THIRD READING

Bill No: AB 316
Author: Krell (D)
Amended: 9/2/25 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 12-0, 6/24/25
AYES: Umberg, Niello, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern,
   Wahab, Weber Pierson, Wiener
NO VOTE RECORDED: Valladares

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/29/25
AYES: Caballero, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

 ASSEMBLY FLOOR: 70-1, 5/19/25 - See last page for vote

SUBJECT: Artificial intelligence: defenses

SOURCE: Children's Advocacy Institute
              Organization for Social Media Safety

DIGEST: This bill prohibits a defendant from asserting the defense that artificial intelligence (AI) autonomously caused harm to a plaintiff, as provided.

Senate Floor amendments of 9/2/25 clarify the bill's impact on presenting certain defenses and evidence.

ANALYSIS:

Existing law:

1) Provides that every person is responsible, not only for the result of their willful acts, but also for an injury occasioned to another by the person's want of ordinary care or skill in the management of their property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon themselves. (Civil (Civ.) Code § 1714(a).)

2) 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. (Gov. Code § 11546.45.5.)

This bill:

1) Provides that in an action against a defendant who developed, modified, or used AI that is alleged to have caused a harm to the plaintiff, it shall not be a defense, and the defendant may not assert, that the artificial intelligence autonomously caused the harm to the plaintiff.

2) Clarifies that this does not limit or preclude a defendant from presenting any other affirmative defense or other relevant evidence of comparative fault.

Background

As AI models and applications become more sophisticated and integrated into our daily lives, they introduce new safety and security risks. Automated systems can make critical errors in high-stakes situations like self-driving vehicles, medical diagnostics, or home security systems when they encounter edge cases or adversarial inputs. AI-powered chatbots, phishing, identity theft, and deepfakes create novel threats to personal security and assets. Additionally, over-reliance on AI systems without adequate human oversight in critical infrastructure or emergency response could lead to cascading failures during unusual circumstances. While these technologies offer tremendous benefits, ensuring the highest level of due care on the part of AI developers and deployers is of paramount importance. Generally, individuals and entities are not only liable for their willful acts but also for injuries caused by their lack of ordinary care in managing their property or person. However, there are concerns that existing legal frameworks may be challenged in addressing the unique risks and complexities of AI technologies.

This bill addresses the issue by making clear that a defendant who developed, modified, or used AI that is alleged to have caused a harm to a plaintiff, cannot assert as a defense that the AI autonomously caused the harm to the plaintiff. This bill is sponsored by the Children's Advocacy Institute and the Organization for Social Media Safety. It is supported by a number of organizations, including the California Federation of Labor Unions and the California Initiative for Technology and Democracy (CITED). This bill is opposed by Technet and the California Chamber of Commerce.

Comments

Negligence law serves a crucial purpose in our legal system by incentivizing individuals and companies to take reasonable precautions to prevent harm. When organizations face potential liability for negligent design, testing, or deployment, they are motivated to invest in robust safety measures, thorough testing protocols, and ongoing risk monitoring. When a company is held responsible for harms it causes through its systems or products, it prompts a proactive approach to avoid causing those harms. This creates a direct financial incentive to prioritize safety, especially when utilizing new technologies. This is the state of the law currently.

This bill makes clear that it shall not be a defense, and a defendant shall not assert, that AI developed, modified, or used by the defendant autonomously caused alleged harm to a plaintiff. This ensures that AI development and deployment is done with due care despite the novel nature of the technology and its inherent complexities. Ultimately, this preserves the principle that humans are responsible for the harms they cause, regardless of the sophistication or autonomy of the tools they use.

While there are no examples of defendants successfully utilizing such defenses, this bill proactively rules out this avenue of deflecting blame when someone suffers AI-related injuries. One example of where this defense has been attempted was recently widely reported on:

> In 2022, Air Canada's chatbot promised a discount that wasn't available to passenger Jake Moffatt, who was assured that he could book a full-fare flight for his grandmother's funeral and then apply for a bereavement fare after the fact.
>
> According to a civil-resolutions tribunal decision last Wednesday, when Moffatt applied for the discount, the airline said the chatbot had been wrong – the request needed to be submitted before the flight – and it wouldn't offer the discount. Instead, the airline said the chatbot was a "separate legal entity that is responsible for its own actions". Air Canada argued that Moffatt should have gone to the link provided by the chatbot, where he would have seen the correct policy. The British Columbia Civil Resolution Tribunal rejected that argument, ruling that Air Canada had to pay Moffatt $812.02 (£642.64) in damages and tribunal fees. "It should be obvious to Air Canada that it is responsible for all the information on its website," read tribunal member Christopher Rivers' written response. "It makes

no difference whether the information comes from a static page or a chatbot."[1]

