

New York Enacts Landmark AI & Right of Publicity Laws

December 17, 2025

The widespread and increasing use of artificial intelligence (“AI”) in advertising and media—particularly to generate realistic human likenesses—has prompted New York to enact two new laws that carry meaningful compliance obligations and potential monetary penalties for advertisers and content producers. Signed on December 11, 2025, the laws will impose (i) mandatory disclosure requirements for AI-generated “synthetic performers” in commercial advertisements, with civil penalties for noncompliance, and (ii) expanded posthumous right of publicity protections, exposing companies to statutory, compensatory and, potentially, punitive damages for unauthorized uses of deceased individuals’ likenesses.¹

These laws reflect New York’s continued push to regulate AI use in consumer-facing contexts and are particularly relevant to advertisers, brands, agencies, and platforms that rely on AI tools in routine creative development, digital advertising, influencer marketing, or branded content.

The first enacted bill, legislation S.8420-A/A.8887,² amends New York’s general business law to require advertisers to disclose the known use of synthetic performers—that is, digitally created media, generated by AI or a software algorithm, that appear as a real but non-identifiable person—in commercial advertisements. While the statute requires that disclosures be “conspicuous,” it does not prescribe specific language or placement, making careful consideration of disclosure format and prominence particularly important for advertisers. In the absence of guidance in the statute, regulators will likely look to other disclosure standards—like those governing how to disclose paid influencer content—which generally require disclosures to be prominent and unavoidable for consumers.

An advertiser’s failure to make the mandated disclaimer will result in a civil penalty of \$1,000 for a first violation and \$5,000 for any subsequent violation. The disclosure requirement does not apply to audio advertisements or instances where AI is used solely

¹ <https://www.governor.ny.gov/news/governor-hochul-signs-legislation-protect-consumers-and-boost-ai-transparency-film-industry>.

² <https://legislation.nysenate.gov/pdf/bills/2025/S8420A>.

for language translation; nor does it apply to advertisements and promotional materials for expressive works (i.e., movies, television shows, streaming content, documentaries, or video games) if the use of the synthetic performer in the advertisement is consistent with its use in the underlying work. Anyone involved in the creation or production of commercial advertisements involving an AI-generated human likeness—except for expressive works that use a synthetic performer in the underlying work—will be impacted by this law.

This law—the first of its kind in the United States—is meant to ensure AI transparency in advertising and protect consumers. In announcing the bill’s signing, Governor Hochul’s office emphasized that undisclosed AI-generated performers in advertising can mislead consumers and blur the line between authentic and artificially generated content—concerns that have become more acute as AI tools grow better every day at creating images and video indistinguishable from reality that are increasingly being used in social and digital media.

The second signed bill, legislation S.8391/A.8882,³ strengthens New York’s right of publicity law by requiring prior consent from a deceased individual’s heirs or executors for the commercial use of the individual’s name, voice, image, or likeness. The law applies to “deceased personalities” (i.e., whose name, voice, signature, photograph, or likeness had commercial value at the time of death or because of their death) and separately prohibits the unauthorized use of a deceased performer’s “digital replica” (i.e., a highly realistic, computer generated representation that is identifiable as the voice or visual likeness of a deceased individual) in audiovisual works, sound recordings, or live performances of a musical work. “Deceased performers” are defined as deceased personalities who were regularly engaged in acting, singing, dancing, or playing a musical instrument.

The law applies only to deceased personalities or performers who were domiciled in New York at the time of death and retains the existing 40-year limitation period for posthumous right of publicity claims.⁴ Failure to obtain the proper consent before the above-outlined posthumous uses could expose individuals and businesses to liability to injured parties for statutory damages of \$2,000 or compensatory damages (including profits from the unauthorized use), whichever is greater. Punitive damages may also be awarded to the injured parties. This law does not apply to certain expressive works, including parody, satire, criticism, or commentary.

While some other U.S. states have enacted similar laws, New York’s expansion of posthumous publicity rights underscores the state’s emphasis on protecting performers’

³ <https://legislation.nysenate.gov/pdf/bills/2025/S8391>.

⁴ https://dos.ny.gov/system/files/documents/2024/05/right_of_privacy_law.pdf.

legacies and fostering accountability in AI use. These new laws also may serve as a template for other states—like California—that have been actively considering additional legislative responses to the emergence of generative AI.

These new laws go into effect on different timelines. The posthumous right of publicity law became effective immediately upon enactment on December 11, 2025. By contrast, the AI transparency law requiring disclosure of synthetic performers takes effect on June 9, 2026. Advertisers planning 2026 campaigns that incorporate AI-generated likenesses should factor disclosure requirements into campaign timelines, creative approvals, and media placement strategies well in advance of the June 2026 effective date.

Advertisers and brands distributing content in New York should begin assessing how AI is used across their creative workflows, including by agencies, production partners and technology vendors and, in particular, may wish to consider:

- Updating internal brand and advertising guidelines to account for these new disclosure obligations and ensure that marketing teams are aware of the new laws.
- Inventorying current and planned uses of AI-generated images and video in advertising and promotional materials to determine whether disclosure obligations may apply.
- Confirming whether third-party agencies, production partners or AI vendors are using synthetic performers in creative assets and allocating responsibility for required disclosures through updated contractual terms and indemnities, if appropriate.
- Reviewing and updating talent, influencer and production agreements to ensure they address AI-generated content, synthetic performers and compliance with applicable disclosure and consent requirements.
- Implementing and documenting internal review processes to flag advertisements that involve AI-generated human likenesses or posthumous uses before distribution in New York.

Because failure to comply with the new statutes can result in financial penalties and litigation exposure, early review and establishing internal guardrails are critical as AI-assisted advertising continues to scale.

For information on other AI developments in 2025, see [AI Intellectual Property Disputes: The Year in Review](#).

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Please do not hesitate to contact us with any questions.



Megan K. Bannigan
Partner, New York
+1 212 909 6127
mkbannigan@debevoise.com



David H. Bernstein
Partner, New York & San Francisco
+1 212 909 6696
dhbernstein@debevoise.com



Christopher S. Ford
Counsel, New York
+1 212 909 6881
csford@debevoise.com



Jared I. Kagan
Counsel, New York
+1 212 909 6598
jikagan@debevoise.com



Rachel Burns
Associate, New York
+1 212 909 6710
rmburns@debevoise.com

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