TICKET SELLER.—The term “pri-
8 mary ticket seller” means an owner or operator of
9 a venue or a sports team, a manager or provider of
10 an event, or a provider of ticketing services (or an
11 agent of such owner, operator, manager, or provider)
12 that engages in the primary sale of tickets for an
13 event.

14 (9) PURCHASER.—The term “purchaser”
15 means any person who purchases a ticket from a
16 primary ticket seller or a secondary ticket seller, or
17 on a secondary ticket sales marketplace.

18 (10) RESALE; SECONDARY SALE.—The terms
19 “resale” or “secondary sale” means, with regards to
20 a ticket, any sale of a ticket that is not a primary
21 sale.

22 (11) SECONDARY TICKET SALES MARKET-
23 PLACE.—The term “secondary ticket sales market-
24 place” means a business, including a primary ticket
25 seller, that operates or provides a website, software

1 application for a mobile device, or any other digital
2 platform, whose purpose is to resell or facilitate the
3 resale of tickets to purchasers.

4 (12) SECONDARY TICKET SELLER.—The term
5 “secondary ticket seller” means an individual, group
6 of individuals, or company, including a primary tick-
7 et seller, who engages in the resale or secondary sale
8 of tickets.

9 (13) TICKET.—The term “ticket” means a
10 printed, electronic, or other type of evidence of the
11 right for admission to a sporting event, theater, mu-
12 sical performance, or place of public amusement of
13 any kind, including bundled series tickets.

14 (14) TOTAL COST OF THE TICKET.—The term
15 “total cost of the ticket” means the base price of the
16 ticket and any ancillary charge.

17 (15) URL.—The term “URL” means the uni-
18 form resource locator for an internet website.

19 **SEC. 3. TRANSPARENCY OF MARKETING, DISTRIBUTION,**
20 **AND PRICING BY TICKET SELLERS.**

21 A primary ticket seller, secondary ticket seller, and
22 secondary ticket sales marketplace shall do the following:

23 (1) Disclose clearly and conspicuously the total
24 cost of the ticket, from the first time a ticket price
25 is displayed and anytime thereafter.

1 (2) Provide the purchaser before purchase an
2 option to view the base price of the ticket with any
3 ancillary charge and tax itemized.

4 (3) Display the total cost of the ticket in any
5 price quote and advertisement that includes the tick-
6 et price.

7 (4) Not change the total cost of the ticket dur-
8 ing the purchase process unless there is a clear and
9 conspicuous notice that the total cost of the ticket
10 has changed.

11 (5) If a ticket is not delivered (except for a case
12 in which there is nondelivery due to a cause beyond
13 reasonable control of the seller, including a natural
14 disaster, civil disturbance, or otherwise unforeseeable
15 impediment) provide the purchaser, at the option of
16 the purchaser, at minimum—

17 (A) a full refund for the total cost of the
18 ticket and any tax; or

19 (B) subject to availability, a replacement
20 ticket in a comparable or upgraded location.

21 (6) Disclose clearly and conspicuously whether
22 any given ticket is being offered as a primary sale
23 or secondary sale.

24 (7) Disclose clearly and conspicuously the guar-
25 antee or refund policy, including whether any ancil-

1 lary charge and tax will be refunded to the pur-
2 chaser, before the completion of the sale of a ticket.

3 (8) Prohibit the design, modification, or manip-
4 ulation of a user interface with the purpose or sub-
5 stantial effect of obscuring, subverting, or impairing
6 user autonomy, decision making, or choice.

7 (9) Not knowingly sell a ticket for the same
8 seat to more than one person.

9 (10) Report to the Commission any actual or
10 constructive knowledge of activity that may be in
11 violation of the BOTS Act of 2016 (15 U.S.C. 45c;
12 Public Law 114–274).

13 **SEC. 4. PRIMARY TICKET SELLER REQUIREMENTS.**

14 A primary ticket seller shall do the following:

15 (1) Disclose clearly and conspicuously on the
16 website of the seller and at the box office of the
17 venue where the event will be held, the total number
18 and total cost of tickets that will be offered for sale
19 to the general public by the seller not less than 7
20 days before the date on which tickets are made
21 available for primary sale.

22 (2) Not restrict or hinder the ability of a pur-
23 chaser who has purchased a ticket from a primary
24 ticket seller from—

1 (A) reselling any such ticket independently
2 of the primary ticket seller or any secondary
3 ticket sales marketplace owned or affiliated
4 with the primary ticket seller; and

5 (B) reselling such ticket on the secondary
6 ticket sales marketplace the purchaser chooses.

7 (3) Not require a minimum or maximum price
8 for the resale of any ticket purchased from a pri-
9 mary ticket seller.

10 (4) Not sanction or deny a purchaser admission
11 to an event, deny rights to bundled series tickets or
12 the renewal thereof, or otherwise discriminate
13 against a purchaser on the basis that the purchaser
14 resold a ticket, gifted a ticket, or purchased a resold
15 ticket.

