California Set to Restrict AI Use in the Workplace With "No Robo Bosses" Act: 4 Key Steps Employers Should Take to Comply

Insights
9.15.25

California lawmakers just passed a law that could soon require employers to not only provide notices to applicants and workers when AI is used in workplace decision-making, but would also prohibit the use of AI for certain workplace actions. The "No Robo Bosses" Act (SB 7), which aims to regulate the use of automated decision systems (ADS) in the workplace, now heads to Governor Newsom's desk after passing the legislature late Friday. If signed, SB 7 will take effect on January 1, 2026, alongside a wave of other AI-related employment regulations that will create a complex compliance landscape for employers using AI in the workplace. Here's what you should know about the new law and the four steps you should take to get ready for compliance.

No Robo Bosses Act: Executive Summary

If signed by the Governor, the No Robo Bosses Act will do the following:

- Employers will be prohibited from **solely using AI to make decisions** regarding discipline or termination
- Employers that primarily rely on AI output to make a discipline or termination decision must involve a **human in the loop**
- Employers must provide **detailed advance notice** whenever it uses AI to make hiring or employment-related decisions, or **post-action notice** if it primarily relies on AI is to make a decision related to discipline or termination

Definition of Automated Decision System

Let's first talk about the kinds of AI systems that are regulated by the No Robo Bosses Act. The bill impacts employers' uses of automated decision systems (ADS) – so it's critical to know how that's defined.

SB 7 defines ADS as "*any 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."

It excludes tools such as spam filters, firewalls, cybersecurity software, access controls, calculators, and data compilations.

In effect, this encompasses a wide range of technologies, including but not limited to:

- **Call analytics tools** – tools that may monitor a call's length, tone, or generate performance scores based on an employee's efficiency
- **Keystroke or computer activity monitoring software** – tools that monitors an employee's computer usage to ensure productivity or monitor remote employees
- **Automated-shift scheduling platforms** – tools that use data analytics to assign hours on predicted demand
- **AI-based training programs** that score employees' proficiency after training modules and recommend next assignments or other employment-related tasks.
- Tools that conduct a **sentiment analysis** on employee emails or chat messages producing a score or classification that may affect evaluations
- Software that scores or flags employees based on **adherence to workplace rules** (e.g., PPE compliance, regulatory training completion)
- **Career-pathing tools** that generate recommendations for internal transfers or training programs based on employee data

Employment-Related Decisions More Defined

Let's next talk about which employer actions will be impacted by the No Robo Bosses Act.

SB 7 defines "employment-related decisions" as "*any decision by an employer that materially impacts a worker's wages, benefits, compensation, work hours, work schedule, performance evaluation, hiring, discipline, promotion, termination, job tasks, skill requirements, work responsibilities, assignment of work, access to work training opportunity, productivity requirements, or workplace health or safety*."

The good news for employers? The finalized bill removed some original broad wording contained in earlier versions that would have included decisions related to "any other term or condition of employment" and instead sets finite boundaries on when SB 7 applies.

Prohibited Applications of ADS

The Robo Bosses Act would prohibit employees from using ADS to:

- Rely ***solely*** on an ADS when making decisions regarding discipline, termination, or deactivation
- Infer a worker's protected status (such as race, gender, or other legally protected characteristics)
- Identify, profile, predict, or take adverse action against a worker for exercising their legal rights
- Collect worker data for any purpose not disclosed under the applicable notice requirements
- Prevent compliance with, or otherwise violate, any federal, state, or local labor, occupational health and safety, employment, or civil rights laws or regulations
- Rely ***solely or primarily*** on customer ratings as input data for an ADS when making employment-related decisions

Humans May Need to Be in the Loop

Employers are prohibited from relying *solely* on ADS as noted above, but they may rely *primarily* on it when making employment-related decisions. There is no clear guidance on what the tipping point is between solely and primarily, which may pose compliance challenges for employers.

When an employer *primarily* relies on ADS output to make a discipline, termination, or deactivation decision, the law requires that a **human reviewer also evaluate the ADS output** and consider additional relevant information, including supervisor or manager evaluations, personnel files, the employee's work product, peer reviews, witness interviews and/or customer reviews.

Notably, however, SB 7 no longer provides workers with a right to appeal an ADS decision (as was required in earlier versions of the bill). At most, it requires that a human reviewer examine other potentially relevant information, but it does not require that the reviewer overturn the ADS outcome or prevent employers from primarily relying on it. These distinctions remain vague and may pose compliance challenges for employers.

Employers Will Have Notice Requirements

The Robo Bosses Act requires employers to provide notices both before and after using ADS in certain workplace settings.

Pre-Use Notices

Employers must provide written notice whenever an ADS is used to make employment-related decisions (excluding hiring) that foreseeably and directly affect a worker.

- The notice must be provided at least 30 days before an ADS is first deployed (or if an ADS is already in use, no later than April 1, 2026) and to new workers within 30 days of hire.

