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

AB 1776 (Aguiar-Curry)
Version: June 22, 2026
Hearing Date: June 30, 2026
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Cartwright Act: violations

DIGEST

This bill adds, to the Cartwright Act, a prohibition on one or more persons acting to unreasonably restrain trade or to engage in monopolistic or monopsonistic conduct, as specified.

EXECUTIVE SUMMARY

California's primary antitrust law, the Cartwright Act, prohibits "trusts," or combinations of two or more persons, to restrain trade or commerce. Unlike the federal Sherman Antitrust Act, the Cartwright Act does not also prohibit conduct by a single company in restraint of trade, which generally occurs when one corporation has monopolistic or monopolistic market power and can impose anticompetitive measures on the market and on consumers.

In response to increasing corporate concentration across a host of industries, the Legislature enacted ACR 95 (Wicks & Cunningham (Res. Chap. 147, Stats. 2022)), which tasked the California Law Revision Commission (CLRC) with studying potential reforms to the Cartwright Act, the state's antitrust law. This year, after three years of extensive work, the CLRC released its recommendations for amending the law to address anticompetitive behavior by a single firm.

This bill adopts the CLRC's recommendation to add a single-firm conduct prohibition to the Cartwright Act. The bill initially adopted the CLRC's recommended language verbatim, but the bill has changed over time in response to stakeholder concerns. The bill also adds statutory guidance to courts on how to interpret Cartwright Act claims, including the single-firm conduct provision, and on when and how to rely on potentially analogous Sherman Act case law. The Chair of this Committee is asking the author to make certain commitments to make amendments while the bill is in the

Senate Appropriations Committee; the specific commitments are set forth in Comment 9 of this analysis.

This bill is sponsored by the American Economic Liberties Project; the California Federation of Labor Unions; the California Nurses Association; the Consumer Federation of California; Economic Security Action; Institute for Local Self-Reliance; SEIU California; Small Business Majority; Teamsters California; TechEquity Action; United Domestic Workers – AFSCME Local 3930; United Food and Commercial Workers, Western States Council; and Writers Guild of American West. This bill is supported by a number of organizations, including labor unions, consumer protection groups, and the California District Attorneys Association. This bill is opposed by a number of business organizations, including the California Chamber of Commerce and TechNet.

PROPOSED CHANGES TO THE LAW

Existing federal law:

1) Establishes the Sherman Antitrust Act of 1890 (Sherman Act). (15 U.S.C. §§ 1-7.)

2) Prohibits, under the Sherman Act:
    a) Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the states or with foreign nations. (15 U.S.C. § 1.)
    b) The monopolization, or attempt to monopolize, or combination or conspiracy with any other persons to monopolize, any part of the trade or commerce among the states, or with foreign nations. (15 U.S.C. § 2.)

3) Authorizes a state attorney general to bring a civil action in the name of the state in any district court of the United States having jurisdiction over the defendant to secure monetary relief, as provided, for violations of the Sherman Act or the Clayton Act. (15 U.S.C. § 15c.)

Existing state law:

1) Establishes the Cartwright Act. (Bus. & Prof. Code, div. 7, pt. 2, ch. 2, §§ 16700 et seq.)

2) Defines "person" within the Cartwright Act to include corporations, firms, partnerships, and associations. (Bus. & Prof. Code, § 16702.)

3) Defines a "trust" under the Cartwright Act as a combination of capital, skill, or acts by two or more persons for specified purposes, including restricting trade or commerce or preventing competition. (Bus. & Prof. Code, § 16720.)

4) Makes every trust unlawful, against public policy, and void, except as exempted under the Cartwright Act. (Bus. & Prof. Code, § 16726.)

5) Provides that any contract or agreement in violation of the Cartwright Act is absolutely void and not enforceable. (Bus & Prof. Code, § 16722.)

6) Authorizes the Attorney General, or the district attorney of any county, subject to specified notice requirements, to initiate a civil action or criminal proceeding for a violation of the Cartwright Act. (Bus. & Prof. Code, § 16754.)

7) Authorizes any person who is injured in their business or property by reason of anything forbidden under the Cartwright Act, regardless of whether the injured person dealt directly or indirectly with the defendant, to file a civil action to recover treble damages, interest, and injunctive relief.
    a) The state and its political subdivisions and public agencies are "persons" for the purpose of 7).
    b) The Attorney General or a district attorney may file a suit for damages on behalf of a state or county political subdivision, respectively. (Bus. & Prof. Code, § 16750.)

8) Authorizes the Attorney General to file a civil action in the name of the people of the State of California, as *parens patriae* on behalf of natural persons residing in the state, for a violation of the Cartwright Act, to secure monetary relief in the form of treble damages sustained by those natural persons, interest, costs, and reasonable attorney fees. (Bus. & Prof. Code, § 16760.)

9) Provides that, in any civil action for a violation of the Cartwright Act brought by the Attorney General or a district attorney, a civil penalty of not more than $1 million shall be assessed, as determined by a court or jury based on specified enumerated factors. (Bus. & Prof. Code, § 16755.1.)

This bill:

1) Adds the provisions set forth below to the Cartwright Act.

2) States the following:
    a) The purpose of the Cartwright Act is the promotion and protection of free competition, which is fundamental to a healthy marketplace that protects all trade participants, including workers and consumers, and to an environment that is conducive to the preservation of our democratic, political, and social institutions.
    b) Protecting competition includes protecting competition between businesses when they compete for workers by prohibiting anticompetitive practices that impede workers' freedom to choose employment.

c) The California Supreme Court has determined that the Cartwright Act is "broader in range and deeper in reach" than the federal Sherman Act; the California Supreme Court has also found that the Cartwright Act is not modeled on the federal Sherman Act, and therefore that interpretations of federal antitrust law are not conclusive.
d) California courts have recognized that the Cartwright Act departs from the Sherman Act in many respects, including the inclusion of direct purchaser recovery; the use of a proximate cause test for Cartwright Act standing and antirust injury; recognition of broader harms and per se conduct; lower actionable market shares; structured rule of reason analysis; and differing burdens of proof.
e) Interpretations of federal antitrust laws are at most instructive, not conclusive, when construing California's antitrust laws, as they are not modeled on federal antitrust statutes. Thus, a claim brought pursuant to the causes of action established by this measure should not be dismissed or rejected on the pleadings or merits pursuant to the Sherman Act or any case decided thereunder unless the court also finds that such a dismissal or rejection is consistent with the Cartwright Act.
f) California agrees with the United States Department of Justice (USDOJ) and the FTC in recognizing that unilateral action and multiparty actions, horizontal and vertical relationships, and various forms of corporate entities can interfere with free trade and fair competition, as reflected in the FTC and USDOJ 2023 Merger Guidelines.

