

# SENATE, No. 4047

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 8, 2021

**Sponsored by:**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

### **SYNOPSIS**

Prohibits certain digital application distribution platforms from engaging in certain payment-for-service practices.

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning digital application distribution platforms and  
2 supplementing Title 56 of the Revised Statutes.

3  
4 BE IT ENACTED by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. As used in P.L. , c. (C. ) (pending before the  
8 Legislature as this bill):

9 “Developer” means a creator of software applications that are  
10 made available for download by users through a digital application  
11 distribution platform or other digital distribution platform.

12 “Digital application distribution platform” means: (1) a digital  
13 distribution platform for software applications and services that are  
14 made available to users on general purpose hardware, including  
15 mobile telecommunications devices, smartphones, tablet computers,  
16 personal computers, and other general purpose devices that are  
17 connected to the Internet; and (2) a digital distribution platform that  
18 is either provided or used for only certain types of electronic  
19 devices, including certain grades of computing device, electronic  
20 devices that are made by only a particular manufacturer, or  
21 electronic devices that function on a particular operating system.

22 “Digital distribution platform” means a technology designed to  
23 stream digital content including, but not limited to, audio, video,  
24 gaming software, and software applications, to allow the digital  
25 content to be downloaded by a user in full.

26 “In-application payment system” means a software application,  
27 service, or user interface that is used to process payments from a  
28 user to a developer for software applications, digital and physical  
29 products, and services distributed through software applications.

30 “Provider” means a person or entity that owns, operates,  
31 implements, or maintains a digital application distribution platform  
32 or an in-application payment system.

33 “Special-purpose digital application distribution platform” means  
34 a digital distribution platform for single or specialized categories of  
35 software applications and services that are provided to users on  
36 hardware intended primarily for specific purposes, including  
37 gaming consoles, music players, and other special-purpose  
38 electronic devices that are connected to the Internet.

39 “User” means a person whose most recent address on record with  
40 a provider is located in this State.

41

42 2. a. A provider of a digital application distribution platform  
43 for which cumulative downloads of software applications from the  
44 digital application distribution platform to users exceed one million  
45 downloads in either the previous or current calendar year shall be  
46 prohibited from:

47 (1) requiring a developer that is domiciled in this State to use a  
48 particular in-application payment system as the exclusive mode of

1 accepting payments from a user to download a software application,  
2 or purchase a digital or physical product or service through a  
3 software application;

4 (2) requiring exclusive use of a particular in-application  
5 payment system as the exclusive mode of accepting payments from  
6 users to download a software application or purchase a digital or  
7 physical product or service through a software application; and

8 (3) retaliating, in a manner that is deemed detrimental by the  
9 Attorney General, against a developer that is domiciled in this State  
10 or a user for using an in-application payment system or digital  
11 application distribution platform that:

12 (a) is not owned by, operated by, or affiliated with the provider;  
13 or

14 (b) is not owned by, operated by, or affiliated with the provider  
15 to distribute applications to, or accept payments from, users.

16 b. An agreement that violates the provisions of this section is  
17 unenforceable and is deemed a violation of P.L.1960, c.39 (C.56:8-  
18 1 et seq.).

19 c. The Attorney General shall receive complaints and  
20 investigate violations of the provisions of this section and may  
21 bring an action in any court of competent jurisdiction to obtain legal  
22 or equitable relief on behalf of a user aggrieved by the violation.

23 d. The provisions of this section shall not apply with respect to  
24 any special-purpose digital application distribution platform.

25  
26 3. This act shall take effect immediately.  
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28

## 29 STATEMENT

30  
31 This bill provides that a provider of a “digital application  
32 distribution platform,” as defined in the bill, for which cumulative  
33 downloads of software applications from the digital application  
34 distribution platform to “users,” as defined in the bill, exceed one  
35 million downloads in the previous or current calendar year is to be  
36 prohibited from:

37 1) requiring a developer of certain software applications  
38 (developer) that is domiciled in this State to use a particular “in-  
39 application payment system,” as that term is defined in the bill, as  
40 the exclusive mode of accepting payments from a user to download  
41 a software application or to purchase a digital or physical product or  
42 service through a software application;

43 2) requiring exclusive use of a particular in-application  
44 payment system as the exclusive mode of accepting payments from  
45 users to download a software application or purchase a digital or  
46 physical product or service through a software application; and

47 3) retaliating, in a manner that is deemed detrimental by the  
48 Attorney General, against a developer that is domiciled in this State

1 or a user for using an in-application payment system or digital  
2 application distribution platform that is not owned by, operated by,  
3 or affiliated with the provider or retaliate against a developer for  
4 that use to distribute applications to, or accept payments from,  
5 users.

6 An agreement that violates the provisions of the bill is  
7 unenforceable and is deemed a violation of the State's consumer  
8 fraud act. The bill is not to apply with respect to and "special-  
9 purpose digital application distribution platform," as defined in the  
10 bill.

11 The bill provides that the Attorney General is to receive  
12 complaints and investigate violations of the provisions of the bill  
13 and may bring an action in any court of competent jurisdiction to  
14 obtain legal or equitable relief on behalf of a user aggrieved by the  
15 violation.