Date of Hearing: April 7, 2026
Fiscal: No

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION
Rebecca Bauer-Kahan, Chair
AB 1651 (Dixon) – As Amended March 26, 2026

SUBJECT: State Bar of California: artificial intelligence

SYNOPSIS

In the words of Dean Erwin Chemerinsky of the UC Berkeley School of Law, the February 2025 bar exam was a display of "stunning incompetence from an entity that exists to measure competence."[1] *The exam was plagued with technical, logistical, and customer service breakdowns so severe that nearly 90% of test takers were offered the opportunity to retake the exam. Among the many damning revelations was the fact that artificial intelligence (AI) was used to generate several of the exam questions, further undermining trust in the administration of the exam.*

To help ensure better transparency in the administration of the bar exam, this author-sponsored measure would require the State Bar, beginning in 2028, to disclose its use of AI in developing exam materials. The bill is supported by California Civil Liberties Advocacy and has no registered opposition. It passed the Judiciary Committee on consent.

EXISTING LAW:

1) Establishes the State Bar Act and provides for the licensure and regulations of attorneys practicing in California. (Bus. & Prof. Code § 6000 *et seq*.)

2) Requires that in order to be certified to the Supreme Court for admission and a license to practice law, a person, among other qualifications, pass, as applicable, the general bar examination, the first-year law students' examination, and the attorneys' examination. (Bus. & Prof. Code §§ 6060, 6062.)

3) Defines "artificial intelligence" as an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. (Civ. Code § 3110(a).)

4) Defines "generative artificial intelligence" as artificial intelligence that can generate derived synthetic content, including text, images, video, and audio, which emulates the structure and characteristics of the artificial intelligence's training data. (Civ. Code § 3110(c).)

THIS BILL:

1) Defines:

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[1] Malcolm Maclachlan, Daily Journal, *California Bar exam failure sparks lawsuit, legislative inquiry,* (Mar. 3, 2025), https://www.dailyjournal.com/articles/383949-california-bar-exam-failure-sparks-lawsuit-legislative-inquiry.

a. "Artificial intelligence" and "generative artificial intelligence" using the language set forth above.

b. "Artificial intelligence-generated content" as visual or textual content that is generated, in whole or in part, by generative artificial intelligence.

c. "State Bar examinations" means the general bar examination, the first-year law students' examination, and the attorneys' examination.

2) Requires the State Bar, regardless of whether a natural person reviews or revises content, to disclose the use of artificial intelligence-generated content in:

a. Developing or administering the State Bar examinations, including any related question, performance test, answer key, or scoring rubric. Such disclosures must be posted on the State Bar's website 60 days before the relevant examination is held.

b. In study material, including sample or practice questions, model answers, selected answers, outlines, explanations, or other instructional materials prepared, published, endorsed, or distributed by the State Bar for use by applicants for the State Bar examinations. Such disclosures must be made on the cover page of the study material.

3) Becomes operative on January 1, 2028.

COMMENTS:

1) **Author's statement**. According to the author:

> AB 1651 seeks to address the shortcomings of the February 2025 Bar Exam and prevent future issues by requiring the State Bar of California to disclose the use of AI generated content in the development and administration of the State Bar Examination.
>
> AB 1651 provides additional information for our students and encourages transparency by the State Bar without banning the use of generative AI when developing future exams, allowing the State Bar to continue to use this developing technology.

2) **The February 2025 bar exam fiasco**. In August 2024, the State Bar of California, seeking to cut costs, overhauled its biannual bar examination by contracting with Kaplan Exam Services to develop a new California-specific exam and another contractor to administer the exam via remote or local testing centers. The inaugural administration of the new exam in February 2025 was, in the words of the Assembly Judiciary Committee, "an unmitigated disaster," plagued with technical, logistical, and customer service breakdowns so severe that nearly 90% of test takers were offered the opportunity to retake the exam.[2] The fiasco led to a lawsuit by aggrieved test takers and the passage of SB 47 (Umberg, Ch. 209, Stats. 2025), which requires the State Auditor to investigate and report on the matter.

