

CLIENT ALERT | December 17, 2025

AI Executive Order Targets State Laws and Seeks Uniform Federal Standards

The new executive order is the latest effort by the Trump administration to establish a “minimally burdensome national standard” for regulating the AI industry.

Key Points:

- The Order establishes an AI Litigation Task Force that will challenge state AI laws in court and creates a process to assess any such conflicting state laws.
- The Order targets states that enact or enforce “onerous” AI laws with the threat that they may lose access to certain federal funding.
- Aimed at preempting state laws, this initiative will face legal hurdles, making the full impact of the Order uncertain.

On December 11, 2025, President Trump signed an [executive order](#) titled “Ensuring a National Policy Framework for Artificial Intelligence” (the Order). The Order aims to “sustain and enhance the United States’ global AI dominance” by establishing a “minimally burdensome national policy framework for AI” and reducing the web of diverging state laws and regulations that has emerged over the past few years.

Among other things, the Order (i) calls for federal standards and legislation that would preempt conflicting state AI regulations, (ii) creates a federal litigation task force focused on challenging state AI laws in court, and (iii) conditions access to federal grant funding on states’ willingness to avoid enacting onerous AI laws.

The Order is the latest effort by the Trump administration to limit state influence in AI regulation. Earlier this year, the administration published its AI Action Plan, a 28-page strategy document outlining a series of initiatives designed to reduce regulatory barriers, promote AI research, and foster public-private collaboration. Like the Order, the Action Plan took aim at state-level AI regulation by directing federal agencies to consider a state’s “regulatory climate” when making AI-related federal funding decisions and to not distribute such funds to states with burdensome AI regulations. The Action Plan’s release came on the heels of a proposed 10-year state law moratorium that Republicans introduced in a draft of the House reconciliation bill, which ultimately failed.

While the Order is a step toward the Trump administration's goal of avoiding patchwork state legislation in favor of a minimally burdensome federal regulatory regime, a number of its initiatives are sure to face legal hurdles that make the impact of the Order unclear for now. This Client Alert describes the Order's provisions and analyzes its potential impact on AI developers and deployers that operate in the US.

Overview of the Order

AI Litigation Task Force and Evaluation of State Laws

The Order directs the US Attorney General to establish an AI Litigation Task Force, which is charged with identifying and challenging state AI laws that the Attorney General deems to be unconstitutional, preempted by existing federal regulations, or otherwise unlawful. The Task Force is directed to work in consultation with senior White House advisors, including the Special Advisor for AI and Crypto, the Assistant to the President for Science and Technology, and the Assistant to the President for Economic Policy to identify specific state laws that warrant legal challenge.

The Order further requires the Secretary of Commerce to publish, within 90 days, an assessment identifying state laws that conflict with the Order's goal of establishing a "minimally burdensome national policy framework," including laws that should be referred to the Task Force for legal challenge. At a minimum, the assessment must identify any laws that "require AI models to alter their truthful outputs" or that otherwise "compel AI developers or deployers to disclose or report information" in a manner that would violate their constitutional rights.

While the Attorney General and the Task Force seemingly have discretion to determine which state laws to challenge, the Order cites the Colorado AI Act¹ as an example of a law that "requir[es] entities to embed ideological bias within models" and that could force AI models to produce false results. This language suggests that testing the legality of the Colorado AI Act could be a priority for the Task Force. Notably, California's suite of AI laws passed in 2024 and 2025 are not mentioned in the final version of the Order.

Funding Restrictions

The Order directs the Department of Commerce to impose restrictions around how states can access certain federal funds, including funds under the Broadband Equity, Access and Deployment (BEAD) program. Specifically, the Order calls for the Secretary of Commerce to issue a policy notice targeting states that have enacted onerous AI-focused legislation identified during the Secretary's assessment of state laws described above. Pursuant to the policy notice, these states would be ineligible to use "non-deployment" funding under the BEAD program, which refers to any remaining BEAD funding in a state's allocation that is left over after the state meets BEAD's infrastructure deployment requirements. In plain terms, these states could still potentially receive BEAD funding for basic infrastructure projects like putting fiber in the ground, but they could lose funding for the supporting activities that surround deployment, such as planning, administration, outreach, data work, or other non-construction uses.

The Order expressly directs federal agencies to assess their discretionary grant programs and to evaluate whether they can make those grants contingent on states agreeing not to enact AI laws that conflict with the Order's policy goals. States that have already enacted such laws would be required to enter into "binding agreements" with federal agencies not to enforce those laws during any performance period in which they receive such discretionary funding.

