CONCURRENCE IN SENATE AMENDMENTS
CSA1 Bill Id:AB 325¶Author:(Aguiar-Curry)
As Amended Ver:September 5, 2025
Majority vote

SUMMARY

Major Provisions

1) Prohibits the use or distribution of a common pricing algorithm 1*) as part of a contract, combination in the form of a trust, or conspiracy to restrain trade or commerce or 2) if the person coerces another person to set or adopt a recommended price or commercial term recommended by the common pricing algorithm for the same or similar products or services in the jurisdiction of this state.*

2) Defines:

   a) "Commercial term" to include level of service, availability, and output, as specified.

   b) "Common pricing algorithm" as *any methodology, including a computer, software, or other technology, used by two or more persons, that uses competitor data to recommend, align, stabilize, set, or otherwise influence a price or commercial term.*

   c) "Distribute," "distribution," and "distributing" as selling, licensing, providing access to, or otherwise making available by any means, including through a subscription or the sale of a service.

   d) "Person" as defined under Business and Professions Code section 16702, which provides the term includes corporations, firms, partnerships, and associations existing or authorized under state, federal, or foreign law. "Person" does not include end consumers of a product or service.

   e) "Price" as 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 the bill does not impair or limit the applicability of antitrust law.

4) Provides, notwithstanding any other law, that in a complaint for a 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 or commerce is plausible, and the complaint shall not be required to allege facts tending to exclude the possibility of independent action.

Senate Amendments
Clarify when use or distribution of a common pricing algorithm constitutes a violation of law; amend definition of "common pricing algorithm."

COMMENTS

This bill aims to modernize California's antitrust laws to address the emerging threat of algorithmic price fixing, where multiple businesses use shared pricing algorithms—often powered by AI or machine learning—to coordinate prices, reduce competition, and inflate costs to consumers. It does so by amending the state's Cartwright Act to prohibit the distribution and use of certain shared pricing algorithms and by clarifying the legal standards for bringing enforcement actions under state law. Traditional antitrust law prohibits explicit agreements between competitors to fix prices. However, algorithmic tools now enable firms to engage in *tacit collusion*—coordinating pricing strategies without formal agreements—by delegating pricing decisions to a shared algorithm. These algorithms can process market data, adjust prices based on competitor behavior, and even punish deviation from coordinated pricing patterns, all in real time and without human intervention. As multiple companies adopt the same pricing tools, market competition may be undermined even absent direct communication. Federal agencies, including the Department of Justice (DOJ), have warned that algorithmic coordination may amount to a per se violation of the federal *Sherman Act*. Ongoing cases—such as those, for example, involving *RealPage*—raise allegations that competitors jointly using the same pricing software are effectively fixing prices. However, courts applying federal law have often dismissed such cases due to stringent pleading requirements.

What the bill does. To counter this form of anticompetitive behavior, the bill adds a new section to the *Cartwright Act* prohibiting the use or distribution of a common pricing algorithm if:

1) It is part of a contract, combination in the form of a trust, or conspiracy to restrain trade or commerce; or

2) *The person coerces another person to set or adopt a recommended price or commercial term recommended by the common pricing algorithm for the same or similar products or services in the jurisdiction of this state.*

A "common pricing algorithm" is defined as any *methodology, including a computer, software, or other technology, used by two or more persons, that uses competitor data to recommend, align, stabilize, set, or otherwise influence a price or commercial term.* The bill applies regardless of whether the underlying data is public or private, reflecting the understanding that even public data can enable collusion when processed similarly across competitors. The bill is structured to avoid interfering with ordinary or beneficial uses of pricing software. It targets only those situations where separate firms use shared algorithms, consistent with antitrust law's focus on preserving "independent centers of decisionmaking." Businesses that develop or use their own proprietary pricing tools remain unaffected.

A key feature of the bill is its reform of the pleading standard under the *Cartwright Act.* Under federal law, particularly after the Supreme Court's decision in *Bell Atlantic Corp. v. Twombly*, plaintiffs must allege facts that rule out independent conduct and show a "meeting of the minds"—a high burden that often leads to early dismissal, especially in algorithmic collusion cases. This bill explicitly rejects that heightened standard. Instead, it clarifies that under California law, a plaintiff need only allege plausible facts showing a contract, combination, or conspiracy in restraint of trade. Courts may not require allegations that exclude the possibility of independent parallel conduct. This makes it easier for legitimate claims to survive a motion to dismiss and reach discovery, where further evidence can be obtained. The bill preserves the

strong remedies already available under the Cartwright Act. Available penalties *under existing antitrust law* include treble damages, injunctive relief, attorney's fees, and in some cases, criminal sanctions.

According to the Author

It doesn't matter if price fixing happens behind closed doors or through artificial intelligence, its 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.

