SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 1018 (Bauer-Kahan)
Version: July 3, 2025
Hearing Date: July 15, 2025
Fiscal: Yes
Urgency: No
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SUBJECT

Automated decision systems

DIGEST

This bill regulates the use of "automated decision systems (ADS)." It places obligations on developers and deployers of such systems designed or used to make or facilitate "consequential decisions."

EXECUTIVE SUMMARY

ADS, especially those powered by AI, are being increasingly deployed in a multitude of contexts, including employment, housing, education, and health care. Major transparency and fairness concerns have been raised about the use of ADS to make consequential decisions, essentially determinations with significant legal or other material effect on people's lives.

This bill seeks to regulate the development and deployment, by both public and private actors, of "covered ADS," systems that make consequential decisions, or decisions that materially impact the cost, terms, quality, or accessibility of specified services, opportunities, access, resources, and treatment for natural persons. It requires developers to conduct performance evaluations of their ADS, which, among other things, identify details of the systems, expected performance and uses, and potential disparate impacts. Deployers are required to provide certain notices to subjects of consequential decisions and afford certain rights to them, including the right to opt out, correct information, and appeal final decisions.

This bill is sponsored by TechEquity Action and the Service Employees International Union (SEIU) California. It is supported by a variety of labor, consumer, privacy, and other advocacy groups, including Common Sense Media and Consumer Reports. It is opposed by a number of industry associations, including the Consumer Technology Association and the American Staffing Association.

PROPOSED CHANGES TO THE LAW

Existing law:

1) Establishes the CCPA, which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civ. Code § 1798.100 et seq.)

2) Establishes the Consumer Privacy Rights Act (CPRA), which amends the CCPA and creates the California Privacy Protection Agency (PPA), which is charged with implementing these privacy laws, promulgating regulations, and carrying out enforcement actions. (Civ. Code § 1798.100 et seq.; Proposition 24 (2020).)

3) Requires the Attorney General to adopt regulations governing access and opt-out rights with respect to businesses' use of automated decisionmaking technology, including profiling and requiring businesses' response to access requests to include meaningful information about the logic involved in those decisionmaking processes, as well as a description of the likely outcome of the process with respect to the consumer. (Civ. Code § 1798.185(a)(16).)

4) Provides that beginning the later of July 1, 2021, or six months after the PPA provides notice to the Attorney General that it is prepared to begin rulemaking, the authority assigned to the Attorney General to adopt regulations under this section shall be exercised by the PPA. (Civ. Code § 1798.185(d).)

5) Establishes the Civil Rights Department, and sets forth its statutory functions, duties, and powers. (Gov. Code § 12930.)

6) Establishes the Fair Employment and Housing Act (FEHA). (Gov. Code § 12900 et seq.)

7) Establishes the Unruh Civil Rights Act. (Civ. Code § 51.)

8) Defines "trade secret" under the Uniform Trade Secrets Act as information, including a formula, pattern, compilation, program, device, method, technique, or process, that meets the following criteria:
    a) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use.
    b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (Civ. Code § 3426.1(d).)

9) Requires the California Department of Technology (CDT) to conduct a comprehensive inventory of all high-risk ADS that have been proposed for use, development, or procurement by, or are being used, developed, or procured by, any state agency. It defines the relevant terms:
    a) "ADS" means a computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decisionmaking and materially impacts natural persons. "Automated decision system" does not include a spam email filter, firewall, antivirus software, identity and access management tools, calculator, database, dataset, or other compilation of data.
    b) "High-risk automated decision system" means an ADS that is used to assist or replace human discretionary decisions that have a legal or similarly significant effect, including decisions that materially impact access to, or approval for, housing or accommodations, education, employment, credit, health care, and criminal justice. (Gov. Code § 11546.45.5.)

This bill:

1) Requires a developer of a covered ADS that was first deployed, or made available to potential deployers, before January 1, 2026, to conduct an initial performance evaluation on the covered ADS before January 1, 2027. For covered ADS first deployed or made available on or after January 1, 2026, the developer shall conduct a performance evaluation before initially deploying it or making it available to potential deployers.

2) Requires developers to additionally conduct a performance evaluation on the covered ADS under any of the following circumstances:
    a) Following any substantial modification by the developer or any fine tuning that materially changes the uses or outputs of the covered ADS.
    b) No more than one year after the developer last conducted a performance evaluation, for as long as the developer deploys the covered ADS or makes the covered ADS available to potential deployers.

3) Requires a developer, in conducting a performance evaluation, to do the following:
    a) Describe the purpose of the covered ADS.
    b) List and describe all developer-approved uses of the covered ADS.
    c) For each developer-approved use, evaluate the expected performance of the covered ADS and document various metrics, including the expected accuracy and reliability of the ADS, whether any disparate treatment is

intended to occur, and whether any disparate impacts are reasonably likely to occur.
d) Contract with an independent third-party auditor to assess the developer's compliance herewith.

4) Requires a developer to consider and attempt to incorporate any feedback from an auditor into the development of any subsequent version of the covered ADS and to make a high-level summary of the feedback publicly available.

