2022 -- S 2717

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N   A C T

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS --
DECEPTIVE TRADE PRACTICES

Introduced By: Senators DiPalma, Acosta, Lombardo, Kallman, Euer, F Lombardi, and
Felag

Date Introduced: March 17, 2022

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1   SECTION 1. Chapter 6-13.1 of the General Laws entitled "Deceptive Trade Practices" is

2 hereby amended by adding thereto the following section:

3   **6-13.1-31. Software applications - In-application payment - Prohibitions.**

4   (a) A provider of a digital application distribution platform for which cumulative

5 downloads of software applications from the digital application distribution platform to Rhode

6 Island users exceed one million (1,000,000) downloads in the previous or current calendar year

7 shall not do any of the following:

8   (1) Require a developer that is domiciled in this state to use a particular in-application

9 payment system as the exclusive mode of accepting payments from a user to download a software

10 application or purchase a digital or physical product or service through a software application.

11   (2) Require exclusive use of a particular in-application payment system as the exclusive

12 mode of accepting payments from Rhode Island users to download a software application or

13 purchase a digital or physical product or service through a software application.

14   (3) Retaliate against a developer that is domiciled in this state or a Rhode Island user for

15 using an in-application payment system or digital application distribution platform that is not

16 owned by, operated by or affiliated with the provider or retaliate against a developer for that use to

17 distribute applications to or accept payments from Rhode Island users. For purposes of this

18 subsection, an act of retaliation shall include, but is not limited to, demoting apps in search rankings,

1   slowing down app review times and fee shifting.

2   (b) Exemption - This section does not apply with respect to special-purpose digital

3   application distribution platforms.

4   (c) The attorney general shall receive complaints and investigate violations of this section

5   and shall bring an action in any court of competent jurisdiction to obtain legal or equitable relief

6   on behalf of a person aggrieved by the violation.

7   (d) Any person aggrieved by a violation of this section may commence a civil action on

8   the person's own behalf in any court of competent jurisdiction to obtain legal or equitable relief,

9   including reasonable attorney fees and costs.

10   (e) An action shall not be commenced under subsection (d) of this section until sixty (60)

11   days after the plaintiff has given notice of the alleged violation to the attorney general. An action

12   shall not be commenced under subsection (d) of this section if the attorney general has commenced

13   and is diligently prosecuting an action in court arising from the same alleged violation.

14   (e) For the purposes of this section:

15   (1) "Rhode Island user" means a user whose most recent address shown in the records of a

16   provider is located within this state.

17   (2) "Developer" means a creator of software applications that are made available for

18   download by users through a digital application distribution platform or other digital distribution

19   platform.

20   (3) "Digital application distribution platform":

21   (i) Means a digital distribution platform for applications and services that are provided to

22   users on general-purpose hardware, including mobile phones, smartphones, tablets, personal

23   computers, and other general-purpose devices that are connected to the Internet; and

24   (ii) Includes a digital distribution platform that is provided or used for only certain types

25   of devices, such as certain grades of computing device, devices that are made by only a particular

26   manufacturer or devices that run a particular operating system.

27   (4) "Domiciled in this state" means a person that conducts in this state the substantial

28   portion of work to create or to maintain digital applications.

29   (5) "In-application payment system" means an application, service or user interface that is

30   used to process payments from users to developers for software applications and digital and

31   physical products and services distributed through software applications.

32   (6) "Provider" means a person that owns, operates, implements, or maintains a digital

33   application distribution platform or an in-application payment system.

34   (7) "Special-purpose digital application distribution platform" means a digital distribution

1   platform established primarily for use by public safety agencies or for single or specialized

2   categories of applications, software and services that are provided to users on hardware intended

3   primarily for specific purposes, including gaming consoles, music players and other special-

4   purpose devices that are connected to the Internet.

5   SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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1   This act would provide protections to consumers and developers of software applications,

2   concerning their use and method of payment for their purchase. More specifically, this act would

3   provide that a provider of a digital application distribution platform for which cumulative

4   downloads of software applications from the digital application distribution platform to Rhode

5   Island users exceed one million (1,000,000) downloads in the previous or current calendar year

6   would be prohibited from requiring in-state developers and users to use a particular in-

7   application payment system as the exclusive mode of accepting payment for the software

8   product.

9   This act would take effect upon passage.

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