Department of Justice
Docket Clerk, Office of Legal Policy
950 Pennsylvania Ave. NW, Washington, DC 20530

In the Matter of Request for Information on State Laws Having Significant Adverse Effects on the National Economy or Significant Adverse Effects on Interstate Commerce, Docket No. OLP182 (Released September 15, 2025),

The American Consumer Institute Center for Citizen Research (ACI) is a nonprofit 501 (c)(3) educational and research institute with the mission to identify, analyze, and protect the interests of consumers in legislative and rulemaking proceedings. ACI submits these comments in response to a request for information (RFI) on state laws having significant adverse effects on the national economy or significant adverse effects on interstate commerce.

The Briar Patch of Artificial Intelligence Regulation

Many regulatory advocates falsely portray artificial intelligence as developing in the "Wild West," or completely unregulated economic environments. Instead, a regulatory briar patch awaits innovators developing and deploying artificial intelligence technologies, as the fear of rapid technological advance has uncorked an explosion of state regulations that contribute to a growing bureaucracy that micromanages AI innovation and its applications. Since AI is a general-purpose technology with varying definitions, experts disagree on the types of proposals that should be considered in AI legislation counts: for example, autonomous vehicle are a type of AI many experts may exclude form their analysis. By conservative definitions, states proposed more than 440 AI bills[1] in 2025 while more expansive estimates archive more than 1,000 bills[2]—significantly more than the total number of AI bills proposed in 2024.[3] This unprecedented level of state interest in AI threatens algorithmic commerce and free speech.[4]

[1] Thurston Powers, "State AI Legistlation Report, August 08, 2025, http://ai-legislation-2025.s3-website-us-east-1.amazonaws.com/#introduction.
[2] "Artificial Intelligence (AI) Legislation Tracker," MultiState, Last visited March 15, 2025, https://www.multistate.ai/artificial-intelligence-ai-legislation.
[3] Ibid.
[4] Kevin Frizer and Adam Thierer, "1,00 AI Bills: Time for Congress to Get Serious About Preemption, Larfare, May 9, 2025, https://www.lawfaremedia.org/article/1-000-ai-bills--time-for-congress-to-get-serious-about-preemption.

Data Privacy Regulation: Patchwork Fuel

The rapid proliferation of generative AI raises the stakes of state legislation. AI runs on vast sums of data, uses that information to establish patterns, and then uses those patterns to generate outputs and make predictions. More and better data means more and better AI applications. In the United States, data regulation varies by type and by rule. Rather than adopt policy reforms to make that data access secure and plentiful, state policymakers have instead adopted binary, opaque, and confusing Euro-style privacy regulation frameworks that shrink data pools and complicates compliance, especially for startups and small AI businesses.

Two states, California and Virginia, first passed data privacy laws in 2018. Today, 19 states have passed data privacy legislation, and 5 more states are actively debating frameworks of their own, with large costs for businesses and consumers in other states. California's privacy law, the California Consumer Privacy Act (CCPA), is the most burdensome state-level privacy law. Scholars at the Information Technology & Innovation Foundation (ITIF) estimate that Californians bear $46 billion in economic cost from this regulation, but the much larger concern is that the same study estimates that California's privacy law imposes an additional $32 billion of exported compliance costs onto American businesses and consumers in other states.[5] Should all states pass their own comprehensive privacy laws, ITIF estimates the regulatory patchwork could impose an $98 billion to $112 billion annually in out-of-state costs.[6]

Proliferation of state data privacy laws threatens to shrink data pools and concentrate costs on small businesses. Consider that a single data access and deletion request can cost a technology company $1,400, which means that even 100 such requests could cost small technology businesses nearly a quarter of their annual revenue.[7] If all states adopted their own data privacy laws, small businesses would bear an estimated " $20—23 billion of this out-of-state burden annually," as privacy regulations target businesses operating outside state borders.[8]

Understanding that data privacy laws disproportionately impact small businesses, many state privacy regulations have exempted small businesses from compliance—but an increasing number of state sector-specific data privacy laws make no such accommodation. Washington became the first state to pass a healthcare-specific data privacy when they passed their My Health, My Data laws. Connecticut and Nevada later passed their own versions that also closely mirror Europe's economically burdensome General Data Privacy Regulation (GDPR) and that also do not exempt small businesses.

