



Sen. Steve Stadelman

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10400SB2822sam001

LRB104 16965 SPS 35339 a

1 AMENDMENT TO SENATE BILL 2822

2 AMENDMENT NO. _____. Amend Senate Bill 2822 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by adding Section 2MMMM as follows:

6 (815 ILCS 505/2MMMM new)

7 Sec. 2MMMM. Digital purchase disclosures.

8 (a) As used in this Section:

9 "Blockchain-based asset" means a digital good whose
10 ownership and access are verified through a decentralized
11 ledger technology and that cannot be unilaterally revoked or
12 altered by the seller after the transaction.

13 "Clear and conspicuous" means in a manner that clearly
14 calls attention to the language. "Clear and conspicuous"
15 includes using larger type than the surrounding text, using
16 contrasting type, font, or color to the surrounding text of

1 the same size, and setting off the surrounding text by using
2 symbols or other marks.

3 "Digital application or game" means an application or game
4 that a person accesses and manipulates using a specialized
5 electronic gaming device, computer, mobile device, tablet, or
6 other device with a display screen, including any add-ons or
7 additional content for that application or game.

8 "Digital audio work" means a work that results from the
9 fixation of a series of musical, spoken, or other sounds that
10 are transferred electronically, including prerecorded or live
11 songs, music, oral readings of books or other written
12 materials, speeches, ringtones, and other sound recordings.

13 "Digital audiovisual work" means a series of related
14 images and accompanying sounds that when shown in succession
15 impart an impression of motion, including motion pictures,
16 musicals, videos, news and entertainment programs, and live
17 events.

18 "Digital book" means a work that is generally recognized
19 in the ordinary and usual sense as a book of fiction or
20 nonfiction and that is transferred electronically.

21 "Digital code" means a code that provides the person who
22 holds the code a right to obtain an additional digital good or
23 a digital audiovisual work, digital audio work, or digital
24 book that may be obtained by any means, including tangible
25 forms and electronic mail, regardless of whether the code is
26 designated as song code, video code, or book code. "Digital

1 code" includes: (i) codes that are used to access or obtain any
2 specified digital goods or any additional digital goods that
3 have been previously purchased; and (ii) promotion cards or
4 codes that are purchased by a retailer or other business
5 entity for use by the retailer's or entity's customers.

6 "Digital good" includes, whether electronically or
7 digitally delivered or accessed, a digital audiovisual work,
8 digital audio work, digital book, digital code, or digital
9 application or game. "Digital good" does not include a cable
10 television service, satellite relay television service,
11 Internet access service, telecommunications service, or any
12 other distribution of television, video, radio, Internet, or
13 telecommunications service. "Digital good" also does not
14 include any service that is clearly and conspicuously
15 identified at the point of sale as being a monthly
16 subscription service.

17 (b) It is an unlawful practice within the meaning of this
18 Act for a seller of a digital good to offer for sale or
19 advertise a digital good to a consumer using the terms "buy" or
20 "purchase" or any other term that a reasonable person would
21 understand to confer an ownership interest in that digital
22 good unless, either:

23 (1) at the time of each transaction, the seller:

24 (A) provides to the consumer a complete list of
25 restrictions and conditions for the license, including
26 any circumstances under which access may be revoked;

1 and

2 (B) receives an affirmative acknowledgment from
3 the consumer that the consumer received from the
4 seller: (i) a license to access the digital good; and
5 (ii) a notice that the seller may unilaterally revoke
6 access to the digital good if the seller no longer
7 holds the right to the digital good; or

8 (2) before executing each transaction, the seller
9 provides to the consumer a clear and conspicuous statement
10 that: (i) states in plain language that buying or
11 purchasing a digital good is a license; and (ii) includes
12 a hyperlink, quick response code, URL, or other similar
13 method to access the terms and conditions of the license.

14 Any affirmative acknowledgment from the consumer or clear
15 and conspicuous statement required under this subsection shall
16 be distinct and separate from any other terms and conditions
17 of the transaction.

18 (c) This Section does not require a person to download a
19 digital good or prohibit a person from storing a digital good
20 on a server for access through the Internet.

21 (d) This Section does not apply to:

22 (1) a subscription-based service that advertises or
23 offers for sale access to any digital good solely for the
24 duration of the subscription;

25 (2) a digital good that is advertised or offered to a
26 person without monetary consideration;

1 (3) a digital good that is advertised or offered to a
2 person and that the seller cannot revoke access to after
3 the transaction, including making the digital good
4 available at the time of purchase for permanent offline
5 download to an external storage source to be used without
6 a connection to the Internet;

7 (4) a blockchain-based asset, including a non-fungible
8 token, where ownership is decentralized and not subject to
9 unilateral revocation by the seller;

10 (5) an educational or noncommercial digital good that
11 is provided by a public library, educational institution,
12 or open-source platform; or

13 (6) content owners or licensors whose digital goods
14 are sold by a third party.".