Arguments in Support

A broad coalition of organizations, representing consumers, workers, small businesses, and communities throughout California, explain their support of this measure:

> Price fixing—when two or more competing businesses agree to set prices, output, or other commercial terms—results in increased prices and reduced choice for consumers. Price fixing is anticompetitive, and has long been thought of as the "supreme evil" of fair competition laws. Currently, price fixing is already 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. Despite the clear illegality of these practices, enforcing against this activity is harder than ever due to current law requiring an extremely high bar to bring a case. This has led to the proliferation of price-fixing algorithms, further undermining fair competition and consumer protections.

The California Attorney General's Office supports this measure, stating that AB 325 helpfully clarifies the applicability of state antitrust law, the Cartwright Act, to common pricing algorithms:

> *California's Cartwright Act prohibits agreements between corporations to restrain trade, limit production, and fix prices or otherwise prevent competition. Modern digital tools like pricing algorithms can make it easier for bad actors to artificially inflate prices, restrict supply, and undermine fair market competition. To be clear, price fixing is illegal under existing law, but AB 325 simply makes it clear that using common pricing algorithms to fix prices among competitors is just as illegal as traditional price fixing methods under the Act. The bill also makes it unlawful for a person to use or distribute a common 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.*

Arguments in Opposition

A coalition of organizations, led by the California Chamber of Commerce, oppose *this measure*, challenging the principle that pricing algorithms are inherently problematic:

To the contrary, pricing algorithms are, in fact, extremely common tools that enable businesses to save money, improving efficiency by avoiding manual pricing, reducing costs for consumers, and making prices far more responsive to changes in supply and demand - and they can do so without involving any anti-competitive conduct. In contrast, price collusion (or price fixing) is problematic and is clearly illegal under current federal and state laws. Indeed, existing antitrust laws prohibit competitors from colluding on price in any manner, whether through using a pricing algorithm or otherwise. In other words, whether a price-fixing conspiracy is hatched by salespeople conspiring or computers running algorithms, collusion is collusion and is already effectively covered by existing law. To be clear, however, the use of a pricing algorithm does not inherently constitute price fixing. Retailers use pricing algorithms to ensure they are offering the most competitive prices to consumers. Realtors use them to help clients set home prices. Banks use them to set terms (e.g. rates and fees) for services. Hospitality, airlines, transportation network companies, utilities, ticket venues, and many others use them for dynamic pricing. The list goes on. All this bill does is remove a valuable tool for setting dynamic pricing and imposes significant costs on all businesses that use price algorithms, thereby reducing competition, rather than promoting it. In the end, this bill hurts not only businesses, taking them back to pre-technological times, but it hurts consumers, effectively doing away with price-comparison shopping and competitive/dynamic pricing by businesses seeking to earn their business.

If enacted, AB 325's reliance on incredibly broad, ill-defined terms and ambiguous standards will invariably muddy the distinction between permissible pricing algorithms and price fixing, creating significant confusion for businesses. For one thing, the bill's definition of "pricing algorithm" is so overly broad and vague that it captures any algorithm that uses a computational process. For another, AB 325 prohibits the use or distribution of any "pricing algorithm" that uses, incorporates, or was trained on "nonpublic competitor data." "Nonpublic competitor data", however, is not actually limited to nonpublic information. Rather, even the use of a competitor's public prices could be deemed "nonpublic competitor data" if the data is later determined to have not been "widely available" or "easily accessible" to the public. Of course, what is considered widely available or easily accessible to the public is entirely unclear as the bill is currently drafted. These are just two (of many) examples of definitional defects with the proposed statutory language in AB 325.

FISCAL COMMENTS

According to the Senate Appropriations Committee, the fiscal impact is as follows:

1) 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.

2) 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.

3) 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).

4) 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.

VOTES:

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

ASM PRIVACY AND CONSUMER PROTECTION: 10-2-3
YES: Bauer-Kahan, Bennett, Bryan, Irwin, Lowenthal, Ortega, Pellerin, Ward, Wicks, Wilson
NO: DeMaio, Patterson
ABS, ABST OR NV: Dixon, Flora, Petrie-Norris

ASM APPROPRIATIONS: 11-3-1
YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache
NO: Dixon, Ta, Tangipa
ABS, ABST OR NV: Sanchez

ASSEMBLY FLOOR: 54-17-8
YES: Addis, Aguiar-Curry, Alvarez, Arambula, Ávila Farías, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Quirk-Silva, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Schiavo, Schultz, Sharp-Collins, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas
NO: Alanis, Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Macedo, Patterson, Sanchez, Ta, Tangipa, Wallis
ABS, ABST OR NV: Ahrens, Bains, Flora, Lackey, Petrie-Norris, Ramos, Blanca Rubio, Solache

UPDATED

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