

JAN 21 2022

A BILL FOR AN ACT

RELATING TO FAIR COMPETITION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to:

2 (1) Protect and preserve competition within mobile app
3 stores for the benefit of consumers and developers;

4 (2) Prevent dominant app stores from distorting
5 competition and exploiting developers and consumers;
6 and

7 (3) Promote healthy competition across the entire mobile
8 app ecosystem.

9 SECTION 2. The Hawaii Revised Statutes is amended by
10 adding a new chapter to be appropriately designated and to read
11 as follows:

12 "CHAPTER

13 RELATING TO COMPETITION WITHIN MOBILE APP STORES

14 § -1 Short title. This chapter may be cited as the
15 Mobile App Store Competition Act.

16 § -2 Definitions. As used in this chapter:



1 "App store" means a digital distribution platform for
2 applications and services provided to users on general-purpose
3 hardware including mobile phones or smartphones, tablets,
4 personal computers, or other general-purpose devices connected
5 to the Internet, and any person affiliated or acting in concert
6 with the platform.

7 "Developer" means any creator of software applications made
8 available for download by users through an app store.

9 "In-app payment system" means an application, service, or
10 user interface to process the payments from users to developers
11 for software applications and digital and physical products
12 distributed through software applications.

13 "Special-purpose app store" means a digital distribution
14 platform for single or specialized categories of applications,
15 software, and services provided to users of special purpose
16 hardware such as gaming consoles, music players, or other
17 special-purpose devices connected to the Internet.

18 § -3 Obligations for ensuring interoperability. (a) An
19 app store that receives cumulative gross receipts from sales on
20 the app store to customers in the State in excess of \$10,000,000
21 in the previous or current calendar year shall:



(1) Allow developers and providers of ancillary services fair, reasonable, and non-discriminatory access to, and interoperability with, the same operating system; technical and other information; and hardware and software features that are available or used in the provision of any ancillary services by the app store owner; and

(2) Allow and provide the means for end users to choose third party apps as defaults and to hide or delete apps provided by the app store.

(b) Any agreement containing terms that violate this section shall be unenforceable.

§ -4 Prohibited acts. (a) An app store that receives cumulative gross receipts from sales on the app store to customers in the State in excess of \$10,000,000 in the previous or current calendar year shall not:

(1) Require developers to use a specific app store as the exclusive mode of distribution for an app used on any platform, device, or operating system owned or sold by the owner of the app store;



- 1 (2) Require developers to use an in-app payment system as
2 the exclusive mode of accepting payments by users for
3 download of a software application, including
4 unlocking features, in-app currency, premium content,
5 or additional functionality;
- 6 (3) Retaliate or take any punitive action against any
7 developer for choosing to use alternative app stores
8 or in-app payment systems;
- 9 (4) Impose restrictions, conditions, or prohibitions on
10 developers from communicating through the app store
11 with users or customers of the app store, including
12 legitimate business offers or communications;
- 13 (5) Use a developer's data, or information derived from
14 the developer or the developer's application, to
15 compete with the developer;
- 16 (6) Engage in self-preferencing the app store's
17 applications or services; or
- 18 (7) Exclude any developer from the app store for reasons
19 other than failing to meet fair, objective, and
20 nondiscriminatory standards for privacy, security,
21 quality, content, and digital safety.



1 The prohibitions in paragraphs (1) through (3) shall not apply
2 to special-purpose app stores.

3 (b) Any agreement containing terms that violate this
4 section shall be unenforceable.

5 § -5 Enforcement. (a) The attorney general shall
6 receive complaints and investigate violations of this chapter.

7 (b) The attorney general may bring an action in any court
8 of competent jurisdiction to obtain legal or equitable relief,
9 including injunctive relief to prevent any offending conduct, on
10 behalf of an individual or group of individuals aggrieved by the
11 violations.

12 (c) In an action described in this section, the court
13 shall impose a civil fine on any violators of this chapter in an
14 amount of at least \$ for each day that the violation
15 continues. The fine shall be paid to the person aggrieved by
16 the violation."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'Atty', is written over a horizontal line.



S.B. NO. 2577

Report Title:

Fair Competition; Mobile App Stores

Description:

Protects competition for the benefit of consumers and developers by preventing certain app stores from distorting competition.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

