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New York Enacts 'Synthetic Performer' Disclosure Law for Advertisements, Including Those Using Generative AI

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On December 11, 2025, New York Gov. Kathy Hochul signed S.8420-A/A.8887-B, a first-in-the-nation "synthetic performer" state law requiring advertisers to make a conspicuous disclosure in advertisements that include certain digitally created human images, including those generated using artificial intelligence (AI).

The law amends New York General Business Law (GBL) § 396-b and is set to take effect on **June 9, 2026**. Failure to comply with the disclosure requirement may result in civil penalties of $1,000 for a first violation and $5,000 per subsequent violation.

New York's synthetic performer law builds upon the efforts of lawmakers across the US seeking to regulate emerging AI-powered technologies and follows the enactment of numerous US state laws governing AI chatbots during 2025.

Key definitions: 'AI' and 'synthetic performer'

New York's law defines "artificial intelligence" broadly to include machine-based systems that generate outputs, such as predictions or decisions using techniques including machine learning, large language models, natural language processing, computer vision and generative AI.

Critically, the disclosure obligation is not triggered by "AI use" generally, but by inclusion of a "synthetic performer." A "synthetic performer" is a "digitally created asset" created, reproduced or modified by computer, using generative AI or a software algorithm that is "intended to create the impression that [it] is engaging in an audiovisual and/or visual performance of a human performer who is **not recognizable as any identifiable natural performer**." (emphasis added)

This framing suggests the law is aimed at ads that present what appears to be a real human performance, but where the "performer" is fully synthetic and not a replica of a human celebrity or other identifiable person who would benefit from the protections of state right-of-publicity statutes and other existing laws.

Notably, under the definition of "synthetic performer," if a digital asset that mimics a human performer is created using **any** "software algorithm," with or without the use of AI, it is a "synthetic performer." Therefore, the use of traditional non-AI-based visual effects software to create the digital human can still result in the creation of a "synthetic performer" covered by the law.

Core requirement: Conspicuous disclosure (with an 'actual knowledge' qualifier)

GBL § 396-b(3) provides that any person engaged in the business of "dealing in any property or service" who, for any commercial purpose, "produces or creates" an advertisement in any medium for such property or service, must "conspicuously disclose" in the advertisement that a "synthetic performer is in such advertisement" –where the person has actual knowledge. The statute does not define "conspicuous," leaving room for enforcement and market practices to shape approaches to the content, placement and formatting of required disclosures across different advertising media. The law also does not define the terms "performer" or "performance," but they may be construed expansively to cover not only the substitution of simulated humans for spokespeople and main actor talent appearing in ads but also the use of digital "extras."

Notable exceptions and limitations

The law includes several important carve outs and liability limitations:

- **Expressive works exception:** Advertisements or promotional materials for expressive works (e.g., films, TV, streaming content, documentaries and video games) are exempt if the synthetic performer's use in the ad "is consistent with its use in the underlying work." For example, the law likely would not require a disclosure for the appearance of an AI-generated character in an advertisement for a video game or movie if the same character also appears in the advertised creative work.
- **Media format/use exceptions:** The law does not apply to **audio advertisements** or where AI is used solely for **language translation** of a human performer.
- **Publisher/platform protection:** The statute states it does not apply to the media publishers that disseminate the ad (including the owners of newspapers, magazines, TV networks and stations, streaming services, cable systems, billboards and transit ad companies). Importantly, New York's law expressly disclaims any intent "to limit, or to enlarge," the protections afforded by Section 230 of the Communications Decency Act for content provided by another information content provider.

Practical takeaways for businesses

Companies that advertise in New York should begin preparing now, including by:

1. Inventorying campaigns that use "digital humans," avatars, or simulated spokesperson or extra content.
2. Updating creative review checklists to flag synthetic performer uses and ensure that a conspicuous disclosure is included where required.
3. Tightening contracts with agencies, production studios and AI vendors to require upfront identification of synthetic performers, allocate responsibility for disclosures, and address the "actual knowledge" standard through clear internal escalation and documentation practices.

Following President Donald Trump's December 11, 2025, executive order seeking to minimize burdensome AI regulations, the law may face federal opposition as well as private litigation challenges on First Amendment grounds. We will continue to monitor related developments.

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