CONCURRENCE IN SENATE AMENDMENTS
AB 1776 (Aguiar-Curry)
As Amended August 27, 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 to *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 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.

3) 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.

4) 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 *before* the filing of the complaint.

5) 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.

6) Exempts conduct when subject to an exclusive franchise, contract, license, or permit authorized by state law that is granted and supervised by a local governmental agency.

7) Exempts conduct required or authorized pursuant to state or federal law.

8) Limits enforcement of the bill to the Attorney General or a district attorney.

9) Clarifies that claims brought under this bill does not serve as a predicate to a claim Unfair Competition Law except as specific.

10) Makes various findings and declarations.

Senate Amendments

1) Narrow enforcement of the bill to the Attorney General or a district attorney.

2) Limit the scope of the bill to attempts to monopolize or monopsonize a part of trade or commerce.

3) *Adopt several exemptions to the bill's prohibitions for conduct authorized or required by government entities.*

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 enacts *portions of* 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 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. *The bill limits enforcement of these prohibitions to the Attorney General or district attorneys.*

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.
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> 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.
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> 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.

> 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.
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> 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.
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> 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 Senate Appropriations Committee, potentially significant costs to the Department of Justice if the Attorney General (AG) brings civil actions for violations of the Cartwright Act. Monopolization is only available under the federal Sherman Act. If the AG pursues monopolization under the Cartwright Act in state court, costs could be higher. (Unfair Competition Law Fund, Attorney General Antitrust Account).

Cost pressures of an unknown but potentially significant amount to the courts. Actual costs will depend on the number of new actions created by this bill and the amount of court time needed to resolve each case. Complex cases, an action is provisionally a complex case if it involves antitrust or trade regulations claims, are more time consuming. An eight-hour court day costs approximately $10,500 based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator, administrative staff, and jury per-diems. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources. The FY 2026–27 Budget appropriated $70 million General Fund for this purpose (Trial Court Trust Fund, General Fund).

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

ASSEMBLY FLOOR: 44-17-19
YES: Addis, Aguiar-Curry, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Mark González, Haney, Harabedian, Hart, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Pellerin, Quirk-Silva, Rogers, Schiavo, Schultz, Sharp-Collins, Solache, Stefani, Ward, Wicks, Zbur, Rivas
NO: Ávila Farías, Davies, DeMaio, Dixon, Ellis, Flora, Jeff Gonzalez, Hadwick, Hoover, Johnson, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa, Wallis
ABS, ABST OR NV: Ahrens, Alanis, Alvarez, Castillo, Chen, Gallagher, Gipson, Irwin, Nguyen, Patel, Petrie-Norris, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Blanca Rubio, Soria, Valencia, Wilson

UPDATED

VERSION: August 27, 2026

CONSULTANT: Nicholas Liedtke / JUD. / (916) 319-2334 FN: 0004438