

A Comprehensive Guide to Bar Reciprocity: What States Have Reciprocity for Lawyers and Allow You to Waive into the Bar

By A. Harrison Barnes

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ATTORNEY SEARCH



A Comprehensive Guide to Bar Reciprocity: What States Have Reciprocity for Lawyers and Allow You to Waive into the Bar

By A. Harrison Barnes

Summary

Have you passed the bar in one state and want to work in another? Find out what your options are in this article.

One of the biggest mistakes attorneys make in their job search is to not look at multiple markets in their search. For most attorneys, we recommend you look at multiple markets when you are doing a job search—there are lifestyle, prestige, compensation and other considerations that make looking at other markets worth your while.

You graduated from law school, passed the bar exam, and met all other requirements for admission in a given state. Congratulations! You can begin practicing law in that state.

But what if you have not yet passed the bar exam? Or you want to explore legal opportunities in a state different from the one where you were admitted or practice federal law in federal district courts? Are there additional hurdles you need to overcome?

This article answers these questions. It provides an overview of the bar admission process – which is complicated and varies from state to state – and explores ways in which attorneys licensed in one state can practice in other states. It also covers what

to do if you fail the bar exam and how to make use of your J.D. degree without actually practicing law. This article also discusses the recent trend towards “portability” of bar exam results through state adoption of the Uniform Bar Exam.

You Passed!

Passing the bar is a HUGE accomplishment. All your hard work has paid off – getting the grades in college, acing the LSAT, churning out the law school applications, braving the Socratic method and final exams of law school, writing onto a journal, competing in moot court... and now the icing on the cake... a passing score on the bar exam!

All that is left is to fulfill the few remaining steps for admission in the state where you passed the bar, such as the character and fitness determination, and then you will be off and running in your new career as an attorney.

As you plan your job search, we encourage you to think about applying in several markets. As legal recruiters, we always

explore the benefits of applying in several markets with our clients who are serious about career strategy. Additional markets give you additional options in all kinds of ways including lifestyle, financial, prestige, happiness and other considerations. You may be the perfect fit for a market and job you have not even considered and you may be able to land that job without even taking another bar exam. We cover concepts like multiple bar admissions and reciprocity below.

Passing the Bar Exam in at Least One State

Your future is not doomed if you never pass a bar exam, but your employment opportunities in the legal arena will increase exponentially if you pass the bar exam and get admitted in at least one state. We recommend you make every effort to do so, even if it means taking the bar exam several times and/or in another jurisdiction with an “easier” bar exam in order to pass.

The reason is simple. Bar admission gives you the “Admitted to the Bar” stamp of approval, elevates your desirability in the eyes of employers, and gives you the ticket you need to make a living.

Without bar admission in at least one state, your resume can work against you. A potential employer will see that you are a J.D. but that you have not passed the bar and wonder why. Employers will often assume the worst – that you are not smart or diligent enough to pass the bar exam – and they will not want to hire you.

Putting aside how you will look to future employers, a bar admission gives you the opportunity to be your own employer. You can hang a shingle, get clients, and if you are competent and industrious you will have a means of supporting yourself or your family for the rest of your life.

Because it is such a wise idea to pass the bar exam in at least one state, we recommend that people buckle down and take the test as soon as possible after they graduate from law school. You may be exhausted from final exams and want to lie on the beach or play basketball, but most people who take the bar exam after a long hiatus will tell you that they wish they had not done things that way. It is easier to pass the bar exam when you are still in “law student” mode and when law school concepts are fresh in your mind.

Also, the longer a person waits to take the bar exam, the harder it might be to study because he or she may get married, have kids, and get into a full-time job where it is difficult to take time off from work to study.

“Without bar admission in at least one state, your resume can work against you.”

Different State Bar Exams and the UBE Trend

The issue of bar admission is complicated because each state has its own set of laws, bar exams and bar admission requirements. In order to “practice law” in the courts of a particular state, someone must first be admitted to the bar of that state. An attorney who passed the New York bar exam and is admitted to practice in New York, for example,

cannot practice law in California without first passing the California bar exam and being admitted in California. (Some states do allow attorneys to use bar admissions in other states to “waive” into the bar and we discuss that option below.)

