



HOUSE BILL 494: Digital Interference Censorship Act.

2021-2022 General Assembly

Committee:	House Commerce. If favorable, re-refer to Judiciary 3. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 11, 2021
Introduced by:	Reps. McNeely, Johnson, Kidwell, Tyson	Prepared by:	Greg Roney Staff Attorney
Analysis of:	PCS to First Edition H494-CSTM-13		

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 494 would prohibit a digital application distribution platform provider from requiring an application developer to use the provider's payment system or refusing a developer access to the provider's platform due to the religious or political content of the application or the application's users.*

CURRENT LAW: Chapter 75 of the General Statutes, titled Monopolies, Trusts and Consumer Protection, governs consumer protection and gives the NC Attorney General authority to investigate and prosecute violations of various consumer protection laws.

BILL ANALYSIS: The PCS for House Bill 494 would add a new Article 9 to Chapter 75, titled Digital Interference Censorship Act, prohibiting certain conduct by a digital application distribution platform and adding a duty under G.S. 114-2 requiring the NC Attorney General to enforce new Article 9.

New Article 9 applies when a digital application distribution platform has gross receipts from sales on the platform to State residents exceeding \$10,000,000 in the current or previous calendar year and the platform either provides an application created in this State or provides an application to a State resident. The new Article does not apply to a platform for specialized categories of applications provided to a user on specialized hardware primarily intended for specific purposes (e.g., gaming console, music player).

The PCS for House Bill 494 prohibits the following conduct by platform providers:

- Requiring a developer to use the provider's in application payment system as the exclusive means for accepting payment from a user to download the developer's software application.
- Retaliating against a developer for choosing to use another digital transaction system or in application payment system.
- Refusing access to the platform because:
 - The developer's use of another payment system.
 - The religious or political content of the developer's application.
 - The religious or political content of users of the developer's application.

The NC Attorney General has the first opportunity to enforce the prohibition. If the Attorney General has not acted after 60 days, a private right of action accrues to a person or entity aggrieved by a violation of this new Article 9. The Superior Court has jurisdiction to enjoin further violations and to recover costs and other damages resulting from the conduct (\$250 per day minimum).

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EFFECTIVE DATE: The PCS for House Bill 494 would become effective October 1, 2021.