

117TH CONGRESS
2D SESSION

H. R. 8261

To prohibit unfair and deceptive advertising of rates for hotel rooms and other places of short-term lodging.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 2022

Ms. JOHNSON of Texas (for herself and Mrs. TRAHAN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit unfair and deceptive advertising of rates for hotel rooms and other places of short-term lodging.

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 “Hotel Advertising
5 Transparency Act of 2022”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) As of the day before the date of the enact-
9 ment of this Act, hotel rooms, short-term rentals,
10 and other places of lodging are often advertised at

1 a rate and later in the buying process mandatory
2 fees are disclosed that were not included in the ad-
3 vertised room rate.

4 (2) The mandatory fees described in paragraph
5 (1) are sometimes called by names such as “resort
6 fees”, “cleaning fees”, or “facility fees” and they are
7 all mandatory and charged by a place of short-term
8 lodging in addition to advertised room rates.

9 (3) The number of short-term lodging facilities
10 that charge mandatory resort fees is growing.

11 (4) Advertising that does not reflect the true
12 mandatory cost of a stay at a place of short-term
13 lodging is deceptive.

14 (5) The Federal Trade Commission has author-
15 ity under section 5 of the Federal Trade Commis-
16 sion Act (15 U.S.C. 45) to regulate and prohibit un-
17 fair or deceptive acts or practices in or affecting
18 commerce.

19 (6) In 2012 and 2013, the Federal Trade Com-
20 mission exercised its authority under such section 5
21 to issue warning letters to 35 hotel operators and 11
22 online travel agents. In those letters, the Commis-
23 sion cautioned hotel operators and online travel
24 agents that mandatory resort fees could confuse con-

1 sumers in violation of section 5(a) of such Act (15
2 U.S.C. 45(a)).

3 (7) In 2017, an economist at the Federal Trade
4 Commission published an issue paper that found
5 that forcing consumers to click through additional
6 webpages to see a hotel's resort fee increases the
7 time spent searching and learning the hotel's price,
8 and went on to state the following: "Separating the
9 room rate from the resort fee increases the cognitive
10 costs of remembering the hotel's price. When it be-
11 comes more costly to search and evaluate an addi-
12 tional hotel, a consumer's choice is either to incur
13 higher total search and cognitive costs or to make an
14 incomplete, less informed decision that may result in
15 a more costly room, or both."

16 **SEC. 3. PROHIBITION ON UNFAIR AND DECEPTIVE ADVER-**
17 **TISING OF HOTEL ROOM AND OTHER SHORT-**
18 **TERM LODGING RATES.**

19 (a) PROHIBITION.—No person with respect to whom
20 the Commission is empowered under section 5(a)(2) of the
21 Federal Trade Commission Act (15 U.S.C. 45(a)(2)) may
22 advertise in interstate commerce, including through direct
23 offerings, third-party distribution, or metasearch referrals,
24 a rate for a place of short-term lodging that does not in-

1 clude all required fees, excluding taxes and fees imposed
2 by a government.

3 (b) ENFORCEMENT BY FEDERAL TRADE COMMIS-
4 SION.—

5 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
6 TICES.—A violation of subsection (a) by a person
7 subject to such subsection shall be treated as a viola-
8 tion of a rule defining an unfair or deceptive act or
9 practice prescribed under section 18(a)(1)(B) of the
10 Federal Trade Commission Act (15 U.S.C.
11 57a(a)(1)(B)).

12 (2) POWERS OF COMMISSION.—

13 (A) IN GENERAL.—The Commission shall
14 enforce this section in the same manner, by the
15 same means, and with the same jurisdiction,
16 powers, and duties as though all applicable
17 terms and provisions of the Federal Trade
18 Commission Act (15 U.S.C. 41 et seq.) were in-
19 corporated into and made a part of this Act.
20 Any person who violates this section shall be
21 subject to the penalties and entitled to the
22 privileges and immunities provided in the Fed-
23 eral Trade Commission Act (15 U.S.C. 41 et
24 seq.).

25 (B) RULEMAKING.—

1 (i) IN GENERAL.—The Commission
2 may promulgate such rules as the Commis-
3 sion considers appropriate to enforce this
4 section.

