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

AB 325 (Aguiar-Curry)
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Hearing Date: July 1, 2025
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Cartwright Act: violations

DIGEST

This bill clarifies that using a common pricing algorithm to further a price-fixing conspiracy violates the Cartwright Act, and clarifies the Cartwright Act's pleading standard.

EXECUTIVE SUMMARY

California's primary antitrust law, the Cartwright Act, prohibits businesses from restraining trade, fixing prices, and reducing competition. The Cartwright Act was enacted in 1907 and has remained in substantially the same form ever since. In the same timeframe, we have moved from a largely pre-electric society to one where most people own a tiny combination computer-telephone-camera-alarm clock-calculator-television-dictionary-etc. that they can keep in their pockets.

The fast pace of technological advancements has been a boon to licit and illicit actors alike. Developments in the online space—such as artificial intelligence, algorithms, and distributed ledger—make it easier for bad actors to hide their tracks, or to bury illegitimate activities under layers of supposedly neutral computer processes. In the past several years, there have been numerous allegations that businesses have used algorithms and AI to do what groups of humans are prohibited from doing, including engaging in hiring discrimination, violate copyrights, and—relevant to this bill—fix prices.

This bill is intended to provide clarity in the Cartwright Act's application to "algorithmic collusion," through which persons manipulate market forces through the use of a shared pricing algorithm. First, the bill provides that it is unlawful for a person to use or distribute a common pricing algorithm as part of a contract, combination in the form of a trust, or conspiracy to restrain grade or commerce in violation of the

Cartwright Act. Second, the bill provides that it is unlawful for a person to use or distribute a pricing algorithm if the person coerces another person to set or adopt a recommended price or commercial term for the same or similar products or services in the jurisdiction of this state. The bill also clarifies the type of factual allegations necessary to state a claim in a complaint for a Cartwright Act violation.

This bill is sponsored by the American Economic Liberties Project, Economic Security California Action, and TechEquity Action, and is supported by over 40 organizations. This bill is opposed by a coalition of CalChamber and 15 other organizations, and the California Business Roundtable.

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) Makes illegal, under the Sherman Act, 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.)

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. (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 any of the following purposes:
    a) To create or carry out restrictions in trade or commerce.
    b) To limit or reduce the production, or increase the price of merchandise or of any commodity.
    c) To prevent competition in manufacturing, making, transportation, sale, or purchase of merchandise, produce, or any commodity.
    d) To fix at any standard or figure, whereby its price to the public or consumer shall be in any manner controlled or established, any article or commodity of

merchandise, produce, or commerce intended for sale, barter, use, or consumption in the state.

e) To make or enter into or execute or carry out any contracts, obligations, or agreements of any kind or description, by which they do all or any combination of the following:
   i. Bind themselves not to sell, dispose of, or transport any article or any commodity or any article of trade, use, merchandise, commerce, or consumption below a common standard figure, or fixed value.
   ii. Agree in any manner to keep the price of such article, commodity, or transportation at a fixed or graduated figure.
   iii. Establish or settle the price of any article, commodity, or transportation between them or themselves and others, so as directly or indirectly to preclude a free and unrestricted competition among themselves, or any purchasers or consumers in the sale or transportation of any such article or commodity.

f) Agree to pool, combine, or directly or indirectly unite any interests that they may have connected with the sale or transportation of any such article or commodity, that its price in any manner might be affected. (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 a violation of the Cartwright Act is a conspiracy against trade, and that knowingly engaging or participating in such a conspiracy is a crime, punishable as follows:
    a) If the violator is a corporation, by a fine of not more than $1 million or the amount under (c), whichever is greater.
    b) If the violator is an individual, by imprisonment pursuant to Penal Code section 1170(h) for one, two, or three years; by imprisonment for up to one year in a county jail; by a fine of not more $250,000 or the amount under (c), whichever is greater; or by both a fine and imprisonment.
    c) If any person derives pecuniary gain from a violation of the Cartwright Act, or the violation results in pecuniary loss to a person other than the violator, the violator may be fined not more than twice the amount of the gain or loss. (Bus. & Prof. Code, § 16755(a).)