Right now there is a trend among certain states to unify the process of bar admission through use of the Uniform Bar Exam (UBE). New York and Vermont are the latest states to adopt at least part of the UBE. Those states join Alabama, Alaska, Arizona, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Mexico, North Dakota, Utah, Washington, and Wyoming.

Missouri and North Dakota were the first states to administer the UBE in February 2011 followed by Alabama in July 2011. New York and Iowa, Kansas, New Mexico and Vermont began administering the UBE in 2016.

The UBE is a set of three testing devices prepared by the National Conference of Bar Examiners. The UBE concentrates on general legal concepts as opposed to intricacies of any particular state’s laws in an effort to provide a uniform way to measure performance across the country.

The UBE is comprised of the Multistate Bar Exam (MBE), which is a set of 200 multiple-choice questions on Constitutional Law, Contracts, Criminal Law and Procedure, Federal Civil Procedure, Evidence, Real Property, and Torts; the Multistate Essay Examination; and the Multistate Performance

Test. States can utilize some or all portions of the UBE and set their own scoring criteria. Every state except Louisiana currently administers the MBE portion of the UBE. Some states, like California, administer the MBE together with state specific essay and performance test features.

“Some states, like California, administer the MBE together with state specific essay and performance test features.”

In theory, the UBE fosters portability of law licenses, especially with respect to states like Minnesota and Idaho that accept passing UBE scores from any state within a certain window of time (between two to five years). But this practice is limited to a select group of states, and even in those states you will need to sit for the bar exam or find another way to get admitted if you apply outside the window of time wherein your UBE score still counts. Moreover, other states that administer the UBE require applicants to take a separate course and test on state subjects for admittance.

States like California – which has one of the most difficult bar exams in the country – do not use the UBE, and if you want to practice in those states you need to start from scratch (which means you take the whole test or, if you are an attorney who has practiced law in another state for a certain length of time, you take the more limited “attorney’s exam”). The California bar exam currently is three days and consists of six essays, two performance tests, and the 200 multiple-choice MBE. The exam covers 13 subjects, including the MBE “multistate” subjects plus state subjects like community property and remedies. The California State Bar Board of Trustees recently

voted to revamp the format and as of July 2017 the California bar exam will become a two-day test consisting of one day of essays and one day of the MBE.

Multiple State Admissions

In order to maximize employability and have the ability to take clients in different states, many attorneys opt to take multiple bar exams right away after law school. This is particularly useful for attorneys who live in metropolitan areas that sprawl into different states (such as New York, New Jersey and Connecticut).

Multiple state admission also is a useful strategy for attorneys who live in less populated rural states because it expands the attorney's network of potential employers and clients. States in these clusters generally arrange their bar exam schedules so that people are able to take multiple bar exams around the same time.

Federal Courts Bar Admissions

Still more varied are rules that govern whether someone can practice federal law in one of the 94 federal district courts spread across the country and U.S. territories. Admission requirements differ from district court to district court, but admission generally involves at the very least paying a fee and taking an oath. Many district courts require an attorney to be admitted to practice before the state courts of the state in which the federal court sits. For example, to apply for admission to the United States District Court for the Central District of California, an attorney must be an active member in good standing of the State Bar of California.

Other districts simply require that an attorney be admitted in any state, or, like the Eastern District of Wisconsin, get an affidavit in support of admission from an attorney admitted to practice before that district court.

Special rules apply for gaining admission to the United States Tax Court and for becoming a member of the "patent bar" who can prosecute patents before the United States Patent and Trademark Office.

Admission on Motion and Reciprocity

Some states allow an attorney admitted in one state to "waive" into the bars of their states, which is known as getting "admitted on motion." Not all states allow an attorney to "waive" into their state – no matter how much experience an attorney has – and states that do allow admission on motion have individual criteria, such as the need to be "sponsored" by a local attorney. The District of Columbia allows admission on motion in some cases whereas California does not allow it in any situations.

Some states allow admission on motion, but only for attorneys coming from states with "reciprocity" to that state. Therefore, if State A allows attorneys from State B to waive in, then attorneys from State B can "reciprocally" waive in to State A.

