



January 15, 2026

The Honorable Kristen Gonzalez
Chair, Committee on Internet and Technology
Senate Hearing Room
250 Broadway, 19th Floor
New York, NY, 10007

Re: In opposition to S. 1169

Dear Chair Gonzalez and members of the committee:

On behalf of the Chamber of Progress, a tech industry association supporting public policies to build a more inclusive society in which all people benefit from technological advances, **I urge you to oppose S. 1169.**

AI has tremendous potential for improving education, enabling creative expression, and creating new business opportunities. So it is critically important that public policy promotes the broad and equitable distribution of these innovations.

The sponsors of S. 1169 are justly concerned about civil rights abuses, particularly discrimination in housing, employment or lending. Historically marginalized communities have faced repeated discrimination in these areas and many more, and as such we applaud the sponsors for their attention to these critical matters of social justice.

However, pinpointing the source and catalyst of discriminatory outcomes of an AI system is not always possible, nor is consistently determining who or what is responsible for the act of discrimination.¹ The roots of bias may be in the data used to train a model—which could be laden with human-created biases—or the human who rubber stamps the outcome of an automated decision tool - or from any number of other sources. Regardless of origins, there must be avenues to address circumstances of discrimination that are consistent whether the abuse is online or offline.

S. 1169 may lead to over-removal of content, jeopardize access to reproductive care

¹ John Villasenor, *Artificial Intelligence and Bias: Four Key Challenges*, BROOKINGS (Jan. 3, 2019). <https://www.brookings.edu/articles/artificial-intelligence-and-bias-four-key-challenges/> ("An additional challenge is that biases can be created within AI systems and then become amplified as the algorithms evolve.").

The definition of “consequential decision” is similarly problematic. Specifically, the bill deems “*a decision or judgement that has a material, legal or similarly significant effect on an individual’s life relating to the impact of, access to, or the cost, terms, or availability*” of education, employment, finances, healthcare, housing, essential utilities or insurance, as “consequential.”

Republicans have repeatedly threatened reproductive freedom if they secure legislative majorities. Already in a post-Roe landscape we have seen social media platforms over-remove reproductive health information. As written, S. 1169 effectively weaponizes their automated content moderation systems against their users. Platforms face the awful dilemma of delivering their users critical health information or risk empowering an anti-choice Attorney General to police their users’ bodies. This is not an acceptable trade off.

S. 1169’s advance notice requirement creates privacy concerns

Section 86(a)’s requirement that online platforms notify consumers every time a high-risk AI automated decision tool is used to make a consequential decision at least five business days prior to use presents a complex challenge. While addressing harmful algorithmic discrimination is laudable, such notices could divulge sensitive information about algorithms and data processing methods, potentially compromising user privacy.

Additionally, the administrative burden of providing these notifications could strain resources for smaller companies or lead to delays in decision-making, affecting service efficiency. The five-day notice period may also be unrealistic in fast-paced industries where rapid decisions are critical, potentially hindering innovation and timely access to services. For example, in the financial services sector, a five-day delay in approving a loan application could result in a missed opportunity for a customer to secure urgent funding, potentially harming both the consumer and the company’s competitive edge.

While the bill allows consumers to waive the five-day notice under Section 86(b-c), this introduces further complications. Consumers may not fully understand the implications of waiving such notices, and the shortened one-day notice period may leave them with insufficient time to evaluate the decision-making process, leading to rushed or uninformed choices.

S. 1169 stifles competition by requiring online platforms to disclose AI data on their websites

Requiring online platforms to disclose data used to train their systems and services on their website under Section 88(5)(a) stifles competition in the digital marketplace. A healthy competition marketplace is essential to ensure better quality of services for consumers and encourages platforms to innovate.

S. 1169’s reporting requirement is excessive and harms competition

Additionally, the reporting requirement under Section 88, including mandatory audits, threatens to expose business strategy and stifle competition by mandating that businesses disclose the details of their automated decision tools to the government and the public. Any such disclosure of sensitive business practices must serve a compelling government interest and be narrowly tailored. S. 1169 comes up short on both.

This is doubly problematic because automated decision tools are essential for online platforms, enhancing use experience through recommendations on products and services and fostering innovation. While the ability to request redactions may offer some protection, it is insufficient as the bill's extensive reporting requirements risk handing proprietary strategies to competitors, giving them valuable insights that would undermine competition and ultimately harm consumers.

Tech companies also oppose discrimination

Unfairly biased outcomes are problematic for developers, deployers, and end-users alike. Tech companies are increasingly investing in internal teams for proactive bias detection and mitigation in their products. For example, Google has implemented their 'Responsible AI Practices'.² The initiative encompasses detailed guidelines for evaluating training metrics in machine learning models, including a thorough examination of the training data itself. Google's practices also emphasize a human-centric approach to AI development. Prioritizing safe and inclusive user experiences remains a top commitment for the tech industry.

Additionally, concerns arise with the bill granting the Attorney General wide-ranging powers to mandate remedies that could adversely affect essential business operations, potentially compromising service functionality, quality, and integrity. It is crucial to recognize that smaller firms and startups, with limited resources, may require more time than established tech giants to detect and rectify discriminatory practices.

A more effective strategy would be to establish a 'safe harbor' provision. This approach would detail explicit requirements and benchmarks for companies developing, implementing, and using AI. Meeting these criteria should then exempt the companies from liability. This approach provides clear guidelines and a structured framework for AI development, encouraging compliance while reducing the risk of broadly applied punitive measures.

These collaborative approaches foster cooperation and incentivize continuous improvement of responsible AI practices, ultimately benefiting both developers, providers, and users of AI technologies.

Strengthening consumer and civil rights law to protect the public is a better approach

² Google, *Responsible AI Practices*, AI.GOOGLE. <https://ai.google/responsibility/responsible-ai-practices/>

S. 1169 is designed to address potential discrimination from artificial intelligence systems, including automated decision making, in employment, housing and other areas. To reiterate, we agree that discrimination is wrong, but focusing exclusively on AI systems ignores offline discrimination. A better approach is to strengthen existing civil rights and New York fair housing law to ensure that the most vulnerable members of society are protected online and offline.

For these reasons, **we urge you to oppose S. 1169.**

Thank you,

A handwritten signature in black ink, appearing to read "Brianna January". The signature is fluid and cursive, with the first name "Brianna" written in a larger, more prominent script than the last name "January".

Brianna January
Director of State & Local Government Relations, Northeast US