10) Provides that all moneys received by a court in payment of any fine or civil penalty imposed pursuant to 9) shall be paid to the State Treasury, if the Attorney General initiated and prosecuted the action; or to the treasurer of the county in which the prosecution is conducted, if the district attorney initiated and prosecuted the action. In an action prosecuted jointly by the Attorney General and a district attorney, the amounts shall be paid in the proportion agreed upon by the prosecuting entities. (Bus. & Prof. Code, § 16755(c).)

11) Provides that, in any indictment, information, or complaint for any offense under the Cartwright Act, it is sufficient to state the purpose or effects of the trust or combination, and that the accused is a member of, acted with, or in pursuance of it, or aided and assisted in carrying out its purposes, without giving its name or description, or how, when, and where it was created. (Bus. & Prof. Code, § 16756.)

This bill:

1) Adds a new section to the Cartwright Act, set forth in 2)-5), below.

2) Defines the following terms:
    a) "Antitrust laws" means the provisions of Part 2 of Division 7 of the Business and Professions Code.
    b) "Commercial term" includes, without limitation, any of (1) level of service, (2) availability, or (3) output, including quantities of products produced or distributed or the amount or level of service provided.
    c) "Common pricing algorithm" means any process or rule, including a process derived from machine learning or other artificial intelligence techniques, that processes the same or substantially similar data to recommend or set a price

or commercial term using the same or performing a substantially similar function.

d) "Distribute," "distribution," and "distributing" include selling, licensing, providing access to, or otherwise making available by any means, including through a subscription or the sale of a service.
e) "Person" has the same meaning as defined in Business and Professions Code section 16702 and does not include the end consumer of a product or service.
f) "Price" means the amount of money or other thing of value, whether tangible or not, expected, required, or given in payment for any product or service, including compensation paid to an employee or independent contractor for services provided.

3) Provides that it shall be unlawful for a person to use or distribute a common pricing algorithm as part of a contract, combination in the form of a trust, or conspiracy to restrain trade or commerce.

4) Provides that it shall be unlawful for a person to use or distribute a common pricing algorithm if either of the following occurs:
   a) The person distributes the common pricing algorithm to two or more persons with the intent that it be used to set or recommend prices or commercial terms of the same or similar products or services and the person coerces any person to set or adopt a recommended price or commercial term of the same or similar products or services in the jurisdiction of this state.
   b) The person uses the common pricing algorithm to set or recommend prices or commercial terms of products or services and either (1) knows or should know that they are adhering to, or participating in, a scheme to fix the price or commercial term of the same or similar product or service in the jurisdiction of this state, or (2) coerces any person to set or adopt a recommended price or commercial term for the same or similar products or services in the jurisdiction of this state.

5) Provides that nothing in 2)-4) shall impair or limit the applicability of antitrust laws.

6) Provides that, notwithstanding any other law, in a complaint for any violation of the Cartwright Act, it is sufficient to contain factual allegations demonstrating that the existence of a contract, combination in the form of a trust, or conspiracy to restrain trade, and the complaint shall not be required to allege facts tending to exclude the possibility of independent action.

COMMENTS

1. Author's comment

According to the author:

> It doesn't matter if price fixing happens behind closed doors or through artificial intelligence, it's wrong either way. Californians face an affordability crisis, with basic needs like food and housing increasingly priced beyond their means. Unknown to consumers, digital tools are accelerating the "price crisis," resulting in higher costs and fewer choices. AB 325 updates California's antitrust laws to address modern technologies being used for illegal price fixing. This bill makes it clear that using digital pricing algorithms (like computer software and apps) to coordinate prices among competitors is just as illegal as traditional price fixing. AB 325 will help enforce existing laws through common sense guardrails because California shouldn't tolerate practices that exploit working families, the very families that already can't afford the high costs of living.