5) Requires a developer that sells, licenses, or otherwise transfers a covered ADS to a potential deployer to provide the deployer with all of the following:
   a) The results of the most recent performance evaluation.
   b) For each developer-approved use, instructions explaining how the covered ADS should be used by the deployer to make or facilitate a consequential decision.
   c) For each developer-approved use, a description of whether and under what circumstances the covered ADS can be fine-tuned.
   d) An explanation of the deployer's responsibilities hereunder, as specified.
   e) Any technical information necessary for the deployer to comply with this chapter.

6) Permits a developer to make reasonable redactions from the documentation provided to protect trade secrets, but requires notice of such withholding and the basis for it.

7) Requires a developer that receives an impact assessment from an auditor of a deployed covered ADS to provide all of the following information to any deployer of the covered ADS:
   a) Any material differences between the expected accuracy or reliability and the observed accuracy or reliability and the deployment conditions under which those differences are reasonably likely to occur.
   b) Any unanticipated disparate impacts resulting from the use of the covered ADS and the deployment conditions under which those disparate impacts are reasonably likely to occur.
   c) An explanation of any steps the deployer can take to mitigate these discrepancies.

8) Dictates the process and form that any documentation required to be provided to a deployer by a developer must take.

9) Makes it unlawful to advertise to consumers in the state that a covered ADS is capable of performing in a manner not substantiated by the results of the most recent performance evaluation conducted on the covered ADS.

10) Requires developers to designate at least one employee to oversee the developer's compliance herewith and to conduct a prompt and comprehensive review of any credible compliance issue raised to that employee.

11) Requires a deployer, before it finalizes a consequential decision made or facilitated by a covered ADS, to provide any subject of that decision with a plain language written disclosure containing specified information, including:
    a) Notice that a covered ADS will be used.
    b) Details identifying the covered ADS.
    c) Whether the deployer's use of the covered ADS is within the scope of a developer-approved use and a description of that use.
    d) The personal characteristics or attributes of the subject used by the ADS to make the decision.
    e) The sources of personal information collected from the subject to make or facilitate the consequential decision.
    f) Details regarding the outputs of the covered ADS and a plain language description of how those outputs are used to make or facilitate the consequential decision.
    g) Whether a natural person will review the outputs of the covered ADS or the outcome of the consequential decision.
    h) The subject's rights pursuant hereto.
    i) Contact information for the deployer and the entity or entities managing the ADS and interpreting the results.

12) Requires a deployer, before finalizing a consequential decision, to provide any subject of that decision with a reasonable opportunity to opt out of the use of the covered ADS, except as specified. A deployer that denies a request to opt out shall provide the subject with an explanation of the basis for the denial.

13) Requires a deployer, after finalizing a consequential decision, to provide any subject of that decision with a plain language written disclosure containing specified information within five days, including most of the same information described above that is provided before finalizing the decision. The deployer must also provide the subject with an opportunity to correct any incorrect personal information used and to appeal the decision according to specified processes.

14) Dictates the process and form that documentation required to be provided to a subject by a deployer must take.

15) Provides that a deployer's collection, use, retention, and sharing of personal information from a subject of a consequential decision shall be reasonably necessary and proportionate to achieve the purposes for which the personal information was collected and processed, or for another disclosed purpose that is

compatible with the context in which the personal information was collected, and not further processed in a manner that is incompatible with those purposes.

16) Requires a deployer that uses a covered ADS to make or facilitate consequential decisions directly impacting more than 6,000 people in a given three-year period to contract with an independent third-party auditor to conduct an impact assessment on the covered ADS before January 1, 2030, and every three years thereafter.

17) Prescribes the process an auditor must take when conducting an impact assessment of a deployer's covered ADS, including the information that must be requested and the details that must be documented. After completing the assessment, the auditor is required to provide the results to the deployer and to make a high-level summary of the assessment publicly available, as provided.

18) Provides the conditions under which a deployer assumes the responsibilities of a developer, including when the deployer:
    a) Uses a covered ADS to make or facilitate consequential decisions that directly impact more than 6,000 people in a given three-year period and certain conditions are met.
    b) Substantially modifies an ADS and uses it to make or facilitate consequential decisions that directly impact more than 6,000 people in a given three-year period or makes it available to potential deployers.

19) Requires a deployer that uses a covered ADS to make or facilitate a consequential decision to designate at least one employee to oversee the deployer's compliance herewith. That employee must conduct a prompt and comprehensive review of any credible compliance issue related to the deployer's use of a covered ADS that is raised to that employee.

20) Requires a developer or deployer to provide, where applicable, an auditor with any available information that is reasonably necessary for the auditor to conduct a comprehensive audit.

21) Provides that necessary audits not completed by the specified deadlines require either the developer to not deploy or make available the ADS or the deployer to not use the ADS to make consequential decisions.

22) Imposes retention requirements on developers and deployers with respect to specified documentation.

23) Includes exceptions to specified provisions in the case of a medical emergency.

24) Provides that the provisions governing deployers become operative on January 1, 2027.

25) Allows for the redaction of information revealing trade secrets, as provided, but requires disclosure of such withholding and the basis for it.

26) Provides that within 30 days of receiving a request from the Attorney General (AG) for a performance evaluation or impact assessment, a developer, deployer, or auditor of a covered ADS shall provide an unredacted copy of the document to the AG. The AG is authorized to share these materials with other enforcement entities as necessary for enforcement purposes.