---

[5] Daniel Castro, Luke Dascoli, and Gillian Diebold, The Looming Cost of a Patchwork of State Privacy Laws, Information Technology & Innovation Foundation, January 24, 2022, https://itif.org/publications/2022/01/24/looming-cost-patchwork-state-privacy-laws/.

[6] Logan Kolas, "A Federalism Opportunity in a Congressional Failure: How States Can Fix the Data Privacy Patchwork," The Buckeye Institute, August 10, 2023, https://www.buckeyeinstitute.org/library/docLib/2023-08-10-A-Federalism-Opportunity-in-A-Congressional-Failure-How-States-Can-Fix-the-Data-Privacy-Patchwork-policy-brief.pdf.

[7] Rea S. Hederman, Jr. and Logan Kolas, "A Healthcare World Reimagined: How Big Government Threatens Healthcare AI and What to Do About It," The Buckeye Institute Policy Report, April 1, 2024, https://www.buckeyeinstitute.org/library/docLib/2024-04-01-A-Healthcare-World-Reimagined-How-Big-Government-Threatens-Healthcare-AI-and-What-to-Do-About-It-policy-report.pdf.

[8] Daniel Castro, Luke Dascoli, and Gillian Diebold, The Looming Cost of a Patchwork of State Privacy Laws, Information Technology & Innovation Foundation, January 24, 2022, https://itif.org/publications/2022/01/24/looming-cost-patchwork-state-privacy-laws/.

The obvious solution is for Congress to pass a clear, concise, and narrowly tailored federal framework that pre-empts state-level activity. Instead, for more than two decades, Congress has debated a national data privacy law and ultimately failed to pass legislation. Federal agencies should encourage Congress to take the lead on data privacy and help them explore more options to limit the interpretive power of unelected agencies in national privacy frameworks.

Regulating for Algorithmic Bias

Since artificial intelligence turns on access to plentiful, accurate data, incomplete data sets can cause algorithmic bias in model outputs and skew results. To correct that imbalance, start-up companies are filling the market need for bias mitigation with emergent technologies, techniques, and datasets. Dandelion Health, for example, collects propriety data and constructs large, de-identified datasets of more than 10 million patient records, supplying researchers and practitioners with privacy-protective healthcare datasets and benchmarking algorithms for bias mitigation and effectiveness.[9] Meanwhile, large technology companies continue to devote entire teams to impartial research and bias mitigation as they have done for decades.[10]

The rise in popularity of generative AI systems like ChatGPT have made algorithms ripe targets for political pandering and pre-emptive lawmaking. More than 1,000 pieces of state AI legislation incubate in America's laboratories of democracy, where most concerningly a subset of bills to regulate so-called algorithmic fairness fester. At its 2025 peak, 16 states considered 24 different AI fairness proposals, each with disagreement on key terms like "artificial intelligence," "high-risk," and "consequential decision" that would impose high economic costs on consumers and businesses in other states. To mitigate these patchwork issues, the Trump administration should advise Congress on a federal, pre-emptive federal AI framework that mitigates economically costly legislative discrepancies between state laws and proposals.

Algorithmic Pricing Regulation: An Emerging Patchwork

Private sector use of consumer data to inform pricing decisions is being increasingly met by varying degrees of state and local government regulatory responses in perceived "consequential" industries like housing, but also in the more mundane the food, retail, and ticketing sectors.[11]

[9] Rea S. Hederman, Jr. and Logan Kolas, "A Healthcare World Reimagined: How Big Government Threatens Healthcare AI and What to Do About It," The Buckeye Institute Policy Report, April 1, 2024, https://www.buckeyeinstitute.org/library/docLib/2024-04-01-A-Healthcare-World-Reimagined-How-Big-Government-Threatens-Healthcare-AI-and-What-to-Do-About-It-policy-report.pdf.

