

California Strengthens Its Antitrust Law with Stiffer Penalties

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On October 6, 2025, California Governor Gavin Newsom signed into law S.B. 763, which will comprehensively strengthen the enforcement framework of California's Cartwright Act. Effective January 1, 2026, S.B. 763 materially escalates monetary exposure for both corporate and individual actors who participate in conspiracies that restrain trade, and it clarifies that all criminal, civil, and equitable remedies under state law are cumulative.

KEY AMENDMENTS

1. Substantially Higher Criminal Fines

- Corporate violators now face a maximum fine of \$6 million per offense—an increase from the prior \$1 million cap.
- Individual violators are subject to fines of up to \$1 million (previously \$250,000) and continue to face potential imprisonment of one, two, or three years under Penal Code § 1170(h) or up to one year in county jail.

2. New Stand-Alone Civil Penalty

- A court may now impose civil penalties of up to \$1 million per violation in any civil action brought by the attorney general or a district attorney.
- The statute enumerates seven aggravating and mitigating factors the trier of fact must weigh, including the nature, persistence, and willfulness of the misconduct, as well as the defendant's financial condition and cooperation during the investigation.

3. Cumulative Remedies Confirmed

- New section 16762 of the Business and Professions Code codifies that remedies under the Cartwright Act are expressly cumulative with all other state remedies and penalties, eliminating arguments that civil or criminal sanctions under other laws preempt Cartwright Act liability.

The development is part of a broader trend of [states stepping up antitrust enforcement in priority areas](#), including the increasing number of [states and localities targeting the use of algorithmic software for antitrust scrutiny](#).

KEY TAKEAWAYS

Dramatically Increased Financial Exposure: The sixfold increase in the corporate fine ceiling and the quadrupling of the individual cap create a powerful deterrent. Companies should reevaluate reserve policies and financial risk disclosures accordingly.

Parallel Civil Penalties: The new \$1 million civil penalty can be stacked on top of criminal fines and treble-damage exposure in private actions, magnifying total liability. Early settlement strategies may help cap cumulative penalties.

Enhanced Prosecutorial Leverage: Enumerated penalty factors afford prosecutors a structured basis for seeking maximum penalties, especially where conduct is prolonged, willful, or lucrative. Robust internal compliance and swift remediation will weigh heavily in the “cooperation” factor.

Personal Liability for Executives and Employees: Individuals now face meaningful personal financial risk in addition to potential incarceration for violations of state antitrust law, underscoring the need for antitrust training, clear reporting lines, and indemnification review.

No Safe Harbor from Other Statutes: Because remedies are cumulative, Cartwright Act exposure may accompany penalties under the Unfair Competition Law, the False Claims Act, or criminal fraud statutes. Comprehensive compliance programs should address all competition-related risks, not just antitrust.

Budgeting for Enforcement Funds: State and county agencies receive 100 percent of penalty proceeds, likely spurring continued, and possibly increased, enforcement activity. Clients should anticipate heightened investigatory scrutiny in sectors with concentrated market power.

By proactively addressing these changes, clients can reduce the likelihood of violations and position themselves favorably should enforcement actions arise.

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