3) Provides that it is unlawful for one or more persons to act, cause, take, or direct measures, actions, or events that do either of the following:
   a) Unreasonably restrain trade.
   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 any part of trade or commerce.

4) Provides that, or purposes of 3), anticompetitive effects and procompetitive justifications of the challenged conduct shall be evaluated within the same relevant market.

5) Requires a court adjudicating a claim brought under 3) to use the analytical framework and guidance of the California Supreme Court in the manner described in *In re Cipro Cases I & II* (2015) 61 Cal.4th 116, 146-147.

6) Requires a plaintiff bringing an action pursuant to 3) to allege and, to prevail at trial, prove, market power, either through direct or indirect evidence.

7) Provides that 3) does not do either of the following:

a) Apply to 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 $10 million or less over the three years prior to the filing of the complaint.
b) Prevent, limit, or prohibit an exclusive franchise, contract, license, or permit authorized by state law that is granted and supervised by a local governmental agency, as defined, or impose any liability on any person or entity acting within the scope of authority granted by one or more such exclusive franchises, contracts, licenses, or permits.

8) 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.

COMMENTS

1. Author's comment

According to the author:

> AB 1776 promotes a competitive economy by strengthening California's Cartwright Act to close a gap in our state's core antitrust law. Today's Cartwright Act makes anti-competitive behavior illegal only if two or more companies work together. One dominant company behaving the same way can undercut competition and cause harm with impunity. This leaves California consumers, small businesses, and workers without key protections under state law. Forty-five other states have a prohibition on single-firm monopolization used to illegal advantage, leaving California as one of five states without such a prohibition.
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> As industries consolidate, Californians need better protection as a deterrent to predatory behavior. Over the last two decades, over 75% of U.S. industries have experienced extreme levels of concentration. Studies found those industries experienced higher profit margins with no increase in business operation efficiencies. Without competition, there are fewer suppliers and employers, reducing Californians' ability to negotiate better prices and products, or better wages and working conditions. Consolidation exacerbates a deepening affordability crisis, driving higher prices, lower wages, and reduced innovation.
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> The Legislature recognized this loophole in California law when it unanimously passed ACR 95 (Cunningham and Wicks, 2022). This bipartisan resolution stated the Cartwright Act "does not apply to monopoly conduct of single powerful companies" and directed the California Law Revision Commission (CLRC) to consider updates to its antitrust laws.

AB 1776, the COMPETE Act, implements the CLRC's unanimous recommendation to close the gap in the Cartwright Act on single firm conduct, based on a three-year study and 18 public meetings. That recommendation was informed by extensive working group reports, authored by the nation's most prominent academics, economists, government enforcers, and lawyers for plaintiffs and defendants, including Fortune 500 companies. The process included over 100 written public comments from industries and other stakeholders. The recommendations were amended to address concerns. The bill would codify foundational principles and interpretive guidelines from existing California case law to ensure the language works within the existing framework of the Cartwright Act. This includes existing California Supreme Court precedent that California courts may consider federal antitrust precedent, but are not bound by it, and that federal law does not preempt state law.

AB 1776 will strengthen protections for consumers, small businesses, and workers. It does not prohibit business growth, punish based on size, or outlaw standard business practices. This bill outlaws abuse by dominant companies who stop trying to succeed by providing better products or services and instead wield their power to stifle the next generation of innovation, affordability, and prosperity.

2. Background on the Cartwright Act and the Sherman Act

California enacted the Cartwright Act in 1907[1] "as part of a wave of turn-of-the century state and federal labels intended to stem the power of monopolies and cartels."[2] The Cartwright Act "generally outlaws any combinations or agreements which restrain trade or competition or which fix or control prices."[3]

The Sherman Act was passed by Congress in 1890.[4] Similar to the Cartwright Act, Section 1 of the Sherman Act (Section 1) makes combinations, agreements, and conspiracies in restraint of trade unlawful.[5] Additionally, and unlike the Cartwright act, Section 2 of the Sherman Act (Section 2) makes it unlawful to monopolize, or attempt to monopolize, or to conspire with other persons to monopolize any part of trade or commerce.[6]

In the era when states and the federal government were first adopting antitrust statutes, there were "two different streams of antitrust statutes: the Sherman Act stream,

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[1] Stats. 1907, Ch. 530, §§ 1-12, pp. 984-987.
[2] *Clayworth v. Pfizer* (2010) 49 Cal.4th 758, 772.
[3] *Pacific Gas & Electric Co. v. County of Stanislaus* (1997) 16 Cal.4th 1143, 1147 (internal quotation marks omitted).
[4] *See* Pub. L. No. 51-647 (Jul. 2, 1890) 26 Stat. 209.
[5] *See* 15 U.S.C. § 1.
[6] *Id.*, § 2. Congress subsequently enacted the Clayton Act of 1914 (Pub. L. 63-212 (Oct. 15, 1914) 38 Stat. 730) to build on the Sherman Act and has amended both Acts since then. This analysis will use "Sherman Act" to refer to the whole federal anti-monopoly regime unless otherwise specified.

beginning with its enactment in 1890, and another, which can be called the 'populist stream.' "[7] The Cartwright Act has its origins in the populist stream, not the Sherman Act stream,[8] though reviewing courts subsequently characterized the Cartwright Act as codifying, and adding enforcement mechanisms to, restrictions which already existed in common law.[9] The Legislature has also taken affirmative steps to distinguish the Cartwright Act from the Sherman Act when the Legislature disagreed with an outcome of a United States Supreme Court case interpreting Section 2 of the Sherman Act.[10]

Consistent with the historical divergence between the Cartwright Act and the Sherman Act, the California Supreme Court has recognized that the Cartwright Act's prohibition on combinations in restraint of trade "is broader in range and deeper in reach than the Sherman Act."[11] And with respect to whether courts should rely on Sherman Act case law to interpret the Cartwright Act, California Supreme Court has explained that "[i]nterpretations of federal antitrust law are at most instructive, not conclusive, when construing the Cartwright Act, given that the Cartwright Act was modeled not on federal antitrust statutes but instead on statutes enacted by California's sister states around the turn of the 20th century."[12]

3. Historical Sherman Act approaches and the "consumer welfare standard"

The Sherman Act's bare-bones text leaves a lot of room for interpretation. This gives courts, and particularly the Supreme Court, enormous power in deciding how to balance the Sherman Act's pro-competition and pro-consumer rationales, and how to balance those rationales against concerns about stifling legitimate business practices.

