

S.1228-C (Gianaris) / A.606-B (Rosenthal)

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BILL S.1228-C (Gianaris) / A.606-B (Rosenthal)
SUBJECT Synthetic Performer Disclosure Requirement
DATE May 27, 2025
OPPOSE

The Business Council opposes S.1228-C (Gianaris) / A.606-B (Rosenthal) which amends the state's General Business Law regarding the use of synthetic performers in advertisements.

The bill has a mandatory disclosure requirement, so that any advertisement featuring or utilizing synthetic performer must include a conspicuous disclaimer that it is being used. By definition in the proposed legislation, a synthetic performer is "a digitally created asset created, reproduced, or modified by computer, using generative artificial intelligence or a software algorithm, that is intended to create the impression that the asset is engaging in an audio, audiovisual, and/or visual performance of a human performer who is not recognizable as any identifiable natural performer." Any violation of this law will result in a civil penalty of \$1,000 for the first violation, and \$5,000 for subsequent violations.

The definition of "synthetic performer" is overly broad and would include a wide array of digital enhancements and post-production practices that have been standard throughout the advertising industry for decades, including but not limited to CGI animation (combining a real actor with a CGI character), digital compositing (green screen images or creating special effects), and voice modulation (creating imagery, depth and emotion). There is a difference between a fully autonomous AI-generated figure and traditional human-directed digital enhancements that use AI-backed tools, but the definition fails to recognize or distinguish the two.

Since no distinction has been made, this disclosure will only confuse and mislead consumers, and possibly make them feel deceived, when in reality, the use of AI-generated imagery or tools is ethical or artistically appropriate.

Recently, lawmakers have pushed for numerous broad disclosure requirements for certain practices with vague definitions that result in over labeling and fail to effectuate meaningful disclosures that help consumers. This bill is no different. If any digitally enhanced ad will trigger this disclosure requirement, then what is the value of the disclosure?

AI tools play a large role in our modern economy and penalizing the use of these tools risk hindering innovation and investment in emerging technologies. If enacted, New York businesses and advertisers will have additional burdens than advertisers in other states, putting New York businesses at a significant disadvantage and hindering investment and job creation in our state. The advertising industry is a valuable part of New York's economy. A recent study by S&P Global Market Intelligence shows that advertising and related industries support almost 1.66 million jobs in New York, accounting for \$437.1 billion in economic activity. Enacting bills without thoughtful consideration for the broader economic impact will have negative consequences.

For these reasons, The Business Council opposes S.1228-C (Gianaris) / A.606-B (Rosenthal) and urges the Legislature to reject its passage.