

S.8901 (Myrie)

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| BILL S.8901 (Myrie) |
| SUBJECT Prohibiting Unlicensed Activities of Virtual Currency Businesses |
| DATE January 21, 2026 |
| OPPOSE |

The Business Council of New York State strongly opposes S.8901 (Myrie), which would impose sweeping new criminal penalties for unlicensed virtual currency activity and significantly expand legal risk for businesses operating in New York. While the Business Council supports strong enforcement against fraud and other unlawful conduct, this bill is unnecessary, overly punitive, and harmful to affordability, jobs, and the state's economic competitiveness.

New York already has one of the most stringent virtual currency regulatory frameworks in the nation through the Department of Financial Services' BitLicense framework. The definition of "virtual currency business activity," which applies to conduct "involving New York or a New York resident," is broad and unresolved in practice. Many companies are based in New York, employ New Yorkers, and develop digital asset products or infrastructure that do not serve New York residents. Yet the scope of the licensing requirement remains unclear. By layering severe criminal penalties onto this ambiguity, the bill will push businesses to relocate operations, shrink payrolls, or avoid New York entirely, resulting in the loss of thousands of high-quality jobs and tens of millions of dollars in tax revenue.

The bill is especially troubling because it criminalizes regulatory uncertainty. There is a recognized gray area as to whether certain activities fall within the licensing definition, and the Department of Financial Services does not consistently provide timely or definitive guidance. Companies may reasonably conclude they are not subject to licensure, only to face criminal prosecution if a regulator or prosecutor later reaches a different interpretation. Exposing individuals and firms to misdemeanor and felony charges based on unclear regulatory boundaries without fraud, intent, or consumer harm, undermines fundamental principles of fairness and due process. The legislation's reliance on transaction value thresholds to escalate penalties further magnifies the problem. In modern digital markets, transaction volumes can grow rapidly even for small or early-stage companies. Felony liability should be based on wrongdoing and harm, not on arbitrary dollar amounts divorced from intent or impact. In addition,

the bill's immediate effective date provides no transition period or safe harbor, compounding uncertainty and risk. This is especially inappropriate where criminal penalties are at stake. This approach will deter responsible innovation and investment and make New York a less attractive place to do business.

Furthermore, this bill is just a solution in search of a problem. Existing law already provides robust enforcement tools. Fraud against New Yorkers is a crime regardless of licensing status. Unlicensed entities that improperly serve New York residents can already be sued by the Attorney General and subjected to significant civil penalties, injunctions, and restitution. The bill does not identify any meaningful enforcement gap or category of bad actors who currently escape accountability. Instead, it targets firms that may be unlicensed yet cause no economic or consumer harm, offering no clear public benefit.

These consequences directly affect affordability for New Yorkers. Driving businesses, jobs, and investment out of the state reduces competition, limits innovation, and increases costs for consumers and employers alike. Higher compliance risk and legal exposure translate into higher prices, fewer choices, and reduced access to emerging financial technologies, particularly for small businesses and working families already struggling with the state's high cost of living.

For these reasons, The Business Council strongly opposes this bill because it would impose significant economic harm, worsen affordability, and undermine New York's competitiveness without improving consumer protection. We urge the Legislature to reject this proposal and instead pursue clear, balanced policies that target actual misconduct while supporting jobs, innovation, and affordability for New Yorkers.