Although the audit is still forthcoming, one of the many damning revelations in the wake of the debacle was the news that Bar Admissions staff worked with a test-grading contractor to draft a portion of the exam's questions. The contractor used ChatGPT to formulate these questions – 23

[2] See Assembly Judiciary Committee's analysis of SB 47 (Umberg, 2025), p. 1.

of which appeared on the 171-question exam – but neglected to review them for accuracy, bias, or appropriateness for entry-level attorneys.[3] To illuminate the potential hazards of outsourcing intellectual labor to AI, it is useful to examine how GenAI systems like ChatGPT work.

3) **GenAI confabulations**. "Artificial intelligence" refers to the mimicking of human intelligence by artificial systems, such as computers. AI uses algorithms – sets of rules – to transform inputs into outputs. Inputs and outputs can be anything a computer can process, including numbers, text, audio, video, or other data.[4] GenAI is a subset of AI that produces outputs closely resembling human-created content.[5]

Compared to conventional computer programs, which act according to pre-programmed rules, GenAI models "learn" from examples such as books, articles, photos, film, or music. This learning occurs within "neural networks" – massive systems of nodes linked by adjustable connections – that encode statistical patterns gleaned from data. During training, data is broken into fundamental units known as "tokens" – groups of syllables, pixels, or musical notes, for example – that can be represented numerically. A naïve neural network is exposed to an incomplete sequence of tokens and prompted to predict the next token in the sequence. If the prediction is incorrect, the network adjusts the strengths of its connections in order to minimize error and improve its next prediction. This process continues iteratively until the neural network can reliably emulate the human-created content it was trained on. A trained neural network embedded in a GenAI system is known as a "model," and the strengths of its connections are known as its "model weights."[6]

Staggering quantities of data are required to train the most advanced models. For example, GPT-4 – the large language model (LLM) embedded in ChatGPT 4 – is reported to have been trained on roughly 10 trillion words of text, mostly compiled from automated web crawlers "scraping" the publicly available internet.[7] Adjusting the model's 1.8 trillion parameters continuously as it was exposed to this vast corpus required trillions upon trillions of computations, which were performed by running approximately 25,000 expensive, energy-consuming microchips for nearly 100 days nonstop, at an estimated cost of $63 million.[8] Because the model does not directly store its training data, but rather encodes abstract patterns gleaned from the data, the model itself can fit on a thumb drive.

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[3] Request that the Supreme Court Approve Proposed Raw Passing Score and Scoring Adjustments for the February 2025 California Bar, (Apr. 29, 2025), p. 12, cited in Senate Judiciary Committee analysis of SB 47 (Umberg, 2025), p. 14.
[4] AB 2885 (Bauer-Kahan & Umberg; Ch. 843, Stats. 2024) defined AI as "an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments."
[5] AB 2013 (Irwin, Ch. 817, Stats. 2024) defined GenAI as "artificial intelligence that can generate derived synthetic content, such as text, images, video, and audio, that emulates the structure and characteristics of the artificial intelligence's training data."
[6] IBM, What is generative AI?, https://www.ibm.com/think/topics/generative-ai; IBM, What is machine learning?, www.ibm.com/topics/machine-learning.
[7] Schreiner, *GPT-4 architecture, datasets, costs and more leaked*, The Decoder (Jul. 11, 2023), *available at* https://the-decoder.com/gpt-4-architecture-datasets-costs-and-more-leaked/; Begum, *OpenAI Releases GPT-4: A Smarter and Faster AI-Language Model with 'Human-level Performance,'* Vocal Media (2023), *available at* https://vocal.media/01/open-ai-releases-gpt-4-a-smarter-and-faster-ai-language-model-with-human-level-performance.
[8] Ludvigsen, *The carbon footprint of GPT-4,* Medium (Jul. 18, 2023), https://medium.com/data-science/the-carbon-footprint-of-gpt-4-d6c676eb21ae.

