

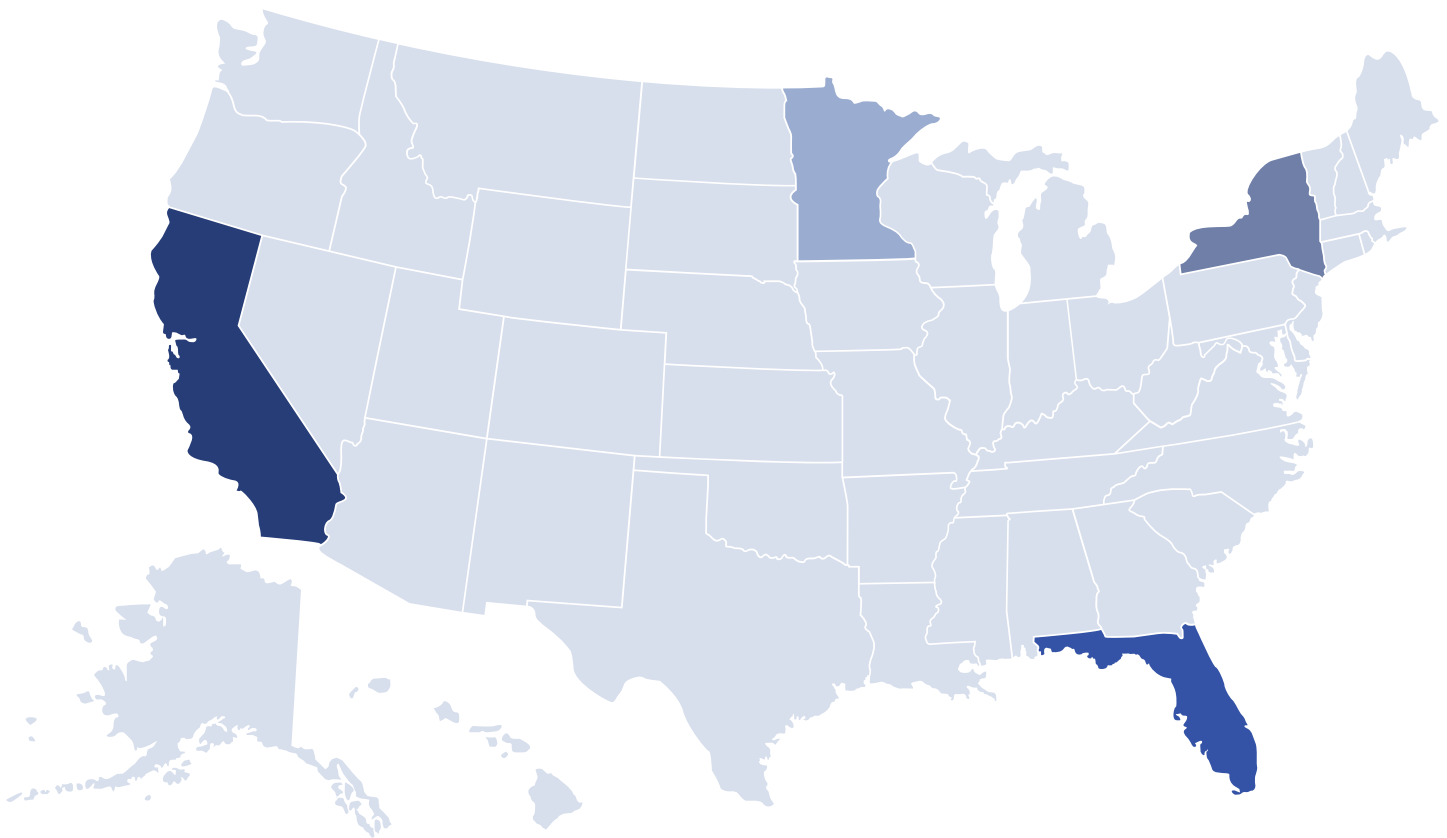
LANDSCAPE

# State Competition Legislation

As states continue to tackle issues that are traditionally addressed at the federal level, CCIA has seen states target competition policy in two primary areas: (i) revisions to **antitrust** laws and (ii) regulation of **app stores**. It is important for states to consider several factors as lawmakers engage on these topics. For each of these competition areas, if states adopt an increasing patchwork of laws, businesses will face difficulties navigating conflicting and disparate requirements, which could ultimately result in barriers to innovation and investment.

CCIA anticipates debates over these issues will continue in the next legislative cycle beginning in 2023. CCIA has developed state-focused advocacy materials, provided real-time monitoring of state legislative activity, and coordinated with third-party stakeholders, including submitting comments to legislators throughout 2021 and 2022.