27) Clarifies that the above disclosure or sharing of a performance evaluation or impact assessment does not constitute a waiver of any attorney-client privilege, work-product protection, or trade secret protection that might otherwise exist with respect to any information contained therein. Such materials are exempt from the California Public Records Act.

28) Authorizes enforcement actions against developers, deployers, or auditors to be brought by the following entities:
    a) The Attorney General.
    b) A district attorney, county counsel, or city attorney for the jurisdiction in which the violation occurred.
    c) A city prosecutor in any city having a full-time city prosecutor with the consent of the district attorney.
    d) The Civil Rights Department.
    e) The Labor Commissioner with respect to employment-related decisions only.

29) Authorizes a court to award a prevailing plaintiff in such actions the following:
    a) Injunctive relief.
    b) Declaratory relief.
    c) Reasonable attorney's fees and litigation costs.
    d) A civil penalty of up to $25,000 per violation.

30) Exempts ADS whose sole purpose is to detect, protect against, or respond to cybersecurity incidents or preserve the integrity or security of computer systems or to operate aircraft in the national airspace. The use of a consumer credit score to inform a consequential decision does not itself create an obligation hereunder.

31) Clarifies the relevance of compliance, or the failure to comply, with these provisions in actions pursuant to the Unruh Civil Rights Act and the Fair Employment and Housing Act.

32) Defines AI, ADS, trade secret, and personal information in accordance with existing law and defines other relevant terms, including:
    a) "Consequential decision" means a decision that materially impacts the cost, terms, quality, or accessibility of any of the following to a natural person:
        i. Employment-related decisions.
        ii. Education and vocational training, as specified.
        iii. Housing and lodging, as specified.
        iv. Essential utilities, as specified.
        v. Family planning, adoption services, reproductive services, and assessments related to child protective services.
        vi. Health care and health insurance, including mental health care, dental, and vision.
        vii. Financial services, including a financial service provided by a mortgage company, mortgage broker, or creditor.
        viii. The criminal justice system with respect to pretrial release, sentencing, and alternatives to incarceration.
        ix. Legal services.
        x. Private arbitration.
        xi. Mediation.
        xii. Elections, as specified.
        xiii. Access to government benefits or services or assignment of government penalties.
        xiv. Places of public accommodation, as defined.
        xv. Insurance.
        xvi. Internet and telecommunications access.
    b) "Covered ADS" means an ADS that is designed or used to make or facilitate a consequential decision.
    c) "Substantial modification" means a new version, release, update, or other modification to a covered ADS that materially changes its uses or outputs.

COMMENTS

1. Considerations for development and deployment of ADS

With recent dramatic advances in the capabilities of AI systems, the need for regulatory frameworks for accountability and responsible development and deployment have become ever more urgent. This is especially true with respect to AI-powered ADS that are used to make, or assist in making, decisions that have a legal or other significant effect.

ADS introduce several concerning issues when deployed across various sectors. Bias and discrimination represent perhaps the most significant problem, as AI systems frequently reflect and amplify historical biases present in their training data. This can

lead to unfair outcomes based on protected characteristics like race, gender, and socioeconomic status, particularly in sensitive domains such as hiring, lending, housing allocation, and criminal justice.

The lack of transparency in many AI systems compounds these concerns. These technologies often function as "black boxes" where the rationale behind specific decisions remains obscure even to their developers. This opacity makes it exceptionally difficult for affected individuals to understand why they were denied a loan, were passed over for a job opportunity, or received an unfavorable outcome. Such obscurity directly challenges meaningful accountability when harmful outcomes inevitably occur.

Accuracy and reliability issues also persist even in sophisticated AI systems. These technologies can make confident but incorrect predictions, with errors often disproportionately affecting already marginalized groups. Performance demonstrated in controlled testing environments frequently fails to translate to complex real-world scenarios, leading to unexpected and harmful outcomes.

Accountability gaps emerge when determining responsibility for AI-caused harms. The complex relationship between developers, deployers, and users makes liability difficult to establish. Legal frameworks consistently lag behind rapidly advancing technological capabilities, creating environments where harms can occur without clear recourse.

By reducing complex human situations to algorithmic outputs, ADS risk eliminating human judgment, empathy, and contextual understanding from important processes. Many people report feeling powerless when facing decisions made by automated systems, especially when those systems lack transparency or meaningful appeal mechanisms.

For instance, Amazon's deployment of ADS for hiring purposes provides an example of how bias can be built into these systems:

> Amazon.com Inc's machine-learning specialists uncovered a big problem: their new recruiting engine did not like women.
>
> The team had been building computer programs since 2014 to review job applicants' resumes with the aim of mechanizing the search for top talent, five people familiar with the effort told Reuters.
>
> Automation has been key to Amazon's e-commerce dominance, be it inside warehouses or driving pricing decisions. The company's experimental hiring tool used artificial intelligence to give job candidates scores ranging from one to five stars - much like shoppers rate products on Amazon, some of the people said.

> "Everyone wanted this holy grail," one of the people said. "They literally wanted it to be an engine where I'm going to give you 100 resumes, it will spit out the top five, and we'll hire those."
>
> But by 2015, the company realized its new system was not rating candidates for software developer jobs and other technical posts in a gender-neutral way.
>
> That is because Amazon's computer models were trained to vet applicants by observing patterns in resumes submitted to the company over a 10-year period. Most came from men, a reflection of male dominance across the tech industry.[1]

An additional example involved a discrimination charge by the Department of Housing and Urban Development against Meta, which emphasized the importance of knowing which characteristics are being considered by an ADS.[2] The settled claims involved Meta targeting users with "housing ads based on algorithms that relied partly on characteristics protected under the Fair Housing Act, like race, national origin and sex." The charges also alleged that "Meta's lookalike or special ad audience tool allowed advertisers to target users based on protected traits."

