To limit and eliminate excessive, hidden, and unnecessary fees imposed on consumers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Blumenthal (for himself and Mr. Whitehouse) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To limit and eliminate excessive, hidden, and unnecessary fees imposed on consumers, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Junk Fee Prevention Act”.

SEC. 2. PROTECTING CONSUMERS FROM EXCESSIVE AND HIDDEN FEES.

(a) Protecting Consumers From Hidden Fees.—A covered entity shall clearly and conspicuously display, in each advertisement and when a price is first
shown to a consumer, the total price of the good or service
provided by the covered entity, including any mandatory
fees a consumer would incur during the transaction, which
shall not change during the purchase process.

(b) Excessive Fees.—A covered entity shall not im-
pose on a consumer or advertise any mandatory fees that
are excessive or deceptive for any good or service offered
by the covered entity.

c) Ticket Holdbacks.—If a good or service pro-
vided by a covered entity is a ticket to a sporting event,
theater, musical performance, or an event at a place of
public amusement of any kind, the covered entity shall,
not less than 72 hours prior to the first public sale or
presale of such ticket, clearly and conspicuously disclose
to the public, including at the point of sale, the total num-
ber of tickets offered for sale by the covered entity or
available for the given event.

d) Protecting Refunds.—A covered entity shall
clearly and conspicuously disclose any guarantee or refund
policy prior to the completion of a transaction by the con-
sumer and, in the event of a refund, provide a refund in
the amount of the total cost of the ticket including any
mandatory fees.
(e) Speculative Ticketing.—If a covered entity does not possess a ticket at the time of the sale, it shall provide to the consumer—

(1) a clear and conspicuous notice that the covered entity does not possess the ticket; and

(2) a full refund if the covered entity cannot provide the ticket advertised to the consumer in a timely manner prior to the event.

(f) Rulemaking on Excessive and Hidden Fees.—The Federal Trade Commission may promulgate rules in accordance with section 553 of title 5, United States Code, regarding the disclosure and imposition of mandatory or deceptive fees, including any such fee not described in subsections (a) through (e).

(g) Excessive Fees.—In considering whether a mandatory fee is excessive, the Federal Trade Commission or court shall take into consideration—

(1) whether the fee is reasonable and proportional to the cost of the good or service provided by the covered entity;

(2) the reason for which the covered entity charges such fee; and

(3) any other factors determined appropriate by the Federal Trade Commission or the court.

(h) Enforcement.—
(1) Enforcement by the Commission.—

(A) Unfair or Deceptive Acts or Practices.—A violation this section or a regulation promulgated thereunder shall be treated as a violation of a rule defining an unfair or deceptive act or practice under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(B) Powers of the Commission.—

(i) In General.—The Federal Trade Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section.

(ii) Privileges and Immunities.—Any person who violates this section or a regulation promulgated thereunder shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).
(iii) Authority preserved.—Nothing in this section shall be construed to limit the authority of the Federal Trade Commission under any other provision of law.

(2) Enforcement by states.—

(A) In general.—If the attorney general of a State has reason to believe that a covered entity has violated or is violating this section or a regulation promulgated thereunder that affects the residents of that State, the State, as parens patriae, may bring a civil action in any appropriate district court of the United States, to—

(i) enjoin any further violation by the covered entity;

(ii) enforce compliance with this section or such regulation;

(iii) obtain other remedies permitted under State law; and

(iv) obtain damages, restitution, or other compensation on behalf of residents of the State.

(B) Notice.—The attorney general of a State shall provide prior written notice of any
action under subparagraph (A) to the Commission and provide the Commission with a copy of the complaint in the action, except in any case in which such prior notice is not feasible, in which case the attorney general shall serve such notice immediately upon instituting such action.

(C) INTERVENTION BY THE COMMISSION.—Upon receiving notice under subparagraph (B), the Commission shall have the right—

(i) to intervene in the action;

(ii) upon so intervening, to be heard on all matters arising therein; and

(iii) to file petitions for appeal.

