



Testimony to
Senate Standing Committee on Internet and Technology

Public Hearing: Regulation of high-risk use of artificial intelligence in the private sector

Submitted by

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My name is Chelsea Lemon and I am Senior Director of Government Affairs of The Business Council of New York State, Inc. The Business Council is New York's largest statewide employer association, representing 3,400 private sector employers from across New York, in all major business sectors.

The Business Council has the unique perspective of advocating on behalf of New York State businesses that touch every sector of the economy. In that role we consider many voices in the business community and utilize that interaction to advocate for the best possible results for our members, and most of all, the State of New York.

Regretfully, The Business Council did not receive an invitation to testify in-person at today's public hearing, though we appreciate the opportunity to submit comments for inclusion in the public record as your committee examines potential regulatory frameworks of artificial intelligence (AI) and its use in the private sector.

When The Business Council evaluates policy proposals, it always considers the impact that a particular piece of legislation will have on the overall strength of our economy, and our state's competitiveness and business environment. It is important that our laws and regulations strike a balance that provide sensible and adequate protections, but also create an environment where businesses can thrive, provide job opportunities, and grow in our communities.

In September 2025, the Public Policy Institute of New York State, Inc., an affiliate of The Business Council, released [Blueprint for New York – Creating a Roadmap for Change](#), a report which analyzed New York's economic competitiveness and business climate compared to other states. It showed that New York was 50th in business friendliness, 50th in both taxation and migration, and 49th in projected working age population growth. Additionally, while our job growth over the past 10 years has grown 7.3%, it is lower than the national average (12%) and one third of growth in Florida (24.9%) or Texas (20.3%).

The report also showed that New York is the second most regulated state, with more than 300,000 regulations. While regulations may address a specific issue or safety concern, excessive regulations often have unintended economic outcomes that are far more detrimental to consumers in the state as they can drive up costs and prices, limit the number of new business opportunities, and reduce the number of jobs available. In addition to being the second most regulated state, New York leads the nation in the amount of legislation filed, with 24,195 pieces of legislation filed in the 2023-24 legislative session, averaging to about 113 bills per member. This is five times the national average (4,610 bills filed per state on average) and nearly double the second most prolific state, Illinois. The sheer number of regulations and legislative activity makes it next to impossible for businesses to keep up, and the regulatory and legislative uncertainty stifles new investments and innovation.

In addition, qualitative feedback was solicited from businesses from every region across the state during more than 10 in-person roundtables and 12 virtual industry roundtables with more than 300 business leaders and owners participating. While there was optimism about regional collaboration, the quality of public education, and new industry opportunities', especially in life sciences, manufacturing and semiconductor, participants were grim when it came to speaking

about New York's cost prohibitive regulatory and legal environment and high cost of doing business.

A statewide survey of more than 550 business leaders showed that only 3% of those polled feel that regulators and lawmakers fully understand and support their business. The poll mirrored the sentiment we heard from businesses during our roundtable meetings: excessive regulations, high taxes, and the overall cost to doing business were the primary barriers to growth.

It is with that focus that we approach and analyze proposed legislation to regulate the development, deployment and use of artificial intelligence systems, as drafted in The New York AI Act (S.1169-A Gonzalez/ A.8884 Solages). While The Business Council shares the sponsors' goal of eliminating unlawful discrimination, we respectfully raise concerns with the legislation in its current form. As drafted, the bill creates a punitive enforcement mechanism that will incentivize frivolous litigation and introduces overly vague definitions and burdensome audit and reporting requirement that will jeopardize the state's innovation economy.

While The New York AI Act seeks to address algorithmic bias and discriminatory results in the use of artificial intelligence, it ignores that existing state and federal anti-discrimination laws already apply to AI systems. The legislation does not seek to fill gaps in current enforcement but rather adds significant burdensome mandates for businesses to comply with on top of existing frameworks.

Private Right of Action and "Guilty Until Proven Innocent" Standard Will Create a Litigation Frenzy

A key feature of The New York AI Act is that it utilizes a private right of action as its key enforcement mechanism and creates a rebuttable presumption for liability, shifting the burden to the defendant to prove they are not at fault through "clear and convincing evidence." This is an extremely high legal standard where defendants would be presumed "guilty until proven innocent," and unprecedented in AI law.

Due to the bill's vague and overly broad definitions and ill-defined third-party audit and reporting requirements, this would incentivize private plaintiff's attorneys to seek out and target **any** business that uses AI in "consequential decision" making and lead to a litigation frenzy. Many small and medium-sized businesses operate on small margins and are often easy targets for predatory litigation because trial lawyers recognize that they cannot afford long, drawn-out trials, and therefore will be forced into a quick settlement. Creating opportunities for predatory litigation creates a legal system with many victims and only one true beneficiary: trial lawyers.

