

SENATE THIRD READING
SB 295 (Hurtado)
As Amended September 2, 2025
Majority vote

SUMMARY

Establishes the California Preventing Algorithmic Collusion Act of 2025, prohibiting the distribution or use of pricing algorithms that rely on confidential competitor data to set prices or commercial terms when knowingly used across competing firms.

Major Provisions

- 1) Prohibits a person from distributing a pricing algorithm, or making pricing recommendations based on such an algorithm, to two or more competitors with the intent or reasonable expectation that the algorithm will be used to set prices or commercial terms of a good, commodity, product, rental property, or service in the same market, if the person knows or should know that the algorithm processes nonpublic competitor data.
- 2) Prohibits a person from using a pricing algorithm, or recommendations generated by such an algorithm, to set prices or commercial terms if the person knows or should know:
 - a) The algorithm processes nonpublic competitor data;
 - b) That another competitor uses the same algorithm or its recommendations for similar purposes in the same market.
- 3) Defines "competitor data" as confidential, nonpublic, competitively sensitive information from two or more competitors in the same market, and limits "commercial terms" to include price, output, availability, occupancy level, lease term, level of service, rebates or discounts, and housing-related terms such as rent pricing.
- 4) Defines key terms including "person," "pricing algorithm," "competitors," "commercial term," "competitor data," and "distribute."
- 5) Provides that the prohibitions in 1) and 2) do not apply where all competitor data used in the algorithm was collected more than one year before the algorithm's use, recommendation, or distribution.
- 6) Authorizes the Attorney General, district attorneys, city attorneys, or county counsel to bring civil actions to enforce the Act and seek any of the following:
 - a) A civil penalty of up to \$25,000;
 - b) Restitution;
 - c) Punitive damages;
 - d) Injunctive relief; and
 - e) Reasonable attorney's fees and costs.

- 7) Directs courts assessing penalties to consider relevant factors, including the nature, duration, and willfulness of the misconduct, the number of violations, and whether the defendant cooperated with the investigation.
- 8) Establishes an affirmative defense to liability for users, if the user demonstrates by a preponderance of the evidence that they exercised reasonable due diligence before using the recommendation, including, but not limited to obtaining written assurances from the distributor that they do not process competitor data.
- 9) Establishes how violations are counted:
 - a) For a person who distributes a pricing algorithm in violation of 1), each authorized user of the pricing algorithm constitutes a separate violation.
 - b) For a person who makes recommendations based on the use of the pricing algorithm in violation of 1), each instance in which the person makes a recommendation constitutes a separate violation.
 - c) For a person who uses the recommendation of a pricing algorithm in violation of 2), each calendar month of use constitutes a separate violation.
- 10) Provides that any contract violating the Act is void to the extent of the violation.
- 11) Clarifies that the Act supplements and does not limit the application of existing antitrust laws, including the Cartwright Act and certain provisions of the Insurance Code.
- 12) Provides that the bill does not apply to the development, distribution, output, or use of a credit score or other computational tool, as provided.

COMMENTS

Algorithmic price fixing refers to the use of software—often powered by artificial intelligence—to set or recommend prices in ways that result in coordinated outcomes between competitors without any formal agreement. Third-party vendors now offer pricing tools trained on large datasets, sometimes including nonpublic or sensitive market information, which can be deployed across competing firms. These tools can respond rapidly to market changes, discouraging price competition and creating uniform pricing—all while preserving the outward appearance of independent decision-making. The result is a technologically enabled form of price-fixing that achieves the same anticompetitive effects as traditional collusion, but without overt coordination, making it difficult to detect or prosecute under current antitrust law.

According to the Author

Technology is advancing faster than our laws, and SB 295, the California Preventing Algorithmic Collusion Act of 2025, ensures AI isn't used to manipulate markets and exploit consumers.

Traditionally, price-fixing required secret meetings between competitors. Today, algorithms do the colluding by analyzing competitor data, predicting behavior, and adjusting prices in near real-time. This creates a new form of price-fixing that's harder to detect but just as harmful.

The impact is real. Grocery prices have soared as a few corporations dominate the market. Rent prices are artificially inflated by algorithmic tools coordinating hikes among landlords. Online and travel industries use AI-driven pricing to squeeze consumers. Without action, these trends will only worsen. SB 295 stops AI-driven collusion before it becomes the norm. It bans pricing algorithms from using competitor data to fix prices, mandates transparency from companies using these tools, and gives the Attorney General the power to enforce violations.

California has led in innovation and consumer protection and we must continue to lead. Unchecked AI pricing will erode competition, drive up costs, and harm consumers.