The California Law Revision Commission (CLRC), as part of the study discussed in Comment 5, below, commissioned a report on the question of the harms antitrust law is intended to prevent. The report explains the evolution of prevailing antitrust doctrine as follows:

> A line of old judicial opinions, most of which were issued from the mid-1940s to the late 1960s, state that Congress passed the antitrust statutes "to promote competition through the protection of viable, small, locally owned business" although "occasional higher costs and prices might result from the maintenance of fragmented industries and markets." This

[7] Lasky, *Folklore and Myth in Judicial Opinions – Some Reflections Inspired by* Texaco-Getty (Spring 1987) 20 U.C. Davis L. Rev. 591, 592.
[8] *Id.* at p. 593.
[9] *Id.* at pp. 595-596.
[10] *See Clayworth*, *supra*, 49 Cal.4th at p. 763 (when the United States Supreme Court held that Section 1 did not create a cause of action for indirect purchasers harmed by an unlawful combination, the Legislature amended the Cartwright Act to expressly permit a cause of action for downstream purchasers).
[11] *Cianci v. Superior Court* (1985) 40 Cal.3d 903, 920.
[12] *Aryeh v. Canon Business Solutions, Inc.* (2013) 55 Cal.4th 1185, 1195.

> vision is colloquially known as the "Brandeisian" approach, with a nod to Louis Brandeis who championed it in the early 1910s.
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> By the 1960s, scholarship had moved beyond the Brandeisian approach. Harvard Professor Donald Turner, while serving as head of the Antitrust Division, had placed emphasis on rigor and economic analysis. Writing in the late 1950s, Turner and economist Carl Kaysen identified a number of goals of antitrust enforcement, but suggested protection of the competitive process as the most salient.
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> In the late 1970s, the Supreme Court rejected the Brandeisian approach, holding that proof of unlawful harm to competition requires the showing of "demonstrable economic effect rather than…formalistic line drawing."[13]

The Court's decisions beginning in the 1970s moved away from precedent holding that the Sherman Act is intended to protect competition and towards the "consumer welfare standard."[14] The Court's adoption of the consumer welfare standard was the culmination of a multi-decade project of members of the conservative Chicago School.[15] Beginning in the 1960s, Bork and others (including now-Judge Richard Posner) published articles and books arguing for a reframing of the Sherman Act and criticizing prior Supreme Court case law.[16] Even though, as the CLRC's report notes that Bork's conclusion "relied on an incorrect analysis of the legislative history of the Sherman Act," the conservative Burger, Rehnquist, and Roberts Courts have broadly embraced the consumer welfare theory.[17]

The courts have not clearly defined the "consumer welfare standard" or what sort of consumer welfare the courts should be looking out for.[18] Bork argued that consumer welfare should be determined at a very high level, even if prices are increased for some consumers; others argue that consumer prices are the main determinant of consumer

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[13] CLRC, Memorandum 2024-33, Expert Report: Consumer Welfare Standard (Jul. 19, 2024) pp. 1-2 (internal citations omitted), *available at* https://clrc.ca.gov/pub/2024/MM24-33.pdf; *see also Continental T.V., Inc. v. GTE Sylvania Inc.* (1977) 433 U.S. 36, 59. All links in this analysis are current as of June 28, 2026.

[14] Wu, The Curse of Bigness: Antitrust in the New Gilded Age (2018) pp. 87-91.

[15] *Id.* at pp. 85-86.

[16] *E.g.*, Bork, The Antitrust Paradox (1978) p. 51 ("the responsibility of the federal courts for the integrity and virtue of law requires that they take consumer welfare as the sole value that guides antitrust decisions"); Posner, Antitrust Policy and the Supreme Court: An Analysis of the Restricted Distribution, Horizontal Merger and Potential Competition Decisions (Mar. 1975 75 Colum. L. Rev. 282; Bork, Legislative Intent and the Policy of the Sherman Act (Oct. 1966) 9 J. Law & Econ. 7; Bork, The Rule of Reason and the Per Se Concept: Price Fixing and Market Division II (Dec. 1965) 75 Yale L.J. 373.

[17] *E.g.*, *Aspen Skiing Co. v. Aspen Highlands Skiing Corp.* (1985) 472 U.S. 585, 605; *Reiter v. Sonotone Corp.* (1979) 442 U.S. 330, 343; *see also* Wu, *supra*, at p. 105.

[18] CLRC, Memorandum 2024-33, *supra*, at p. 2.

welfare.[19] Other "courts sometimes link the concepts to emphasize that high prices alone 'are not the epitome of competitive harm.' "[20] Regardless of whether a precise definition exists, however, the concept has seeped into Supreme Court antitrust case law, which—particularly since the 2000s—lower court judges have applied to dramatically constrict the scope of anticompetitive behavior that will be treated as a violation of Section 2.[21]

The CLRC report identifies two other philosophical underpinnings of the Court's recent antitrust jurisprudence: that false positive are worse than false negatives, i.e., it's better to err on the side of allowing potentially anticompetitive behavior to continue; and that vertical arrangements—agreements between actors in different spaces of the supply chain, not direct competitors—are unlikely to harm competition.[22] "There is a broad consensus among scholars that these presumptions have eroded the capacity of the antitrust enterprise to protect competition."[23]

4. <u>The rise in industry concentration</u>

As the Court contracted the scope of federal antitrust law, industry also began to consolidate. One study found that, since the late 1990s, the index that measures industry concentration:

> [H]as systematically increased in more than 75% of U.S. industries, and the average increase in concentration levels has reached 90%. Similarly, the market share of the four largest public and private firms has grown significantly for most industries, and the average and median size of public firms, i.e., the largest players in the economy, has tripled in real terms.[24]