LLMs do not fundamentally understand the text they are producing. They calculate one token at a time – if they predict that the next word or symbol in an outputted sentence should be a period, then the sentence ends. Otherwise, the sentence continues. It is a testament to the ingenious architecture of the deep neural nets powering these systems that their outputs are remotely coherent. But while the text these systems produce is cogent, it is not always correct. "These systems live in a world of language," said Melanie Mitchell, an A.I. researcher at the Santa Fe Institute. "That world gives them some clues about what is true and what is not true, but the language they learn from is not grounded in reality. They do not necessarily know if what they are generating is true or false."[9]

Thus, when a California lawyer infamously used ChatGPT to draft a brief in which 21 of 23 quotations were fabricated,[10] the tool was doing precisely what it was designed to do: draw on the patterns encoded in its weights to output a text that convincingly mimicked the countless examples of legal documents – good, bad, outdated, irrelevant – arrayed in its training data. The fake quotes were next-token predictions that looked like real quotes and cases the model had learned from.

This illustrates the folly of uncritical reliance on a general-purpose model like ChatGPT to craft highly-nuanced bar exam questions meant to tease out sophisticated levels of legal acumen. Although GenAI systems are highly capable and advancing rapidly – GPT4 passed a bar exam[11] – and can use database retrieval techniques to enhance the accuracy of their answers, they are not developed for this purpose, nor trained on curated datasets that accurately reflect the state of current law. While these systems may generate outputs that have the appearance of polished questions, the outputs themselves are not fundamentally grounded in reality.

4) **This bill would require the State Bar to disclose its use of AI in developing exam materials**. Beginning in 2028, this author-sponsored measure would require the State Bar, regardless of whether a natural person reviews or revises content, to disclose the use of artificial intelligence-generated content in:

- Developing or administering the State Bar examinations, including any related question, performance test, answer key, or scoring rubric. Such disclosures must be posted on the State Bar's website 60 days before the relevant examination is held.

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***ARGUMENTS IN SUPPORT*:** California Civil Liberties Advocacy, write in support:

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[9] Cade Metz, "What Makes A.I. Chatbots Go Wrong?," *New York Times,* March 29, 2023, www.nytimes.com/2023/03/29/technology/ai-chatbots-hallucinations.html.
[10] Khari Johnson, "California issues historic fine over lawyer's ChatGPT fabrications" *CalMatters* (Sep. 22, 2025), https://calmatters.org/economy/technology/2025/09/chatgpt-lawyer-fine-ai-regulation/.
[11] Pablo Arrendo, "GPT-4 Passes the Bar Exam: What That Means for Artificial Intelligence Tools in the Legal Profession," Stanford Law School Blog (April 19, 2023), https://law.stanford.edu/2023/04/19/gpt-4-passes-the-bar-exam-what-that-means-for-artificial-intelligence-tools-in-the-legal-industry/.

The practice of law implicates fundamental liberty and property interests. Admission to the Bar is not merely an academic milestone—it is the gateway to professional livelihood, economic mobility, and meaningful participation in our justice system. When high-stakes licensure examinations incorporate artificial intelligence tools, transparency
becomes essential to preserving public confidence and protecting applicants' due process rights.

AB 1651 does not prohibit the State Bar from utilizing modern technological tools. Instead, it establishes a straightforward and reasonable disclosure requirement. This balanced approach promotes institutional accountability while preserving flexibility for innovation. By requiring disclosure regardless of whether AI-generated content is later reviewed by a human, the bill ensures meaningful transparency rather than symbolic compliance.

At a time when artificial intelligence is increasingly integrated into professional and governmental decision-making, AB 1651 affirms an important principle: when the state uses automated or machine-assisted systems in licensing decisions, the public deserves to know. Transparency strengthens legitimacy, protects civil liberties, and reinforces trust in our legal institutions.

REGISTERED SUPPORT / OPPOSITION:

Support

California Civil Liberties Advocacy

Opposition

None on file.

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