

# New Laws in New York Apply Guardrails to AI While the President Seeks to Federally 'Legislate' AI Through an Executive Order

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**L**ate December New York is known for the tree at Rockefeller Center, the Christmas lights in Dyker Heights, and annual plethora gubernatorial bill signings and vetoes. In that holiday spirit, Governor Kathy Hochul wading through the bills delivered to her desk for review, on Dec. 1, signed two sets into law to limit artificial intelligence (AI) use. With the new laws, New York has drawn a line in the AI sand: per lawmakers and the governor, AI needs guardrails, especially where consumer and intellectual property rights are concerned.

Intriguingly, Hochul's action comes just as President Donald Trump on Dec. 11, 2025, issued his own executive order on AI—as part of an ongoing battle between the Federal administration and states concerning how and where best to regulate emerging technology. It will be up to the Federal administration to sue, state by state, to vitiate those statutes—and presumably, they would attack their constitutional grounding.

Of the two New York sets of bills, S. 8420-A / A.8887-B requires individuals involved in creating and producing ads to disclose whether those ads involve AI-generated content mimicking “performers.” The other set, S. 8391/A. 8882, mandates that consent be obtained for using a post-mortem name, image, or likeness of a person.



(Photo: greenbutterfly/Adobe Stock)

## Artificial intelligence

The governor touts the former as first-in-the nation legislation. According to the governor's press release, “[w]ithout notice that the content the public is viewing is not real, AI generated synthetic performers and manipulated media can undermine one's ability to accurately distill fact from fiction.” The statute imposes a \$1,000 civil penalty for a first violation of the strictures and a \$5,000 penalty for subsequent violations. The now enacted legislation is effective 180 days after signing—mid June 2026.

The second piece of enacted legislation is intended to protect the individuals beyond the grave. The language requires that advertisers seek permission first before conjuring electronic representations

of formerly living individuals through AI in effort to hawk goods and services. Specifically, per the Assembly bill summary, the bill “amends the definitions of ‘deceased performer,’ ‘deceased personality’ and ‘digital replica’ in relation to the right of publicity”—having the effect of restricting usage of digital replicas. This law is immediately enforceable.

Attorneys should appreciate the significance of these new laws, particularly to the degree they affect the drafting and implementation of rights deals: in New York, it’s not the marketplace that solely dictates the propriety of AI usage. Instead, now, some activity is beyond the pale. The bills received staunch support from constituents such as working actors, including the Screen Actors Guild—American Federation of Television and Radio Artists (SAG-AFTRA), representatives of whom joined the governor at the bill signings.

The bills are among others making their way in New York state concerning AI usage, through which the governor has sought to effect a balancing between the marketplace and the advancement of technology against the counterweight of privacy considerations. Another proposed legislation currently engendering some controversy is the Responsible AI Safety and Education (RAISE) Act (S6953B/A6453B), which, according to a press release issued upon the bills’ passage in June, would require “safety plans and incident reporting for the most powerful AI models, ensuring New York stays ahead of emerging threats without stifling innovation.”

This bill package is awaiting gubernatorial signature, but there are murmurings that the governor is seeking to impose chapter amendments—i.e., permissible rewrites of the bill language that would be tacked onto any final version before she signs—and that would alter the proposed legislation’s scope. The governor, who has relied regularly on the chapter amendment process to seek concessions from legislators in lieu of issuing outright vetoes, has until late December to do so.

Also on AI, the governor in October announced training for the New York state workforce on responsible use of AI, and earlier she waded similarly into issues concerning the balancing of benefits and drawbacks of technology through restrictions of students’ usage of cell phones in schools, which came through legislation that became enforceable at the beginning of the 2025-26 school year.

All this is happening in the context of activity at the federal level, where on Dec. 11, Trump issued an executive order specifically targeting AI and the rights of states to regulate in the space. This follows negotiations that preceded the passage of H.R. 1, the One Big Beautiful Bill Act (OBBBA), which was to include language time-barring states from regulating on certain AI issues, but which was stricken through negotiation before the president signed the bill.

In the EO, the president similarly indicates that states will face penalties if they seek to regulate AI. The order, among other requirements, directs the attorney general to challenge state laws that stymie AI development. According to the president, the EO is intended to avoid a patchwork of regulation and differences across the country around AI—in effort to remove barriers that might hinder innovation.

Pundits are already questioning the constitutionality of the order, since it may affect rights reserved to states, and more robust enforcement power would come from Congressional action (a certain uncertainty in this space). More on this will be playing out, invariably, as December closes and we flip into the New Year.

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