For example, the owners of a Long Island Dairy Queen, sisters Patty DeMint and Michelle Robey, faced a \$6 million lawsuit under a loophole that existed in New York's "Frequency of Pay" law, even though they paid their employees what they were owed. Though the loophole was fixed in the FY26 New York State Budget, the sisters could not wait for the fix and were forced into settlement. As reported by CBS News New York, of the \$450,000 settlement,

\$305,000 went to lawyers and fees, while the former workers who were paid bi-weekly each received less than \$200.¹

The cost of torts and impeding frivolous litigation not only harms well-meaning, law-abiding businesses, but it threatens to exacerbate New York's affordability crisis. New York households pay \$7,027 in "hidden tort costs" annually – almost \$3,000 more than the national average². Businesses will have to account for the additional risk and liability which only increases operational costs. This type of costly litigation could chill legitimate business conduct and drive-up compliance costs, increasing the cost of doing business and costs to consumers.

The Business Council strongly opposes the private right of action and rebuttable presumption for liability standard created in The New York AI Act.

Overly Broad Definitions and Onerous Audit and Reporting Requirement Will Create Massive and Costly Compliance Burdens

The New York AI Act's overly broad definitions will capture many business software systems that are used for every day operational use, which are not used to autonomously decide or make "consequential decisions." Yet, they will trigger the same compliance and reporting meant for AI systems that impact important life chances.

The onerous audit and reporting requirements for both AI developers and AI deployers are concerning for several reasons. The bill requires significant and costly third-party audits to be conducted by both developers and deployers. Deployers include any and all businesses that utilize AI systems which improve their services, operations, marketing and other efficiencies. For deployers, this includes a third-party audit within six months after deployment, a second audit within one year of the submission of the first audit, and one audit every two years following the submission of the second audit. Additionally, the bill mandates reporting requirements to the Office of the Attorney General, with similar timing requirements, but also requires a report be filed any time a "substantial change" is made to the AI system.

For any business to comply, they will be forced to hire an outside, independent auditor – and they will be at the mercy of whatever those costs may be. Small and medium-sized businesses will be most severely impacted by these substantial increased compliance costs. This will lead to fewer jobs and increased costs of goods and services for consumers, and likely, fewer small businesses. Not only will it increase the cost of doing business and exacerbate the affordability crisis that all businesses and consumers struggle with, but it increases the amount of regulations by which businesses they must comply. Any mistake or good faith error could result in frivolous litigation by trial lawyers.

¹ Carolyn Gusoff, "Long Island business owners slapped with \$6 million lawsuit over law they didn't know they were breaking," CBS News New York, October 6, 2025, <https://www.cbsnews.com/newyork/news/long-island-dairy-queen-biweekly-paychecks-lawsuit/>.

² "Tort Costs in America: An Empirical Analysis of Costs and Compensation of the U.S. Tort System – Third Edition," U.S. Chamber of Commerce Institute for Legal Reform, November 2024. <https://instituteforlegalreform.com/research/tort-costs-in-america-an-empirical-analysis-of-costs-and-compensation-in-the-u-s-tort-system-third-edition/>

One of the most concerning requirements is that no accredited firms or ecosystem of qualified third-party “independent auditors” or guidelines currently exist that appropriately identify or outline “best practices,” ultimately setting up developers and deployers to shoulder the heavy burden of liability without a clear pathway to ensure compliance. If objective standards do not exist, how is a company, faced with massive liability, supposed to comply?

Further, the bill places a strict prohibition on commissioning auditors if they have “already been commissioned to provide any auditing or non-auditing services, including but not limited to financial auditing, cybersecurity auditing, or consulting services of any type, to the commissioning company in the past twelve months.”³ This provision will drastically limit the pool of potential qualified auditors. Another concern is that audit mandates could create de facto licensing regimes, which could unfairly allow third parties to control which products are allowed to launch, creating regulatory capture and antitrust concerns.

The cost of compliance without clear guidelines or definitions will be enormous, and in many cases, too costly for small and medium sized businesses who utilize AI systems to streamline business operations, which allow them to grow jobs, increase services, and expand in our local communities. These compliance burdens will further strangle New York’s businesses who already operate in a difficult environment and could cause them to relocate to other more business-friendly states.

The Business Council strongly believes that extensive collaboration with all impacted stakeholders is required beyond this hearing. Key fundamental changes must be made to proposals outlined in The New York AI Act and we encourage the Legislature to consider a more tailored approach that will safeguard consumers without jeopardizing the state’s economic competitiveness.

As always, we welcome and appreciate the opportunity to engage in discussions with the Senate Standing Committee on Internet and Technology and other members of the State Legislature on this and other issues.

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³ S.1169-A/A.8884, (§87(7)(b)(i))