- The notice must be written in plain language as a separate, stand-alone communication, delivered in the language ordinarily used in routine worker communications.
- It must be provided through a simple and accessible method, such as a hyperlink or other written format.

Employers must also notify job applicants at the time of application if an ADS will be used in making decisions for the position. The notice must include:

- The type of employment-related decisions potentially affected by the ADS
- A general description of the categories of worker input data the ADS will use, the sources of that data, and how it will be collected
- Any key parameters known to disproportionately affect the ADS's output
- The individuals, entities, or vendors that created the ADS
- A description of the worker's right to access and correct their data used by the ADS
- A statement that the employer is prohibited from retaliating against workers for exercising these rights
- If applicable, a description of each quota set or measured by the ADS, including:
  - The quantified number of tasks to be performed or products to be produced
  - Any potential adverse employment action that could result from failure to meet the quota
  - Whether quotas are subject to change and whether workers will be notified of changes

Post-Use Notices

SB 7 also imposes a requirement for employers to issue post-use notices when the employer primarily relied on an ADS to make a "***discipline, termination, or deactivation***" decision, and provide the affected worker with the notice at the time the employer informs the worker of the decision. The notice must include the following information:

- The human to contact for more information about the decision and the ability to request a copy of the worker's own worker data relied on in the decision.
- That the employer used an ADS to assist the employer in one or more discipline, termination, or deactivation decisions with respect to the worker.
- That the worker has the right to request a copy of the worker's data used by the ADS.
- That the employer is prohibited from retaliating against the worker for exercising their rights under this part.

Like the pre-use notice, the post-use notice must be provided in plain language in a separate stand-alone communication and must use language ordinarily used to communicate with worker and be

provided in an accessible format.

SB 7's Enforcement Authority Scaled Back From Original Version

In another piece of good news for employers, lawmakers amended SB 7 before it was finalized to remove one of the bill's most controversial provisions. No longer will applicants and workers have a private right of action that would have allowed them to bring a civil lawsuit in court against employers they believe violated the law.

What remains unchanged, however, is that violations of SB 7 carry a civil penalty of $500 per violation. Enforcement authority continues to rest with the Labor Commissioner and public prosecutors, including the California Attorney General, district attorneys, city attorneys, county counsels, and other local prosecutors.

What Should Employers Do to Prepare for SB 7?

With SB 7 likely to be signed into law and scheduled to take effect on January 1, 2026, employers should take steps now to prepare.

1. Conduct a full inventory of all ADS in use

SB 7 requires employers to maintain an updated list of every ADS used in the workplace. Conduct an internal ADS audit now. Begin by cataloging all systems that generate scores, classifications, or recommendations affecting employees, including ADS used in hiring.

2. Prepare compliant pre- and post-use notices

Employers must provide workers and, in some cases, applicants with detailed notices explaining when and how ADS will be used. Draft these notices now to ensure they meet SB 7's plain-language, timing, and accessibility requirements.

3. Develop a comprehensive compliance plan

Establish clear internal procedures that allow employees to access and correct their data used in ADS-driven decisions. Designate trained individuals to serve as "human reviewers" in situations where ADS output informs decisions regarding discipline, termination, or deactivation. Document protocols for how these reviewers will consider additional relevant information before finalizing decisions.

4. Consult legal counsel

California employers will soon see a complex interplay between SB 7 and other emerging regulatory schemes, including the Civil Rights Department's automated decision technology (ADT) rules and

the California Privacy Protection Agency's automated decision-making technology (ADMT) regulations. You should engage counsel, including the FP AI, Data and Analytics Practice Group, to develop compliance strategies that satisfy SB 7's mandates and maintain consistency with broader legal requirements.

> ***For a full recap of all workplace-related bills that passed the California legislature this session, click here to read our summary.***

Conclusion

The compliance path may be complex, but Fisher Phillips can help you chart the way forward. Our team is closely monitoring developments with SB 7 and stands ready to guide you through the compliance process. To stay ahead of these changes, subscribe to the Fisher Phillips' Insight System, and for tailored advice, contact your Fisher Phillips attorney, the authors of this Insight, or any member of our AI, Data and Analytics Practice Group.

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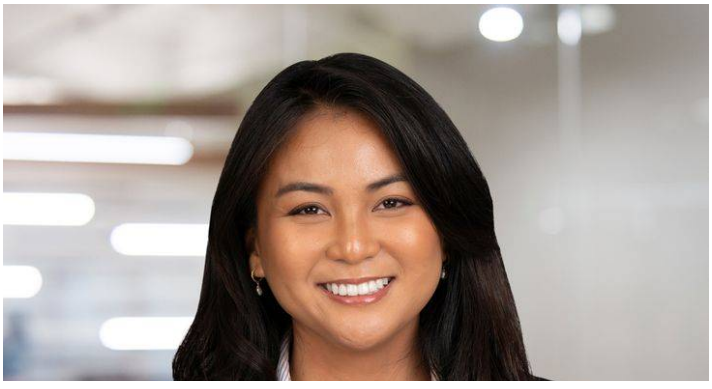

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