Higher concentration, in turn, correlates to higher corporate profits "mainly through higher profit margins rather than through higher efficiency."[25] Industries that now have a high rate of concentration include the telecommunications industry; the airline industry; the cable industry; the pharmaceutical industry; the events ticketing industry; the global seed and pesticide industry; and the beer industry.[26] The CLRC's expert report on consolidation in California also discusses, in depth, extreme market

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[19] *Id.* at p. 3; *see also* Bork, The Antitrust Paradox, *supra* at pp. 164, 199-200. Bork also rejected the idea that monopolies create barriers to entry for competitors. (*Id.*, pp. 310-329.)
[20] CLRC, Memorandum 2024-33, *supra*, at p. 3.
[21] *See, e.g.*, *Ohio v. American Express Co.* (2018) 585 U.S. 529, 547; *Verizon Communications Inc. v. Law Offices of Curtis V. Trinko, LLP* (2004) 540 U.S. 398, 407; *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.* (1993) 509 U.S. 209.
[22] CLRC, Memorandum 2024-33, *supra*, at p. 6-7.
[23] *Id.* at p. 7.
[24] Grullon, Larkin, & Michaely, *Are U.S. Industries Becoming More Concentrated?* (2019) Review of Finance, European Finance Association, vol. 23(4).
[25] *Ibid.*
[26] Wu, *supra*, at pp. 115-117.

concentration in the meat processing industry; the retail grocery industry; pharmacies; healthcare systems, such as hospitals; and the entertainment industry.[27]

The tech industry started out chaotic and fast-moving in the late 1990s/early 2000s, but is currently a highly concentrated industry dominated by a few big players. Larger tech firms' growth came in large part from acquisitions of other companies, including those that had the potential to challenge their dominant market position, such as when Google bought YouTube[28] or Facebook bought Instagram.[29] In all:

> Facebook managed to string together 67 unchallenged acquisitions, which seemed impressive, unless you consider that Amazon undertook 91 and Google got away with 214 (a few of which were conditioned). In this way, the tech industry became essentially composed of just a few giant trusts: Google for search and related industries, Facebook for social media, Amazon for online commerce.[30]

The FTC has the authority to prevent mergers that would "substantially lessen competition, or tend to create a monopoly,"[31] but big tech got a pass for most of the 2000s and 2010s.[32]

5. The California Law Revision Commission's antitrust report and recommendations

In 2022, the Legislature adopted a resolution directing the CLRC to study and report on the whether California law should be revised to outlaw monopolies as outlawed by Section 2 of the Sherman Act.[33] The CLRC released a pre-print version of its final report in March of 2026.[34] The report concludes that antitrust laws generally, both state and federal, "have not kept up with modern developments," particularly in the context of

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[27] CLRC, Memorandum 2024-14, Expert Report: Concentration in California (Mar. 28, 2024) pp. 11-12, 15-16, 26-28; 34-36; 39-41.
[28] Sorkin & Peters, *Google to Acquire YouTube for $1.65 Billion* (Oct. 9, 2006) New York Times, *available at* https://www.nytimes.com/2006/10/09/business/09cnd-deal.html.
[29] Rusli, *Facebook Buys Instagram for $1 billion* (Apr. 9, 2012) New York Times, *available at* https://archive.nytimes.com/dealbook.nytimes.com/2012/04/09/facebook-buys-instagram-for-1-billion/.
[30] Wu, *supra* at p. 123. Earlier this year, the Justice Department changed course and settled its antitrust case alleging that Ticketmaster is an illegal monopoly; over two dozen states, including California, plan to continue their own antitrust suits against Ticketmasater's parent company, LiveNation. (Richer & Neumister, *Justice Department and Live Nation reach settlement over illegal monopoly case* (Mar. 9, 2025) AP News, https://apnews.com/article/livenation-antitrust-justice-department-0a6ef66f497e5f626096de753bfff8ce.)
[31] 15 U.S.C. §§ 18, 18a.
[32] Wu, *supra*, at p. 121.
[33] ACR 95 (Cunningham, Res. Ch. 147, Stats. 2022).
[34] *See* Cal. Law Revision Com., Preprint Recommendation, Antitrust Law: Single Firm Conduct (Mar. 2026) *available at* https://clrc.ca.gov/pub/Printed-Reports/Pub249-B750.pdf. The CLRC approved the substance of the recommendation in the preprint version, but may still make minor editorial changes prior to releasing the final version. (*Id.* at cover page.)

the digital economy.[35] The CLRC also explained that "federal court rulings…have made effectuating [the purpose of protecting robust market competition" more difficult."[36] To remedy this legal gap, the CLRC recommended the addition of three new sections to the Cartwright Act to address harmful single-firm conduct (SFC), including monopolization and monopsonization[37] conduct, across all industries.[38]

The CLRC's recommendations arise from the CLRC's finding that "[t]he vertical integration of some of California's largest industries, as well as the sheer scale of certain digital platforms present unique competitive challenges not foreseen by the original antitrust law drafters."[39] Yet rather than import Section 2 verbatim, or start from scratch with entirely new antitrust language, the CLRC recommended statutory language that adopts a "hybrid approach that selectively draws on federal statutory and case law to ground the new California standard, while reflecting California's values and enforcement priorities by tailoring guidelines and definitions to California's specific concerns."[40]

6. The state of the Sherman Act today and the debate over whether California needs its own SFC law

In 2022, when the Legislature asked the CLRC to look into the single-firm conduct question, antitrust was in the middle of a resurgence. Between then and now, there have been several high-profile antitrust judgments against some of America's largest companies, including:

- Courts found that Google violated Section 2 by illegally monopolizing the online search market[41] and the online advertising technology market.[42]
- A federal district court found that Apple violated California's Unfair Competition Law for anticompetitive practices related to its app store,[43] and then found Apple in contempt of court for violating the court's injunction and continuing to engage in anticompetitive practices.[44]

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[35] *Id.* at p. 5.
[36] *Id.* at p. 6.
[37] A "monopsony" is the inverse of a monopoly: instead of a market with lots of purchasers buying from one predominant seller (monopoly), a monopsony has a single buyer as the predominant purchaser of goods or services offered by many buyers. For example, in a company town, there are lots of workers (i.e., people who want to sell their labor) and only one employer willing to pay for that labor, which allows it to offer lower wages and worse conditions than it would in a competitive market.
[38] California Law Revision Commission, Preprint Recommendation, Antitrust Law: Single Firm Conduct, *supra*, at pp. 23-27.
[39] *Id.* at p. 7 (internal citations omitted).
[40] *Id.* at p. 8.
[41] *See United States v. Google LLC* (D.D.C. 2024) 747 F.Supp.3d 1.
[42] *See United States v. Google LLC* (E.D. Va. 2025) 778 F.Supp.3d 797.
[43] *See Epic Games, Inc. v. Apple, Inc.* (9th Cir. 2023) 67 F.4th 946, 999.
[44] *See Epic Games, Inc. v. Apple, Inc.* (9th Cir. 2025) 161 F.4th 1162, 1172.