2. Background on price-fixing algorithms

"Pricing algorithms are intended to help firms determine optimal pricing on a near real-time basis."[1] A human setting prices has to (1) take in new information, (2) analyze the effect of the new information on their own prices, and (3) determine whether to raise or lower prices, and by how much. A pricing algorithm, on the other hand, often uses artificial intelligence and machine learning "to weigh variables such as supply and demand, competitor pricing, and delivery time," along with any other factors its programmers have baked into the formula, and can set new prices nearly instantaneously in response to new information.[2] Some studies suggest that pricing algorithm can result in higher prices for consumers,[3] particularly when one seller is using a more sophisticated reinforced learning algorithm and its competitors are using a rule-based algorithm that incorporates that seller's price as an input.[4]

As algorithms grew more expansive in the 2010s, scholars raised concerns that algorithms—particularly reinforced learning algorithms—could "learn" to collude with competitors' pricing algorithms, thereby keeping prices higher than pure market forces would warrant.[5]

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[1] Bertini & Koenigsberg, *The Pitfalls of Pricing Algorithms*, Harvard Business Review (Sept.-Oct. 2021), *available at* https://hbr.org/2021/09/the-pitfalls-of-pricing-algorithms. All links in this analysis are current as of June 26, 2025.
[2] *Ibid.*
[3] Calvano, et al., *Artificial Intelligence, Algorithmic Pricing, and Collusion* (2020) 110 Am. Econ. Rev. 3267.
[4] Wang, et al., *Algorithms, Artificial Intelligence and Simple Rule-Based Pricing* (Jun. 29, 2022) SSRN, p. 40, *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4144905.
[5] *Calvano*, *supra*, at p. 3268.

3. State and federal antitrust laws

Section 1 of the federal Sherman Act[6] prohibits concerted action that restrains trade; Section 2 prohibits concerted action and independent action, but "only when it threatens actual monopolization," a higher bar than restraint of trade. [7] "[Horizontal] price-fixing agreements are unlawful per se" under Section 1's prohibition on concerted action.[8] This per se bar extends to any "combination formed for the purpose and with the effect of raising, depressing, fixing, pegging, or stabilizing the price of a commodity" in interstate or foreign commerce.[9]

Similarly, California's Cartwright Act " 'generally outlaws any combinations or agreements which restrain trade or competition or which fix or control prices.' "[10] Under the Cartwright Act,[11] "agreements fixing or tampering with prices are illegal per se."[12] These prohibitions "rest on the premise that unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions."[13] "The [A]ct's principal goal is the preservation of consumer welfare" through the maintenance of competitive markets.[14]

A violation of the Cartwright Act requires "a combination of capital, skill or acts by two or more persons" that seeks to achieve an anticompetitive end.[15] A complaint pursuant to the Act must allege: "(1) the formation and operation of the conspiracy, (2) the wrongful act or acts done pursuant thereto, and (3) the damage resulting from such act or acts."[16] The Cartwright Act carries criminal penalties for a violation and permits persons injured by a violation, or various public prosecutors on behalf of persons injured, to file a civil action for damages against a violator.[17]

4. Antitrust law and algorithms

It is a longstanding antitrust principle that "competitors cannot simply get around antitrust liability by acting through a third-party intermediary or joint venture."[18] In

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[6] 15 U.S.C. §§ 1-7.
[7] *Copperweld Corp. v. Independence Tube Corp*. (1984) 467 U.S. 752, 767.
[8] *U.S. v. Socony-Vacuum Oil Co.* (1940) 310 U.S. 150, 218.
[9] *Id.* at p. 223.
[10] *Pacific Gas & Electric Co. v. County of Stanislaus* (1997) 16 Cal.4th 1143, 1147.
[11] Bus. & Prof. Code, pt. 2, ch. 2, §§ 16700 et seq.
[12] *Oakland-Alameda County Builders' Exchange v. F. P. Lathrop Constr. Co.* (1971) 4 Cal.3d 354, 363.
[13] *Marin County Bd. of Realtors, Inc. v. Palsson* (1976) 16 Cal.3d 920, 935 (internal quotation marks omitted).
[14] *In re Cipro Cases I & II* (2015) 61 Cal. 4th 116, 136.
[15] Bus. & Prof. Code § 16720.
[16] *Qualimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 48-49.
[17] Bus. & Prof. Code, §§ 16750-16761.
[18] *Am. Needle, Inc. v. Nat'l Football League* (2010) 560 U.S. 183, 202 (cleaned up).

the same vein, if several competitors conspire to keep prices artificially high, the fact that an algorithm, rather than a person, sets the specific prices does not appear to relieve them of liability.

