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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair  
2025 - 2026 Regular Session

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### AB 325 (Aguiar-Curry) - Cartwright Act: violations

**Version:** June 19, 2025

**Urgency:** No

**Hearing Date:** July 14, 2025

**Policy Vote:** JUD. 11 - 2

**Mandate:** Yes

**Consultant:** Liah Burnley

**Bill Summary:** AB 325 provides that using a common pricing algorithm to further a price-fixing conspiracy violates the Cartwright Act. In the past several years, there have been numerous allegations that businesses have used algorithms and AI to fix prices.

#### Fiscal Impact:

- Department of Justice (DOJ) reports no fiscal impact. The department notes to staff that, while the impact of this bill would not pose a significant impact to the DOJ, as numerous bills this session may result in no significant impact to the DOJ, should an aggregate of these bills chapter, the DOJ would submit a workload BCP for additional resources to process the increase to the DOJ workload. Actual costs will depend on whether the Attorney General pursues enforcement actions, and, if so, the level of additional staffing DOJ needs to handle the related workload. If DOJ does not pursue enforcement as authorized by this bill, the department would likely not incur any costs.
- Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate civil actions and criminal charges. The fiscal impact of this bill to the courts will depend on many unknowns, including the number of cases filed and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. 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 and to increase the amount appropriated to backfill for trial court operations.
- Unknown, potentially significant costs (local funds) to the counties to incarcerate people for the crimes created by this bill. The average annual cost to incarcerate one person in county jail varies by county, but likely ranges from \$70,000 to \$90,000 per year. For example, in 2021, Los Angeles County budgeted \$1.3 billion for jail spending, including \$89,580 per incarcerated person. Actual incarceration costs to counties will depend on the number of convictions and the length of each sentence. Generally, county incarceration costs are not reimbursable state mandates pursuant to Proposition 30 (2012).
- Unknown, potentially significant costs (General Fund) to the Department of Corrections and Rehabilitation (CDCR) to incarcerate people for the crimes created by this bill. The Legislative Analyst's Office (LAO) estimates the average annual cost

to incarcerate one person in state prison is \$133,000. The annual cost of operating a mental health crisis bed at CDCR is around \$400,000. As part of the ongoing Coleman court case, CDCR has been incurring fines monthly since April 2023 for failing to reduce vacancy rates for five mental health classifications. The state has paid over \$200 million in fines to date, and is still accruing fines. Thus, if even if just one person is sentenced to state prison for one year under this bill, it will add significant costs pressures to CDCR.

**Background:** California's primary antitrust law, the Cartwright Act, prohibits businesses from restraining trade, fixing prices, and reducing competition. As explained in the Senate Judiciary Committee Analysis of this bill, pricing algorithms are intended to help firms determine optimal pricing on a near real-time basis. 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. Some studies suggest that pricing algorithm can result in higher prices for consumers, 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. Concerns have been raised that algorithms—particularly reinforced learning algorithms—can “learn” to collude with competitors' pricing algorithms, thereby keeping prices higher than pure market forces would warrant.

**Proposed Law:**

- 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.
- Provides that it shall be unlawful for a person to use or distribute a common pricing algorithm if either of the following occurs:
  - 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; or,
  - 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.
- 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

- Defines the “Common pricing algorithm” as 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.

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