5 (ii) PROCEDURES.—The Commission
6 shall carry out any rulemaking under
7 clause (i) in accordance with section 553 of
8 title 5, United States Code.

9 (c) ENFORCEMENT BY STATES.—

10 (1) IN GENERAL.—In any case in which the at-
11 torney general of a State has reason to believe that
12 an interest of the residents of the State has been or
13 is threatened or adversely affected by the engage-
14 ment of any person subject to subsection (a) in a
15 practice that violates such subsection, the attorney
16 general of the State may, as *parens patriae*, bring
17 a civil action on behalf of the residents of the State
18 in an appropriate district court of the United States
19 to obtain appropriate relief.

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

22 (A) NOTICE TO FEDERAL TRADE COMMIS-
23 SION.—

24 (i) IN GENERAL.—Except as provided
25 in clause (iii), the attorney general of a

1 State shall notify the Commission in writ-
2 ing that the attorney general intends to
3 bring a civil action under paragraph (1)
4 before initiating the civil action against a
5 person subject to subsection (a).

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 FEDERAL TRADE
18 COMMISSION.—The Commission may—

19 (i) intervene in any civil action
20 brought by the attorney general of a State
21 under paragraph (1) against a person de-
22 scribed in such paragraph; and

23 (ii) upon intervening—

24 (I) be heard on all matters aris-
25 ing in the civil action; and

1 (II) file petitions for appeal of a
2 decision in the civil action.

3 (3) INVESTIGATORY POWERS.—Nothing in this
4 subsection may be construed to prevent the attorney
5 general of a State from exercising the powers con-
6 ferred on the attorney general by the laws of the
7 State to conduct investigations, to administer oaths
8 or affirmations, or to compel the attendance of wit-
9 nesses or the production of documentary or other
10 evidence.

11 (4) EFFECT ON STATE COURT PROCEEDINGS.—
12 Nothing in this subsection shall be construed to pro-
13 hibit an authorized State official from proceeding in
14 State court on the basis of an alleged violation of
15 any general civil or criminal statute of such State.

16 (5) COORDINATION WITH FEDERAL TRADE
17 COMMISSION.—If the Commission institutes a civil
18 action or an administrative action with respect to a
19 violation of subsection (a), the attorney general of a
20 State shall coordinate with the Commission before
21 bringing a civil action under paragraph (1) against
22 any defendant named in the complaint of the Com-
23 mission for the violation with respect to which the
24 Commission instituted such action.

25 (6) VENUE; SERVICE OF PROCESS.—

1 (A) VENUE.—Any action brought under
2 paragraph (1) may be brought in—

3 (i) the district court of the United
4 States that meets applicable requirements
5 relating to venue under section 1391 of
6 title 28, United States Code; or

7 (ii) another court of competent juris-
8 diction.

9 (B) SERVICE OF PROCESS.—In an action
10 brought under paragraph (1), process may be
11 served in any district in which the defendant—

12 (i) is an inhabitant; or

13 (ii) may be found.

14 (7) ACTIONS BY OTHER STATE OFFICIALS.—

15 (A) IN GENERAL.—In addition to civil ac-
16 tions brought by attorneys general under para-
17 graph (1), any other officer of a State who is
18 authorized by the State to do so may bring a
19 civil action under paragraph (1), subject to the
20 same requirements and limitations that apply
21 under this subsection to civil actions brought by
22 attorneys general.

23 (B) SAVINGS PROVISION.—Nothing in this
24 subsection may be construed to prohibit an au-
25 thorized official of a State from initiating or

1 continuing any proceeding in a court of the
2 State for a violation of any civil or criminal law
3 of the State.

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

5 (1) the term “Commission” means the Federal
6 Trade Commission;

7 (2) the term “place of short-term lodging”
8 means a hotel, motel, inn, short-term rental, or
9 other place of lodging that advertises at a rate that
10 is a nightly, hourly, or weekly rate; and

11 (3) the term “State” means any of the several
12 States, the District of Columbia, and any territory
13 of the United States.

14 (e) EFFECTIVE DATE.—Subsection (a) shall take ef-
15 fect 270 days after the date of the enactment of this Act.

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