

The AI Liability Clarity Act

Restoring Innovation Certainty in the Age of Embedded Intelligence

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THE PROBLEM

Let us be honest with ourselves about where this is going. AI is inevitable. It is going into everything, from your thermostat, your insulin pump, your brakes, your toaster. Doing so is transformative for the people who use them as well as for the economy as a whole, and no hearing, no statute, and no subcommittee is going to change that. Yes, it carries risk. Of course it carries risk. That is precisely why we cannot afford to slow down: the nations that hesitate are the nations that lose. America must build fast, and to build fast, America's builders need certainty.

Product liability was built for the toaster and other deterministic objects whose failures a manufacturer could foresee and therefore prevent. Modern AI is non-deterministic by design: the same input may yield a different output tomorrow than today. That's what makes AI a creative problem solver that unlocks the power of American businesses, not a failure of its safety governance. When a manufacturer cannot foresee a failure, the foreseeability doctrine at the heart of tort law, such as *MacPherson v. Buick*, starts to break down. And because AI will soon be in every product, manufacturers face mounting, unpredictable exposure for failures no engineer could have anticipated. That uncertainty is the single greatest brake on American innovation today.

THE RESOLUTION

Pass the AI Liability Clarity Act. The core idea is straightforward: establish a federal safe harbor so that developers who build AI-enabled products are not held to a foreseeability standard that non-deterministic systems can never satisfy. We would pair it with a federally-funded insurance backstop so that genuinely harmed parties are still made whole without slowing down the power of American innovation.

We see a few possible committees for this. It could move through Energy & Commerce, which handles commerce and consumer protection; or through Judiciary Committee, given the tort-preemption angle; or as a title in a larger AI package; or as a rider on a must-pass vehicle like the NDAA, the way AI preemption was attempted in 2025. We are flexible on the path. What matters is the principle: good-faith developers need certainty, and the current liability regime cannot provide it.

This move will meaningfully reduce liability exposure for product manufacturers, freeing them from fear of overzealous and misguided lawsuits. At the same time, harmed parties can be compensated through the federally funded backstop. This bold move will allow whoever takes the initiative to introduce it to signal to the market that America is open for AI investment rather than timid about innovation. In the process, this will create single federal approach, easing the patchwork of state-by-state exposure.

WHAT I NEED FROM THE SHARKS

- A champion to help us identify the best vehicle and committee to carry this.
- Help thinking through the right safe harbor language that is as broad as possible, allowing the most Americans to benefit without leaving state loopholes in place.
- Guidance on where money for the backstop fund would come from and how it would be implemented.
- An introduction to members already working on AI policy or tort reform.

NOTE: The Coalition for Responsible Autonomy Products represents the manufacturers, model developers, and deployers who would benefit from this Act. Per the no-shilling rule, we disclose that our members benefit directly. So does anyone who enjoys not being sued.

REFERENCE EXAMPLE

Category	Score	Why
Levers	2 / 4	Provides an actual lever, in the form of federal liability safe harbor, but hedges across four possible vehicles (“E&C, or Judiciary, or a package, or an NDAA rider”) instead of committing, names no bill, and supplies no text. The Sharks would have to come up with which committee is the right one.
Impact	2 / 3	Within its frame a safe harbor meaningfully reduces exposure for a real share of developers, but with notable gaps: bad actors may also be indemnified, the backstop’s reach is left vague, and citizens are likely going to foot the bill while companies will be left emboldened to take riskier approaches than they would otherwise.
Realism	1 / 3	Any federal preemption of liability, even a partial safe harbor, draws scrutiny from the trial bar, consumer groups, and states’-rights conservatives; the AI-preemption effort it echoes was struck 99-1.
Creativity	0 / 1	A safe harbor paired with a compensation fund is a familiar industry ask.
Total	5 / 11	A genuine problem and the right type of lever, undercut by an ask that won’t choose a vehicle and a mechanism described in concept rather than built. The fix is to finalize all parts of the approach, pick the committee, and draft the text.