

PROPOSED
SENATE AMENDMENTS TO H.B. 2033
(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 18, Arizona Revised Statutes, is amended by adding
3 chapter 7, to read:

4 CHAPTER 7

5 DIGITAL APPLICATION DISTRIBUTION PLATFORMS

6 ARTICLE 1. GENERAL PROVISIONS

7 18-701. Digital application distribution platforms;
8 prohibitions; exception; attorney general;
9 definitions

10 A. A PROVIDER OF A DIGITAL APPLICATION DISTRIBUTION PLATFORM FOR
11 WHICH THE NUMBER OF CUMULATIVE DOWNLOADS OF SOFTWARE APPLICATIONS FROM THE
12 DIGITAL APPLICATION DISTRIBUTION PLATFORM TO ARIZONA USERS EXCEEDS ONE
13 MILLION IN THE PREVIOUS OR CURRENT CALENDAR YEAR MAY NOT DO ANY OF THE
14 FOLLOWING:

15 1. REQUIRE A DEVELOPER THAT IS DOMICILED IN THIS STATE TO USE
16 IN-APPLICATION PAYMENT SYSTEMS THAT ARE OWNED OR CONTROLLED BY THE DIGITAL
17 APPLICATION DISTRIBUTION PLATFORM AS THE EXCLUSIVE MODE OF ACCEPTING
18 PAYMENTS FROM A USER TO DOWNLOAD A SOFTWARE APPLICATION OR PURCHASE A
19 DIGITAL OR PHYSICAL PRODUCT OR SERVICE THROUGH A SOFTWARE APPLICATION.

1 2. REQUIRE EXCLUSIVE USE OF IN-APPLICATION PAYMENT SYSTEMS THAT ARE
2 OWNED OR CONTROLLED BY THE DIGITAL APPLICATION DISTRIBUTION PLATFORM FOR
3 ACCEPTING PAYMENTS FROM ARIZONA USERS TO DOWNLOAD A SOFTWARE APPLICATION OR
4 PURCHASE A DIGITAL OR PHYSICAL PRODUCT OR SERVICE THROUGH A SOFTWARE
5 APPLICATION.

6 3. RETALIATE AGAINST A DEVELOPER THAT IS DOMICILED IN THIS STATE FOR
7 OFFERING, OR AGAINST AN ARIZONA USER FOR USING, AN IN-APPLICATION PAYMENT
8 SYSTEM THAT IS NOT OWNED BY, OPERATED BY OR AFFILIATED WITH THE PROVIDER OR
9 RETALIATE AGAINST A DEVELOPER FOR OFFERING AN IN-APPLICATION PAYMENT SYSTEM
10 THAT IS NOT OWNED BY, OPERATED BY OR AFFILIATED WITH THE PROVIDER TO ACCEPT
11 PAYMENTS FROM ARIZONA USERS. FOR THE PURPOSES OF THIS PARAGRAPH,
12 "RETALIATE" INCLUDES DEMOTING THE SEARCH RANKINGS OF THE DEVELOPER,
13 SHIFTING FEES TOWARD THE DEVELOPER OR SLOWING DOWN THE APPLICATION REVIEW
14 AND APPROVAL TIMELINES.

15 B. THIS SECTION DOES NOT APPLY WITH RESPECT TO SPECIAL-PURPOSE
16 DIGITAL APPLICATION DISTRIBUTION PLATFORMS.

17 C. THE ATTORNEY GENERAL MAY RECEIVE COMPLAINTS AND INVESTIGATE
18 VIOLATIONS OF THIS SECTION AND MAY BRING AN ACTION IN ANY COURT OF
19 COMPETENT JURISDICTION TO OBTAIN LEGAL OR EQUITABLE RELIEF ON BEHALF OF A
20 PERSON AGGRIEVED BY THE VIOLATION.

21 D. ANY PERSON AGGRIEVED BY A VIOLATION OF THIS SECTION MAY COMMENCE
22 A CIVIL ACTION ON THE PERSON'S OWN BEHALF IN ANY COURT OF COMPETENT
23 JURISDICTION TO OBTAIN LEGAL OR EQUITABLE RELIEF, INCLUDING REASONABLE
24 ATTORNEY FEES AND COSTS.