- Just last month, a jury found Live Nation/Ticketmaster liable on Section 1 and Section 2 grounds.[45] The jury awarded damages against Live Nation/Ticketmaster, and the remedies phase of the trial is likely to commence early next year.

Opponents of the bill argue that these victories demonstrate that Section 2 is alive and well. The bill's sponsors argue that Section 2, as currently interpreted by the United States Supreme Court, is too permissive of anticompetitive conduct that the Sherman Act was originally intended to prevent—the fact that the most egregious monopolies have started to face consequences does not mean other anticompetitive behavior should get a pass.

One other factor is the federal government's mercurial attitude toward antitrust enforcement. Under the Biden Administration, FTC Chair Lina Khan was an unrepentant Neo-Brandeisian who believed extremely large firms require "a system of public regulation that prevents the executives who manage this monopoly from exploiting their power."[46] When President Trump took office for a second time, the approach has been a little less consistent. For example, the USDOJ was originally part of that Live Nation/Ticketmaster lawsuit, but settled with Live Nation/Ticketmaster on the eve of trial.[47] On the merger side, the USDOJ has already signed off on Paramount Skydance's acquisition of Warner Bros. Discovery, concluding it did not pose a threat to competition.[48]

7. <u>This bill prohibits single-firm monopolistic and monopsonistic conduct under the Cartwright Act</u>

This bill adopts the CLRC's recommendation to add a single-firm conduct prohibition to the Cartwright Act. The bill initially adopted the CLRC's recommended language verbatim, but the bill has changed over time in response to stakeholder concerns. The bill also adds statutory guidance to courts on how to interpret Cartwright Act claims, including the single-firm conduct provision, and on when and how to rely on potentially analogous Sherman Act case law. The Chair of this Committee is asking for

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[45] Neumeister & Peltz, *Jury finds that Ticketmaster and Live Nation had an anticompetitive monopoly over big concert venues* (Apr. 15, 2026) AP News, https://apnews.com/article/live-nation-ticketmaster-antitrust-trial.

[46] Khan, The New Brandeis Movement: America's Antimonopoly Debate (Mar. 2018) J. Eur. Competition L. & Practice, Vol. 9, Issue 3, pp. 131-132.

[47] *See United States et al. v. Live Nation Entertainment, Inc., et al.*, Case No. 1:24-cv-3973-AS, Settlement Term Sheet, *available at* https://www.justice.gov/atr/media/1443801/dl.

[48] Khorram, *Justice Department approves Paramount's acquisition of Warner Bros.* (Jun. 12, 2026) Politico, https://www.politico.com/news/2026/06/12/paramount-acquisition-warner-bros-approved-00960300. Attorney General Rob Bonta indicated he might take steps to try to prevent the merger, but the status of these efforts is unclear. (Taheri, *Paramount-Warner 'Not a Done Deal,' Says California AG – But Can He Stop It?* (Jun. 13, 2026) Newsweek, https://www.newsweek.com/paramount-warner-not-a-done-deal-says-california-ag-but-can-he-stop-it-12070205.)

the author to make a commitment to amend the bill while it is in the Senate Appropriations Committee; the requested amendments are set forth in Comment 9, below.

a. Single-firm conduct prohibition

This bill provides that it is unlawful for one or more persons to act to (1) unreasonably restrain trade, or (2) monopolize or monopsonize, attempt to monopolize or monopsonize, maintain a monopoly or monopsony, or combine or conspire with another person to monopolize or monopsonize any part of trade or commerce. In response to concerns from stakeholders, the author has added provisions to clarify that the single-firm conduct prohibition does not apply to small businesses, as defined, or exclusive franchises and contracts authorized by state law.

Opponents of the bill argue that the first prong, the unreasonable restriction of trade prong, is overly vague. For example, a coalition of the bill's opponents writes:

> The recent amendments to AB 1776 – most of which are grammar fixes or internal cross references – do not at all address the chief concern with the bill: The profound uncertainty that AB 1776 creates and the sheer lack of guidance for businesses and courts as to what is, and what is not, an unlawful single-firm restraint of trade. To be clear, the amendments say nothing meaningful about how businesses can structure their conduct to comply with the law in the first place. In fact, the recent amendments arguably provide less guidance and create more uncertainty.

This argument has merit; although courts examine alleged anticompetitive behavior through a "rule of reason" analysis (discussed further in Comment 8), codifying this term is likely to have destabilizing effects. The "unreasonable restraint of trade" prohibition is one of the portions of the bill that is being requested to be removed, as set forth in Comment 9.

b. Interpretive framework and guidance regarding Sherman Act precedent

As currently in print, this bill sets forth interpretive guidelines for how to interpret the new single-firm conduct prohibition and the Cartwright Act writ large. The CLRC, as noted in Comment 5, concluded that recent federal court opinions interpreting the Sherman Act have made it more difficult to "effectuat[e] the purpose" of antitrust laws, i.e., "to protect robust competition in all markets."[49] The guidelines are, therefore, intended to steer California's courts in the right direction when considering whether to apply proffered federal case law to a Cartwright Act claim. One of these provisions, however, is more confusing than useful, so the author is being asked to remove it, as set forth in Comment 9.

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[49] Cal. Law Revision Com., Preprint Recommendation, Antitrust Law: Single Firm Conduct, *supra*, at p. 6.

