

Senate Bill 63

By: Senators Brass of the 28th, Kennedy of the 18th, Burns of the 23rd, Albers of the 56th, Miller of the 49th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia
2 Annotated, relating to the "Fair Business Practices Act of 1975," so as to prohibit certain
3 actions by digital application distribution platforms with regard to application store
4 processing services; to provide for definitions; to provide for class actions; to provide for
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
9 relating to the "Fair Business Practices Act of 1975," is amended by adding a new Code
10 section to read as follows:

11 "10-1-393.16.

12 (a) For purposes of this Code section, the term:

13 (1) 'Developer' means any creator of a software application made available for download
14 by a user through a digital application distribution platform or other digital distribution
15 platform.

16 (2) 'Digital application distribution platform' means a digital distribution platform for
17 applications and services provided to a user on general-purpose hardware, including a
18 mobile phone, smartphone, tablet, personal computer, and other general-purpose devices
19 connected to the internet.

20 (3) 'In-application payment system' means an application, service, or user interface used
21 to process a payment from a user to a developer for a software application and digital and
22 physical product distributed through a software application.

23 (4) 'Special-purpose digital application distribution platform' means a digital distribution
24 platform for single or specialized categories of applications, software, and services
25 provided to a user on special-purpose hardware, including a gaming console, music
26 player, and other special-purpose devices connected to the internet.

27 (b) A proprietor of a digital application distribution platform that sells such digital
28 application distribution platform to residents of this state shall not:

29 (1) Require a developer to use a specific digital application distribution platform or
30 digital transaction platform as the exclusive mode of distributing a digital product;

31 (2) Require a developer to use an in-application payment system as the exclusive mode
32 of accepting payment from a user to download a software application or purchase a
33 digital or physical product through a software application; or

34 (3) Retaliate or take any punitive action against a developer for choosing to use an
35 alternative application store or in-application payment system.

36 (c) Any agreement that violates any provision of this Code section be shall void and
37 unenforceable.

38 (d) This Code section shall not apply to a proprietor of a special-purpose digital
39 application distribution platform.

40 (e) Notwithstanding Code Section 10-1-399, a claim of a violation of this Code section
41 may be brought in a representative capacity and may be the subject of a class action under
42 Code Section 9-11-23."

43

SECTION 2.

44 All laws and parts of laws in conflict with this Act are repealed.