In response to growing concerns about the increased deployment of ever-advanced ADS, the Biden Administration published a *Blueprint for an AI Bill of Rights*, which is a set of five principles and associated practices to help guide the design, use, and deployment of AI to protect the rights of the American public:

- *Safe and Effective Systems*: You should be protected from unsafe or ineffective systems. Automated systems should be developed with consultation from diverse communities, stakeholders, and domain experts to identify concerns, risks, and potential impacts of the system.

- *Algorithmic Discrimination Protections*: Designers, developers, and deployers of automated systems should take proactive and continuous measures to protect individuals and communities from algorithmic discrimination and to use and design systems in an equitable way. This protection should include proactive equity assessments as part of the system design, use of representative data and protection against proxies for demographic features, ensuring accessibility for

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[1] Jeffrey Dastin, *Insight - Amazon scraps secret AI recruiting tool that showed bias against women* (October 10, 2018) Reuters, https://www.reuters.com/article/us-amazon-com-jobs-automation-insight/amazon-scraps-secret-ai-recruiting-tool-that-showed-bias-against-women-idUSKCN1MK08G/. All internet citations are current as of June 21, 2025.

[2] Lauren Feiner, *DOJ settles lawsuit with Facebook over allegedly discriminatory housing advertising* (June 21, 2022) CNBC, https://www.cnbc.com/2022/06/21/doj-settles-with-facebook-over-allegedly-discriminatory-housing-ads.html.

people with disabilities in design and development, pre-deployment and ongoing disparity testing and mitigation, and clear organizational oversight.
. . .

- *Notice and Explanation*: You should know that an automated system is being used and understand how and why it contributes to outcomes that impact you. Designers, developers, and deployers of automated systems should provide generally accessible plain language documentation including clear descriptions of the overall system functioning and the role automation plays, notice that such systems are in use, the individual or organization responsible for the system, and explanations of outcomes that are clear, timely, and accessible. Such notice should be kept up-to-date and people impacted by the system should be notified of significant use case or key functionality changes. You should know how and why an outcome impacting you was determined by an automated system, including when the automated system is not the sole input determining the outcome.

- *Human Alternatives, Consideration, and Fallback*: You should be able to opt out from automated systems in favor of a human alternative, where appropriate. Appropriateness should be determined based on reasonable expectations in a given context and with a focus on ensuring broad accessibility and protecting the public from especially harmful impacts.[3]

2. Ensuring accountability and transparency in ADS development and deployment

This bill seeks to implement some of the principles laid out in the blueprint discussed above in an effort to regulate "covered ADS," defined to mean an ADS that is designed or used to make or facilitate a "consequential decision." "Consequential decision" means a decision that materially impacts the cost, terms, quality, or accessibility of any of a series of things to a natural person. This includes educational and employment opportunities, housing, health care, as well as reproductive, financial, legal, and government services.

a. Developers

First, the bill places a series of obligations on a person or entity that designs, codes, substantially modifies, or otherwise produces an ADS that makes or facilitates a consequential decision, either directly or by contracting with a third party for those purposes. These developers are required to conduct a performance evaluation on covered ADS. These evaluations describe the purpose and approved uses of the systems and evaluate the expected performance of it, including the expected accuracy and reliability.

[3] *Blueprint For An AI Bill Of Rights* (October 2022) Office of Science and Technology Policy, https://www.whitehouse.gov/wp-content/uploads/2022/10/Blueprint-for-an-AI-Bill-of-Rights.pdf.

To proactively address potential adverse outcomes, the evaluations have to document whether any disparate treatment is intended to occur and whether any disparate impacts are reasonably likely to occur, and indicate measures taken to mitigate the risk of unintended impacts.

For ADS first deployed before January 1, 2026, an initial performance evaluation must be conducted before January 1, 2027. If first deployed after that date, the evaluation must occur before initially deploying the ADS or making it available to potential deployers. Thereafter, performance evaluations are to be conducted at least annually as well as following any substantial modification or specified fine tuning of the ADS.

Developers are required to provide potential deployers with the results of these performance evaluations along with additional information about how to deploy the systems and the intended uses.

A developer that deploys a covered ADS or makes a covered ADS available to potential deployers must also designate at least one employee to oversee the developer's compliance herewith and that employee must conduct a prompt and comprehensive review of any credible compliance issue raised to that employee.

b. Deployers

This bill also places obligations on a person or entity that uses a covered ADS to make or facilitate a consequential decision, either directly or by contracting with a third party for that purpose.

i. Pre- and post-use notice and disclosure

Before it finalizes a consequential decision made or facilitated by a covered ADS, a deployer must provide any subject of that decision with notice that an ADS will be used and a plain language written disclosure containing a detailed set of information. This includes identifying details of the ADS used, whether the deployer's use is developer-approved, and the types and sources of information processed by the system.

