21.1044.01000

Sixty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2333

Introduced by

Senators Davison, Clemens

Representatives Bosch, Howe

A BILL for an Act to create and enact a new section to chapter 51-07 of the North Dakota Century Code, relating to in-application payments for software applications and purchases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 51-07 of the North Dakota Century Code is created and enacted as follows:

Software applications - In-application payment - Prohibitions.

1. As used in this section:
   a. "Developer" means a creator of a software application made available for download by a user through a digital application distribution platform or other digital distribution platform.
   b. "Digital application distribution platform" means a digital distribution platform for applications and services provided to a user on general-purpose hardware, including a mobile phone, smartphone, tablet, personal computer, and other general-purpose devices connected to the internet.
   c. "In-application payment system" means an application, service, or user interface used to process a payment from a user to a developer for a software application and digital and physical product distributed through a software application.
   d. "Special-purpose digital application distribution platform" means a digital distribution platform for single or specialized categories of applications, software, and services provided to a user on special-purpose hardware, including a gaming console, music player, and other special-purpose devices connected to the internet.

2. A proprietor of a digital application distribution platform for which cumulative gross receipts from sales on the digital application distribution platform to residents of this state exceed ten million dollars in the previous or current calendar year may not:
   a. Require a developer to use a digital application distribution platform or digital transaction platform as the exclusive mode of distributing a digital product.
   b. Require a developer to use an in-application payment system as the exclusive mode of accepting payment from a user to download a software application or purchase a digital or physical product through a software application.
   c. Retaliate against a developer for choosing to use an alternative application store or in-application payment system.
3. An agreement that violates this section is unenforceable and is deemed a violation of this section.
4. This section does not apply to a proprietor of a special-purpose digital application distribution platform.
5. The attorney general shall receive complaints and investigate violations of this section and may bring an action in any court of competent jurisdiction to obtain the legal or equitable relief on behalf of an individual aggrieved by the violation.