

JAN 22 2021

A BILL FOR AN ACT

RELATING TO 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, unless
17 context clearly requires otherwise:



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 such 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 for which cumulative gross receipts from sales on the
20 app store to customers in this state are in excess of
21 \$10,000,000 in the previous or current calendar year, shall:



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

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

11 (b) Any agreement containing terms that violate this
12 section shall be unenforceable and deemed a violation of this
13 chapter.

14 § -4 Prohibited acts. (a) An app store for which
15 cumulative gross receipts from sales on the app store to
16 customers in this State are in excess of \$10,000,000 in the
17 previous or current calendar year, shall not:

18 (1) Require developers to use a specific app store as the
19 exclusive mode of distribution for an app used on any
20 platform, device, or operating system owned or sold by
21 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, which may include
4 unlocking features, in-app currency, premium content,
5 or additional functionality; or

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 provided that the prohibitions in this subsection shall not
10 apply to special-purpose app stores.

11 (b) An app store for which cumulative gross receipts from
12 sales on the app store to customers in this State are in excess
13 of \$10,000,000 in the previous or current calendar year shall
14 not:

15 (1) Impose restrictions, conditions, or prohibitions on
16 developers from communicating through its app with
17 users or customers of that app, including legitimate
18 business offers or communications;

19 (2) Use a developer's data, or information derived from
20 the developer or the developer's application, to
21 compete with the developer;



1 (3) Engage in self-preferencing its own applications or
2 services over those of competing applications or
3 services over those of competing applications; or

4 (4) Exclude any developer from the app store for reasons
5 other than failing to meet fair, objective, and
6 nondiscriminatory standards for privacy, security,
7 quality, content, and digital safety.

8 (c) Any agreement containing terms that violate this
9 section shall be unenforceable and deemed a violation of this
10 chapter.

11 § -5 Enforcement. (a) The attorney general shall
12 receive complaints and investigate violations of this chapter.

13 (b) The attorney general may bring an action in any court
14 of competent jurisdiction to obtain legal or equitable relief,
15 including injunctive relief to prevent any offending conduct, on
16 behalf of an individual or group of individuals aggrieved by the
17 violations.

18 (c) In an action described in this section, the court
19 shall impose a civil fine on any violators of this chapter, in
20 an amount of at least \$ for each day that the



S.B. NO. 780

Report Title:

Preserve Competition; Mobile App Stores

Description:

Preserves competition within mobile app stores by protecting competition for the benefit of consumers and developers by preventing dominate app stores from distorting competition. Promotes healthy competition across the entire mobile app ecosystem.

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