A recent article highlights the importance of addressing this issue and heading off any legal doctrine that allows AI itself to be blamed:

On the question of any eventual push to juridical personhood for AIs, it does seem that a cautionary note is needed. Certainly, it can be strongly argued in terms both of equity and deterrence, that there is, in the present state of things, a need to avoid ideas or developments that may see those persons and corporate entities that have profited from the development of AIs ultimately avoid liability for the consequences of their creation, particularly where those consequences are harmful.[2]

According to the author:

The California AI industry is rapidly growing, both from an economic and technological standpoint. AI has seen extraordinary advancements in its applications, complexity, and autonomy, to the point where AI is replacing human intelligence in certain tasks. As AI becomes more complex, it is increasingly involved in daily interactions and significant decision-making. While this has the potential to bring positive changes to various industries and facets of life, this also means that AI related harm can be much more significant. These harms are already manifesting and will only worsen as the AI race becomes more competitive. Specifically, AI being deployed through social media has been shown to be particularly harmful to youth.

This bill ensures that companies benefiting from the use of AI are also responsible for the harms AI may cause. By eliminating a potential AI defense theory, this bill encourages careful vetting of AI products before they are used and ensures that there is a legal entity held to account if AI is shown to violate the law.

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[1] Maria Yagoda, *Airline held liable for its chatbot giving passenger bad advice - what this means for travelers* (February 23, 2024) BBC, **https://www.bbc.com/travel/article/20240222-air-canada-chatbot-misinformation-what-travellers-should-know**.
[2] Michael Duffy, *Rise of the 'Machine Defendant'? A Cautionary Analysis and Conceptualisation of Civil and Criminal Liability Approaches to the Actions of Robots and Artificial Intelligence* (January 1, 2023). 49(2) Monash University Law Review 1-42, **http://dx.doi.org/10.2139/ssrn.5032505**.

FISCAL EFFECT: Appropriation: No   Fiscal Com.:   No   Local: No

According to the Senate Appropriations Committee:

- Unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund). The elimination of a defense, as proposed by this bill, may increase the likelihood of success for plaintiffs and encourage plaintiffs to file suits that they otherwise would not have. The fiscal impact of this bill to the courts will depend on many unknowns, including the number of cases filed and the factors unique to each case. An eight-hour court day costs approximately $10,500 in staff in workload. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations.

- Unknown, potentially significant costs (General Fund, local funds) to state and local agencies for increased exposure to civil liability to the extent they use artificial intelligence. Agencies may also incur higher liability insurance costs because of increased litigation exposure.

SUPPORT: (Verified 9/2/25)

Children's Advocacy Institute (source)
Organization for Social Media Safety (source)
3strands Global Foundation
California Civil Liberties Advocacy
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Federation of Labor Unions, AFL-CIO
California Initiative for Technology & Democracy
California Nurses Association
California Teamsters Public Affairs Council
Consumer Attorneys of California
Consumer Federation of California
Economic Security California Action
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
Oakland Privacy
Tech Oversight California
TechEquity Action
The Center for AI and Digital Policy

UFCW - Western States Council
UNITE Here International Union, AFL-CIO
Utility Workers Union of America

OPPOSITION: (Verified 9/2/25)

California Chamber of Commerce
Technet

ARGUMENTS IN SUPPORT: The Organization for Social Media Safety, a sponsor of this bill, writes:

> Given both the alarming speed at which AI-based tools are being deployed and the clear, convincing proof that these tools can cause severe harm, especially to children, we must ensure that our standard liability framework functions as expected to protect consumers. This established jurisprudence has been instrumental in ensuring that California's marketplace has an outstanding safety record, preventing deaths and injuries for millions of consumers while reliably fostering innovation.
>
> We cannot afford to wait decades for litigation to unfold while Big Social advances novel legal theories arguing that autonomously operating AI, rather than the companies themselves, should bear responsibility for the harm caused. At a minimum, this ambiguity must be clarified now.

ARGUMENTS IN OPPOSITION: Technet and the California Chamber of Commerce write in joint opposition:

> We understand the intent to prevent defendants from attempting to absolve themselves from liability by claiming that an artificial intelligence acted autonomously. Our concern is that the bill could be interpreted to prevent a defendant from presenting any evidence related to an AI or automated system, which may be relevant to causation, foreseeability of harm, and the comparative fault of other parties.

ASSEMBLY FLOOR: 70-1, 5/19/25
AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza,

Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Elhawary, Ellis, Fong, Gabriel, Gallagher, Garcia, Gipson, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, Muratsuchi, Nguyen, Ortega, Pacheco, Patel, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NOES: McKinnor

NO VOTE RECORDED: Bains, Dixon, Flora, Jeff Gonzalez, Papan, Pellerin, Tangipa, Valencia

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
9/3/25 18:31:21

**** END ****