16 **SEC. 5. SECONDARY TICKET SELLER AND SECONDARY**
17 **TICKET SALES MARKETPLACE REQUIRE-**
18 **MENTS.**

19 A secondary ticket seller or secondary ticket sales
20 marketplace shall comply with the following requirements:

21 (1) If a secondary ticket seller does not control
22 the ticket at the time the ticket is offered for sale—

23 (A) the secondary ticket seller shall provide
24 a clear and conspicuous statement on the initial
25 ticket listing that the secondary ticket seller

1 does not control the ticket and cannot guar-
2 antee that the seller will be able to obtain the
3 ticket; and

4 (B) the secondary ticket sales marketplace
5 shall implement and maintain a mechanism on
6 the platform of the marketplace to clearly and
7 conspicuously display the statement required in
8 subparagraph (A).

9 (2) A secondary ticket sales marketplace shall
10 provide a clear and conspicuous explanation of how
11 to obtain a refund of the total cost of the ticket and
12 any tax if the purchaser receives a ticket that does
13 not match the description of the ticket provided by
14 the secondary ticket seller.

15 (3) A secondary ticket sales marketplace shall
16 disclose clearly and conspicuously to a purchaser
17 when the secondary ticket sales marketplace is also
18 the primary ticket seller for a venue, team, or artist
19 associated with the event.

20 (4) A secondary ticket sales marketplace shall
21 disclose clearly and conspicuously upon offering a
22 ticket for resale—

23 (A) the delivery method and the delivery
24 timing; and

1 (B) the precise section and row of the seat
2 or space to which the ticket would entitle the
3 bearer, or, if information about the precise sec-
4 tion and row of the seat or space is not avail-
5 able, descriptive information about the location
6 of the seat or space, such as a description of a
7 section or other area within the venue where
8 the seat or space is located.

9 (5) A secondary ticket sales marketplace—

10 (A) shall provide a clear and conspicuous
11 statement, before a visitor creates an account
12 with the secondary ticket sales marketplace or
13 selects a ticket, that the marketplace is engaged
14 in the secondary sale of tickets and is not affili-
15 ated or endorsed by a venue, team, or artist, as
16 the case may be, unless the marketplace has the
17 express written consent of the venue, team, or
18 artist, as applicable; and

19 (B) shall not use a domain name, or any
20 subdomain thereof, in the URL of the market-
21 place that contains—

22 (i) the name of a specific team,
23 league, or venue where concerts, sports, or
24 other live entertainment events are held,

1 unless authorized by the owner of the
2 name;

3 (ii) the name of the exhibition or per-
4 formance or of another event described in
5 clause (i), including the name of a person,
6 team, performance, group, or entity sched-
7 uled to perform at any such venue or
8 event, unless authorized by the owner of
9 the name;

10 (iii) any trademark not owned by the
11 secondary ticket sales marketplace, includ-
12 ing any trademark owned by an authorized
13 agent or partner of the venue or event
14 identified in clauses (i) and (ii); or

15 (iv) any name substantially similar to
16 those described in clauses (i) and (ii), in-
17 cluding any misspelling of any name de-
18 scribed in those clauses.

19 (6) Shall not permit the unauthorized sec-
20 ondary sale of a ticket by an individual employee of
21 any venue, primary ticket seller, team, artist, pro-
22 moter, secondary ticket sales marketplace, or box of-
23 fice, that is directly involved in hosting, promoting,
24 performing in, or selling tickets if such secondary
25 sale—

1 (A) is for a higher total cost than the total
2 cost in the primary sale of the ticket; or

3 (B) is made to any third party and the em-
4 ployee has actual knowledge, or knowledge fair-
5 ly implied on the basis of objective cir-
6 cumstances, that the third party intends to sell
7 the ticket for a higher total cost than the total
8 cost in the primary sale of the ticket.

9 **SEC. 6. ENFORCEMENT.**

10 (a) FEDERAL TRADE COMMISSION.—A violation of
11 sections 3, 4, or 5 of this Act, or any rule prescribed pur-
12 suant to this Act, is enforceable as a violation of a rule
13 defining an unfair or deceptive act or practice prescribed
14 under section 18(a)(1)(B) of the Federal Trade Commis-
15 sion Act (15 U.S.C. 57a(a)(1)(B)). The Commission shall
16 enforce this Act in the same manner, by the same means,
17 and with the same jurisdiction as though all applicable
18 terms and provisions of the Federal Trade Commission
19 Act were incorporated into and made a part of this Act.
20 Nothing in this Act shall be construed to limit the author-
21 ity of the Commission under any other law.

22 (b) STATE ATTORNEYS GENERAL.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (6), in any case in which the attorney general
25 of a State has reason to believe that an interest of

1 the residents of that State has been or is threatened
2 or adversely affected by the engagement of any per-
3 son in a practice that violates a rule prescribed pur-
4 suant to this Act, the State, as *parens patriae*, may
5 bring a civil action on behalf of the residents of the
6 State in an appropriate district court of the United
7 States or other court of competent jurisdiction to—

8 (A) enjoin that practice;

9 (B) enforce compliance with the rule;

10 (C) obtain civil penalties;

11 (D) obtain damages, restitution, or other

12 compensation on behalf of residents of the
13 State; and

14 (E) obtain such other relief as the court

15 may consider to be appropriate.

