



February 16, 2022

HB 2200: Apple-Epic Ruling Makes Bill Unnecessary; Will Help Billion Dollar Companies Instead of Small Arizona Developers

Dear Arizona State House Members,

The Chamber of Progress urges you to **oppose HB 2200**, a bill that is unconstitutional, unnecessary due to the Epic Games v. Apple ruling, and aims to improve the balance sheet of several billion-dollar companies while doing nothing to support small Arizona developers and consumers.

First, the legislation violates the Dormant Commerce Clause of the United States Constitution. The Dormant Commerce Clause gives Congress the exclusive power to regulate interstate commerce. Since Apple and Google's app stores are not confined to state lines, the state of Arizona does not have the power to regulate these transactions.

Over the past year, the corporate proponents of HB 2200 – Epic Games, Spotify, Match Group, and other major app developers – have worked to introduce identical legislation in other states, but they have all rejected these bills, including Arizona's previous bill HB 2005.

Second, the federal court ruling in last year's *Epic Games vs. Apple* case makes this legislation unnecessary. Though this case is under appeal, the court's ruling provided a workaround for developers, giving them the ability to allow consumers to process payments through an app developer's own payment systems. Many large app developers, including Match Group, plan to utilize this option and are already planning ways to incentivize users to purchase digital goods and subscriptions directly through their apps.

Finally, this legislation is designed to help the bottom lines of billion dollar companies and does nothing for small app developers or consumers. It's important to note that small developers are not subject to the 30% commission fee. As of January 2022, Apple reported that out of almost 4,000 Arizona app developers that use their platform, less than half of one percent paid the 30% commission fee, while about 85% weren't subject to a fee at all. Google says 97% of developers that use their platform don't sell digital content and therefore pay no fees.

This bill is not about small developers or consumers. Large, successful app developers like Epic Games and Spotify are looking to save money on their app store commission fees and enhance their financial bottom lines. They have traveled from state to state, cynically dangling the prospect of relocating their companies if a state passes legislation like HB 2200. But these are nothing more than repeat empty promises, which will have little impact on Arizona app developers or the state's economy.

Arizona legislators aim to promote a fair and open market that is competitive for developers, but this bill will accomplish the exact opposite.

This bill will unconstitutionally regulate interstate commerce; is unnecessary in light of the Epic Games v. Apple ruling; and improperly takes sides in a multi-billion dollar business dispute between well-heeled companies. For all of these reasons, we ask that you oppose HB 2200.

Thank you,

A handwritten signature in black ink, appearing to read 'M Williams', followed by a long horizontal line extending to the right.

Montana Williams
Director of State & Local Public Policy