[10] Alexandra George, Thwarting Bias in AI Systems, Carnegie Mellon University's College of Engineering, December 11, 2018; Miana Massey, Maryland Researchers Working to Correct Potential Bias in Artificial Intelligence, CBS News, February 20, 2023.

[11] Jameson Spicack, "A Price to Pay: U.S. Lawmaker Efforts to Regulate Algorithmic and Data-Driven Pricing," Future of Privacy Forum, August 18, 2025, https://fpf.org/blog/a-price-to-pay-u-s-lawmaker-efforts-to-regulate-algorithmic-and-data-driven-pricing/.

California Senate Bills 52 and 384, respond to perceived anticompetitive pricing practices in the housing market, Colorado House Bills 25-1264 bans dynamic pricing in instances of use of so-called "surveillance data," and Minnesota HF 2452 and SF 3098 would prohibit all uses of AI-assisted pricing decisions.[12]

Policymakers should not be quick to assume that algorithmically-informed pricing decisions inevitably harm consumers. In fact, academic research is mixed, developing, and context-dependent, with many examples of dynamic pricing driving significant consumer benefits.[13] For example, when sellers on eBay were able to access previously unattainable online consumer data, sellers were able to use that information to dynamically match prices to consumer tastes and preferences continually instead of at one specific point in time, strengthening competition and improving consumer welfare.[14]

Underdiscussed is the risk such kinds of legislative tinkering pose to interstate computational commerce. Artificial intelligence algorithms are not designed on a state-by-state or local-level basis. When states ban the use of AI algorithms in pricing decisions, companies will simply disallow those services in that state or municipality. If instead of banning algorithms in pricing decisions many states and municipalities independently regulate their use in pricing decisions, state government will have created an additional patchwork issue. The private sector will need to invest in state-by-state customization of existing algorithms or create entirely new ones, diverting resources from legitimate pricing methods to compliance with state-by-state compliance issues. Uncoordinated state legislative activity on algorithmic pricing presents the newest development in the artificial intelligence patchwork.

[12] Ibid.

[13] Jean-Pierre Dubé and Sanjog Misra, "Personalized pricing and Consumer Welfare," Journal of Political Economy, Volume 131, Number 1 (January 2023), https://www.journals.uchicago.edu/doi/abs/10.1086/720793; and Cody Taylor, "The Case for Algorithmic Pricing: Consumer Welfare, Market Efficiency, and Policy Missteps," Mercatus Center Policy Brief, May 14, 2025, https://www.mercatus.org/research/policy-briefs/case-algorithmic-pricing-consumer-welfare-market-efficiency-and-policy.

[14] Patrick J. Kehoe, Bradley J. Larsen, and Elena Pastorino, "Dynamic Competition in the Era of Big Data," Economics Working Paper 22102, Hoover Institution, February 14, 2022, https://www.hoover.org/research/dynamic-competition-era-big-data.

Conclusion

Federal inaction on prudent regulations in the technology sector has sparked state-level legislative interest in data and algorithmic regulation that is direct threat to the future of computational commerce. In 2018, California and Virginia lit the patchwork fuse when they passed state-level data privacy legislation. Today, states policymakers are increasing the intensity of their efforts by passing a myriad of laws that threaten the accessibly of AI business inputs and that threaten to entangle AI innovation in a nightmarish regulatory compliance regime. As the Trump administration and Congress consider legislation and rulemakings, efforts should focus on reducing the regulatory bureaucracy surrounding artificial intelligence.

Respectfully submitted,

Logan Kolas
Director of Technology Policy
The American Consumer Institute Center for Citizen Research
4350 N. Fairfax Drive, Suite 750
Arlington, VA 22203
www.TheAmericanConsumer.org