ASSEMBLY THIRD READING
AB 1776 (Aguiar-Curry)
As Amended May 18, 2026
Majority vote

SUMMARY

Adopts the California Law Revision Commission's recommended updates to the Cartwright Act to address single firm anticompetitive conduct.

Major Provisions

1) Provides that it is unlawful for one or more persons to act, cause, take, or direct measures, actions, or events do either of the following:

   a) Unreasonably restrain trade; or

   b) Monopolize or monopsonize, attempt to monopolize or monopsonize, maintain a monopoly or monopsony, or combine or conspire with another person to monopolize or monopsonize in any part of trade or commerce.

2) Requires that anticompetitive effects and procompetitive justifications of the challenged conduct be evaluated within the same relevant market.

3) Requires courts when adjudicating a suit brought pursuant to this bill to use the guidance of the California Supreme Court in the manner described in In re Cipro Cases I & II (2015) 61 Cal. 4th 116.

4) Requires a plaintiff bringing an action pursuant to this bill to allege and, to prevail at trial, prove market power, either through direct or indirect evidence.

5) Provides that interpretations of federal antitrust laws are at most instructive, and not conclusive, when construing California's antitrust laws, and as such, the following are not required to find liability:

   a) When alleging an anticompetitive refusal to deal, either:

      i. The unilateral conduct of the defendant altered or terminated a prior course of dealing between the defendant and a person subject to the exclusionary conduct;

      ii. The defendant treated persons subject to the exclusionary conduct differently than the defendant treated other persons;

   b) When alleging predatory pricing, either:

      i. The defendant offered a product or service that was below any measure of the costs to the defendant for providing the product or service required under federal antitrust law;

      ii. The defendant is likely to recoup the losses it sustains from below-cost pricing of the products or services at issue.

c) The defendant's conduct makes no economic sense apart from its tendency to harm competition;

d) The conduct's risk of harming competition or actual harm must be proven with quantitative evidence, where qualitative evidence may be used to prove harm to
e) competition or actual harm;

f) In a case where a defendant's business is a multisided platform, the defendant's conduct presents harm to competition on more than one side of the multisided platform, or the harm to competition on one side of the multisided platform outweighs any benefits to competition on any other side of the multisided platform;

g) The rival whose ability to compete has been reduced or harmed is as efficient, or nearly as efficient, as the defendant;

h) *When relying on indirect evidence to show market power,* a single firm or person has or might achieve a market share or has market power at or above a threshold recognized under Section 2 of the federal Sherman Antitrust Act of 1890; or

i) *When using direct evidence to show market power,* a definition of ″relevant market″ where there is direct evidence of market power.

6) Exempts from the provisions of this bill any small business, meaning an independently owned and operated business, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees and average annual gross receipts of ten million dollars ($10,000,000) or less over the three years prior to the filing of the complaint.

7) Requires courts to liberally interpret California's antitrust laws to best promote free and fair competition and be mindful that California favors ″maximizing″ effective deterrence of antitrust violations in accordance with *Clayworth v. Pfizer, Inc.* (2010) 49 Cal.4th 758.

8) *Makes various findings and declarations.*

COMMENTS

Since 1990, economists note that over 75 percent of industries in the United States have experienced significant market concentration. (Luke Hinrichs, *Freedom from Domination: A Revival of Antitrust Law and the Will to Choose Democracy*, The Flaw (Sept. 6, 2022) available at: https://theflaw.org/articles/freedom-from-domination-a-revival-of-antitrust-law-and-the-will-to-choose-democracy/.) Seeking to protect consumers from increased market consolidation, in 2022, the Legislature tasked the California Law Revision Commission with studying if updates to the state's one hundred year antitrust law, the Cartwright Act, were necessary. (ACR 95 (Wick & Cunningham) Res. Chap. 147, Stats. 2022.) Of note, because the Cartwright Act generally focuses on market collusion and the conduct of multiple firms, the Commission was asked to study how to combat anticompetitive behavior by a single firm or actor.

In January of this year, the Law Revision Commission released its proposal to reform the Cartwright Act to address single firm conduct. This bill would enact those recommendations.

This bill adopts a "hybrid" approach to regulating single-firm conduct. This bill enacts the California Law Revision Commission's recommendations on regulating single-firm anticompetitive behavior. The bill adopts a series of findings regarding the need to police predatory anticompetitive behavior by single firms. The findings also reiterate California's decades old case law that holds that ″the Cartwright Act is 'broader in range and deeper in reach than the federal Sherman Anti-Trust Act″ (*Cianci v. Superior Court*, supra, at p. 920) and that the Cartwright Act is not directly modeled after the Sherman Act. (*Aryeh v. Canon Business Solutions, Inc.* (2013) 55 Cal.4th 1185, 1195.)