Federal district courts have their own rules about admission on motion and reciprocity. Attorneys admitted to practice in 25 of the nation's 94 district courts are given reciprocity, but that may increase in the future in accordance with a trend towards greater access.

Take a look at the following charts that cover reciprocity, comity, and attorneys' exams in all 50 states and the US territories:

Reciprocity, Comity, and Attorneys' Exams

Jurisdiction	Admission on motion is based on reciprocity		Attorneys initially admitted by diploma privilege are eligible for admission on motion	
	Yes	No	Yes	No
Alabama	X			X
Alaska	X			X
Arizona	X			X
Arkansas	X		X	
California				
Colorado	X		X	
Connecticut	X		X	
Delaware				
District of Columbia		X	X	
Florida				
Georgia	X			X
Hawaii				
Idaho	X			X
Illinois		X	X	
Indiana		X	X	
Iowa		X	X	
Kansas	X			X
Kentucky	X		X	
Louisiana				
Maine	X		X	
Maryland				

Massachusetts		X	X
Michigan		X	X
Minnesota		X	X
Mississippi	X		X
Missouri	X		X
Montana			
Nebraska		X	X
Nevada			
New Hampshire	X		X
New Jersey			
New Mexico	X		X
New York	X		X
North Carolina	X		X
North Dakota		X	X
Ohio		X	X
Oklahoma	X		X
Oregon	X		X
Pennsylvania	X		X
Rhode Island			
South Carolina			
South Dakota	X		X
Tennessee		X	X
Texas		X	X
Utah	X		X
Vermont		X	X
Virginia	X		X
Washington		X	X
West Virginia	X		X
Wisconsin		X	X
Wyoming	X		X

Jurisdiction	Offers an Attorneys' Exam		Attorneys must be from an ABA-approved school to qualify for the Attorneys' Exam	
	Yes	No	Yes	No
Alabama		X		
Alaska		X		
Arizona		X		
Arkansas		X		
California	X			X
Colorado		X		
Connecticut		X		
Delaware				
District of Columbia				
Florida		X		
Georgia	X		X	
Hawaii		X		
Idaho	X		X	
Illinois		X		
Indiana		X		
Iowa		X		
Kansas		X		
Kentucky		X		
Louisiana		X		
Maine	X			X
Maryland	X			X
Massachusetts		X		
Michigan		X		
Minnesota		X		
Mississippi		X		
Missouri		X		
Montana		X		

Nebraska		X	
Nevada		X	
New Hampshire		X	
New Jersey		X	
New Mexico		X	
New York		X	
North Carolina		X	
North Dakota		X	
Ohio		X	
Oklahoma		X	
Oregon		X	
Pennsylvania		X	
Rhode Island	X		X
South Carolina		X	
South Dakota		X	
Tennessee		X	
Texas		X	
Utah		X	
Vermont		X	
Virginia		X	
Washington		X	
West Virginia		X	
Wisconsin		X	
Wyoming		X	
Guam	X		X
Northern Mariana Islands	X		X
Palau		X	
Puerto Rico		X	
Virgin Islands		X	

Additional Information about Reciprocity and Attorneys' Exams

Certain Jurisdictions Have Unique Features When It Comes to Admission on Motion Based on Reciprocity.

Connecticut provides for reciprocal jurisdiction and also allows an attorney to waive in if the applicant is a full-time faculty member or full-time clinical fellow at an accredited Connecticut law school and admitted in a reciprocal or nonreciprocal jurisdiction. In the case of **Georgia**, if an applicant's "sending" jurisdiction's waiver rule is more restrictive than Georgia's, then the applicant's admission in Georgia is governed by the requirements that apply to an applicant from Georgia seeking admission in the applicant's jurisdiction.

Mississippi has reciprocal jurisdiction so long as the laws from the state from which the applicant comes grant similar privileges to Mississippi attorney applicants.

Oregon provides for reciprocal jurisdiction so long as the laws from the state from which the applicant comes grant similar privileges to Oregon attorney applicants and the applicant has practiced for 5-7 years.

Virginia provides for reciprocal jurisdiction so long as admission to bar of reciprocal jurisdiction was by examination. In **Wyoming**, admission on motion is limited to jurisdictions that would allow a Wyoming attorney to waive in without any additional examination.