Of course, existing antitrust laws do not reach anticompetitive behavior absent an agreement to restrain trade.[19] This has led some to question to what extent antitrust laws apply when a price-setting algorithm takes in data that competitors would normally keep private and recommends prices to those competitors on the basis of those inputs. In theory, then, a user could be engaging in anticompetitive price-fixing without realizing it, and in the absence of a conspiracy, there would be no antitrust violation.

Former Federal Trade Commission (FTC) Chairwoman Maureen K. Ohlhausen disagrees. She argues that the use of a vendor that provides algorithmic pricing services derived from confidential pricing information is merely an updated version of a long-prohibited practice, known as the "hub-and-spoke conspiracy": "[j]ust as the antitrust laws do not allow competitors to exchange competitively sensitive information directly in an effort to stabilize or control industry pricing, they also prohibit using an intermediary to facilitate the exchange of confidential business information."[20] To understand why this is such an easy call, Ohlhausen recommended replacing "algorithm" with " 'a guy named Bob' ":

> Is it ok for a guy named Bob to collect confidential price strategy information from all the participants in a market, and then tell everybody how they should price? If it isn't ok for a guy named Bob to do it, then it probably isn't ok for an algorithm to do it either.[21]

Consistent with this approach, the U.S Department of Justice (USDOJ) and several states, including California, have filed an antitrust lawsuit against RealPage and several property management companies, alleging that RealPage is running a hub-and-spoke price-fixing conspiracy.[22] According to the First Amended Complaint, RealPage's Vice President of Revenue Management Advisory Services described RealPage's benefit to landlords thusly: " ***'[T]here is greater good in everybody succeeding versus essentially trying to compete against one another*** in a way that actually keeps the entire industry

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[19] *E.g.*, *Quelimane Co.*, *supra*, 19 Cal.4th at p. 49.
[20] Remarks of Maureen K. Ohlhausen, Acting Chairwoman, U.S. FTC, "Should We Fear The Things That Go Beep In the Night? Some Initial Thoughts on the Intersection of Antitrust Law and Algorithmic Pricing," Remarks from the Concurrences Antitrust Financial Sector Conference (May 23, 2017), p. 10, *available at* https://www.ftc.gov/news-events/news/speeches/should-we-fear-things-go-beep-night-some-initial-thoughts-intersection-antitrust-law-algorithmic.
[21] *Ibid.*
[22] *See U.S. v. RealPage, Inc.*(M.D.N.C.) Case No. 1:24-cv-00710-LCB-JLW.

down.' "[23] At the time this analysis was released, RealPage's motion to dismiss was pending before the court.

One other factor that may be relevant in determining whether the use of a pricing algorithm violates antitrust law, in the absence of an overt agreement by competitors to do so, is whether the algorithm is actually *setting* prices or just offering up a price as a possible option. To date, federal courts have dismissed antitrust suits against algorithmic pricing software where the inputs were public information and the individual users did not agree to be bound by the pricing recommendations.[24]

5. This bill adds algorithm-specific provisions to the Cartwright Act

As discussed above in Comment 4, the Cartwright Act already extends to conspiracies in which prices are fixed, or the aims of the conspiracy are otherwise accomplished, through the use of an algorithm. Nevertheless, this bill is intended to provide more clarity to how a shared pricing algorithm can be used as a tool in a price-fixing scheme. The bill addresses only "common pricing algorithms," i.e., a single algorithm making recommendations for multiple persons; it does not affect separate algorithmic products that happen to incorporate the same data.

