

Date of Hearing: August 20, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 763 (Hurtado) – As Amended May 23, 2025

Policy Committee:	Judiciary	Vote:	8 - 3
	Public Safety		7 - 2

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill increases civil and criminal penalties for violations of the Cartwright Act.

Specifically, this bill:

- 1) Increases the maximum criminal fine for a corporation from \$1 million to \$6 million, or twice the pecuniary gain or loss caused by the violation, whichever is greater.
- 2) Increases the maximum criminal fine for an individual from \$250,000 to \$1 million, or twice the pecuniary gain or loss caused by the violation, whichever is greater.
- 3) Increases the term of incarceration for an individual convicted of conspiracy against trade from one, two, or three years to two, three, or five years in county jail, or, if the individual has certain prior convictions, in state prison.
- 4) Creates a civil penalty of up to \$1 million per violation of the Cartwright Act, and specifies the circumstances a court or jury should assess when determining the amount of a penalty.
- 5) Directs revenue from the civil penalty described above to the Attorney General Antitrust Account within the General Fund, if the action was brought by the Attorney General, or to the county treasurer or as otherwise specified, if the action was brought by a county district attorney.

FISCAL EFFECT:

- 1) Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to assess civil penalties as authorized by this bill. Actual costs will depend on the number of cases filed and the amount of court time needed to hear evidence and assess penalties. 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.
- 2) Costs (local funds, General Fund) to the counties and the California Department of Corrections and Rehabilitation to incarcerate people convicted of conspiracy against trade. Actual incarceration costs will depend on the number of convictions, the length of each

sentence, and whether each sentence must be served in county jail or state prison. The average annual cost to incarcerate one person in county jail is approximately \$29,000, though costs are higher in larger counties. The Legislative Analyst's Office estimates the average annual cost to incarcerate one person in state prison is \$133,000. County incarceration costs are not subject to reimbursement by the state. However, overcrowding in county jails creates cost pressure on the General Fund because the state has historically granted new funding to counties to offset overcrowding resulting from public safety realignment.

- 3) Possible increase in revenue (Attorney General Antitrust Account, local funds) of an unknown but potentially significant amount. This bill creates a new civil penalty and increases criminal fines. To the extent these penalties and fines are issued and collected, the resulting revenue may be used to fund antitrust enforcement actions by the Attorney General or distributed to the county of the district attorney that brought the action.
- 4) The Department of Justice (DOJ) reports no fiscal impact to the department. DOJ anticipates any future increase in workload resulting from more robust antitrust enforcement would be funded by the fine and penalty revenue described above.

COMMENTS:

- 1) **Background.** The Cartwright Act is a state antitrust law that prohibits anticompetitive business practices. A violation of the Cartwright Law may be enforced through a private right of action, a civil action brought by the Attorney General or a county district attorney, or through criminal charges filed by the Attorney General or a county district attorney.

A criminal violation of the Cartwright Act is called "conspiracy against trade." Conspiracy against trade is an offense that may be charged either as a misdemeanor or a felony. Under current law, a misdemeanor violation is punishable by up to one year in county jail. A felony violation is punishable by one, two, or three years in county jail, or, if the defendant has certain prior convictions, a state prison term. A person convicted of conspiracy against trade may also be punished by a fine of up to \$250,000 or two times the amount of pecuniary gain or loss caused by the violation, whichever is greater. If a corporation is convicted of conspiracy against trade, the offense is punishable by a fine of up to \$1 million or two times the amount of pecuniary gain or loss from the violation, whichever is greater. In comparison, the federal Sherman Antitrust Act imposes criminal fines of up to \$100 million for a corporation and \$1 million for a person, and up to 10 years in federal prison for a person convicted of a violation.

As discussed in more detail in the analysis of this bill by the Assembly Committee on Judiciary, specified public prosecutors are authorized to bring civil enforcement actions for violations of the Cartwright Act, and may seek injunctive relief and money damages. The Cartwright Act does not include its own civil penalties, but a prosecutor may seek limited civil penalties for Cartwright violations through the state's Unfair Competition Law.

- 2) **Purpose.** This bill is sponsored by Attorney General Rob Bonta. According to DOJ, this bill "is needed because the existing penalties for criminal violations of the Cartwright Act have not been updated for decades and are insufficient to deter antitrust violations in the current market." DOJ argues that corporations and individuals view the current penalties as "a minor cost of doing business" that is outweighed by "potential financial gain." For many years, DOJ ceded criminal prosecution of antitrust matters to the federal Department of Justice.

However, in recent years, DOJ has devoted more resources to its criminal antitrust practice, which may result in more convictions subject to the punishments increased by this bill.

- 3) **Ongoing Study.** In 2022, the Legislature tasked the California Law Revision Commission (Commission) with studying the state's antitrust laws and recommending changes to revise and modernize them. To that end, the Commission has recruited expert contributors and solicited and reviewed feedback from the public and industry professionals. The Commission's recommendations on this topic may be completed in 2025, but are not expected to include discussion of Cartwright penalties.
- 4) **Prior Legislation.** SB 697 (Hurtado), of the 2023-24 Legislative Session, would have increased the maximum criminal fine for violation of the Cartwright Act by a corporation or a person to \$100 million or \$1 million, respectively, and increased the term of incarceration for a felony conviction to up to 10 years in county jail or state prison. SB 697 was held on this committee's suspense file.

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