Certain Jurisdictions Have Unique Features with Regard to Whether an Attorney Initially Admitted by Diploma Privilege is Eligible for Admission on Motion.

Arkansas allows this so long as the applicant is a graduate of an ABA-approved law school.

Connecticut allows it so long as the applicant is a graduate of an ABA- or committee-approved law school. The **District of Columbia** requires the applicant to have been in good standing of the bar for five years. **Mississippi** allows it so long as the laws from the state from which the applicant comes grant similar privileges to Mississippi attorney applicants.

In **Ohio**, an applicant who has been admitted in another jurisdiction by diploma privilege is eligible for admission without examination only if applicant has also taken and passed the bar examination and been admitted as an attorney-at-law in the highest court of another state or the District of Columbia. In **Tennessee**, the applicant must file a petition with the Board setting forth reasons for admission and a hearing is held in response.

Certain Jurisdictions Have Unique Features with Regard to Whether an Attorney Must Be a Graduate of an ABA-Approved Law School to Apply for the Attorney's Exam.

In **California**, attorneys must have been admitted and in good standing for four years.

In **Maine** if an applicant is not a graduate of an ABA-approved law school, then the applicant must have engaged in the practice of law for three years in the U.S. jurisdiction where admitted. For **Maryland**, if the attorney applicant has practiced law for ten years, or five years in the immediate past ten years, following admission by examination in another jurisdiction, the applicant is eligible for the special attorney exam and need not be a graduate of an ABA-approved law school. In **Rhode Island**, applicants who have not graduated from an ABA-approved law school may sit for the Attorneys' Examination provided they have been engaged in the active full-time practice of law for five out of the ten years immediately preceding the filing of the bar application.

Admission pro hac vice

An additional way an attorney can practice law in another state – on a very limited basis – is by being admitted Pro Hac Vice on a given matter. Pro Hac Vice means “for this one particular occasion” in Latin. States and courts have their own requirements for Pro Hac Vice admission, but normally a lawyer must be experienced as well as sponsored by a member of the local bar (or even have a local lawyer serve as co-counsel).

Working in a state without being admitted in that state

It is generally true that you must be admitted in a state to work there, but there is an exception for **in-house corporate work**. You do not necessarily have to be admitted to the bar in California to do transactional work for an in-house legal department.

Some corporate jobs require applicants to have a “legal background” such as a J.D. even if they will not actually be practicing law. For example, many banks hire people with legal knowledge to be trust officers. The legal background connotes, at the very least, an understanding of laws, contracts, and other subjects in that realm, whether the corporation wants to hire a full-fledged attorney or not.

Sometimes companies do not want to hire a licensed attorney because they have to pay more. These firms do not want to pay more when someone else, such as an unlicensed attorney, law school graduate, or paralegal, is able to complete the same tasks competently. Having a J.D. will definitely fulfill the legal-background requirement on a job description, even if the person is not a practicing attorney.

Options for people who have failed the bar exam

Bar admission is complicated but useful. Bar admission is so useful that failing the bar exam (even more than once) should not deter you from giving it another try.

If you failed a bar exam, do not get unduly discouraged. Even top law students and attorneys sometimes fail the bar exam. In one notorious case, **Kathleen Sullivan** – the former Dean of **Stanford Law School** and a prominent United States Supreme Court litigator – failed the California bar exam the first time she took it.

So what if you've taken the bar exam and failed it in a difficult state like California? There are ways around this issue. The first

way, of course, is to study harder and prepare yourself better for the next bar exam. You obviously know that you're not the first nor last person to fail the bar exam, so there is no shame in having to take it more than one time in order to pass.

The bar exam is a passable exam, and not as impossible as some people make it appear. One positive aspect about the bar exam in many jurisdictions is that it can be retaken as many times as necessary to pass. This is unlike some other professional exams where a person is limited to a limited amount of attempts. Another positive is that the bar exam is given two times a year in most jurisdictions. This is unlike an Olympic athlete who has to wait four years for another shot at the gold.

Besides studying harder after failing a bar exam, there is another way to avoid retaking the bar exam you failed and still get the Admitted to the Bar stamp on your resume. The key is to take another state's bar exam – a state with a much easier exam and a much higher pass rate.