Federal Standards and Preemption

To further harmonize AI regulation, the Order instructs the Federal Communications Commission (FCC) to consider adopting a federal reporting and disclosure standard for AI models. The FCC is to initiate a proceeding to determine whether such a standard should be established, with the explicit goal of preempting state laws that conflict with whatever standard the FCC may adopt.

In parallel, the Federal Trade Commission (FTC) is directed to issue a policy statement within 90 days clarifying the circumstances under which state laws that mandate alterations to the truthful outputs of AI models may be preempted by the FTC Act's prohibition on unfair and deceptive acts or practices.

Legislative Action

Finally, the Order calls for the development of a legislative proposal to establish a uniform federal regulatory regime for AI. The Special Advisor for AI and Crypto, together with the Assistant to the President for Science and Technology, are tasked with preparing recommendations for legislation that would preempt state laws conflicting with federal policy established through the Order.

The Order carves out certain state laws from preemption, including any laws relating to child safety protections, AI compute and data center infrastructure, state government procurement and use of AI, and "other topics" that are yet to be determined.

Strategic Implications

The Order is the latest in a sustained effort by the Trump administration to cabin state influence over AI regulation and to ensure regulation of AI technologies is "minimally burdensome." It follows earlier executive and legislative forays to centralize AI policy at the federal level, including recent attempts to insert preemption language in the National Defense Authorization Act, which have seemingly failed. At a minimum, President Trump's decision to sign the Order evidences that the White House will continue pushing the policy goals laid out in its AI Action Plan.

However, the full impact of the Order is still unclear. States are unlikely to voluntarily repeal many, if any, AI laws overnight. Instead, states that have already enacted landmark AI legislation (such as California, Colorado, and Texas) will almost certainly continue efforts to enforce those laws in the near term.

Even if the Order's newly created Task Force challenges such laws in court, the onus will fall on the Task Force to establish a valid legal basis to overturn them. The potential arguments alluded to in the Order — at least one of which seems to center on the dormant Commerce Clause doctrine, which restricts states

from passing laws that unduly burden interstate commerce — do not seem to provide an obvious path to victory in the courts. And even if viable legal arguments exist, litigation will unfold over months or years, including likely appeals.

Moreover, the Order's restrictions on the distribution of federal grant funds could also face legal hurdles. Courts have generally discouraged establishing new requirements for the receipt of federal funding that conflict with existing statutory criteria, so a number of federal agencies may have their hands tied depending on the statutory edicts that govern their distribution of grant money.

On the administrative front, the Order's calls for FCC and FTC action may not deliver quick or sweeping preemption either. Agency rules generally preempt only where Congress has supplied a clear statutory basis and delegated authority that plausibly encompasses displacement of state law. Consequently, federal efforts to preempt state law through FCC rulemaking and/or FTC policy statements could be challenged on the grounds that the agencies have exceeded the scope of their congressional authority. This is particularly true for the Order's directive to the FTC to issue a policy statement on unfair and deceptive practices, given that many states have long-established legislative regimes governing that very issue.

And while the Order calls for a sweeping federal legislative proposal, which would provide a more traditional path to preemption, the Order does not include a deadline by which such a proposal must be made or any clear guidance on what it would cover. It is therefore difficult to prognosticate what federal legislation would purport to preempt and the likelihood that it would pass Congress.

To this point, the concept of widespread preemption of state AI law has faced strong bipartisan pushback, and there have been no public indications that suggest state governors and lawmakers will cede their ground. As a result, AI developers and deployers should proceed for now as if existing state AI laws will not be impacted in the short term by the Order and plan their compliance regimes accordingly, while continuing to closely monitor how states and courts react to the Order's initiatives in the coming months.

Contacts

[Michael H. Rubin](#)

michael.rubin@lw.com
+1.415.395.8154
San Francisco

[Andrew Gass](#)

andrew.gass@lw.com
+1.415.395.8806
San Francisco

[Ghaith Mahmood](#)

ghaith.mahmood@lw.com
+1.213.891.8375
Los Angeles

[Sy Damle](#)

sy.damle@lw.com
+1.202.637.3332
+1.212.906.1659
Washington, D.C. / New York

[Fiona Maclean](#)

fiona.maclean@lw.com
+44.20.7710.1822
London

This publication is produced by Latham & Watkins as a news reporting service to clients and other friends. The information contained in this publication should not be construed as legal advice. Should further analysis or explanation of the subject matter be required, please contact the lawyer with whom you normally consult. The invitation to contact is not a solicitation for legal work under the laws of any jurisdiction in which Latham lawyers are not authorized to practice. See our [Attorney Advertising and Terms of Use](#).

Endnotes

¹ Colo. Rev. Stat. §§ 6-1-1701–1707.