



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB3417

Introduced 1/18/2022, by Sen. Sara Feigenholtz

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Freedom to Subscribe Directly Act. Provides that a provider of a digital application distribution platform for which cumulative downloads of software applications from the digital application distribution platform to Illinois users exceed 1,000,000 downloads in the previous or current calendar year may not: (i) require a software application developer that is domiciled in the State to use a particular in-application payment system as the exclusive mode of accepting payments from a user for software application downloads or digital purchases; (ii) require use of a particular in-application payment system for accepting payments from Illinois users to download a software application or purchase a digital or physical copy; or (iii) retaliate against a developer that is domiciled in the State or an Illinois user for using an in-application payment system or digital application distribution platform that is not owned by, operated by, or affiliated with the provider. Exempts special-purpose digital application distribution platforms from the Act. Provides that the Attorney General may receive complaints and investigate violations of the Act. Provides that any person aggrieved by a violation of the Act may commence a civil action. Defines terms.

LRB102 24885 KTG 34135 b

1 AN ACT concerning digital application distribution  
2 platforms.

3 **Be it enacted by the People of the State of Illinois,**  
4 **represented in the General Assembly:**

5 Section 1. Short title. This Act may be cited as the  
6 Freedom to Subscribe Directly Act.

7 Section 5. Definitions. As used in this Act:

8 "Illinois user" means a user whose most recent address  
9 shown in the records of a provider is located within this  
10 State.

11 "Developer" means a creator of software applications  
12 that are made available for download by users through a  
13 digital application distribution platform or other digital  
14 distribution platform.

15 "Digital application distribution platform" means a  
16 digital distribution platform for applications and  
17 services that are provided to users on general-purpose  
18 hardware, including mobile phones, smartphones, tablets,  
19 personal computers, and other general-purpose devices that  
20 are connected to the Internet. "Digital application  
21 distribution platform" includes a digital distribution  
22 platform that is provided or used for only certain types  
23 of devices, such as certain grades of computing device,

1 devices that are made by only a particular manufacturer,  
2 or devices that run a particular operating system.

3 "Domiciled in this State" means a person that conducts  
4 in this State the substantial portion of work to create or  
5 to maintain digital applications.

6 "In-application payment system" means an application,  
7 service, or user interface that is used to process  
8 payments from users to developers for software  
9 applications and digital and physical products and  
10 services distributed through software applications.

11 "Provider" means a person that owns, operates,  
12 implements, or maintains a digital application  
13 distribution platform or an in-application payment system.

14 "Special-purpose digital application distribution  
15 platform" means a digital distribution platform  
16 established primarily for use by public safety agencies or  
17 for single or specialized categories of applications,  
18 software, and services that are provided to users on  
19 hardware intended primarily for specific purposes,  
20 including gaming consoles, music players, and other  
21 special-purpose devices that are connected to the  
22 Internet.

23 Section 10. Digital application distribution platforms;  
24 prohibitions.

25 (a) A provider of a digital application distribution

1 platform for which cumulative downloads of software  
2 applications from the digital application distribution  
3 platform to Illinois users exceed 1,000,000 downloads in the  
4 previous or current calendar year may not do any of the  
5 following:

6 (1) Require a developer that is domiciled in this  
7 State to use a particular in-application payment system as  
8 the exclusive mode of accepting payments from a user to  
9 download a software application or purchase a digital or  
10 physical product or service through a software  
11 application.

12 (2) Require use of a particular in-application payment  
13 system for accepting payments from Illinois users to  
14 download a software application or purchase a digital or  
15 physical copy.

16 (3) Retaliate against a developer that is domiciled in  
17 this State or an Illinois user for using an in-application  
18 payment system or digital application distribution  
19 platform that is not owned by, operated by, or affiliated  
20 with the provider or retaliate against a developer for  
21 that use to distribute applications to or accept payments  
22 from Illinois users. Such prohibited acts of retaliation  
23 shall include, but not be limited to, demoting the search  
24 rankings of the developer or slowing down the application  
25 review and approval timelines.

26 (b) This Act does not apply with respect to

1 special-purpose digital application distribution platforms.

2 (c) The Attorney General may receive complaints and  
3 investigate violations of this Act and may bring an action in  
4 any court of competent jurisdiction to obtain legal or  
5 equitable relief on behalf of a person aggrieved by the  
6 violation.

7 (d) Any person aggrieved by a violation of this Act may  
8 commence a civil action on the person's own behalf in any court  
9 of competent jurisdiction to obtain legal or equitable relief,  
10 including reasonable attorney fees and costs.

11 (e) An action may not be commenced under subsection (d)  
12 until 60 days after the plaintiff has given notice of the  
13 alleged violation to the Attorney General. An action may not  
14 be commenced under subsection (d) if the Attorney General has  
15 commenced and is diligently prosecuting an action in court  
16 arising from the same alleged violation.