## Map of Competition Measures Legislation: Antitrust



Key

- Introduced or Prefiled
- Passed Original Chamber
- Passed Second Chamber
- Out of Committee
- Enacted

## Types of Competition Measures: Antitrust

### 1 Abuse of dominance

**What:**

Creates a European-style of abuse of dominance legislation, attempts to tackle price discrimination practices, sets steep requirements for mergers and acquisitions reporting, seeks to prevent monopolies, and creates studying commissions to debate further alterations to the law.

**Where:**

- [Minnesota SF 4216](#)
- [Minnesota HF 4144](#)
- [New York S. 933A](#)

**Impact:**

Uncertainty over redefining market dominance to a more European standard and high penalties standard and high penalties create compliance challenges that could deter pro-competitive business activity.

### 2 Price Discrimination

**What:**

Prohibits sellers from discriminating in price between different purchasers of commodities of like grade and quality. This type of bill seeks to prevent the diminution of competition and prevent the creation of monopolies and monopsonies in any line of commerce.

**Where:**

- [Minnesota SF 4005](#)
- [Minnesota HF 4142](#)

**Impact:**

Without clear definitions of what constitutes “discrimination” and what would constitute an illegal monopoly, this type of bill risks harming legitimate business practices and good market operators that comply with the law. Also, consumers might be prejudiced, due to businesses then not being able to give discounts to parties in need.

### 3 Merger and acquisition reporting requirements

**What:**

Requires entities conducting business in the state that embark upon mergers and acquisitions to provide written notice of such a transaction to the Office of the Attorney General at the same time that notice is filed with the Federal Government.

**Where:**

- [Florida H.B. 705](#)
- [Florida S.B. 1112](#)

**Impact:**

This type of bill increases compliance costs for businesses due to redundancy as it would require businesses to submit the same information to the Federal Government and to states that have this type of provision. If popularized amongst the states, bills of this type could require businesses to submit the same M&A filings up to 52 times.

## Types of Competition Measures: Antitrust

### 4 Monopoly and Monopsony

**What:**

Specifies that any actions or practices that attempt to establish a monopoly or monopsony are illegal and void. Makes it unlawful for entities in a dominant position in the conduct of any business, trade, or commerce, in any labor market, to abuse that dominant position. Establishes premerger notification requirements; and allows recoverable damages to be recovered in any action that a court may authorize as a class action.

**Where:**

- [Minnesota: S.F.4004](#)
- [Minnesota: H.F.4143](#)
- [New York: S.933C](#)
- [New York: A.1812A](#)
- [New York: S.8700A](#)

**Impact:**

Without clear definitions of what constitutes a “monopoly” or a “monopsony” and what would be authorized business practices, bills of this type risk harming legitimate business practices and merchants that became leaders of their sector on merit. Thus, this would harm competition and innovation by punishing efficient actors.

### 5 Study / Task Forces

**What:**

Requires the legislature or an appointed commission to study topics related to antitrust law and its enforcement.