16 (2) NOTICE.—The State shall serve written no-
17 tice to the Commission of any civil action under
18 paragraph (1) at least 60 days prior to initiating
19 such civil action. The notice shall include a copy of
20 the complaint to be filed to initiate such civil action,
21 except that if it is not feasible for the State to pro-
22 vide such prior notice, the State shall provide notice
23 immediately upon instituting such civil action.

24 (3) INTERVENTION BY FTC.—Upon receiving
25 the notice required by paragraph (2), the Commis-

1 sion may intervene in such civil action and upon in-
2 tervening—

3 (A) be heard on all matters arising in such
4 civil action;

5 (B) remove the action to the appropriate
6 United States district court; and

7 (C) file petitions for appeal of a decision in
8 such civil action.

9 (4) SAVINGS CLAUSE.—Nothing in this sub-
10 section shall prevent the attorney general of a State
11 from exercising the powers conferred on the attorney
12 general by the laws of such State to conduct inves-
13 tigation or to administer oaths or affirmations or to
14 compel the attendance of witnesses or the production
15 of documentary and other evidence. Nothing in this
16 section shall prohibit the attorney general of a State,
17 or other authorized State officer, from proceeding in
18 State or Federal court on the basis of an alleged vio-
19 lation of any civil or criminal statute of that State.

20 (5) VENUE; SERVICE OF PROCESS; JOINDER.—
21 In a civil action brought under paragraph (1)—

22 (A) the venue shall be a judicial district in
23 which the defendant or a related party is found,
24 is an inhabitant, or transacts business, or wher-

1 ever venue is proper under section 1391 of title
2 28, United States Code;

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

6 (C) a person who participated with a de-
7 fendant or related party in an alleged violation
8 that is being litigated in the civil action may be
9 joined in the civil action without regard to the
10 residence of the person.

11 (6) PREEMPTIVE ACTION BY FTC.—Whenever a
12 civil action or an administrative action has been in-
13 stituted by or on behalf of the Commission for viola-
14 tion of any rule described under paragraph (1), no
15 State may, during the pendency of such action insti-
16 tuted by or on behalf of the Commission, institute
17 a civil action under paragraph (1) against any de-
18 fendant named in the complaint in such action for
19 violation of any rule as alleged in such complaint.

20 (7) AWARD OF COSTS AND FEES.—If a State
21 prevails in any civil action under paragraph (1), the
22 State can recover reasonable costs and attorney fees.

23 (c) PRIVATE RIGHT OF ACTION.—Any person who
24 suffers injury as a result of another person's violation of
25 a rule prescribed pursuant to section 3(1) or 4(2), may

1 bring a civil action against such person in a United States
2 district court and may recover from such person damages
3 for such injury plus \$1,000 for each requirement or prohi-
4 bition set forth in such sections that such person violated
5 with respect to a ticket sold to the person bringing such
6 action, and reasonable attorneys' fees and costs.

7 **SEC. 7. NONPREEMPTION.**

8 Nothing in this Act shall affect the authority of any
9 State or local government to establish or continue in effect
10 a provision of law of the State or local government relating
11 to the regulation of the resale of tickets to events or the
12 pricing of such tickets for resale, except to the extent that
13 such provision is inconsistent with this Act or a regulation
14 promulgated under this Act, and then only to the extent
15 of the inconsistency. A provision of law of a State or local
16 government is not inconsistent with this Act or a regula-
17 tion promulgated under this Act if such provision provides
18 equal or greater protection to purchasers than the protec-
19 tion provided under this Act or such regulation.

20 **SEC. 8. FTC STUDY OF TICKET MARKET.**

21 (a) EFFECT OF BOTS ACT OF 2016.—Not later than
22 90 days after the date of the enactment of this Act, the
23 Commission shall submit to Congress a report on the ef-
24 fect of the enforcement actions by the Commission since
25 the date of the enactment of the BOTS Act of 2016 (15

1 U.S.C. 45c; Public Law 114–274) on the ticket market,
2 including the following:

3 (1) Any enforcement action taken since such
4 date.

5 (2) How the Commission collects evidence of
6 potential violations of the BOTS Act of 2016.

7 (3) Any recommendation to improve enforce-
8 ment of the BOTS Act of 2016, including whether
9 additional regulations may be needed to encourage
10 reporting by primary ticket sellers, secondary ticket
11 sellers, and secondary ticket sales marketplaces of
12 activity that may be in violation of the BOTS Act
13 of 2016.

14 (b) EFFECT OF THIS ACT.—Not later than 2 years
15 after the date of the enactment of this Act, the Commis-
16 sion shall submit to Congress a report on the effect of
17 this Act on the ticket market, including the following:

18 (1) Any enforcement action taken since such
19 date.

20 (2) How the Commission collects evidence of
21 potential violations of this Act.

22 (3) Any recommendation to improve enforce-
23 ment of this Act, including whether additional regu-
24 lations may be needed to encourage reporting of ac-
25 tivity that may be in violation of this Act.