First, the bill expressly states that it is unlawful for a person to use or distribute a common pricing algorithm as part of a contract, combination in the form of a trust, or conspiracy to restrain grade or commerce in violation of the Cartwright Act. Second, the bill provides that it is unlawful for a person to use or distribute a pricing algorithm if the person coerces another person to set or adopt a recommended price or commercial term for the same or similar products or services in the jurisdiction of this state. "Coercion" arises when the person imposes negative consequences for failing to accept the desired price or commercial term.[25] Coercion can encompass a wide range of behavior, including imposing a financial penalty or withholding a financial benefit, de-prioritizing or hiding a person's listings or posts, or tweaking the algorithm to penalize the person's interests.[26]

The bill's provisions apply to both the distributor and the user of the algorithm. The bill does not extend to the end consumer of a product or service, but it does extend to

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[23] First Amended Complaint, Dkt. No. 47, *U.S. v. RealPage, Inc.*(M.D.N.C.) Case No. 1:24-cv-00710-LCB-JLW, ¶ 2 (emphasis in original).
[24] *See Gibson v. Cendyn Group* (D. Nev. May 8, 2024) Case No. 2:23-cv-00140-MMD-DJA, 2024 WL 2060260; *Cornish-Adebiyi v. Caesar's Entertainment, Inc.* (D.N.J. Sept. 30, 2024) Case No. 1:23-CV-02536-KMW-EAP, 2024 WL 4356188.
[25] *E.g.*, *Kolling v. Dow Jones & CO.* (1982) 137 Cal.App.3d 709, 720 ("[I]t is now established that the 'conspiracy' or 'combination' necessary to support an antitrust action can be found where a supplier or producer, by coercive conduct, imposes restraints to which distributors voluntarily adhere.").
[26] *See id.* at p. 721 ("If, for example, the supplier takes 'affirmative action' to bring about the involuntary acquiescence of its dealers, an unlawful combination exists."); *see also* CACI No. 3408 (Nov. 2024) ("Vertical Restraints—'Coercion' Explained").

sellers and resellers—using an algorithm to control the resale market, for example, would be covered by this bill. The author has committed to continue working on the definition of "common pricing algorithm" to make sure it is sufficiently precisely tailored so as to avoid roping in bespoke algorithms or algorithms that are not used to fix prices.

6. This bill clarifies the pleading standard for Cartwright Act claims

As discussed above in Comment 3, the Sherman Act and the Cartwright Act are similar but not identical. Because of those similarities, courts often turn to Sherman Act case law for guidance on how to apply the Cartwright Act.[27] This bill is intended, however, to prevent courts from applying federal case law addressing how to plead a Sherman Act claim to the question of how to plead a Cartwright Act claim.

The United States Supreme Court, in *Bell Atlantic Corp. v. Twombly*, addressed the facts necessary to plead a claim under Section 1 the Sherman Act (Section 1) under Rule 8 of the Federal Rules of Civil Procedure.[28] *Twombly* holds that, "when allegations of parallel conduct are set out in order to make a [Section 1] claim, they must be placed in a context that raises a suggestion of a preceding agreement, not merely parallel conduct that could just as well be an independent action."[29] In other words, under *Twombly*, a plaintiff cannot proceed to the discovery stage with only allegations of parallel conduct that permit an inference of a price-fixing agreement; the plaintiff must be able to plead facts specifically tending to show that such an agreement existed. Courts often describe the *Twombly* pleading standard for Section 1 claims as requiring, in addition to allegations of competitors' parallel conduct, "plus factors" that provide " 'something more,' 'some further factual enhancement,' a 'further circumstance pointing toward a meeting of the minds' of the alleged conspirators."[30]

California has a different pleading standard. While a federal court will examine a complaint to determine whether the facts pleaded are plausible,[31] a California court must "assume the truth of the properly pleaded factual allegations, facts that reasonably can be inferred from those expressly pleaded[,] and matters of which judicial notice has been taken."[32] Additionally, a California court must construe pleadings liberally, "with a view to substantial justice between the parties."[33] Accordingly, while the Sherman and Cartwright Acts can be interpreted in tandem in some respects, imposing a "plus factor" pleading standard in Cartwright Claims would improperly overlook California's longstanding pleading rules.