Deployers must disclose the structure and format of the outputs of the covered ADS and a description of how those outputs are used to make or facilitate the consequential decision. A subject must be told whether a natural person will review the outputs of the covered ADS or the outcome of the consequential decision before the relevant decision is finalized.

After a deployer finalizes a consequential decision, the deployer must again provide any subject of that decision with a plain language written disclosure within five days identifying the role the covered ADS played and containing much of the same information as above.

ii. Other rights: opt out, correction, and appeal

Before finalizing a consequential decision made or facilitated by a covered ADS, the deployer is required to provide the subject of that decision with a reasonable opportunity to opt out of the use of the covered ADS. A deployer may deny a request to opt out in certain limited circumstances, such as where the deployer is subject to the federal Gramm-Leach-Bliley Act, as provided, or the subject of the consequential decision is having a medical emergency. An explanation of the basis for the denial must then be provided.

Once a consequential decision has been made by a covered ADS, the deployer must provide the subject with an opportunity to correct any incorrect personal information used and to appeal the decision within 30 business days. Requests to correct or appeal must be reviewed, as specified, and determinations must be communicated, as provided.

c. The use of independent audits for proper AI oversight

The bill also calls for independent audits. The use of auditing can be a key tool in effectively assessing how automated and AI-powered systems are working and what their impacts are. Audits can ensure legal compliance and, when shared publicly, afford a measure of transparency. Mandatory audits create baseline standards across the industry, making it easier to evaluate systems and ensure minimum safety thresholds. This levels the playing field and prevents a "race to the bottom" where competitive pressures lead companies to skimp on safety and quality-control measures. Audit requirements create transparency that builds public confidence in these systems, especially those used in critical domains like healthcare, criminal justice, or financial services. When people know systems have been independently verified, they are more likely to accept and appropriately use them.

This accountability also provides recourse when things go wrong, as qualified auditors can provide concrete evidence for regulatory decisions and legal proceedings. They create a paper trail showing whether companies exercised reasonable care, which is crucial for determining liability when systems cause harm. Ultimately, they afford a measure of assurance that any legal guidelines are complied with, which is especially critical given the limited resources and technical expertise of state agencies.

Last year, the National Telecommunications and Information Administration (NTIA) published an "Artificial Intelligence Accountability Policy Report." One of its main recommendations focused on the utility of such independent auditing:

> Independent AI audits and evaluations are central to any accountability structure. To help create clarity and utility around independent audits, we recommend that the government work with stakeholders to create basic

> guidelines for what an audit covers and how it is conducted – guidance that will undoubtedly have some general components and some domain-specific ones. This work would likely include the creation of auditor certifications and audit methodologies, as well as mechanisms for regulatory recognition of appropriate certifications and methodologies.
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> Auditors should adhere to consensus standards and audit criteria where possible, recognizing that some will be specific to particular risks (e.g., dangerous capabilities in a foundation model) and/or particular deployment contexts (e.g., discriminatory impact in hiring). Much work is required to create those standards – which NIST and others are undertaking. Audits and other evaluations are being rolled out now concurrently with the development of technical standards. Especially where evaluators are not yet relying on consensus standards, it is important that they show their work so that they too are subject to evaluation. Auditors should disclose methodological choices and auditor independence criteria, with the goal of standardizing such methods and criteria as appropriate. The goals of safeguarding sensitive information and ensuring auditor independence and appropriate expertise may militate towards a certification process for qualified auditors.
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> AI audits should, at a minimum, be able to evaluate claims made about an AI system's fitness for purpose, performance, processes, and controls.[4]

This bill requires auditing for developers and, in limited circumstances, for deployers. Developers are required to contract with an independent third-party auditor to assess the developer's compliance with bill's requirements. A developer that receives feedback from an auditor must consider and attempt to incorporate that feedback into the development of any subsequent version of a covered ADS and to share certain details with potential deployers. Developers must also make a high-level summary of the feedback publicly available at no cost to users of the developer's internet website.

A deployer that uses a covered ADS to make or facilitate consequential decisions directly impacting 6,000 or more people in a given three-year period is also required to contract with an independent third-party auditor. The auditor must conduct an impact assessment on the covered ADS before January 1, 2030, and every three years thereafter, as applicable. The auditor is to provide the results to the deployer and also make a high-level summary of the results available to the public.

Developers and deployers are required to provide the auditor with any available information that is reasonably necessary for the auditor to comprehensively assess

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[4] *Artificial Intelligence Accountability Policy Report* (March 27, 2024) NTIA, https://www.ntia.gov/sites/default/files/publications/ntia-ai-report-final.pdf.

developer compliance or to conduct a comprehensive impact assessment of the covered ADS, respectively. Reasonable redactions are permitted to protect trade secrets, but the developer or deployer must indicate the withholding and the basis for it.

d. Enforcement

Specified public prosecutors are authorized to bring civil actions against developers, deployers, or auditors who violate the provisions of the bill. This includes the AG, district attorneys, city attorneys, county counsel, the Civil Rights Department, and the Labor Commissioner, as provided. A court can award a prevailing plaintiff injunctive or declaratory relief, reasonable attorney's fees and litigation costs, and a civil penalty of up to $25,000 per violation.

