



PARTNERSHIP
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The
Business
Council



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ALLIANCE



May 6, 2024

Hon. Andrea Stewart-Cousins
Senate Majority Leader
New York State Senate
State Capitol
Albany, NY 12247

Hon. Carl Heastie
Speaker of the Assembly New York
State Assembly
Legislative Office Building
Albany, NY 12247

Dear Leaders & Members of the Legislature:

We respectfully write to you today to express our opposition to the EmPIRE Act (S541-B / A1893-A).

As organizations representing thousands of businesses across New York State, we contend that, if enacted, this law would add to the cost of living and doing business in the state and increase the burdens on our under-resourced court system. Already, New York State laws and regulations that encourage litigation and increase liability have resulted in the nation's highest insurance costs for consumers and businesses - - a major factor contributing to New York's affordability crisis. We urge you to break this pattern.

The EMPIRE Act would allow private attorneys to bring civil actions against employers for alleged violations that are currently investigated and enforced by the Department of Labor. Effectively, it outsources oversight from the DOL to for-profit lawyers who work on contingency fees. The impact of this act would be endless litigation with private attorneys whose primary motivation is not necessarily the public interest. Most concerning, the legislation encourages lawyers to seek out prospective clients and pursue lucrative class action-style litigation without any procedural protections and absent active participation by the workers who are purportedly harmed.

We have already seen how a similar misguided law, the Private Attorneys General Act (PAGA) in California, has hurt local entrepreneurs. Increasingly, small businesses are targeted through the filing of extremely high volumes of lawsuits to see which cases

stick.¹ The costs of defending against these suits has been huge for California employers, averaging \$46,000 more than responding to a regulatory enforcement action.²

New York communities, particularly upstate, are shrinking and job growth has fallen behind the rest of the country since the start of the pandemic. Legislation like the Empire Act has contributed to these conditions, without corresponding benefits for the state.

To the extent that the Empire Act seeks to address a failure to effectively pursue legitimate worker complaints, a better alternative would be the allocation of additional investigatory and enforcement resources for the Department of Labor. We trust you will consider our concerns and the cumulative impact of legislation that adds to the cost of living and doing business in New York State.

Sincerely,

New Yorkers for Local Businesses

¹ <https://www.shrm.org/topics-tools/employment-law-compliance/california-class-action-trends>

² https://fixpaga.com/wp-content/uploads/2024/02/CA-Private-Attorneys-General-Act_Outcomes_Feb-2024.pdf