

ARIZONA STATE SENATE

RESEARCH STAFF



TO: MEMBERS OF THE SENATE
JUDICIARY COMMITTEE

ZACK DEAN
LEGISLATIVE RESEARCH ANALYST
JUDICIARY COMMITTEE
Telephone: (602) 926-3171

DATE: March 22, 2022

SUBJECT: Strike everything amendment to H.B. 2033, relating to prohibitions; digital application distribution platforms

Purpose

Prohibits a provider of a digital application distribution platform from requiring the exclusive use of an in-application payment system to download a software application or purchase a digital or physical product or service through a software application.

Background

The Office of the Attorney General (AG) serves as the chief legal officer of Arizona and receives complaints and investigates alleged violations relating to civil rights, consumer fraud and other statutes as authorized ([A.R.S. Title 41, Chapter 1, Article 5](#)). The Office of the AG consists of the Criminal Division, State Government Division, Child and Family Protection Division, Civil Litigation Division, Appeals and Constitutional Litigation Division, Communications Division and Operations Division ([AG](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prohibits a provider of a digital application distribution platform for which cumulative software application downloads from the platform exceed 1,000,000 downloads in the previous or current calendar year from:
 - a) requiring a developer that is domiciled in Arizona to use in-application payment systems that are owned or controlled by the digital application distribution platform as the exclusive mode of accepting payments from a user to download a software application or purchase a digital or physical product or service through a software application;
 - b) requiring exclusive use of in-application payment systems that are owned or controlled by the digital application distribution platform for accepting payments from Arizona users to download a software application or purchase a digital or physical product or service through a software application; or
 - c) retaliating against a developer that is domiciled in Arizona for offering or accepting payments with, or against an Arizona user for using, an in-application system that is not owned by, operated by or affiliated with the provider.
2. Includes, among prohibited retaliatory acts, demoting the search rankings of the developer, shifting fees toward the developer or slowing down the application review and approval timelines.

3. Excludes, from the prohibitions, *special-purpose digital application distribution platforms*, which are platforms established primarily for:
 - a) use by public safety agencies; or
 - b) single or specialized categories of applications, software and services provided to users on hardware intended primarily for specific purposes, including gaming consoles, music players and other special-purpose devices connected to the internet.
4. Allows the AG to receive complaints, investigate violations and bring an action in any court of competent jurisdiction to obtain legal or equitable relief on behalf of a person aggrieved by a violation.
5. Allows any person aggrieved by a violation to commence a civil action on the person's own behalf in any court of competent jurisdiction to obtain legal or equitable relief, including reasonable attorney fees and costs.
6. Prohibits a civil action from being commenced until 60 days after the plaintiff has notified the AG, or if the AG is diligently prosecuting an action in court arising from the same alleged violation.
7. Defines *Arizona user* as a user whose most recent address shown in the records of a provider is located within Arizona and continues to be an Arizona user even when temporarily absent from Arizona.
8. Defines *developer* as a creator of software applications that are made available for download by users through a digital application distribution platform or other digital distribution platform.
9. Defines *digital application distribution platform* as:
 - a) a digital distribution platform for applications and services that are provided to users on mobile phones, smartphones or other mobile computing services and the devices run a mobile operating system that is owned or controlled by the provider of the digital distribution platform; and
 - b) includes a digital distribution platform that is provided or used for only certain types of devices, such as certain grades or computing devices that are made by only a particular manufacturer.
10. Defines *domiciled in Arizona* as a person that conducts in Arizona the substantial portion of work to create or to maintain digital applications.
11. Defines *in-application payment systems* as an application, service or user interface that is used to process payments from users to developers for software applications and digital and physical products and services distributed through software applications.
12. Defines *provider* as a person that owns, operates implements or maintains a digital application distribution platform or an in-application payment system.
13. Becomes effective on the general effective date.