

October 30, 2026

The Honorable Julie Menin, Speaker
The Honorable Harvey Epstein, Chair, Committee on Consumer and Worker Protection
Members of the New York City Council

Dear Speaker Menin, Chair Epstein, and Members of the Council:

The undersigned organizations represent employers across every sector of New York City's economy. Together our members employ millions of New Yorkers. We share the Council's goal of protecting consumers, but we write with serious concerns about Int. 1105, the POWER Act. As drafted, it would expose every business in the city to costly new litigation, including those that follow the law. Those costs would ultimately fall on New Yorkers through higher prices, rents, and insurance premiums.

A bill with no defined scope reaches every industry. The POWER Act is not a targeted fix for a specific harm. It would prohibit "unfair methods of competition" and any "unfair, deceptive, abusive or unlawful" act or practice "in or affecting business, trade, or commerce." That last phrase covers virtually every business transaction. A lease, a loan, an insurance policy, a hospital or doctor's bill, a pharmacy purchase, a restaurant bill, a hotel booking, an app's terms of service, and a contract between two businesses would all be subject to suit.

The bill's definitions and legislative findings widen that reach. "Abusive" would cover any practice that "materially interferes" with a consumer's understanding of a term. "Injury" would include harms that are not "quantifiable, economic, or monetary," such as "loss of time." The findings call for the bill to include all conduct described in certain federal policy statements even if those statements have been changed or abandoned.

Int. 1105's private right of action would lead to an explosion of lawsuits. Int. 1105 would be a great opportunity for plaintiffs' lawyers. It would offer an abundance of time to file suit, the potential for large damages, and attorneys' fees paid by the defendant. It would also allow business-to-business lawsuits by discarding the limitation in current law that only allows complaints about "consumer-oriented" business practices. The ability for nonprofits to bring class action lawsuits or to sue as "testers" on behalf of the general public opens additional avenues for complaints. These provisions, combined with the expansive definitions described above, would open the floodgates for new litigation.

New York has seen this before. Because the Americans with Disabilities Act entitles a successful plaintiff to attorney's fees, a small number of firms have built a business model around filing near-identical website-accessibility complaints against restaurants, retailers, and other businesses, often on behalf of a handful of repeat "tester" plaintiffs. One firm alone has filed roughly 600 such suits in New York courts. The POWER Act would provide similar incentives across every industry.

An increase in lawsuits would impose costs whether or not a business did anything wrong. Since Int. 1105 applies to any "unlawful" practice, a technical violation of almost any law could become a claim worth \$2,500 per violation. The astronomical cost of potential damages under the bill would compel many businesses to settle claims, even when they have done nothing wrong. These costs get built into rents, menu prices, loan rates, and insurance premiums. Every New Yorker pays them, whether or not they ever file a claim. There is no question this bill would make life in New York City more expensive.

Small businesses would bear the heaviest burden. Large companies have in-house counsel and litigation budgets. A neighborhood restaurant or a small startup does not, and a single class action can force it to close. The bill's small business exemption would not solve this. To qualify, a business would need to be independently owned and operated, not be "dominant in its field," employ four or fewer people, and have less than \$5 million in annual revenue. This would leave out most small businesses. In 2016, the latest year the State Comptroller analyzed, firms with four or fewer employees held only about 12 percent of small business jobs statewide. And the exemption would not stop a suit from being filed: a business would have to prove it qualifies after being sued. When small businesses close, neighborhoods lose the competition that keeps prices in check.

The bill would also chill financing and investment. Lenders and investors are already cautious about extending capital to regulated industries where litigation exposure could lead to investment recapture. This could discourage investment in a variety of industries. For example, banks and other capital providers could become more hesitant to finance new construction, rehabilitation, or mortgage lending if loan documents or servicing practices become new litigation targets under this bill.

Albany recently considered and rejected these provisions. The FAIR Business Practices Act, sponsored by Senator Leroy Comrie and Assemblymember Micah Lasher and signed in December 2025, was the first major update to the state's business practices law in 45 years. As introduced, it would have let private plaintiffs sue over "unfair" and "abusive" practices, set similar damages and attorney's fees mandates, and dropped the consumer-oriented and actual-harm requirements for private suits. The same concerns we raise here were presented in that debate and those provisions were removed. The POWER Act revives nearly all of them and goes even further.

New Jersey and Washington, D.C. are not the right standards for New York City. Int. 1105's legislative findings cite New Jersey's Consumer Fraud Act and D.C.'s Consumer Protection Procedures Act as models. However, neither of these are examples of a city layering a private right of action on top of an existing state statute. The POWER Act would create different liability for a business in Yonkers and one in the Bronx for the same conduct. Illinois offers a cautionary example. Its Biometric Information Privacy Act imposed statutory damages for each violation, and courts counted every fingerprint scan as a separate violation, exposing ordinary employers to billions of dollars in potential liability. In 2024, Illinois lawmakers had to amend the law so that repeatedly collecting the same person's data counts as a single violation with at most one recovery, and a federal appeals court has since applied that change to lawsuits already pending. The POWER Act's \$2,500-per-violation structure invites the same result across nearly every industry.

Our request. We share the goal of stopping predatory practices and want to be partners in that work. The POWER Act would raise costs for every business in the city, especially small businesses, and make goods and services more expensive for consumers. At a time when affordability is the top concern for New Yorkers and this Council, the city cannot afford a bill that drives up the cost of living.

We respectfully urge you not to support Int. 1105. We welcome the opportunity to work with you on solutions that actually help New Yorkers.

Sincerely,

