AI-Generated Content Under Scrutiny in 2026: Preparing for California's AI Transparency Act

Now that artificial intelligence (AI) is embedded in the daily work of businesses, law firms, and consumers, regulators are increasingly focused on ensuring transparency and accountability in AI-generated content. Starting Jan. 1, 2026, California will become the first state to impose broad transparency obligations through the AI Transparency Act (SB 942).

The law requires some businesses to disclose when certain content is generated by AI, reflecting California's growing role as a policy sandbox for emerging technologies. The federal government briefly considered a nationwide moratorium on certain AI uses but dropped the provision at the last minute, leaving states to chart their own path.

While the law currently targets large-scale providers, attorneys representing a broad range of clients should closely monitor this law. California often leads the way with technology regulation, and provisions like these could expand or inspire other laws with wider reach. Clients may also eventually develop or license their own generative AI platforms, bringing them under such laws.

What Is the AI Transparency Act?

California's AI Transparency Act requires certain businesses to disclose clearly and conspicuously when consumer-facing images, videos and audio content is generated or altered by AI. This does not include written content. The disclosure should accompany the communication and be visible and understandable to the average consumer.

The statute authorizes the California attorney general to investigate potential violations and seek penalties of $5,000 per violation.

Why Was This Law Enacted?

Lawmakers cited growing concerns over misinformation, deepfakes and consumer deception, stressing the importance of transparency to maintain public trust.

The political backdrop is equally significant. Congress initially entertained the idea of a federal moratorium on certain AI uses in the One Big Beautiful Bill Act, but the provision was ultimately stripped out. That decision left California free to move ahead on its own, with some other states expected to follow. This means attorneys must help clients prepare for a fragmented regulatory landscape, ensuring that compliance strategies work across state lines. The statute could affect developers globally, as it applies to any AI system made available to Californians.

Who Must Comply?

The law applies to any person or business that creates, codes or otherwise produces a generative AI system that has over one million monthly visitors or users and is publicly accessible within California. Additionally, if a covered provider licenses its generative AI system to a third party, the licensee must maintain the disclosure capabilities, and failure to do so can result in license revocation within four days of discovery.

The law requires:

- A manifest disclosure option that is clear, conspicuous and identifies the content as AI-generated
- A clear disclosure understandable to the average consumer, appropriate for the medium and permanent
- A latent disclosure (an invisible marker) embedded in the content, conveying information such as the covered provider's name, the GenAI system's name and version number, a time and date stamp and a unique identifier

Practical Takeaways for Attorneys

1 Identify potential future applicability

- Assess whether clients might develop, license or substantially modify generative AI systems producing image, video or audio content that could reach one million monthly users in California.
- Flag clients who are currently users of third-party AI but may develop proprietary AI tools or platforms soon.

2 Incorporate AI transparency in contracting

- Advise clients to require that any AI system providers or licensors include watermarking, manifest disclosure and compliance capabilities in contracts.
- Prepare licensing agreements to address revocation rights if required disclosures are disabled by third-party licensees.

3 Develop governance and compliance frameworks

- Help clients create policies for watermarking AI-generated multimedia content and maintaining data as best practices.
- Recommend building or adopting AI detection tools that help verify whether content is AI-generated in anticipation of regulatory requirements.

4 Educate on evolving AI regulation risks

- Keep clients informed about expanding AI regulation beyond California, including potential future state or federal laws that extend coverage to text and other AI content types.
- Help clients plan for proactive transparency and disclosure to position them favorably with regulators and the public.

Ethical Considerations

Advising clients about the use of AI reinforces the importance of practicing what we preach. While attorneys don't need to be AI experts to apply it to their practice, they do need to have a reasonable understanding of its capabilities and limitations. That's according to the American Bar Association (ABA)'s **July 29 opinion**, which outlines key ethical obligations for lawyers, along with the **State Bar of California's Practical Guidance for the Use of Generative AI in the Practice of Law**.

Be sure to maintain technological competence regarding AI tools, evaluate risks to client confidentiality before inputting information, independently verify AI-generated work as appropriate, communicate clearly with clients about your use of AI, and **supervise staff or nonlawyer assistants who use AI** to ensure compliance with ethical rules.

This law is likely just the beginning

The AI Transparency Act marks a significant shift in AI regulation. With no federal AI moratorium currently in place, states like New York and Illinois are already considering similar laws, and further legislation is likely on the horizon. California's disclosure and watermarking rules could serve as a benchmark for how courts, regulators and businesses nationwide handle AI-generated content in the future.

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