



S.488-A (Fernandez) / A.2289-A (Gallagher)

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BILL S.488-A (Fernandez) /A.2289-A (Gallagher)
SUBJECT Patent Settlement Agreements
DATE May 11, 2026
OPPOSE

The Business Council of New York State opposes S.488-A (Fernandez) / A.2289-A (Gallagher), which would require pharmaceutical manufacturers to provide notice of certain patent settlement agreements to the Attorney General, even though those agreements are subject to significant federal oversight by the Federal Trade Commission.

In 2003, Congress mandated pharmaceutical companies to submit to the FTC certain agreements between manufacturers of new drugs and generic products. Expanded in 2018, the FTC has broad powers to review these agreements. This legislation inserts the New York State Attorney General into a process which is already overseen by the FTC and federal courts. This legislation is unnecessary and creates a duplicative system.

If enacted, this legislation may have dangerous unintended consequences by potentially delaying the entry of generic products to the market. Patent settlements were created to resolve patent disputes. Most often, patent settlements lead to the introduction of generic drugs and biosimilar products into the market earlier than they would have had they been forced to wait until the end of a patent term. This benefits consumers with the earlier introduction of generics and the lower prices that come with them. However, this bill could discourage patent settlements which would result in a drawn out costly litigation and lead to a delay in generics being brought onto the market. This is the opposite of what this bill is attempting to do.

It is probable and concerning that the enactment of this bill would have unintended consequences and harm consumers by delaying entry of generics to market. For these reasons, The Business Council opposes S.488-A (Fernandez) / A.2289-A (Gallagher).