(D) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission has instituted a civil action for violation of this section or a regulation promulgated thereunder, no State attorney general, or official or agency of a State, may bring a separate action under subparagraph (A) during the pendency of that action against any defendant named in the complaint of the Commission for any violation of this section or a regulation promulgated thereunder that is alleged in the complaint. A
State attorney general, or official or agency of
a State, may join a civil action for a violation
of this section or a regulation promulgated
thereunder filed by the Commission.

(E) Rule of Construction.—For pur-
poses of bringing a civil action under subpara-
graph (A), nothing in this section shall be con-
strued to prevent the chief law enforcement of-
ficer or official or agency of a State, from exer-
cising the powers conferred on such chief law
enforcement officer or official or agency of a
State, by the laws of the State to conduct inves-
tigations, administer oaths or affirmations, or
compel the attendance of witnesses or the pro-
duction of documentary and other evidence.

(i) Definitions.—In this section:

(1) Covered Entity.—

(A) In General.—The term “covered en-
tity” means—

(i) a provider of short-term lodging or
an entity that advertises rates or the pur-
chase of short-term lodging;

(ii) a provider of a ticketing service
that sells tickets for an event or retains the
authority to otherwise distribute tickets for
such event, whether as a primary seller of
tickets or in the secondary marketplace for
ticket sales; or

(iii) any other entity determined ap-
propriate by the Commission through a
rulemaking in accordance with section 553
of title 5, United States Code.

(B) SHORT-TERM LODGING.—For purposes
of subparagraph (A), the term “short-term
lodging” means any lodging that is offered for
an occupancy of less than 6 months.

(2) MANDATORY FEE.—The term “mandatory
fee” includes—

(A) any fee or surcharge that a consumer
is required to pay to purchase a good or service
being advertised;

(B) a fee or surcharge that is not reason-
ably avoidable;

(C) a fee or surcharge for a good or service
that a reasonable consumer would not expect to
be included with the purchase of the good or
service being advertised; or

(D) any other fee or surcharge determined
appropriate by the Commission.
SEC. 3. COMMUNICATIONS SERVICE FEES.

(a) Ending Early Termination Fees.—

(1) In general.—A provider of a covered service may not charge a fee to, or impose a requirement that is excessive or unreasonable on, a consumer for the early termination of a covered service.

(2) Device purchase and return.—Subsection (a) shall not prevent a provider of a covered service from charging a consumer for—

(A) the cost of rental or loan equipment that is not returned to the provider within a reasonable period of time; or

(B) the outstanding cost of a purchased device.

(3) Regulations.—The Federal Communications Commission may promulgate regulations to carry out this subsection.

(b) Rulemaking on Mandatory Fees.—Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall commence a rulemaking proceeding—

(1) to consider whether and how the Federal Communications Commission should—

(A) require the disclosure of mandatory fees with respect to a covered service; or
(B) prohibit the imposition of mandatory fees with respect to a covered service, in particular any such fee that a consumer would reasonably assume to be included in the advertised price of such service; and

(2) in which the Federal Communications Commission may promulgate regulations to implement the requirements or prohibitions described in paragraph (1).

(c) Enforcement.—

(1) In general.—A violation of this section or a regulation promulgated under this section shall be treated as a violation of the Communications Act of 1934 (47 U.S.C. 151 et seq.) or a regulation promulgated under that Act.

(2) Manner of enforcement.—The Federal Communications Commission shall enforce this section and the regulations promulgated under this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Communications Act of 1934 (47 U.S.C. 151 et seq.) were incorporated into and made a part of this section.

