

2022 Regular Session

HOUSE BILL NO. 641

BY REPRESENTATIVE DESHOTEL

COMMERCE: Provides relative to digital application distribution platforms

1 AN ACT

2 To enact R.S. 51:1429, relative to digital application distribution platforms; to prohibit
3 providers of digital application distribution platforms under certain circumstances;
4 to provide for procedures for violations; to provide for an exception; to provide for
5 definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 51:1429 is hereby enacted to read as follows:

8 §1429. Digital application distribution platforms; definitions; prohibitions

9 A. For the purpose of this Section, the following terms have the meanings
10 ascribed to them:

11 (1) "Developer" means a creator of a software application that is made
12 available for download by a user through a digital application distribution platform
13 or other digital distribution platform.

14 (2) "Digital application distribution platform" means:

15 (a) A digital distribution platform for an application and service that is
16 provided to a user on a general purpose operating system.

17 (b) A digital distribution platform that is provided or used for only a specific
18 type of device, including a certain grade of a computing device, a device that is made
19 by only a particular manufacturer, or a device that runs a particular operating system.

1 (3) "Domiciled in this state" means a person that conducts a substantial
2 portion of work to create or to maintain a digital application in this state.

3 (4) "General purpose operating system" means an operating system for
4 general purpose hardware, including mobile phones, smart phones, tablets, personal
5 computers, and other general-purpose devices that are connected to the internet.

6 (5) "In-application payment system" means an application, service, or user
7 interface that is used to process payments from a user to a developer for a software
8 application and a digital and physical product and service distributed through a
9 software application.

10 (6) "Louisiana user" means a user whose most recent address shown in the
11 records of a provider is located within this state.

12 (7) "Provider" means a person who owns, operates, implements, or maintains
13 a digital application distribution platform or an in-application payment system.

14 (8) "Special-purpose digital application distribution platform" means a
15 digital distribution platform for a single or specialized category of application or a
16 software and service provided to a user on hardware intended primarily for a specific
17 purpose, including a gaming console, music player, and any other special-purpose
18 device that is connected to the internet.

19 B. If the cumulative downloads of a software application by a provider of a
20 general purpose operating system with a digital application distribution platform to
21 Louisiana users exceed one million downloads in the previous or current calendar
22 year, a provider of a digital application distribution platform shall not do any of the
23 following:

24 (1) Require a developer that is domiciled in this state to use a particular in-
25 application payment system as the exclusive mode of accepting payments from a
26 user to download a software application onto the operating system or purchase a
27 digital or physical product or service through a software application installed on the
28 operating system.

1 (2) Require exclusive use of a particular in-application payment system as
2 the exclusive mode of accepting payments from a Louisiana user to download a
3 software application onto the operating system or purchase a digital or physical
4 product or service through a software application installed on the operating system.

5 (3) Retaliate against a developer that is domiciled in this state or a Louisiana
6 user for using an in-application payment system or digital application distribution
7 platform that is not owned, operated, or affiliated with the provider or retaliate
8 against a developer for that use to distribute an application to or accept payments
9 from a Louisiana user.

10 C. Any conduct in violation of this Section shall be deemed an unlawful
11 practice.

12 (1) A person aggrieved by a violation of this Section may bring an action to
13 enjoin the violation or for restitution. The court may award the plaintiff costs,
14 expenses, and reasonable attorney fees.

15 (2) The provisions in Subsection C of this Section shall not limit any other
16 claims the plaintiff may have under any other provision of law.

17 D. This Section shall not apply with respect to a special-purpose digital
18 application distribution platform.

19 E. The office of the attorney general shall receive complaints and investigate
20 violations of this Section and may bring an action in any court of competent
21 jurisdiction to obtain legal or equitable relief on behalf of a person aggrieved by the
22 violation.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 641 Original

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Deshotel

Abstract: Provides relative to digital application distribution platforms.

Proposed law provides definitions for developer, digital application distribution platform, domiciled in this state, general purpose operating system, in-application payment system, Louisiana user, provider, and special-purpose digital application distribution platform.

Proposed law provides that if the cumulative downloads of a software application by a provider of a general purpose operating system with a digital application distribution platform to Louisiana users exceed 1 million downloads in the previous or current calendar year then the provider shall not do any of the following:

- (1) Require a developer domiciled in this state to use a particular in-application payment system as an exclusive mode of accepting payments from a user to download a software application onto the operating system or purchase a digital or physical product or service through a software application installed on the operating system.
- (2) Require exclusive use of a particular in-application payment system as the exclusive mode of accepting payments from a Louisiana user to download a software application onto the operating system or purchase a digital or physical product or service through a software application installed on the operating system.
- (3) Retaliate against a developer domiciled in this state or a Louisiana user for using an in-application payment system or digital application distribution platform that is not owned, operated, or affiliated with the provider or retaliate against a developer for that use to distribute an application to or accept payments from a Louisiana user.

Proposed law provides that any conduct in violation of proposed law shall be deemed to be an unlawful practice. Proposed law further provides that a person aggrieved by a violation of proposed law may bring an action to enjoin the violation or for restitution.

Proposed law provides that the court may award the plaintiff costs, expenses, and reasonable attorney fees. Proposed law further provides that proposed law does not limit any other claims the plaintiff may have under any other provision of law.

Proposed law provides that proposed law shall not apply to a special-purpose digital application distribution platform.

Proposed law provides that the attorney general's office shall receive complaints and investigate violations under proposed law. Proposed law further provides that the attorney general's office may bring an action in any court of competent jurisdiction to obtain legal or equitable relief on behalf of a person aggrieved by the violation.

(Adds R.S. 51:1429)