

BILL ANALYSIS

C.S.S.B. 58
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has become common practice for bots to purchase thousands of products such as gaming systems, shoes, or other items that are released in limited quantities and are in high demand. The items purchased with bots are then resold on the secondary market for a much higher price than the price at which they were originally sold. By using automated bots to purchase online goods, resellers can artificially manipulate market demand and pricing, as well as create floods of internet traffic which can crash the sellers' websites. This practice prevents legitimate retail customers from purchasing items for their own use.

The federal Better Online Ticket Sales (BOTS) Act makes it illegal to buy tickets with bots by evading security measures and breaking purchasing rules set up by the ticket issuer; however, no such law exists regarding the use of bots to buy other consumer goods. C.S.S.B. 58 seeks to address this issue by prohibiting the use of technology, devices, or software that function as a bypass in the online purchasing process. Furthermore, the attorney general would be authorized to take action against individuals who violate the stipulations outlined in the bill.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 58 amends the Business & Commerce Code to prohibit a person, for commercial purposes, from selling, using, or causing to be used any technology, device, or software in the sale of goods, defined by reference as tangible chattels or real property purchased or leased for use, on a website that does the following:

- functions as a bypass in the purchasing process;
- disguises the identity of the purchaser;
- permits the purchase of a quantity of goods in a number that exceeds the maximum number of goods that may be sold to one purchaser as specified by the seller or operator on the website;
- allows for the unauthorized access to or identification of gift card information, including gift card numbers and gift card personal identification numbers; or
- circumvents a security measure, access control system, or other control, authorization, or measure in the purchasing process.

The prohibition does not apply to the seller of goods on the website or to the operator of the website.

C.S.S.B. 58 authorizes the attorney general to investigate a claim that a person violated this prohibition and, if the attorney general believes a person is violating the prohibition, to bring an action in the name of the state to restrain or enjoin the person from committing the violation. The bill entitles the attorney general to recover all reasonable costs of bringing the action, including court costs, reasonable attorney's fees, and investigation costs.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 58 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes a definition of "goods," by reference, as tangible chattels or real property purchased or leased for use, which was absent from the engrossed.