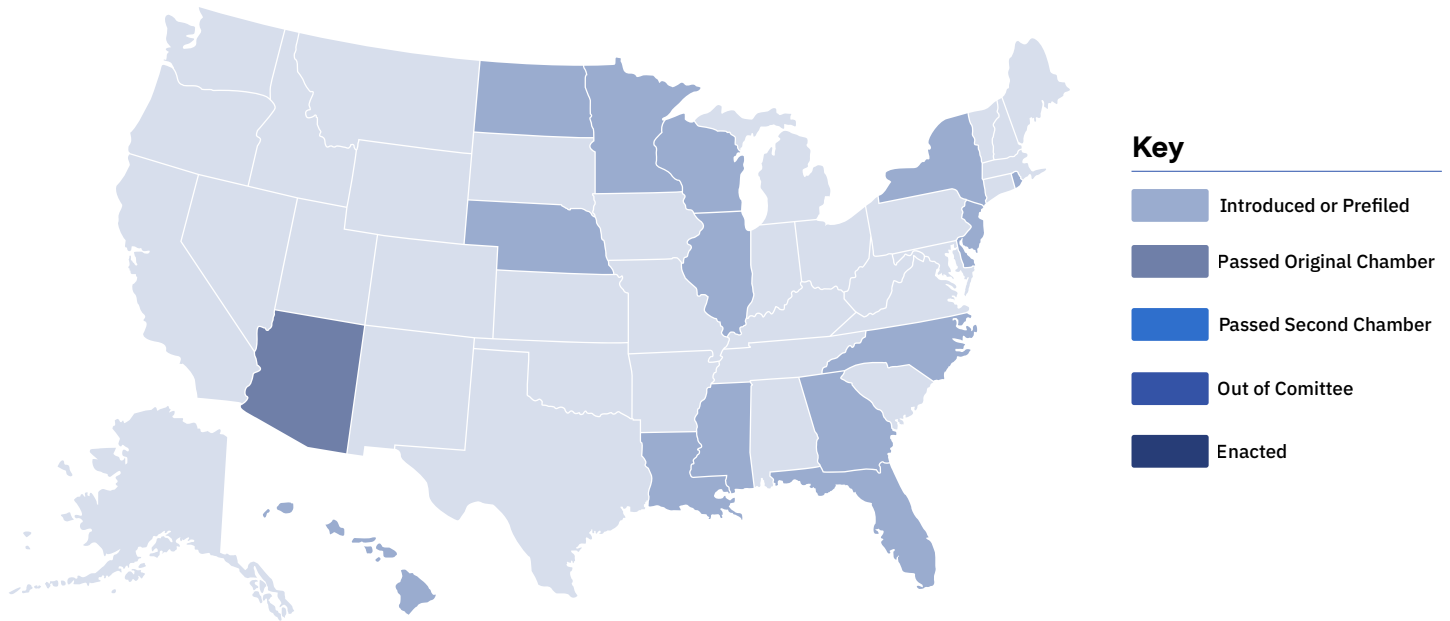
**Where:**

- [California ACR 95](#)

**Impact:**

With the globalized nature of commerce, it is important for American businesses to be presented with the most efficient type of regulation possible, to cut costs, save time, promote welfare to consumers, and be competitive globally. Such regulations should be reserved to the Federal level so as to avoid creating a patchwork of requirements that would inevitably increase compliance costs and shift the focus of business efforts away from innovation and competitiveness.

## Map of Competition Measures Legislation: App Store



**Key**

- Introduced or Prefiled
- Passed Original Chamber
- Passed Second Chamber
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## Types of Competition Measures: App Store

### Payment Systems

**What:**

As Congress considered the [Open App Markets Act](#), states began to introduce similar legislation aimed at regulating app stores. These measures would prohibit app store providers from requiring that specific payment systems be used and forbid these providers from retaliating against developers who choose an alternative payment system. In addition, some legislative language allows for a private right of action.

**Where:**

- [Arizona: H.B.2662](#)
- [Florida: H.B. 1579](#)
- [Georgia: H.B.229](#)
- [Georgia: S.B.63](#)
- [Illinois: H.B.4599](#)
- [Illinois: S.B.3417](#)
- [Louisiana: H.B.518](#)
- [Massachusetts: H.140](#)
- [Minnesota: S.F.1327](#)
- [Minnesota: H.F.1184](#)
- [Mississippi: H.B. 1395](#)
- [New Jersey: S.1423](#)
- [New York: S.4822](#)
- [Rhode Island: H.B.7564](#)
- [Rhode Island: S.B.770](#)
- [Rhode Island: H.B.6055](#)

**Impact:**

Forcing an ecosystem created to be closed to suddenly be open to other types of payment systems may present privacy and security risks. The payment methods chosen by app store operators aim to provide the greatest safety for consumers and support compliance with current data protection legislation.

## Key States To Watch In The 2023 Legislative Cycle

*Detailed below are states where movement can be expected on competition issues in the 2023 legislative session.*

State	Status
<b>New York</b>	<p>New York was deeply involved with competition regulation for technology companies. Although none was approved, this legislative session saw seven bills on the topic. <a href="#">S.933C</a>, <a href="#">A.1812A</a> and <a href="#">S.8700A</a> were targeted at updating antitrust law, prohibiting monopolies and monopsonies, and establishing certain actions deemed to be unlawful and increasing civil and criminal penalties for the practices, respectively. CCIA was engaged in actively opposing New York’s antitrust legislation. While New York’s Democratic majority has decreased in the state’s legislature, we expect conversations surrounding competition to continue and be prominent.</p> <p><a href="#">A.3399</a> prohibits certain actions that negatively impact the conduct of business, trade, or commerce or furnishing of services in the state and prohibits practices that force arbitration of future antitrust, consumer, civil rights, and employment disputes that interfere with the right of individuals, workers, and small businesses to participate in joint, class, or collective actions. Essentially, the bill seeks to prohibit the abuse of dominant positions in the market and sets the requirements for its verification.</p> <p><a href="#">S.4822</a> is another bill adding a list of prohibitions to owners of app stores. Like the examples discussed previously in other states, this one also forbids the requirement for developers to use specific app store or in-app payment systems. Lastly, <a href="#">S.8391</a> and <a href="#">A.10096</a> both set requirements for high-volume third-party sellers, in the same manner as other bills discussed above.</p>
<b>Rhode Island</b>	<p>Over the past two years, lawmakers have introduced several bills seeking to add a list of prohibitions to owners of app stores, however, none of these proposals advanced. <a href="#">H.B.7564</a>, <a href="#">S.B.770</a> and <a href="#">H.B.6055</a> would prohibit the requirement for developers to use specific app store or in-app payment systems.</p>