The bill requires developers, deployers, and auditors to provide an unredacted copy of a performance evaluation or impact assessment to the AG within 30 days of a request. The AG is authorized to share with other enforcement entities, but only as necessary for enforcement purposes. Each day a covered ADS is used for which a performance evaluation or impact assessment has not been submitted to the Attorney General after 30 days of a request is an additional violation.

The bill also amends part of the Unruh Civil Rights Act and FEHA to clarify the relevance of compliance with this bill and liability under those laws.

3. Other attempts at regulating ADS

A number of jurisdictions have stepped forward to respond to the dramatic increase in ADS usage. For instance, the European Union AI Act provides guardrails for what it deems "high-risk AI systems" to ensure transparency and fairness. Here in the United States, a number of states have introduced legislation in this space, including New York and Connecticut. However, the first comprehensive state-level regulation has come in Colorado.

The Colorado law, approved by their Governor on May 17, 2024, places requirements on developers and deployers to use reasonable care to protect consumers from the risks of algorithmic discrimination.

On February 20, 2025, the Virginia Legislature passed the High-Risk Artificial Intelligence Developer and Deployer Act (Virginia AI Act), a comprehensive artificial intelligence bill focused on preventing algorithmic discrimination. However, on March 24, 2025, Virginia Governor Glenn Youngkin vetoed it.

In addition, SB 420 (Padilla, 2025) seeks to regulate the development and deployment of "high-risk ADS," as defined, requiring impact assessments and maintenance of governance programs.

SB 7 (McNerney, 2025) also regulates the use of ADS in the employment context, providing a minimum of 30 days notice to workers before deployment as well as post-deployment rights to notice, to correct information, and to appeal. It also restricts certain uses of ADS in the employment context.

All of these bills, including this one, have harmonized definitions for what an ADS is, based off of the definition in existing law that makes clear that an ADS is one that is used to "assist or replace human discretionary decisionmaking and materially impacts natural persons."

4. Stakeholder positions

According to the author:

> The use of automated decision systems (ADS) has become prevalent among Californian's daily lives and used within various sectors – including, housing, employment, and even in criminal justice sentencing and probation decisions. However, the algorithms that power ADS are often vulnerable to issues such as unrepresentative data, faulty classifications, and flawed design. These shortcomings can result in biased, discriminatory, or unfair outcomes. Rather than solving systemic problems, poorly designed ADS can worsen the very harms they aim to address—ultimately hurting the people they are meant to help. AB 1018 provides the necessary guardrails by regulating the development and deployment of an ADS used to make consequential decisions. Specifically, it requires developers to conduct an initial performance evaluation of an ADS by January 1, 2027. Additionally, the current role that an ADS plays in a consequential decision is hidden from consumers. Fundamentally, consumers should have the right to be well informed of how these ADS are used in life altering decisions. AB 1018 calls for transparency on the usage of ADS by requiring notice to consumers by deployers before and after a consequential decision. It is crucial that we take the necessary steps to ensure the technology is used responsibly and can be trusted. Well-intentioned but flawed technology is a matter of state concern. Guardrails and accountability are needed to ensure that technology does not further marginalize communities or broaden inequities

The sponsors of the bill, SEIU California and TechEquity Action, along with a broad coalition of groups, including Smart Justice California and UFCW Western States Council, write:

> While the advent of generative AI and large language models has been a new piece of the puzzle, ADS have long existed in our communities. ADS have been woven into the daily lives of our community members—

increasingly these tools are dictating access to and the quality of housing, healthcare, employment, credit, and many other critical services Californians need. The potential harms and biases of these systems have been well documented—from banks using lending models that were twice as likely to deny Black applicants compared to White applicants with the same financial profile,[5] to healthcare providers using ADS that significantly underestimated the healthcare needs of Black patients compared to White ones.[6] Technology should not be a pass to violate our civil and labor rights, this legislation regulates the misuse of automated systems.

AB 1018 would enact common-sense guardrails to help ensure that developers and deployers of these tools are testing for discriminatory outcomes prior to utilizing the tool and ensuring that consumers have the information they need to understand the role that an ADS is playing in critical decisions and what rights they have when these systems impact critical areas of their lives. Specifically, the legislation:

1. **Requires these tools to be tested before they are used on the public:** Requires that people who make and use these tools test them to ensure they do not create harm and comply with our existing rights to non-discrimination before they are sold and used on the public. It ensures that these tests are verified by an independent third party.
2. **Provides a notice to people that this tool will be used to make a critical decision about their life:** Provides people the information they need to understand where these tools are showing up in their lives and how they'll be used to determine their housing, healthcare, and job outcomes.
3. **Provides an explanation to people who were subject to a decision made with these tools:** Provides people an explanation of what the tool did, what personal information it used about them to make the decision and what role the tool played in making the decision.
4. **Ensures that everyday people have more control over how these tools are used in their daily lives:** Through this bill, people will have the right to opt out of the use of an ADS tool in a critical decision about them; they will be able to correct information that the tool used to make the decision if it is inaccurate; and they will have the right to appeal the decision.

[5] https://themarkup.org/denied/2021/08/25/the-secret-bias-hidden-in-mortgage-approval-algorithms.
[6] https://www.theguardian.com/society/2019/oct/25/healthcare-algorithm-racial-biases-optum.