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[27] *E.g.*, *Corwin v. Los Angeles Newspaper Service Bureau, Inc.* (1971) 4 Cal.3d 842, 852-853.
[28] 550 U.S. 544, 554-556.
[29] *Id.* at p. 557.
[30] *In re Musical Instruments and Equipment Antitrust Litig.* (9th Cir. 2015) 798 F.3d 1186, 1193.
[31] *See Ashcroft v. Iqbal* (2009) 556 U.S. 662, 680.
[32] *Ivanoff v. Bank of America, N.A.* (2017) 9 Cal.App.719, 725.
[33] Code Civ. Proc., § 452.

This bill is intended to prevent the "plus factor" pleading standard from being imported into Cartwright Act context by expressly stating that a Cartwright Act complaint need not allege facts tending to exclude the possibility of independent action. The bill's language still affirms a plaintiff's need to plead factual allegations demonstrating that the existence of a contract, combination in the form of a trust, or conspiracy to restrain trade is plausible, so this should not open the floodgates to frivolous antitrust suits where the defendants demonstrate no signs of engaging in a conspiracy. Instead, this language should prevent inapplicable federal precedent from seeping into California law.

7. Arguments in support

According to the bill's sponsors:

> Price fixing has long been illegal under California and Federal antitrust laws. However, it remains difficult to detect, especially as technological advancements enable collusion without direct communication. Algorithmic pricing tools now allow businesses to coordinate prices covertly, using third-party software to drive up prices and reduce competition. In some cases, providers of third-party pricing tools may pressure independent businesses to surrender pricing control by offering incentives, such as promotions or market research, that are hard to refuse without forfeiting a competitive advantage. Despite the clear illegality of these practices, enforcing against this activity is harder than ever due to the current law requiring an extremely high bar to bring a case, sometimes requiring lengthy and resource-intensive court battles. AB 325 will codify best practices that the courts have already begun to coalesce around to allow them to better detect what constitutes an illegal agreement, bringing clarity to our laws and easing the path to enforcement.
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> This bill targets the most serious antitrust violations while affirming that traditional market analysis remains legal. It holds bad actors accountable for coercing others to follow algorithm-based pricing (e.g., a wholesaler pressuring a retailer), and aligns the law with established legal precedent that price fixing can be inferred from the use of such algorithms. It also addresses advanced digital collusion that harms market fairness, limits competition, and raises consumer prices. By setting clear standards and closing loopholes, it equips regulators and courts to protect fair, competitive markets.

8. Arguments in opposition

According to a coalition of the bill's opponents:

> AB 325 remains as serious a concern, in part because there are other related bills that would address the liability components of these issues, and existing law

imposes significant liability on the misuse of pricing algorithms as well. When combined with the bill's broad and vague standards, **AB 325's** would invariably have a chilling effect on the use of such technologies among businesses, particularly smaller ones who rely more heavily on these technologies to be more competitive with larger businesses that have access to far more data.

We are particularly concerned by the bill's use of the word "coerces'. Coercion is not an antitrust concept and we are unaware of any case, investigation or allegation of an algorithm developer forcing or coercing others to accept pricing recommendations based on an algorithm. In addition, the language of Section (b) is vague because it does not connect coercion with a common pricing algorithm.

We continue to believe that the definition of a "common pricing algorithm" is too broad. The way the definition is currently written, it would apply to completely distinct algorithms - and other types of pricing software - if they are trained on the same or similar data. Any algorithm designed to recommend prices will be trained on the same or similar data as any other pricing algorithm, such as historic pricing and supply and demand information, meaning virtually any algorithm will be covered by the definition, even if designed independently and even if it makes pricing recommendations that are different from other algorithms.