You can do the studies on states with high-pass bar exams. Compare it to your own state's exam. You'll have to study for that particular state's exam and arrange for travel and accommodations, of course. All the research must be done on your own as well. So with all this extra work and expense, what are the benefits?

If you are in New York applying for a job and you have Admitted to the Pennsylvania Bar on your resume, for example, that looks infinitely better than just having J.D. in your education

section. At an interview, you'll doubtless be asked about this situation, and this too can work to your advantage.

You obviously don't want to say, "I took the PA Bar Exam because the NY exam was far too difficult" or "I took the PA Exam just for the sake of having a Bar Admission on my resume," even though that may be exactly what you did. Instead, you can come up with creative reasons. Perhaps you can say that you once aspired to practice law in Philadelphia but later opted against it. Or you can say that you found that PA law interested you in the past because you thought about living there.

In any event, this may not work if you're applying for a NY job that requires a NY license. But for a corporate-type job where bar admission is not required, your resume will look more complete with a Bar Admission on it, as opposed to just a J.D. Competition is fierce for employment, especially for legal jobs. Many of your competitors will have Bar Admissions on their resumes, so you cannot afford to be without one.

So don't just rest with your J.D.! Do what it takes to pass the bar in your state, or in another state. Emphasize these preparation tips to overcome failing the bar exam:

- Conduct a personal assessment
- Understand the law
- Memorize the law
- Read carefully

When people fail a bar exam, they usually receive a tally of their scores on each question and receive a copy of their actual

answers. For instance, in California, the bar examiners return the graded essays and performance tests to the applicants who fail along with a scorecard showing their multiple choice raw and scaled scores. Find out the reasons for failing, and take action to redress these problems by speaking with a professor, former bar exam grader, or bar exam tutor who knows the law and how the bar exam works.

Try to pass a bar exam in any state. Get it on your resume. It is that important! From there, you will be able to look into practicing in whatever state you choose.

CONCLUSIONS

When I graduated from law school, I started my career clerking for a judge in Michigan. I had worked in a New York City law firm during the summer after my second year and had every intention of returning there. The firm was serious, however, and the people I was working with seemed quite serious, on edge and there did not appear to be any opportunities at the firm for advancement.

On a whim, I decided to apply to a handful of California firms and was glad I did. The firm I ended up going to work for had no dress code and the people seemed much happier than the firm in New York. Moreover, I did not have to sell my car and got to live in a nice climate most of the year and the firm paid just as much as New York law firms. It was a great

decision for me in all respects—but would not have been had I wanted a New York lifestyle. Many people would never in a million years consider living in Los Angeles over New York—people are different and that is one reason that it is important to look at multiple markets always.

When you look at other markets and use your qualifications to approach firms in other markets, you give yourself additional options—lifestyle, financial, prestige, happiness and other considerations—that could be worthwhile. If you are working with us, please speak with your recruiter about applying to firms in other markets. You may not even need the bar exam. I would estimate that 80% of the candidates I am working with look at markets outside their home market for the following reasons:

- The economy varies depending on one region of the country to another. You may be very marketable in one area (and even to a better firm) and less marketable due to the concentration of highly-qualified candidates in another.
- You may be a better fit “culturally” in one area of the country and not another.
- Your skills and experience may be a “perfect fit” in one area of the country and not another.
- There may not be any jobs in the area of the country you are from and plenty of jobs in other areas.

Additional Article Resources

Please see the following articles for more information:

The Different Types of Bar Exams

Taking the Bar in Multiple States

Preparing for the Patent Bar

The Different Policies of Various State Bar Associations Regarding the Transfer of MBE Scores from One Jurisdiction to Another

What It Is Like to Be a Tax Law Attorney – Tax Attorney Careers

10 Ways to Bounce Back After Failing the Bar and Pass on Your Next Attempt

“Waive” Goodbye to Taking Another Bar Exam: Typical Requirements and Tips to Effectively Manage the Waive-In Process

If You Have Failed the Bar Exam It Is Not the End of the World

Guidelines on Reciprocity or “Admission on Motion” among the States as per American Bar Association

Why Every Attorney Needs to Apply to a Lot of Places (and Not Give Up) When Rejected