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Client Alert: White House Executive Order Establishes National Artificial Intelligence Policy Framework

On December 11, 2025, the White House issued an executive order calling for a federal policy framework for the regulation of artificial intelligence (AI), aimed at promoting U.S. leadership and innovation in the sector (the “Order”). The Order calls for the development of “a minimally burdensome national” approach to AI development and regulation and seeks to preempt any conflicting state laws.

Key Provisions and Immediate Implications

The Order has two essential areas of focus: 1) the creation of a federal policy for the regulation of AI that is both national and minimal, and 2) the identification of state-level laws governing AI that are in conflict with that “policy,” as well as the use of federal power to either disincentivize the enforcement of such laws or to have those laws declared unconstitutional.

1) The New Federal Policy Framework

The Order asserts that a patchwork of state AI regulations impedes innovation and compliance, particularly for startups and interstate commerce. It directs the development of a minimally burdensome national standard for AI, preempting state laws that conflict with federal policy. While the Order calls for Congress to pass legislation that would preempt state-level AI laws in favor of this policy, it does not call on Congress to pass any specific legislation to regulate AI at the federal level.

The Order also directs the Federal Communications Commission (FCC) to initiate a proceeding to consider a federal reporting and disclosure standard for AI models, focused on preempting conflicting state requirements.

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2) Preemption of State-Level AI Laws

The majority of the Order is dedicated to directions to federal agencies tasked with identifying the various state-level AI laws that “conflict” with the “policy,” and what actions are to be taken regarding any such laws.

Evaluation of State AI Laws: The Secretary of Commerce, in consultation with key advisors, must publish an evaluation of existing state AI laws within 90 days. This evaluation will identify laws that conflict with the policy of regulating AI through a national, minimally burdensome framework. Among the bases for finding state-level laws to be in conflict with the federal policy are laws that “require AI models to alter their truthful outputs,” compel model owners or developers to disclose or report information “in a manner that would violate the First Amendment,” or otherwise conflict with federal policy. Laws that promote innovation consistent with federal objectives may also be highlighted.

The AI Litigation Task Force: Within 30 days, the Attorney General (AG) is required to establish an AI Litigation Task Force to challenge state AI laws deemed inconsistent with federal policy. The Task Force will challenge state-level AI laws on the grounds that they unconstitutionally regulate interstate commerce, are preempted by federal regulations, are otherwise unlawful in the AG’s judgment, or otherwise conflict with the Order.

Restrictions on State Funding: States with AI laws deemed to be in conflict with the policy set out in the Order will be ineligible for certain federal funds under the Broadband Equity Access and Deployment (BEAD) Program. Federal agencies are directed to assess discretionary grant programs and may condition funding on states refraining from enacting or enforcing conflicting AI laws.

Preemption of State Laws Mandating “Deceptive Conduct”: The Federal Trade Commission (FTC) will issue a policy statement clarifying that state laws requiring alterations to truthful AI outputs may be preempted under the FTC’s prohibition on deceptive practices.

What to Do Now

Stakeholders in the AI sector should closely monitor developments related to the evaluation of state laws, the formation of the AI Litigation Task Force, and forthcoming federal standards and legislative proposals. Entities operating in multiple states should assess the impact of potential federal preemption on existing compliance programs and funding eligibility.

Outlook

The Order is long on instructions, but short on specifics, so it will be important to monitor how the agencies tasked with enforcing the Order go about their jobs. The scope and pace of implementation will likely be shaped by ongoing policy debate and legal process. In fact, just days before the Order was announced, Governor Ron DeSantis announced an “AI Bill of Rights” in Florida that establishes state-level regulation of AI, joining Texas, Colorado, California, and others.

Litigation challenging aspects of the Order seem imminent given announcements, particularly with respect to preemption and federalism. Courts may be asked to determine the extent to which federal policy can preempt state law in the absence of specific federal regulations.

Bottom line: The Order signals a significant shift toward federal dominance in AI regulation, with immediate actions targeting state laws that conflict with this administration’s policies. Organizations should prepare for increased federal oversight and potential changes to state-level compliance obligations and should expect

iterative developments and potential court challenges over the coming months.

If you would like more information about the White House's December 11, 2025 Executive Order and its potential impact on your AI strategy and multi-state compliance obligations, please contact Jade Davis, Brian Focht, or reach out to Shumaker's Technology, Data Privacy, Cybersecurity & AI Service Line.