A coalition of financial industry groups, including the California Credit Union League, write in opposition:

> While Section 22756.2(b)(1) provides the authority to a financial institution to deny an opt-out request for financial services providers regulated under the Gramm Leach Bliley Act, the nation's most robust law governing how financial information is used, it is unclear to us why there is not a similar exemption from the entirety of the bill. As written today, financial institutions could choose to categorically deny any consumer's opt-out request. This will ultimately frustrate and confuse consumers, which is the opposite of the state intention of AB 1018 – which is to bring more transparency.
>
> The Equal Credit Opportunities Act (ECOA) and Fair Credit Reporting Act (FCRA) already require creditors to provide a notice to consumers when they are denied credit detailing the reason for the denial and a method to dispute the accuracy or completeness of any information that led to the denial. Yet, financial services must still provide an opportunity to correct information, which is duplicative of FCRA, and an opportunity to appeal, which can impact the lending process. Establishing a consumer appeal provision would require a type of manual underwriting that has not been regularly used in the mortgage industry for nearly three decades. The current mortgage origination process relies on automated systems such as AUSs and Credit Scoring Models (CSMs) that do not have usable or scalable alternative manual processes.

In response to these concerns, the author has agreed to an amendment that specifies the following: "A developer subject to the federal Gramm-Leach-Bliley Act who uses a covered ADS to make or facilitate a consequential decision related to financial services, as described in paragraph (7) of subdivision (c) of Section 22756, is exempt from this section, 22756.1."

Writing in support, the California Professional Firefighters argue:

> AI and algorithms are being used to make decisions in areas ranging from healthcare to elections, shaping our lives in ways that could not have been imagined even a decade previous. While the term "intelligence" in the name implies a level of sophistication and mechanical impartiality for the programs, time and again it has been demonstrated that these pieces of software come loaded with the biases of their makers, eliminating the nuance that is inherent in the human condition to make overly-generalized decisions that can have disastrous consequences.

> AB 1018 would enact significant oversight for these decision-making programs, ensuring that individuals are aware of how AI is impacting their job, health, housing, or other crucial aspects of their life. Additionally, this measure would put in place auditing tools to review the programs and assess if they are functioning as intended and making accurate, non-discriminatory decisions. It is crucial that this new technology is only deployed in manners that benefit humanity, not streamline acts of discrimination or oppression.

A large coalition of industry associations, led by the California Chamber of Commerce, writes in opposition:

> We appreciate the absence of a private right of action. As you know, because compliance is not easy to achieve in areas where massive changes in public policy are sought and where the state of law and technology are not only complicated but constantly evolving, a private right of action would have been highly problematic and chilling of innovation. That being said, businesses are still subject to civil enforcement by not only the Attorney General (AG) but by all other public attorneys (city prosecutors, district attorneys, city attorneys, and county counsel), in addition to the administrative enforcement of the Civil Rights Department (CRD), and the Labor Commissioner with respect to employment-related decisions.

In response to concerns about the breadth of enforcement, the author has agreed to an amendment that narrows the local public prosecutors that can enforce the bill's provisions.

The Chamber coalition also argues:

> **Untenable opt-out and pre-and post-decision notice obligations must be deleted.** All opt out and notice obligations, including the right to appeal which will have drastically different impact depending on context, must be deleted in full to make the bill workable. Such requirements are not only largely unworkable in many contexts, but also wholly unrelated to and unnecessary for there to be a bill that would require evaluations/assessments that to help reduce bias and discriminatory outcomes from the development and deployment of such ADS.

In response to these concerns, the author has agreed to amendments that completely remove the right of subjects of ADS decisions to opt out, as well as rework the pre-use notice provision to only require a generalized notice, not one personalized for each subject.

Additionally, the Chamber's coalition in opposition asserts:

> **Third-party auditor requirements should be deleted in favor of self-assessments, particularly when third-party auditing would effectively grant a monopoly today and creates a costly cottage industry tomorrow, with access to highly sensitive and proprietary information, and no standards of care or liability.** The third-party auditor requirement imposes excessive and unnecessary costs on businesses, increasing IP risks and operational inefficiencies, without providing any added consumer protections. In fact, the requirement will have the opposite effect by driving up costs for consumers. With a limited number of auditors available, a legal mandate would create a surge in demand, allowing existing auditors to charge inflated fees without competition. As businesses absorb these new compliance costs, they will be forced to raise prices, ultimately burdening consumers, reducing sales, and hindering economic growth in California. Furthermore, this requirement exceeds the scope of other U.S. laws and proposals, making California the most expensive jurisdiction for compliance. Given such impacts, the third-party auditor requirement for both developers and deployers must be removed to make this bill remotely viable.

In response to these concerns, the author has agreed to a series of major amendments. First, the auditing requirement, as applied to developers, will be delayed until 2030 to allow the relevant market to take shape. Second, the requirement for developers to conduct performance evaluations will be limited to no more than once a year. Finally, the author has agreed to completely remove the auditing requirements for deployers to reduce the burden on deployers, despite the benefits of having this layer of oversight.