Arguments in Support

The bill's sponsors, the AIDS Healthcare Foundation, explains its support of the measure:

The bill defines competitor data and makes it clear that the prohibition only applies when the person knows that the algorithm uses or incorporates competitor data. Civil enforcement of this prohibition lies with the Attorney General or a district attorney.

While the bill is not specific to any industry, it is the use of algorithms in the setting of rental prices that best illustrates the problem that SB 295 seeks to address.

The State of California has a massive problem with people who are homeless or at risk of homelessness. More than 187,000 Californians are homeless, 44% of Californians rent rather than own their homes, 56% of renter households are rent burdened (spending 30% of their income on rent) and 30% are severely rent burdened (spending 50% of their income on rent). According to ipropertymanagement.com, the fair market rent for a 2 bedroom in California has increased by 31% over the past 5 years.

Exacerbating this problem is the recent adoption of algorithms offered by software companies that provide landlords with non-public competitively sensitive data to set rental rates that promise revenue growth even in a down market. Texas-based RealPage is the national leader in algorithmic rent-setting software, promising "to drive outperformance by 2%-7%" through their YieldStar and AI Revenue Management (AIRM) software.

AIRM and YieldStar collect data, such as rental applications, new leases, renewals, concessions, amenities and occupancy rates, directly from competing landlords and use it to generate price recommendations for their clients. They then make it easier for those clients to accept price recommendations than to decline them.

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Rather than waiting years for litigation by USDOJ, as well as similar litigation in Arizona and the District of Columbia, to wend their way through the courts, SB 295 amends state law to expressly prohibit the use of algorithmic software to set prices, including rates for rental housing. Every day we wait to stop this pernicious practice the greater harm will befall California renters.

Arguments in Opposition

The opposition coalition, led by the Chamber of Commerce, explain their opposition to what they describe as the "mistaken presumption that pricing algorithms are inherently problematic, if not unlawful." As they explain:

On the contrary, pricing algorithms are extremely common, widely used, tools that enable businesses to enhance efficiencies by avoiding manual pricing, saving money and lowering costs for consumers, and making prices far more responsive to changes in supply and demand - all without engaging in any anti-competitive conduct.

In contrast, price collusion (or price fixing) – whether by humans or machines —is plainly illegal under current federal and state laws, including the federal Clayton Act and the California Cartwright Act. 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, simply using a pricing algorithm does not evidence collusion or inherently constitute price fixing. Yet SB 295 creates vague, broad prohibition that may conflate lawful algorithmic pricing with unlawful conspiracies.

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.

Yet SB 295 creates vague, broad prohibition that may conflate lawful algorithmic pricing with unlawful conspiracies. And in doing so, the bill risks removing a valuable tool for setting dynamic pricing and impose significant costs on all businesses that use pricing algorithms – but especially small businesses – thereby reducing competition, rather than promoting it.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Costs (Unfair Competition Law Fund) to the Department of Justice (DOJ) to bring enforcement actions as authorized by this bill. Actual costs will depend on the number of enforcement actions pursued by DOJ and the amount of additional work created by each action, but costs may be in the hundreds of thousands of dollars annually. DOJ anticipates costs of \$371,000 in fiscal year 2025-26 and \$665,000 ongoing annually thereafter for an additional attorney, analyst, and legal secretary in its Consumer Protection Section to handle this workload. DOJ reports it cannot implement the requirements of this bill without an appropriation of additional funds.
- 2) Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate civil actions authorized by this bill. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the

General Fund. The fiscal year 2025-26 state budget provides \$82 million ongoing General Fund to the Trial Court Trust Fund for court operations.

VOTES

SENATE FLOOR: 29-10-1

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NO: Alvarado-Gil, Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

ABS, ABST OR NV: Reyes

ASM JUDICIARY: 9-3-0

YES: Kalra, Bauer-Kahan, Bryan, Connolly, Harabedian, Pacheco, Papan, Stefani, Zbur

NO: Dixon, Macedo, Sanchez

ASM PRIVACY AND CONSUMER PROTECTION: 9-4-2

YES: Bauer-Kahan, Bryan, Lowenthal, McKinnor, Ortega, Pellerin, Ward, Wicks, Wilson

NO: Dixon, DeMaio, Macedo, Patterson

ABS, ABST OR NV: Irwin, Petrie-Norris

ASM APPROPRIATIONS: 10-4-1

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Ahrens, Pellerin, Solache

NO: Sanchez, Dixon, Ta, Tangipa

ABS, ABST OR NV: Pacheco

UPDATED

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