The bill also provides guidance as to how a claim should be analyzed. These provisions are discussed further in Comment 8, but in broad strokes, they set forth matters relating to the proper analysis for an antitrust claim, necessary allegations, and other factors. These provisions should serve as signposts for the courts.

8. The process of bringing a monopolization claim under this bill

Opponents of the bill express concern that this bill will wreak havoc on businesses because the bill's terms are too new and too different from the federal Sherman Act. For example, a coalition of the bill's opponents writes:

> Despite no evidence that the current state or federal antitrust framework has faltered, AB 1776 would move California away from established federal guardrails by creating a new statutory approach to evaluating single-firm conduct that departs from decades of case law and United States Supreme Court precedent.
>
> Businesses operating in California have long relied on these clear standards when making investment and operational decisions. By discarding these guardrails, the bill would introduce significant legal uncertainty, invite costly litigation, and expose businesses, including small and mid-sized companies, to expanded private lawsuits even when their conduct ultimately proves lawful.

But this bill does not exist in a vacuum. Because this bill's prohibition on monopolization and monopsonization is placed within the Cartwright Act, all of the existing Cartwright Act statutes and case law will apply here, too. It is not the Legislature's intent to require the courts to start from scratch. Existing Cartwright Act—including the case law expressly cited in the bill—should be applied in monopolization/monopsonization claims as well. This Comment addresses some of the specific ways existing law should be applied to this bill.

a. Terms of art

Terms of art in this bill—such as "market," "market power," and "procompetitive justifications"—are intended to have the same meaning as they do under existing Cartwright Act precedent, and going forward, the terms should be interpreted consistently in both combination and single-firm conduct cases. These are well-established terms—for example, there are already form jury instructions on "market power" and how to find it[50]—and is not intended that courts jettison these existing meanings.

[50] *See* CACI Nos. 3412-3414.

b. Rule of reason analysis

Cases alleging prohibited monopolization or monopsonization should apply the "rule of reason" analysis set forth in the California Supreme Court's opinion in *In re Cipro Cases I & II*.[51] This analysis recognizes that:

> [A]lthough the prohibitions of the Cartwright Act are framed in superficially absolute language, deciding antitrust illegality is not as simple as identifying whether a challenged agreement resolves a restraint of trade…Instead, Cartwright Act and the Sherman Act carry forward the common law understanding that "only unreasonable restraints of trade are prohibited."[52]

The rule of reason inquiry, therefore, asks "whether the challenged conduct promotes or suppresses competition," and may require an examination of "the facts particular to the business in which the restraint is applied, the nature of the restraint and its effects, and the history of the restraint and the reasons for its adoption."[53] The rule of reason is not a hard and fast rule, but is "something of a sliding scale" based on the nature of the conduct in question.[54] Under the rule of reason, if "an observer with even a rudimentary understanding of economics could conclude that the arrangements in question would have an anticompetitive effect on customers and markets," the defendant may be "asked to come forward with procompetitive justifications for a challenged restraint without the plaintiff having to introduce elaborate market analysis first."[55]

While *In re Cipro Cases I & II* applies the rule of reason in an existing Cartwright Act case, this framework can be, and should be, carried over to apply to claims under this bill.

c. Lawful monopolies

The California Supreme Court has already recognized that "a business may develop monopoly power, i.e., the power to control prices or exclude competition through the superiority of its product or business acumen."[56] This bill is not intended to supplant that principle. This bill is intended only to prohibit monopoly or monopsony, or attempted monopoly or monopsony, through anticompetitive means. The Sherman Act already prohibits such activities.[57] As set forth in Comment 9, the author is being requested to commit to adding a term expressly stating that a business may lawfully

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[51] (2015) 61 Cal.4th 116.
[52] *Id.* at pp. 145-146.
[53] *Id.* at p. 146 (internal quotation marks omitted).
[54] *Id.* at p. 14y (internal quotation marks omitted).
[55] *Id.* at pp. 146-147 (internal quotation marks omitted).
[56] *Id.* at p. 148 (cleaned up).
[57] *Id.* at p. 146; *see also Board of Trade of City of Chicago v. U.S.* (1918) 246 U.S. 231, 238.

obtain and maintain market power or monopoly power through the superiority of its products, services, or business acumen

d. Reliance on federal law

As discussed above, the Cartwright Act and its case law already provide most of the legal scaffolding necessary for the application of this bill. Opponents of the bill are correct, however, that there is not a developed body of Cartwright Act case law addressing single-firm conduct and that it may be helpful for courts to rely on federal Section 2 case law when presented with monopoly-specific legal questions. Opponents of the bill are incorrect, however, that this bill is intended to leave courts unmoored and wholly unable to rely on Sherman Act precedent.

The California Supreme Court, and this bill, recognize that Sherman Act precedent should not override state law.[58] Comment 3 of this analysis discusses how the United States Supreme Court has narrowed the Sherman Act over the past few decades, thereby allowing a greater range of monopolistic behavior to go unchecked; this pro-monopolistic approach can be at odds with the Cartwright Act's "overarching goals of maximizing effective deterrence of antitrust violations, enforcing the state's antitrust laws against those violations that do occur, and ensuring disgorgement of any ill-gotten proceeds."[59]

As the bill recognizes, Sherman Act case law can be instructive when it is consistent with the Cartwright Act's overarching goals. Accordingly, when a court is asked to follow the guidance of ostensibly analogous Sherman Act case law, the court should assess whether the particular case or rule furthers or hinders the purposes of the Cartwright Act. Viewed through this lens, cases like the ones mentioned in footnote 21 of this analysis are likely unsuitable to carry over into a Cartwright Act analysis, whereas a case like *U.S. v. Microsoft Corp.*[60] might be instructive.

9. Commitment going forward

The Chair of this Committee has grave concerns that this bill, as currently in print, could lead to a proliferation of frivolous litigation and disruption of the markets. The Chair of this Committee, therefore, is requesting that the author commit to make the following amendments to the bill while it is in the Senate Appropriations Committee:

- Add language to expressly affirm that a business may lawfully obtain and maintain market power or monopoly power through the superiority of its products, services, or business acumen.
- Delete, in Section 1 of the bill, the second sentence of subdivision (d), relating to dismissal of a case pursuant to the Sherman Act.