SUPPORT

American Economic Liberties Project (co-sponsor)
Economic Security California Action (co-sponsor)
TechEquity Action (co-sponsor)
AIDS Healthcare Foundation
Americans for Financial Reform
California Federation of Labor Unions
California Low-Income Consumer Coalition
California Nurses Association
California Public Banking Alliance
California School Employees Association, AFL-CIO
CAMEO Network
Center on Policy Initiatives
Consumer Federation of California
Contra Costa Senior Legal Services
Courage California
Democratic Policy Network
East Bay YIMBY
Economic Security California Action
Ella Baker Center for Human Rights
End Poverty in California

Equal Rights Advocates
Fair Housing Advocates of Northern California
Grow the Richmond
Institute for Local Self-Reliance
Kapor Center
Mountain View YIMBY
Napa-Solano for Everyone
National Consumer Law Center
Northern Neighbors
Oakland Privacy
Peninsula for Everyone
PowerSwitch Action
San Francisco YIMBY
Santa Cruz YIMBY
Santa Monica Democratic Club
Santa Rosa YIMBY
SEIU California
SLOCo YIMBY
Small Business Majority
South Bay YIMBY
Tech Oversight California
UDAW/AFSCME Local 3930
UFCW Western States Council
United Latino Voices of Contra Costa County
Ventura County YIMBY
Warehouse Worker Resource Center
Western Center on Law and Poverty
YIMBY Action
YIMBY Los Angeles

OPPOSITION

American Property Casualty Insurance Association
CalBroadband
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Fuels + Convenience Alliance
California Hospital Association
California Hotel & Lodging Association
California Restaurant Association
California Retailers Association
Civil Justice Association of California
Insights Association

National Association of Mutual Insurance Companies
Personal Insurance Federation of California
Software Information Industry Association
TechNet

RELATED LEGISLATION

Pending legislation:

SB 763 (Hurtado, 2025) increases the existing criminal penalties, and permits the Attorney General or a district attorney to seek civil penalties of up to $1 million, for a violation of the Cartwright Act. SB 763 is pending before the Assembly Judiciary Committee.

SB 384 (Wahab, 2025) establishes the Preventing Algorithmic Price Fixing Act, which prohibits a business from using a price-fixing algorithm, as defined, to set a price or supply level of a good or service. SB 384 is pending before the Assembly Judiciary 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 before the Assembly Judiciary Committee.

SB 52 (Pérez, 2025) prohibits the sale, licensing, or provision, to two or more persons, a rental pricing algorithm with the intent that it be used by two or more landlords in the same market to set or recommend specified rental terms, and prohibits the use of nonpublic competitor data in an algorithm used to set or recommend specified rental terms. SB 52 is pending before the Assembly Judiciary Committee.

Prior legislation:

SB 1154 (Hurtado, 2024) would have established the California Preventing Algorithmic Collusion Act of 2024, which was substantially similar to this bill. SB 1154 died in this Committee.

AB 2930 (Bauer-Kahan, 2024) would have prohibited a person or entity from using an automated decision tool, including an algorithm, in a way that results in algorithmic discrimination, as defined, in employment, educational, housing, and other contexts. AB 2930 died on the Assembly Floor.

AB 2230 (Bennett, 2024) would have established the Residential Housing Unfair Practices Act of 2023, which would have amended the Cartwright Act to expressly list

certain practices relating to the provision of housing. AB 2230 died in the Assembly Judiciary Committee.

AB 331 (Bauer-Kahan, 2023) was largely similar to AB 2930 (Bauer-Kahan, 2024) and would have prohibited a person or entity from using an automated decision tool, including an algorithm, in a way that results in algorithmic discrimination, as defined, in employment, educational, housing, and other contexts. AB 331 died in the Assembly Appropriations Committee.

AB 2224 (McCarty, 2022) would have required online real estate platforms, known as iBuyers, that use algorithms to determine the value of a property and make offers to purchase a home without the use of a mortgage or other type of financing, to work with a local real estate broker when selling and completing a sale of real property in California. AB 2224 died in the Senate Business, Professions and Economic Development Committee.

PRIOR VOTES:

Assembly Floor (Ayes 54, Noes 17)
Assembly Appropriations Committee (Ayes 11, Noes 3)
Assembly Privacy and Consumer Protection Committee (Ayes 10, Noes 2)
Assembly Judiciary Committee (Ayes 9, Noes 3)

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