

**HOUSE . . . . . No. 140**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Andres X. Vargas*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting competition among app stores.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>2/1/2021</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>2/18/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/26/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/26/2021</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/26/2021</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>3/8/2021</i>

**HOUSE . . . . . No. 140**

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By Mr. Vargas of Haverhill, a petition (accompanied by bill, House, No. 140) of Andres X. Vargas and others for legislation to regulate certain digital distribution platforms for applications and services. Advanced Information Technology, the Internet and Cybersecurity.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Second General Court  
(2021-2022)**  
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An Act promoting competition among app stores.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           The General Laws are hereby amended by inserting after chapter 93K the following  
2 chapter: -

3           CHAPTER 93L. REGULATION OF APP STORES

4           Section 1. As used in this act, the following words shall, unless the context clearly  
5 requires otherwise, have the following meanings:

6           “App Store”, means a digital distribution platform for applications and services provided  
7 to users on general-purpose hardware including mobile phones or smartphones, tablets, personal  
8 computers, or other general-purpose devices connected to the internet, and any person affiliated  
9 or acting in concert with such platform.

10           “Developer”, means any creator of software applications made available for download by  
11 users through an App Store.

12 “Domiciled in this state”, means a person that is an individual resident of this state or, if  
13 the person is not an individual, means an entity that has a permanent establishment in this state  
14 and conducts in this state a substantial portion of its work to create, support, or maintain its  
15 applications.

16 “In-app payment system”, means an application, service, or user interface to process the  
17 payments from users to developers for software applications and digital and physical products  
18 distributed through software applications.

19 “Special-Purpose App Store”, means a digital distribution platform for single or  
20 specialized categories of applications, software, and services provided to users of special purpose  
21 hardware like gaming consoles, music players, or other special-purpose devices connected to the  
22 internet.

23 Section 2. (a) An App Store for which cumulative gross receipts from sales on the App  
24 Store to customers in Massachusetts are in excess of \$10,000,000.00 in the previous or current  
25 calendar year shall not:

26 (1) unreasonably restrict the ability of an app developer to select an alternative mode of  
27 accepting payments from users to download a software application or purchase a digital or  
28 physical product or service through a software application; or

29 (2) retaliate or take punitive action against a developer for choosing to use alternative  
30 App Stores or in-app payment systems.

31 (b) The provisions in this section do not apply to Special-Purpose App Stores.

32           Section 3. An App Store for which cumulative gross receipts from sales on the App Store  
33 to customers in Massachusetts are in excess of \$10,000,000.00 in the previous or current  
34 calendar year shall not impose restrictions, conditions or prohibitions on developers from  
35 communicating through its app with users or customers of that app.

36           Section 4. (a) An App Store for which cumulative gross receipts from sales on the App  
37 Store to customers in Massachusetts are in excess of \$10,000,000.00 in the previous or current  
38 calendar year shall not:

39           (1) use data or information derived from the developer or the developer's application to  
40 compete with the developer;

41           (2) engage in preferencing its own applications or services over those of competing  
42 applications through unequal terms or requirements, preferential ranking, access to technical  
43 information or interfaces or otherwise disadvantaging competing applications and services vis a  
44 vis its own; or

45           (3) exclude any developer from the App Store or otherwise disadvantage any developer  
46 for reasons other than failing to meet fair, objective and nondiscriminatory standards for privacy,  
47 security, quality, content and digital safety.

48           Section 5. (a) An App Store for which cumulative gross receipts from sales on the App  
49 Store to customers in Massachusetts are in excess of \$10,000,000.00 in the previous or current  
50 calendar year shall:

51           (1) allow developers and providers of ancillary services fair reasonable and non-  
52 discriminatory access to and interoperability with the same operating system, technical and other

53 information, hardware and software features that are available or used in the provision by the  
54 App Store owner of any ancillary services; and

55 (2) allow and provide the means for end users to choose third party apps as defaults and  
56 to hide or delete apps provided by the App Store owner.

57 Section 6. The provisions in section 2 to 5, inclusive, shall apply with respect to  
58 applications provided to users domiciled in this state and shall apply with respect to applications  
59 owned by a person(s) domiciled in this state.

60 Section 7. Violation of sections 2 to 5, inclusive, shall be subject to Chapter 93A of the  
61 General Laws. A person aggrieved by a violation said sections may bring an action to enjoin the  
62 violation or for restitution, or both. A court may award the plaintiff costs, expenses, and  
63 reasonable attorney's fees. This section does not limit any other claims a person may have under  
64 any other provision of law.