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[58] *See, e.g., Aryeh v. Canon Business Solutions, Inc.* (2013) 55 Cal.4th 1185, 1194.
[59] *Clayworth v. Pfizer, Inc.* (2010) 49 Cal.4th 758, 764.
[60] (D.C. Cir. 2001) 253 F.3d 34.

- Delete, from Section 2 of the bill, the "unreasonable restraint of trade" prohibition and the reference to "one or more persons" in subdivision (a).
- Clarify, in Section 2 of the bill, that a plaintiff must allege, and prove, that the defendant has substantial market power.
- Eliminate the availability of a private right of action for the new monopolization created by this bill, so that only the Attorney General and other public prosecutors who can bring claims under the Cartwright Act can bring a monopolization claim under this bill.

10. Arguments in support

According to a coalition of labor organizations, consumer protection groups, and small business advocates:

> 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.
>
> 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. 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.
>
> By every measure, the COMPETE Act reflects a consensus-based, non-partisan approach to reinvigorating competition. The CLRC's study was initiated in 2022 by bipartisan resolution ACR 95 (Wicks, Cunningham). The CLRC's Single Firm Conduct Working Group Report, upon which the COMPETE Act is based, was written by legal experts and economics professors, government officials, and attorneys who have defended Fortune 500 companies in antitrust litigation.6 The study, which included 17 public hearings, elicited over 110 letters from trade groups, businesses, advocacy organizations, and members of the public.7 When presented with an option to codify an "abuse of dominance" standard, the CLRC

instead proposed codifying California jurisprudence that is well understood by businesses and antitrust experts.8 What emerges is a modest, pro-business proposal to promote competition, affordability, and fair labor standards.

Furthermore, the author engaged with opposition, plaintiff and defense anti-trust attorneys, and advocates, to remove the former Section 3, which had enumerated specific conditions that courts would not be required to find in order to establish antitrust liability. These amendments reflect the author's commitment to a collaborative, stakeholder-driven process that we are proud to support.

Californians are paying the price of inadequate competition law in the wages they earn, the prices they pay, and the opportunities foreclosed by unchecked market power. This bill is the right response, developed through the most rigorous process, at exactly the right time

11. Arguments in opposition

According to a coalition of trade associations and chambers of commerce, including the California Chamber of Commerce:

AB 1776 amends California's Cartwright Act to include prohibitions on Single-Firm conduct, whereas the Act has only covered the coordinated conduct of two or more firms since its passage in 1907. Specifically, the bill prohibits single-firm "restraints of trade," but lacks limiting principles or any meaningful guidance for courts and businesses as to what is, and what is not, unlawful single-firm conduct. While the "restraint of trade" term used in AB 1776 is a familiar one in antitrust law, no court or statute has ever defined how that term applies to single-firm conduct, and the bill makes no effort to do so. Restraints of trade have always been evaluated by courts in the context of two or more firms agreeing to take certain actions. For example, the Cartwright Act currently defines a restraint of trade as acts by "two or more persons" to do things like "limit or reduce [] production," "increase the price of merchandise," or "fix at any standard or figure" prices charged in the State. Thus, it has always been unlawful for two or more competitors to agree to reduce production, increase prices or fix prices charged in the State. But at the same time, it has always been *lawful* for single firms to unilaterally decide on their levels of production and prices, meaning that AB 1776 calls into question the legality of common business practices—such as unilateral price cuts, loyalty programs, rebates, licensing decisions, and efforts to undercut rivals—that are generally legal under federal law and viewed as good for competition and good for consumers. The shear novelty of the bill's "restraint of trade" language will cause great uncertainty, will increase costs, will increase litigation and is likely to result in conflicting results in the courts.

These uncertainty concerns are compounded by the bill's new instruction to courts that any lawsuit brought under AB 1776 "shall not be dismissed or rejected on the

pleadings or merits pursuant to the [federal] Sherman Act or any case decided thereunder unless the court also finds that such a dismissal or rejection is consistent with this Chapter." This guidance intentionally obscures the long and consistent line of California cases recognizing that federal antitrust precedent is "often helpful," "an aid" and "useful" in interpreting the Cartwright Act. *State of California ex rel. Van de Kamp v. Texaco, Inc.* (1988) 46 Cal.3d 1147, 1164; *Cellular Plus, Inc. v. Superior Court* (1993) 14 Cal. App. 4th 1224, 1240; *Flagship Theatres of Palm desert, LLC v. Century Theatres, Inc.* (2011) 198 Cal. App. 4th 1366, 1374. It also ignores the fact that the California Supreme Court has itself repeatedly and expressly adopted federal antitrust standards as applicable to the Cartwright Act. *Clayworth v. Pfizer, Inc.* (2010) 49 Cal.4th 758, 775 ("the federal *Hanover Shoe* rule is most consistent with legislative intent and applies equally to state claims under the Cartwright Act."); *In re Cipro Cases I & II* (2015) 61 Cal.4th 116, 144-147 (ruling that federal antitrust review standards "make[] equal sense for claims for claims under the Cartwright Act."); *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal. 4th 826, 843-48 (adopting federal summary judgment standards in conspiracy claims under the Cartwright Act). Moreover, it will be incredibly difficult for a business to convince a California court that existing antitrust precedent is "consistent" with AB 1776 because there is no antitrust law in the world that is consistent with AB 1776 given its novelty. Efforts to dissuade California courts from considering federal antitrust precedent is not only contrary to the way our systems have interacted for decades, but it also creates more uncertainty regarding the meaning and reach of AB 1776.