(d) Definitions.—In this section:
(1) COVERED SERVICE.—The term “covered service”—

(A) means—

(i) internet service;

(ii) voice service (as defined in section 227(e)(8) of the Communications Act of 1934 (47 U.S.C. 227(e)(8));

(iii) commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d));

(iv) commercial mobile data service (as defined in section 6001 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1401)); or

(v) a service provided by a multi-channel video programming distributor (as defined in section 602 of the Communications Act of 1934 (47 U.S.C. 522)), to the extent that such distributor is acting as a multichannel video programming distributor; and

(B) includes any other service offered or provided as part of a bundle or package with any service described in clauses (i) through (v) of subparagraph (A).
(2) MANDATORY FEE.—The term “mandatory fee” includes—

(A) any fee or surcharge that a consumer is required to pay to purchase a good or service being advertised;

(B) a fee or surcharge that is not reasonably avoidable;

(C) a fee or surcharge for a good or service that a reasonable consumer would not expect to be included with the purchase of the good or service being advertised; or

(D) any other fee or surcharge determined appropriate by the Federal Communications Commission.

SEC. 4. SEATING YOUNG CHILDREN ADJACENT TO AN AC-COMPANYING ADULT PASSENGER.

(a) IN GENERAL.—Subchapter I of chapter 417 of title 49, United States Code is amended by adding at the end the following:

“§ 41727. Seating young children adjacent to an ac- companying adult on aircraft.

“(a) APPLICABILITY.—The requirements of this sec- tion apply for the purposes of each scheduled flight seg- ment to or from any airport in the United States.

“(b) GENERAL REQUIREMENT.—
“(1) ASSIGNED SEATS.—Subject to subsection (f), an air carrier or foreign air carrier that assigns seats, or allows individuals to select seats, in advance of the date of departure of a flight shall seat each young child adjacent to an accompanying adult, provided that adjacent seat assignments are available at any time after the ticket is issued for the young child and before the first passenger boards the flight.

“(2) UNASSIGNED SEATS.—Subject to subsection (f), an air carrier or foreign air carrier that does not assign seats or allow individuals to select seats in advance of the date of departure shall board customers in a manner that ensures each young child is seated adjacent to an accompanying adult.

“(3) PROHIBITION ON FEES.—

“(A) IN GENERAL.—An air carrier or foreign air carrier may not charge a fee or impose an additional cost to seat a young child adjacent to an accompanying adult within the same class of service.

“(B) CLASS OF SERVICE REQUIREMENT.—Every class of service an air carrier or foreign air carrier offers must allow for seating of a young child adjacent to an accompanying adult.
“(C) Prohibition on Availability Limits.—An air carrier or foreign air carrier may not limit the availability of adjacent seats in a manner that results in an undue burden on the ability of a young child to receive an advance seat assignment adjacent to an accompanying adult.

“(c) Additional Requirements for Advance Seating.—

“(1) In general.—Subject to subsection (f), an air carrier or foreign air carrier that allows individuals to select seats or that assigns seats at the time of booking a flight shall provide, not later than 48 hours after the issuance of the ticket for each young child—

“(A) a seat assignment for the young child adjacent to the seat assignment of an accompanying adult for each flight segment of the ticket at no additional cost, provided that adjacent seat assignments are available; or

“(B) in the event that adjacent seat assignments are not available as described in subparagraph (A), an accompanying adult the choice of—
“(i) a full refund of the cost of the tickets for the young child and the accompanying adult, as well as any other individual on the same reservation; or

“(ii) waiting for adjacent seat assignments to be provided by the carrier.

“(2) REQUIRED OPTION PERIOD.—The air carrier or foreign air carrier shall provide the accompanying adult a period of not less than 7 days from the date of notification of the choice described in paragraph (1)(B) to make a selection between the options described in clauses (i) and (ii) of such paragraph.

“(3) NO AVAILABLE ADJACENT SEAT ASSIGNMENT.—In the event that an accompanying adult chooses the option described in paragraph (1)(B)(ii) and adjacent seat assignments for the young child and the accompanying adult on a ticketed flight segment do not become available before the first passenger boards the flight, the air carrier or foreign air carrier shall, at the choice of an accompanying adult—

“(A) rebook the young child and the accompanying adult, as well as any other indi-
individual on the same reservation, on the next available flight at no additional cost; or

“(B) transport the young child and the accompanying adult on their original ticketed flight segment in seats that are not adjacent, when seats on the aircraft are available.