1 E. AN ACTION MAY NOT BE COMMENCED UNDER SUBSECTION D OF THIS SECTION
2 UNTIL SIXTY DAYS AFTER THE PLAINTIFF HAS GIVEN NOTICE OF THE ALLEGED
3 VIOLATION TO THE ATTORNEY GENERAL. AN ACTION MAY NOT BE COMMENCED UNDER
4 SUBSECTION D OF THIS SECTION IF THE ATTORNEY GENERAL HAS COMMENCED AND IS
5 DILIGENTLY PROSECUTING AN ACTION IN COURT ARISING FROM THE SAME ALLEGED
6 VIOLATION.

7 F. FOR THE PURPOSES OF THIS SECTION:

8 1. "ARIZONA USER" MEANS A USER WHOSE MOST RECENT ADDRESS SHOWN IN
9 THE RECORDS OF A PROVIDER IS LOCATED WITHIN THIS STATE AND CONTINUES TO BE
10 AN ARIZONA USER EVEN WHEN TEMPORARILY ABSENT FROM THIS STATE.

11 2. "DEVELOPER" MEANS A CREATOR OF SOFTWARE APPLICATIONS THAT ARE
12 MADE AVAILABLE FOR DOWNLOADING BY USERS THROUGH A DIGITAL APPLICATION
13 DISTRIBUTION PLATFORM OR OTHER DIGITAL DISTRIBUTION PLATFORM.

14 3. "DIGITAL APPLICATION DISTRIBUTION PLATFORM":

15 (a) MEANS A DIGITAL DISTRIBUTION PLATFORM FOR APPLICATIONS AND
16 SERVICES THAT ARE PROVIDED TO USERS ON MOBILE PHONES, SMARTPHONES OR OTHER
17 MOBILE COMPUTING DEVICES AND THE DEVICES RUN A MOBILE OPERATING SYSTEM THAT
18 IS OWNED OR CONTROLLED BY THE PROVIDER OF THE DIGITAL DISTRIBUTION
19 PLATFORM.

20 (b) INCLUDES A DIGITAL DISTRIBUTION PLATFORM THAT IS PROVIDED OR
21 USED FOR ONLY CERTAIN TYPES OF DEVICES, SUCH AS CERTAIN GRADES OF COMPUTING
22 DEVICES, DEVICES THAT ARE MADE BY ONLY A PARTICULAR MANUFACTURER OR DEVICES
23 THAT RUN A PARTICULAR OPERATING SYSTEM.

1 4. "DOMICILED IN THIS STATE" MEANS A PERSON THAT CONDUCTS IN THIS
2 STATE THE SUBSTANTIAL PORTION OF WORK TO CREATE OR TO MAINTAIN DIGITAL
3 APPLICATIONS.

4 5. "IN-APPLICATION PAYMENT SYSTEM" MEANS AN APPLICATION, SERVICE OR
5 USER INTERFACE THAT IS USED TO PROCESS PAYMENTS FROM USERS TO DEVELOPERS
6 FOR SOFTWARE APPLICATIONS AND DIGITAL AND PHYSICAL PRODUCTS AND SERVICES
7 DISTRIBUTED THROUGH SOFTWARE APPLICATIONS.

8 6. "PROVIDER" MEANS A PERSON THAT OWNS, OPERATES, IMPLEMENTS OR
9 MAINTAINS A DIGITAL APPLICATION DISTRIBUTION PLATFORM OR AN IN-APPLICATION
10 PAYMENT SYSTEM.

11 7. "SPECIAL-PURPOSE DIGITAL APPLICATION DISTRIBUTION PLATFORM" MEANS
12 A DIGITAL DISTRIBUTION PLATFORM ESTABLISHED PRIMARILY FOR USE BY PUBLIC
13 SAFETY AGENCIES OR FOR SINGLE OR SPECIALIZED CATEGORIES OF APPLICATIONS,
14 SOFTWARE AND SERVICES THAT ARE PROVIDED TO USERS ON HARDWARE INTENDED
15 PRIMARILY FOR SPECIFIC PURPOSES, INCLUDING GAMING CONSOLES, MUSIC PLAYERS
16 AND OTHER SPECIAL-PURPOSE DEVICES THAT ARE CONNECTED TO THE INTERNET."

17 Amend title to conform

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C: AH