SUPPORT

American Economic Liberties Project (co-sponsor)
California Federation of Labor Unions (co-sponsor)
California Nurses Association (co-sponsor)
Consumer Federation of California (co-sponsor)
Economic Security Action (co-sponsor)
Institute for Local Self-Reliance
SEIU California (co-sponsor)
Small Business Majority (co-sponsor)
Teamsters California (co-sponsor)
TechEquity Action (co-sponsor)
UFCW Western States Council (co-sponsor)
United Domestic Workers/ AFSCME Local 3930 (co-sponsor)
United Food and Commercial Workers, Western States Council (co-sponsor)
Writers Guild of American West (co-sponsor)
AAPIs for Civic Empowerment
AFCSME
AFM Local 7
Alliance of Californians for Community Empowerment (ACCE) Action
Amalgamated Transit Union

California Alliance for Retired Americans
California District Attorneys Association
California Food and Farming Network
California Low-Income Consumer Coalition
California Professional Firefighters
California Public Banking Alliance
California School Employees Association (CSEA) AFL-CIO
California Work & Family Coalition
CAMEO Network
Communication Workers of America District 9
Consumer Attorneys of California
Consumers for Auto Reliability and Safety
Courage California
Electronic Frontier Foundation
End Poverty in California
Engineers & Scientists of California, IFPTE Local 20
Equal Rights Advocates
Fan Alliance
Future of Music Coalition
Health Access CA
Hmong Innovating Politics
Indivisible CA: StateStrong
Institute for Local Self-Reliance
International Alliance of Theatrical Stage Employees, Local 80
International Association of Mechanists and Aerospace Workers
Kapor Center Advocacy
Latino Prosperity
OC Action
Office of Kat Taylor
Omidyar Network
Open Markets Institute
Privacy Defense Alliance
Propel San Francisco
Protect Borrowers
Responsible Online Commerce Coalition
Rise Economy
Small Business Forward
SMART – Transit Division
The Greenlining Institute
Warehouse Worker Resource Center
Wellbeing Economy Alliance California
Western Center on Law & Poverty

OPPOSITION

ACT/Association for Competitive Technology
Advanced Medical Technologies Association
African American Farmers of California
Airlines for America
American Investment Council
American Property Casualty Insurance Association
Animal Health Institute
Associated General Contractors – California
Associated General Contractors – San Diego
Association of Western Employees
Athens Services
Bay Area Council
Beverly Hills Chamber of Commerce
Biocom
Biotechnology Innovation Organization
Brea Chamber of Commerce
Building Owners and Managers Association of California
BuildIT
CalAsian Pacific Chamber of Commerce
California Apartment Association
California Assisted Living Association
California Association of Realtors
California Attractions and Parks Association
California Bankers Association
California Beer and Beverage Distributors
California Broadband & Video Association
California Broadcasters Association
California Building Industry Association
California Business Properties Association
California Chamber of Commerce
California Construction and Industrial Materials Association
California Farm Bureau
California Fresh Fruit Association
California Food Producers
California Forestry Association
California Fuels and Convenience Alliance
California Grocers Association
California Hispanic Chamber of Commerce
California Hospital Association
California Hotel + Lodging Association
California Kidney Care Alliance
California Land and Title Association

California Life Sciences
California Manufacturers and Technology Association
California Restaurant Association
California Retailers Association
California Strawberry Commission
California Taxpayers Association
California Trucking Association
California Walnut Commission
California's Credit Union
CALinnovates
Carlsbad Chamber of Commerce
Central Valley Business Federation
Chamber San Mateo County
Chino Valley Chamber of Commerce
Citrus Heights Chamber of Commerce
Civil Justice Association of California
Colusa County Chamber of Commerce
Computer & Communications Industry Association
Connected Commerce Council
Consumer Brands Association
Corona Chamber of Commerce
CTIA
Dairy Institute Council
Developers Alliance
Distilled Media
Elevate California
Family Business Association
Fontana Chamber of Commerce
Fremont Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Ontario Business Council
Greater Riverside Chambers of Commerce
Hispanic Chambers of Commerce San Francisco
Hollywood Chamber of Commerce
Housing Contractors of California
International Franchise Association
La Cañada Flintridge Chamber of Commerce
Laguna Niguel Chamber of Commerce
Lodi Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Altos Chamber of Commerce

Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation
Mission Viejo Chamber of Commerce
Motion Picture Association
Mountain View Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
National Association of Mutual Insurance Companies
Nisei Farmers League
North San Diego Business Chamber
Oceanside Chamber of Commerce
Orange County Business Council
Personal Insurance Federation of California
Rancho Cucamonga Chamber of Commerce
Sacramento Metropolitan Chamber of Commerce
San Diego Regional Chamber of Commerce
San Francisco Chamber of Commerce
San José Chamber of Commerce
San Mateo County Economic Development Association
San Juan Capistrano Chamber of Commerce
Santa Ana Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santa Maria Valley Chamber of Commerce
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Southwest California Legislative Council
Storybooth
StreamStakes
Technology Industry Association of California
TechNet
Temecula Valley Chamber of Commerce
Torrance Chamber of Commerce
Tri County Chamber Alliance
Tulare Chamber of Commerce
Upland Chamber of Commerce
Valley Industry and Commerce Association
West Ventura County Business Alliance
Western Plant Health Association
Western Wood Preservers Institute
Yorba Linda Chamber of Commerce
Two individuals

RELATED LEGISLATION

Pending legislation:

SB 1074 (Wiener, 2026) prohibits an online platform owned or controlled by an entity with a market capitalization or private valuation of $1 trillion or more from (1) engaging in self-preferencing conduct, or (2) restricting the independence or interoperability of business users or customers on the platform; and authorizes persons harmed and specified public prosecutors to bring an action to enforce a violation of these prohibitions. SB 1074 is pending before the Senate Privacy, Digital Technologies, and Consumer Protection Committee.

SB 295 (Hurtado, 2025) establishes the California Preventing Algorithmic Collusion Act of 2025, which prohibits a person from using or distributing any pricing algorithm that uses, incorporates, or was trained with competitor data and requires a person using a pricing algorithm to recommend or set a price or commercial term to make certain commercial disclosures. SB 295 is pending on the Assembly Floor, having failed passage and granted reconsideration.

Prior legislation:

AB 1345 (Bauer-Kahan, 2025) would have made it unlawful, under the Cartwright Act, for a person to take actions in restraint of trade or attempt to restrain the free exercise of competition or production, or to create or maintain a monopoly or monopsony in any part of trade or commerce. AB 1345 died in the Assembly Judiciary Committee.

AB 325 (Aguiar-Curry, Ch. 338, Stats. 2025) clarified that using a common pricing algorithm to further a price-fixing conspiracy violates the Cartwright Act, and clarified the Cartwright Act's pleading standard.

ACR 95 (Cunningham, Res. Ch. 147, Stats. 2022) is discussed in Comment 5 of this analysis.

PRIOR VOTES

Assembly Floor (Ayes 44, Noes 17)
Assembly Appropriations Committee (Ayes 11, Noes 4)
Assembly Judiciary Committee (Ayes 9, Noes 3)

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