Secondly the bill enacts the actual prohibition on anticompetitive behavior that is, largely, modeled after Section 2 of the Sherman Act. This prohibition, in essence, states that it is unlawful for one or more persons to engage in the restraint of trade or to monopolize, or attempt to monopolize, an industry. The bill then explicitly prohibits a court excusing anticompetitive behavior in one market simply because that behavior may have boosted competition in another.

Finally, the bill aims to provide guidance to the courts. In light of the Commission’s skepticism of some federal case law, the bill codifies a set of standards that may be considered by a court as evidence of potentially anticompetitive behavior, but, in order to prevent any of the factors from becoming a threshold condition to proving an antitrust case, explicitly states that a court need not find any of the factors present in a given case to find anticompetitive behavior. Finally, the bill codifies existing state caselaw that requires California courts to liberally interpret California's antitrust laws to best promote free and fair competition and be mindful that California favors ″maximizing″ effective deterrence of antitrust violations. (*Clayworth v. Pfizer, Inc.* (2010) 49 Cal.4th 758.)

According to the Author

AB 1776 promotes a fair, competitive economy by strengthening California's antitrust law to reflect modern market realities. Competition drives innovation, lowers prices, raises wages, and expands opportunity for consumers, workers, and small businesses. California's antitrust law, the Cartwright Act, was enacted in 1907 and does not clearly address anti-competitive conduct by a single dominant company. As markets have consolidated, this gap has allowed companies to stifle competition, limit consumer choice, and suppress wages without clear accountability under state law.

In 2022, the legislature unanimously passed ACR 95 (Cunningham and Wicks), a bipartisan resolution recognizing that the Cartwright Act ″does not apply to monopoly conduct of single powerful companies″ and directing the California Law Revision Commission (CLRC) to study updates. AB 1776 implements the CLRC's unanimous recommendations on single firm conduct. The Cartwright Act currently outlaws anti-competitive behavior by two or more companies and AB 1776 ensures this conduct by a single company is also illegal. The bill clarifies that California courts may consider federal antitrust precedent but are not bound by it, and that federal law does not preempt state law, consistent with longstanding principles.

By closing these gaps, AB 1776 aligns California with most other states and federal statutes that outlaw single-company anti-competitive conduct, reduces legal uncertainty, and strengthens the state's ability to protect competition. The bill does not prohibit business growth or monopolies—it targets anti-competitive conduct that harms consumers, workers, and small businesses and exacerbates California's affordability challenges.

Arguments in Support
This bill is supported by a coalition of consumer advocates, labor organizations, and small business trade organizations. In support of the measure a coalition of some of the state's largest labor organizations write:

> California is the nation's wealthiest state and the fourth largest economy in the world, yet ranks 48th in the nation in terms of income inequality. 70% of Californians believe that the gap between the rich and poor is widening, and a similar share think the state government should do more to reduce the gap.
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> Corporate concentration indisputably contributes to these harmful trends. Across healthcare, technology, food and agriculture, entertainment, and consumer retail, market concentration has led to wage suppression, price inflation, and reduced opportunities for business growth. Since the 1990s, consolidation has affected roughly 75% of all U.S. industries, leaving in its wake fewer small businesses, weaker unions, job insecurity, and exploding income inequality.
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> Without a state law against illegal monopolization, Californians may only use antitrust law to challenge illegal monopolies in federal court pursuant to weakened federal antitrust law. The erosion of federal antitrust laws was not accidental. Beginning in the late 1960s, an intellectual movement known as the ″Chicago School″ de-emphasized market competition in favor of short-sighted economic gains. Over the next several decades, big business co-opted and promoted Chicago School thinking as a tool to advance its interests. Big businesses triumphed, and antitrust enforcement plummeted.
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> Following an expansive three-year review of California's antitrust law, the Cartwright Act, the California Law Revision Commission (CLRC) – California's most prestigious nonjudicial legal body – made two key findings: *First*, the Cartwright Act does not prohibit illegal monopolization or unilateral, ″single firm″ anticompetitive conduct. *Second*, directly mirroring federal antitrust law would be both inconsistent with current California law and effectively import federal jurisprudence that has diluted the federal law's original scope and strength, limiting the effectiveness of state antitrust enforcement.4 The COMPETE Act, which is a verbatim codification of the CLRC's final unanimous recommendation, fixes this by allowing illegal monopolization claims to be brought in state court pursuant to California antitrust cases rooted in a century of law.
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> By every measure, the COMPETE Act reflects a consensus-based, non-partisan approach to reinvigorating competition.

