

February 8, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2333

Page 1, line 14, after the underscored period insert "The term includes a digital application platform provided or used only for a certain type of device, including a certain grade of computing device, a device made only by a particular manufacturer, or a device running a particular operating system."

Page 1, line 15, after "c." insert "\"Digital transaction platform\" means a system for accepting payments from a user for an application or service received from a digital application distribution platform. The term includes a digital platform being usable for transactions not related to the digital application distribution platform.

d. "Domiciled in this state" means a person that is a resident of this state or is headquartered in this state, conducts business in this state, and the majority of the person's business is to create or maintain an application.

e."

Page 1, line 18, replace "d." with "f. "Provider" means a person that owns, operates, implements, or maintains a digital application distribution platform, a digital transaction platform, or an in-application payment system.

g. "Resident of this state" means a person whose last known billing address, other than an armed forces post office or fleet post office address, is located within this state, as shown in the records of a provider of a digital application distribution platform.

h."

Page 1, line 20, remove "special-purpose"

Page 1, line 20, after "hardware" insert "primarily intended for specific purposes"

Page 2, line 1, replace "A proprietor of" with "This section applies to"

Page 2, line 3, after "year" insert "which uses:

a. The platform to provide an application that was created by a person domiciled in this state to a user; or

b. The platform to provide an application to a resident of this state.

3. A provider of a digital application distribution platform"

Page 2, line 4, replace the second "a" with "the provider's"

Page 2, line 4, remove "or digital"

Page 2, line 5, remove "transaction platform"

Page 2, line 5, replace "mode" with "means"

Page 2, line 5, after "product" insert "to a user"

Page 2, line 6, replace "an" with "the provider's digital transaction platform or"

Page 2, line 7, replace "mode of" with "means for"

Page 2, line 7, replace the second "a" with "the developer's"

Page 2, line 7, after "application" insert an underscored comma

Page 2, line 8, after "product" insert "or service created, offered, or provided by the developer"

Page 2, line 9, remove "an alternative application store"

Page 2, line 10, replace "or" with "another digital application distribution platform, digital transaction system, or"

Page 2, line 10, after the underscored period insert:

"d. Refuse to allow a developer to provide the provider's application or digital product to or through the provider's platform or system or refuse to allow a user access to the developer's application or digital product through the provider's platform or system, on account of the developer's use of another platform or system. A violation of this subdivision is considered retaliation under this section."

Page 2, line 11, replace "3." with "4. Conduct in violation of this section is an unlawful practice under section 51-15-02. A person aggrieved by a violation of this section may bring an action to enjoin the violation or for restitution, or both. The court may award the plaintiff costs, expenses, and reasonable attorney's fees. This subsection does not limit any other claim a person may have under any other provision of law."

5."

Page 2, line 13, replace "4." with "6."

Page 2, line 13, remove "proprietor of a"

Page 2, remove lines 15 through 17

Renumber accordingly