



The Honorable Kathy Hochul
 Governor of New York State
 NY State Capitol Building
 Albany, NY 12224

Dear Governor Hochul:

We, the undersigned organizations representing every sector of New York’s economy, strongly urge you to veto A.7351/S.7476, which would force all companies registered to do business in New York to be subject to the “general jurisdiction” of the state’s courts. This means that lawsuits could be filed in New York courts by non-residents even if the underlying matter is unrelated to activity that transpired within the state’s borders. This will attract lawyers and plaintiffs from all over to sue in our state courts over incidents that happened elsewhere in the world. New York already has a reputation as the lawsuit capital of the world. Enacting this bill would codify that reputation, transforming the Empire State into the world’s courtroom – clogging up our already overburdened courts. Ultimately, if signed into law, companies will think twice about doing business in New York at all.

When you vetoed similar legislation in 2021, you emphasized your commitment to “a stronger, more inclusive economy,” including attracting firms incorporated elsewhere that are looking for opportunities to grow in New York. You also noted that “New York is a premier destination to live, work, and play.” Instead of attracting new businesses and forging a stronger economy, signing this bill into law would send job creators packing in search of less hostile legal environments. Tourism is a key component of

New York's economy, but that does not mean the state's courts should be a top destination for "litigation tourism."

The New York City Bar Association opposes this bill, writing that the legislation "raises significant issues under the Due Process and Commerce Clauses of the United State Constitution." Indeed, in *Daimler AG v. Bauman* (2014), the US Supreme Court unanimously held in an opinion delivered by Justice Ruth Bader Ginsburg that exercising "general jurisdiction in every State in which a corporation engages in a substantial, continuous, and systematic course of business" violates due process.

While in deciding *Mallory v. Norfolk Southern Railway Co.* (2023) the US Supreme Court declined to render Pennsylvania's consent to jurisdiction law unconstitutional on due process grounds, the high court reached that conclusion based on the defendant's awareness that opting to do business in the state subjected it to the terms of the statute. That would not be the case if New York were to enact brand-new legislation and force companies to consent to general jurisdiction or relinquish their registration to do business here in the Excelsior State. Further, the justices were not all convinced that a state's assertion of jurisdiction over lawsuits with no real connection to happenings within its borders would survive a challenge under dormant Commerce Clause jurisprudence.

If signed into law, this proposal is sure to inspire a good deal of legal challenges and, under the circumstances, is likely to be deemed unconstitutional. More importantly, just because one state has enacted an ill-advised law does not mean others should follow suit.

The fact is, without this legislation all entities are subject to jurisdiction of the state's courts for actions that occur in New York and that happen to New York residents. By vetoing this bill, you will be ensuring our courts do not end up clogged with lawsuits filed by non-residents over activity that occurred outside of our borders. We must protect access to the civil justice system for New Yorkers while ensuring that companies from far and wide are encouraged to invest in and set up shop in the Empire State.

New Yorkers are facing an affordability crisis because of inflation, the rising cost of housing, and growing tax and fee burdens. It is essential that we welcome new businesses and investment opportunities to New York. This cannot happen if legislation like this is signed into law. It will create a legal environment in which merely registering to do business in the state invites out-of-state plaintiffs and their enterprising trial lawyers to sue in New York.

For the reasons expressed above we strongly urge you to veto A.7351/S.7476.

Sincerely,

Associated Builders and Contractors, Empire State Chapter

Associated General Contractors of New York State

Big I NY

Buffalo Niagara Partnership

Business Council of New York State
Business Council of Westchester
Capital Region Chamber of Commerce
CenterState CEO
Commerce Chenango
Empire State Forest Products Association
Food Industry Alliance of New York
Greater Binghamton Chamber of Commerce
Greater Rochester Chamber of Commerce
Independent Power Producers of New York
Lawsuit Reform Alliance of New York
Long Island Association
Manufacturers Alliance of New York State
MACNY, The Manufacturers Association
New York Association of Convenience Stores
New York Construction Materials Association
New York Insurance Association
New York State Builders Association
New York State Chemistry Council
New York State Economic Development Council
New York State Health Facilities Association/ New York State Center for Assisted Living
Partnership for NYC
Rochester Technology and Manufacturing Association
Upstate United