SUPPORT

SEIU California (sponsor)
TechEquity Action (sponsor)
ACCE Action (Alliance of Californians for Community Empowerment)
American Federation of Musicians, Local 7
Asian Americans Advancing Justice Southern California
California Center for Movement Legal Services
California Civil Liberties Advocacy
California Community Foundation
California Employment Lawyers Association
California Federation of Labor Unions, AFL-CIO
California Immigrant Policy Center
California Initiative on Technology and Democracy
California National Organization for Women
California Professional Firefighters

California School Employees Association
California Women's Law Center
CFT – a Union of Educators & Classified Professionals, AFT, AFL-CIO
Child Care Law Center
Citizen's Privacy Coalition
Common Sense Media
Consumer Attorneys of California
Consumer Federation of America
Consumer Federation of California
Consumer Reports
Courage California
East Bay Community Law Center
Economic Security California Action
Electronic Privacy Information Center (EPIC)
End Child Poverty California Powered by Grace
Equal Rights Advocates
Fair Housing Advocates of Northern California
Felony Murder Elimination Project
Greenlining Institute
Housing Now!
Justice2jobs Coalition
Kapor Center
LA Defensa
LAANE (Los Angeles Alliance for a New Economy)
Lawyers Committee for Civil Rights of the San Francisco Bay Area
Mujeres Unidas Y Activas
Northern California District Council of the International Longshore and Warehouse Union (ILWU)
Oakland Privacy
Parent Voices
Powerswitch Action
Privacy Rights Clearinghouse
Public Citizen
Restoring Hope California
Rubicon Programs
Smart Justice California
Surveillance Resistance Lab
Tech Oversight Project
UDW/AFSCME Local 3930
UFCW - Western States Council
Vision Y Compromiso
Women's Foundation California
Working Partnerships USA
Worksafe

OPPOSITION

Advanced Medical Technology Association (ADVAMED)
Aerospace and Defense Alliance of California
American College of Obstetricians & Gynecologists - District IX
American Innovators Network
American Property Casualty Insurance Association
American Staffing Association
America's Physician Groups
Associated General Contractors of California
Association of California Life and Health Insurance Companies
Association of National Advertisers
Business Software Alliance
CalBroadband
Calcom Association
California Association of Health Plans
California Chamber of Commerce
California Credit Union League
California Dental Association
California Fuels and Convenience Alliance
California Hospital Association
California Life Sciences
California Manufacturers and Technology Association
California Medical Association (CMA)
California Radiological Society
California Staffing Professionals (CSP)
Chamber of Progress
Civil Justice Association of California (CJAC)
College Board
Computer and Communications Industry Association
Connected Commerce Council
Consumer Data Industry Association
Consumer Technology Association
CTIA
Delta Dental of California
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Financial Technology Association
Folsom Chamber of Commerce
Innovative Lending Platform Association
Internet Works
Kaiser Permanente
Lincoln Chamber of Commerce

Los Angeles County Business Federation (BIZFED)
National Association of Mutual Insurance Companies
Ochin, INC.
Orange County Business Council
Personal Insurance Federation of California
Psinapse Techology
Public Risk Innovation, Solutions, and Management (PRISM)
Rancho Cordova Chamber of Commerce
Receivables Management Association International
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
Security Industry Association
Shingle Springs/cameron Park Chamber of Commerce
Silicon Valley Leadership Group
Society for Human Resource Management
Software Information Industry Association
STAR Staffing
Sutter Health
TechCA
TechNet
United Chamber Advocacy Network UCAN
University of California
Valley Industry and Commerce Association (VICA)
Yuba Sutter Chamber of Commerce

RELATED LEGISLATION

Pending Legislation:

SB 7 (McNerney, 2025) *See* Comment 3. SB 7 is currently in the Assembly Privacy and Consumer Protection Committee.

SB 420 (Padilla, 2025) *See* Comment 3. SB 420 is currently in the Assembly Privacy and Consumer Protection Committee.

SB 468 (Becker, 2025) imposes a duty on a business that deploys a high-risk artificial intelligence system, or high-risk ADS, that processes personal information to protect that information and requires such a deployer to maintain a comprehensive information security program that meets specified requirements. SB 468 is currently in the Senate Appropriations Committee.

Prior Legislation:

SB 892 (Padilla, 2024) would have required CDT to develop and adopt regulations to create an ADS procurement standard, as specified, and prohibited a state agency from procuring ADS, entering into a contract for ADS, or any service that utilizes ADS, until CDT has adopted regulations creating an ADS procurement standard, as specified. SB 892 was vetoed by Governor Newsom, who stated in his veto message that aspects of the bill would disrupt ongoing work, "including existing information technology modernization efforts, which would lead to implementation delays and higher expenses for critical projects."

AB 2885 (Bauer-Kahan & Umberg, Ch. 843, Stats. 2024) established a uniform definition for "artificial intelligence" in California's code, which is used in this bill.

AB 2930 (Bauer-Kahan, 2024) *See* Comment 3. AB 2930 died without a vote on the Senate Floor.

AB 302 (Ward, Ch. 800, Stats. 2023) required CDT, on or before September 1, 2024, to conduct a comprehensive inventory of all high-risk ADS that have been proposed for use, development, or procurement by, or are being used, developed, or procured by, any state agency.

AB 331 (Bauer-Kahan, 2023) was substantially similar to AB 2930. AB 331 died in the Assembly Appropriations Committee.

PRIOR VOTES:

Assembly Floor (Ayes 50, Noes 16)
Assembly Appropriations Committee (Ayes 10, Noes 3)
Assembly Judiciary Committee (Ayes 8, Noes 3)
Assembly Privacy and Consumer Protection Committee (Ayes 9, Noes 3)

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