



BURGHERGRAY LLP CLIENT ALERT

## PROPOSED FEDERAL AI MORATORIUM WOULD FREEZE STATE-LEVEL REGULATION FOR A DECADE

### Overview

A newly introduced federal bill—formally titled the [One Big Beautiful Bill Act](#)—includes a sweeping provision that would impose a 10-year moratorium on the enforcement of state-level artificial intelligence (AI) regulation. If enacted in its current form, this moratorium would significantly reshape the AI regulatory landscape by preempting state efforts to regulate the uses of artificial intelligence.

Such centralization of oversight at the federal level could certainly make it easier for AI companies to build scalable compliance programs. It would also make large investments in AI companies much more attractive to investors. After all, laws imposed on technology companies are usually seen as obstacles to free, unfettered innovation. Preventing state-based experimentation reduces the number of these laws, thereby naturally reducing compliance costs. But this kind of regulatory centralization would come at the cost of preventing states from addressing any unique risks lawmakers believe that AI introduces to society.

### Key Provisions

- **10-Year Moratorium on State AI Laws:** The bill would prohibit states from enforcing new or existing laws that specifically target AI models, automated decision-making systems, or similar technologies for a period of ten years<sup>1</sup>.
- **Emphasis on Federal Uniformity:** The legislative intent is to prevent a fragmented or inconsistent regulatory environment and instead promote a unified federal approach to AI governance.
- **Narrow Exceptions:** Certain state laws would still be permissible to enact and enforce, including laws that (i) remove legal barriers to AI adoption, (ii) facilitate AI operations, or (iii) streamline administrative processes such as licensing, permitting, and zoning. Additionally, the bill allows the adoption of state laws that impose design, performance, or documentation requirements only if those rules are generally applicable across technologies or are specifically required by federal law.

### Legal and Policy Implications

This moratorium has become a flashpoint for debate among entrepreneurs, investors, policy makers, and the wider business community:

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<sup>1</sup> Note that the current language in the bill prevents only the enforcement of AI specific laws and regulations. If this language is preserved in the final law, states could craft laws under the assumption that they would be not be enforceable under this federal moratorium



- **For Businesses and Innovators:** Supporters argue the bill will foster innovation by providing regulatory certainty and reducing the compliance burden of navigating conflicting state regimes. Companies developing or deploying AI tools may benefit from a more predictable legal environment during a critical phase of technological advancement. Predictability translates into reduced compliance costs, which means more resources for rapid AI development.
- **For States and Consumer Advocates:** Critics contend that the bill would undercut existing and proposed state laws aimed at curbing algorithmic discrimination, protecting consumer data, and regulating automated decision-making. Opponents warn that without state-level oversight, harmful AI-driven outcomes—such as bias, privacy violations, the misuse of Americans’ biometric data, and reduced transparency—will certainly go unchecked.
- **Federalism Concerns:** The moratorium raises significant questions about the proper balance between federal and state authority in emerging technology regulation. While the bill aims to streamline governance, it could limit states’ ability to respond swiftly AI-related risks at the local level.
- **Conflict with Existing State Law:**
  - If passed in its current form, the moratorium would prohibit the enforcement of the AI regulatory schemes of both Colorado and Texas.
  - Taking the [Texas Responsible Artificial Intelligence Governance Act](#) (“TRAIGA”) as an example, the moratorium would prevent Texas from enforcing provisions of TRAIGA that make it unlawful to develop or deploy AI systems in order to manipulate human behavior—including coercing citizens to engage in acts of self-harm or other forms of criminal conduct.
  - This is a problematic effect of the moratorium for one simple reason: Texas is arguably in a better position than the federal government to determine whether its residents are being manipulated by AI-powered apps and platforms to a degree that requires legal protection. If Texas has evidence that bad actors are leveraging artificial intelligence to inflict harm upon Texans, then Texas lawmakers should be able to take immediate action to counteract those harms.
- **Path Dependency:**
  - In the context of law, path dependency is the idea that past legislative decisions can have an outsized impact on future outcomes. Specifically, path dependency predicts that where a regulatory regime is poorly conceived or under-developed, it will tend to allow bad actors to flourish, reducing human welfare.



- The *One Big Beautiful Bill Act* could put America on a path in which no laws with teeth get tested over the next 10 years. If no state laws are created and tested, we will have *less information* on what produces good outcomes and what does not work. Shackling the states is therefore not the best way to address the complexities of a technology that is itself developing at light speed<sup>2</sup>.
- In a nutshell, the next 10 years are going to be critical in shaping the regulatory ecosystem for artificial intelligence. For that reason, it appears wise to use the best legal laboratory on the planet to test different methods of regulating AI<sup>3</sup>.

## What's Next

- The AI moratorium included in the One Big Beautiful Bill Act was removed by the U.S. Senate on July 1. Initially proposed as a 10-year ban on state-level AI regulations, it was later revised to tie federal broadband and AI infrastructure funding to a state's decision to refrain from regulating AI. On Tuesday afternoon, the larger budget bill narrowly passed and was sent back to the House. Of course, House Republicans could try to reintroduce the AI moratorium into the legislative process before finalizing and passing the new budget. Even if the Republicans do not take this step now, the moratorium's original inclusion in the One Big Beautiful Bill Act underscores the deep, ongoing tension between federal and state approaches to AI safety and governance.
- The One Big Beautiful Bill Act has not yet been enacted, but the inclusion of a preemption clause of this magnitude signals a shift toward federal dominance in AI policy.
- Organizations relying on or developing AI systems should monitor this legislation closely, particularly as it may affect long-term compliance planning, resource allocation, and risk mitigation strategies.
- We are continuing to track this legislation and its potential implications for our clients. Please contact John Eden ([jeden@burghergray.com](mailto:jeden@burghergray.com)) if you would like to assess how this proposed moratorium may impact your product roadmap, business planning or regulatory obligations.

<sup>2</sup> A certain amount of humility is also required of lawmakers at the state level because they will need to admit when their regulatory experiments have failed and/or led to unintended negative consequences for the development of AI technology.

<sup>3</sup> A natural objection to this point of view is that the moratorium is actually intended to apply pressure to Congress to pass an omnibus federal law to regulate artificial intelligence. After all, we cannot simply allow AI to go completely unregulated. This is not a sound objection for two reasons. First, Congress passes federal laws under a fair amount of pressure from very large constituencies which may not understand the relevant facts on the ground in certain states. Second, an omnibus piece of legislation produced by Congress would certainly not be crafted, refined, and enacted in a time frame that would allow lawmakers to dynamically respond to their own local conditions.

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