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**The Journal of Robotics,  
Artificial Intelligence & Law**

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THE JOURNAL OF ROBOTICS, ARTIFICIAL INTELLIGENCE & LAW (ISSN 2575-5633 (print) /ISSN 2575-5617 (online) at \$495.00 annually is published six times per year by Full Court Press, a Fastcase, Inc., imprint. Copyright 2026 Fastcase, Inc. No part of this journal may be reproduced in any form—by microfilm, xerography, or otherwise—or incorporated into any information retrieval system without the written permission of the copyright owner. For customer support, please contact Fastcase, Inc., 729 15th Street, NW, Suite 500, Washington, D.C. 20005, 202.999.4777 (phone), or email customer service at support@fastcase.com.

**Publishing Staff**

Publisher: David Nayer

Production Editor: Sharon D. Ray

Cover Art Design: Juan Bustamante

Cite this publication as:

The Journal of Robotics, Artificial Intelligence & Law (Fastcase)

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A Full Court Press, Fastcase, Inc., Publication

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729 15th Street, NW, Suite 500, Washington, D.C. 20005

<https://www.fastcase.com/>

POSTMASTER: Send address changes to THE JOURNAL OF ROBOTICS, ARTIFICIAL INTELLIGENCE & LAW, 729 15th Street, NW, Suite 500, Washington, D.C. 20005.

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ISSN 2575-5633 (print)  
ISSN 2575-5617 (online)

# California Prohibits Shared Pricing Algorithms and Eases Antitrust Pleading Standards

Valarie C. Williams and Alvaro Montenegro\*

*In this article, the authors review new California rules that regulate algorithmic price-fixing, lower pleading standards under the Cartwright Act, and create enhanced penalties for violations.*

On October 6, 2025, Governor Gavin Newsom signed Assembly Bill 325 (AB 325) and Senate Bill 763 (SB 763) into law, marking a significant update to California's antitrust framework under the Cartwright Act. Effective January 1, 2026, AB 325 prohibits the use or distribution of "common pricing algorithms" in anticompetitive agreements, creates liability for coercing others to adopt algorithm-recommended prices, and lowers the pleading threshold for Cartwright Act claims.

At the same time, SB 763 raises corporate criminal penalties to \$6 million and creates new civil penalties of up to \$1 million in actions brought by state enforcers, in addition to existing remedies under California law.

## Pricing Algorithms: Conspiracies and Coercion

AB 325 adds Section 16729 to the Business and Professions Code, broadly prohibiting the use or distribution of "common pricing algorithms" in anticompetitive agreements. 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."

Specifically, Section 16729(a) bars the use or distribution of a common pricing algorithm "as part of a contract, combination in the form of a trust, or conspiracy to restrain trade or commerce." There is no exception for shared tools that contain only publicly available data.

Section 16729(b) goes further, creating liability when a user or distributor of a common pricing algorithm “coerces” others to adopt a price or commercial term recommended by the algorithm. Although the statute does not define “coerce,” and subsection (b) does not require an agreement to establish coercion, legislative materials suggest the term covers conduct that penalizes firms for declining to follow a recommended price.

## Pleading Standard: Lower Bar for Cartwright Act Claims

AB 325 also adds Section 16756.1 to the Business and Professions Code, establishing a new pleading standard for Cartwright Act claims. Under this new standard, a complaint will be sufficient to survive dismissal on the pleadings if it alleges facts that make a conspiracy plausible. A plaintiff does not need to allege facts that tend to exclude the possibility of independent action.

This new section makes clear that this pleading standard is not only to algorithmic price-fixing claims under Section 16729.

According to the Assembly Judiciary Committee’s analysis,<sup>1</sup> revising the pleading standard was a key feature of the bill, intended to reject the heightened federal standard set by the U.S. Supreme Court in *Bell Atlantic Corp. v. Twombly*.<sup>2</sup>

## Application of AB 325’s New Pleading Standard

AB 325’s revised pleading standard will likely apply to complaints evaluated after January 1, 2026. Under California law, a “new or amended statute applies prospectively only, unless the Legislature clearly expresses an intent that it operate retroactively.”<sup>3</sup> The California Supreme Court has ruled that a law governing trial conduct is applied “prospectively” when it governs a proceeding occurring after its effective date, even if the underlying conduct happened earlier. Courts look to the date of the conduct regulated by the statute rather than when the case was filed.

AB 325 provides that a complaint “shall not be required to allege” certain facts to survive dismissal. Demurrers—California’s equivalent of a motion to dismiss—filed after January 1, 2026, will likely be analyzed under the new standard, even if the complaint was filed earlier.

It remains uncertain whether federal courts will apply AB 325's new pleading standard to Cartwright Act claims in cases pending or later filed in federal court. State judges will apply the new rule when evaluating complaints after January 1, 2026.

Federal judges, however, generally apply state law to resolve state claims but use federal law to evaluate the sufficiency of pleadings, which would mean that AB 325's standard would not apply. In *Downey v. Reich Installation Services*, an Ohio federal court held that federal pleading rules normally control but acknowledged that a federal court may apply state procedural rules when it reflects an important state policy or helps avoid forum-shopping. Once AB 325 takes effect, federal courts will need to decide whether California's lower pleading threshold rules apply to that exception or whether federal standards will continue to govern Cartwright Act cases in federal court.

## Less Carrot, More Stick to Deter Antitrust Violations

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SB 763 significantly increases criminal penalties for antitrust violations. Fines for corporations increase from \$1 million to \$6 million, and individuals face up to \$1 million per violation. The bill also imposes new civil penalties of up to \$1 million per violation in cases brought by the California attorney general or a district attorney. Enforcement agencies may consider factors such as the nature and seriousness of the misconduct, the number of violations, and the defendant's cooperation (or lack thereof). These penalties are "cumulative" with existing remedies under the Cartwright Act or other laws.

## Key Takeaways

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- *Algorithmic Collusion Prohibited.* AB 325 targets shared pricing tools that contain competitor data, whether it is public or not.
- *New Liability for Coercion.* The law creates liability for coercing others to adopt algorithm-recommended prices, even without a formal agreement.

- *Relaxed Pleading Standard.* Section 16756.1 rejects the federal pleading standard for antitrust claims, making it easier for plaintiffs to survive early dismissal.
- *Impact on Pending and Future Cases.* Complaints evaluated after January 1, 2026, will likely be subject to AB 325's new pleading standard, even if filed earlier. It remains to be seen whether federal courts will adopt the new rule.
- *Higher Penalties for Antitrust Violations.* SB 763 increases antitrust penalties to \$6 million per corporate violation and \$1 million for individuals, giving state enforcers powerful new tools to deter misconduct.
- *Strategic Implications.* Businesses using pricing algorithms should reassess their practices and compliance strategies. Plaintiffs may find it easier to reach discovery by initiating antitrust litigation under California's updated law.

Together, AB 325 and SB 763 mark the most significant changes to California's antitrust law in years. Companies operating in the state should assess how these shifts affect pricing, compliance, and risk exposure.

## Notes

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1. [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=202520260AB325](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202520260AB325).
2. Bell Atlantic Corp. v. Twombly, [550 U.S. 544](#), 565-66 (2007).
3. People v. Ledesma, [39 Cal. 4th 641](#), 664 (2006)). Tapia v. Superior Court, [53 Cal. 3d 282](#), 289 (1991).