“(d) ADDITIONAL REQUIREMENTS TO MITIGATE PASSENGER HARM IN EVENT OF VIOLATION.—An air carrier or foreign air carrier that violates subsection (b) or (c) shall, at the choice of an accompanying adult—

“(1) rebook the young child and the accompanying adult, as well as any other individual on the same reservation, on the next available flight at no additional cost;

“(2) provide—

“(A) a full refund of the cost of the tickets for the young child and the accompanying adult, as well as any other individual on the same reservation; and

“(B) if such individuals are at a connecting airport, return air transportation for such individuals to their origination airport at no additional cost; or

“(3) transport the young child and the accompanying adult on their original ticketed flight seg-
ment in seats that are not adjacent, when seats on
the aircraft are available.

“(e) ENFORCEMENT.—

“(1) IN GENERAL.—An air carrier or foreign
air carrier that violates a requirement of this section
is subject to civil penalties as set forth in section
46301 and other applicable remedies under this
part.

“(2) INVESTIGATIONS OF COMPLAINTS.—

“(A) IN GENERAL.—The Secretary shall
promptly investigate each complaint alleging a
violation of this section that is received by the
Department of Transportation.

“(B) PUBLICATION OF DATA.—The Sec-
retary shall publish data on complaints alleging
violations of this section in a manner com-
parable to other consumer complaint data.

“(f) EXCEPTIONS.—Subsections (b) and (c) shall not
apply to the extent that—

“(1) the young child does not have an accom-
panying adult traveling with such child;

“(2) an accompanying adult selects a seat apart
from the young child or declines to accept a seat as-
signment or a seat that is adjacent to the seat as-
signment or seat of the young child offered without
additional cost by the air carrier or foreign air carrier;

“(3) the number of young children traveling in the same party make it impossible for the air carrier or foreign air carrier to seat all the young children adjacent to an accompanying adult based on the seat layout of the aircraft; or

“(4) an exception to subsection (b) or (c) deemed appropriate by final rule of the Secretary applies.

“(g) DEFINITIONS.—In this section:

“(1) ACCOMPANYING ADULT.—The term ‘accompanying adult’ means, with respect to a young child, an individual who is—

“(A) 14 years of age or older on the date of the scheduled departure of the flight; and

“(B) on the same reservation record as the young child.

“(2) ADJACENT.—The term ‘adjacent’ means, with respect to the seat of a young child, a seat that is—

“(A) next to and in the same row of the aircraft as the seat of the young child; and

“(B) not separated by an aisle.
“(3) AVAILABLE.—The term ‘available’, when used in connection with seats or seat assignments, means capable of assignment by the air carrier or foreign air carrier without—

“(A) an upgrade of a young child or an accompanying adult to a different class of service than ticketed; and

“(B) displacing an individual with an assigned seat.

“(4) CLASS OF SERVICE.—The term ‘class of service’ means first class, business class, general economy (including basic economy), or premium economy.

“(5) NO ADDITIONAL COST.—The term ‘no additional cost’ means no added charge for the seat beyond the fare.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(7) YOUNG CHILD.—The term ‘young child’ means an individual who is 13 years of age or younger on the date of the scheduled departure of the flight.

“(h) REGULATIONS.—The Secretary may issue regulations to implement this section, including regulations that amend the definitions in subsection (g).
“(i) Effective Date.—This section shall take effect on the date that is 180 days after the date of the enactment of this section.”.

(b) Clerical Amendment.—The analysis of chapter 417 of title 49, United States Code, is amended by inserting after the item relating to section 41726 the following:

“41727. Seating young children adjacent to an accompanying adult on aircraft.”.