Arguments in Opposition
A coalition of business trade groups, led by the Chamber of Commerce, opposes this measure. They write:

> These uncertainty concerns are compounded by the bill's instruction to courts that well established and longstanding federal standards for evaluating business practices, designed to distinguish between lawful and unlawful competition are not required under California law. For example, AB 1776 rejects the economic and legal principles that assist courts in distinguishing between unlawful, below-cost pricing and lawful price cutting, calling into question business’s ability to offer low prices aimed at gaining customers, which is one of the most frequently used competitive strategies, particularly among small businesses and new

entrants. The bill also nullifies the commonsense rule created by the U.S. Supreme Court that a company generally has no duty to assist its rivals and a monopolist only has to do so in unique situations, potentially creating a California standard under which *competitors are compelled to assist one another*, rather than compete with one another.

Similarly, in a transparent effort to elevate business interests over consumers, the bill states that plaintiffs suing under AB 1776 need not show that ″[t]he rivals whose ability to compete has been reduced are as efficient, or nearly as efficient, as the defendant,″ thereby safeguarding the business of less efficient competitors. AB 1776 likewise disavows the notion that, in two-sided markets, courts should evaluate the competitive effects on both sides of the market, thereby ignoring the economic reality that consumers, on one side of a dual-sided market, often benefit from conduct that may harm competitors, on the other side of the market, and flipping on its head the ″consumer welfare standard″ that has guided courts and antitrust policy for decades. In another troubling and significant dismissal of federal law, AB 1776 states that ″one or more″ persons may be held liable for monopolization, whereas federal courts and economists have always recognized that monopolization – as the name implies – is the complete domination of a market by a *single* competitor.

AB 1776's disavowal of these guiding, federal standards will not only increase litigation and costs but leaves California courts with little guidance on how to deal with these complex issues. The bill's rejection of federal law is even more troubling given the California Supreme Court's repeated explanation that federal antitrust case law is ″helpful″ in interpreting the Cartwright Act. *State of California ex rel. Van de Kamp v. Texaco, Inc.* (1988) 46 Cal.3d 1147, 1164.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

1) Unknown but potentially significant costs to the Department of Justice (DOJ) (Unfair Competition Law Fund and Antitrust Fund) for investigation and enforcement of new single-firm antitrust violations within its Antitrust Section and Healthcare Rights Section. Single-firm monopolization cases are among the most complex and resource-intensive matters in antitrust law, typically requiring extensive economic analysis, expert consultation, and multi-year litigation. The DOJ reports that they currently work on federal monopolization cases with partners – other states or federal agencies. The DOJ would litigate monopolization under Cartwright in state court alone, and the costs may be large. A major unknown cost driver is the number of cases the DOJ would litigate under this new authority.

2) Unknown, potentially significant cost pressures to the courts (Trial Court Trust Fund) from increased antitrust litigation. The bill broadens the scope of the Cartwright Act — which provides private plaintiffs treble damages, attorney's fees, and injunctive relief — to cover single-firm conduct for the first time. These changes are expected to increase the volume of private antitrust actions filed in state court, particularly in the initial years as courts develop an interpretive framework for the new provisions. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately $1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides

annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately $117.3 million in 2025-26.

3) Unknown, likely minor incarceration costs (General Fund). The Cartwright Act includes criminal penalties for violations; by expanding the Act's scope to single-firm conduct, the bill technically creates new crimes. However, criminal antitrust prosecutions are rare, and this provision is unlikely to generate meaningful incarceration costs.

The Legislative Analyst's Office recently warned of General Fund structural deficits of around $35 billion per year beginning in the 2027-28 fiscal year.

VOTES

ASM JUDICIARY: 9-3-0
YES: Kalra, Lee, Bryan, Connolly, Harabedian, Pacheco, Papan, Stefani, Zbur
NO: Macedo, Dixon, Sanchez

ASM APPROPRIATIONS: 11-4-0
YES: Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache
NO: Hoover, Dixon, Ta, Tangipa

UPDATED

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CONSULTANT: Nicholas Liedtke / JUD. / (916) 319-2334 FN: 0003048