

CLIENT ALERT

California Enacts Significant Amendments to its Antitrust Laws After Key Revisions

September 30, 2026

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Background

On September 30, 2026, Governor Gavin Newsom signed Assembly Bill 1776 (“AB 1776”)—known as the COMPETE Act—into law, expanding California’s antitrust enforcement to cover certain unilateral conduct.¹ The law followed multiple rounds of amendments that substantially narrowed the bill as originally introduced, which had generated significant concern among the business and legal communities earlier this year. As enacted, the COMPETE Act closely resembles Section 2 of the federal Sherman Act,² with a few notable distinctions, while omitting several of the original bill’s most expansive provisions.

¹ The full text of all amendments to AB 1776 is available [here](#).

² 15 U.S.C. § 2.

Expanding Antitrust Enforcement

California's primary antitrust law, the Cartwright Act, has historically had several important differences from federal antitrust law. Before the COMPETE Act, the most prominent distinction was that the Cartwright Act addressed only combinations or conspiracies in restraint of trade—that is, conduct involving agreements between two or more persons or companies. California had no state-law equivalent to Section 2 of the Sherman Act, which broadly prohibits “monopolization,” including unilateral anticompetitive conduct that creates or maintains monopoly power. The COMPETE Act was introduced to fill that gap.

As originally introduced, AB 1776 would have accomplished this by amending the Cartwright Act from covering acts by “two or more persons,” to “one or more persons.” That seemingly simple change would have dramatically broadened liability—even beyond conduct prohibited by Section 2 of the Sherman Act. Although Section 2 of the Sherman Act can reach unilateral anticompetitive conduct, unilateral actions generally can give rise to antitrust liability only if a business already has “monopoly power” or if its conduct has a “dangerous probability” of creating a monopoly.³ The original text of AB 1776, by contrast, arguably would have created a private right of action in state court against any allegedly anticompetitive practice, even if the defendant was a relatively small company. Business groups around the state fiercely lobbied against these aspects of the proposal.⁴

Refinements to the Proposed Text

Through successive amendments, the legislature narrowed the bill's scope, refined the statutory language, and added important safeguards. The final enacted version of the COMPETE Act, as signed by the governor, differs from the originally introduced bill in several important respects by:

- Eliminating the private right of action, limiting enforcement authority to the attorney general and district attorneys;
- Carving out exceptions for small businesses and state-authorized exclusive franchises;
- Removing provisions that eliminated elements required by federal antitrust laws to prove certain violations, which critics argued created a presumption of illegality for certain common business practices;

³ *United States v. Grinnell Corp.*, 384 U.S. 563, 570–71 (1966); *see also Spectrum Sports, Inc. v. McQuillan*, 506 U.S. 447, 456 (1993). By contrast, individuals and businesses can face criminal or civil liability under Section 1 of the Sherman Act for agreements that harm competition, like fixing prices or allocating markets with competitors, even if they do not have monopoly power.

⁴ *E.g.*, Press Release, Cal. Chamber of Com., *CalChamber Launches Statewide Campaign to Oppose AB 1776* (July 21, 2026), <https://advocacy.calchamber.com/2026/07/21/calchamber-launches-statewide-campaign-to-oppose-ab-1776/>; *see also* Zachary Lilly, Dir. of Gov't Affs., NetChoice, *Letter of Opposition to California's AB 1776 — The “COMPETE” Act* (Apr. 2, 2026), <https://netchoice.org/netchoice-letter-of-opposition-to-californias-ab-1776-the-compete-act/>.

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- Consistent with federal antitrust law, expressly stating that a business may lawfully obtain or maintain a monopoly or monopsony through superior products, business acumen, or historic accident;
- Requiring plaintiffs to demonstrate that the defendant possesses “substantial market power”; and
- Eliminating the originally proposed requirement that procompetitive justifications for any challenged conduct be proven in the same market as the alleged anticompetitive effects, which was arguably in tension with federal precedent.

The COMPETE Act, as passed, broadly resembles Section 2 of the Sherman Act. The federal statute makes it unlawful to monopolize, attempt to monopolize, or conspire to monopolize any part of interstate or foreign commerce. The COMPETE Act similarly targets unilateral conduct that unreasonably restrains trade through the acquisition or maintenance of monopoly or monopsony power. Both laws require proof that the defendant possesses significant power in a relevant market; recognize that monopoly power can be obtained through lawful means—including superior products, business acumen, or historic accident; and focus on exclusionary or anticompetitive conduct rather than size alone.

Despite the similarities, the COMPETE Act does not exactly parallel Section 2 of the Sherman Act. Notable differences include:

- **Enforcement.** The COMPETE Act is enforced exclusively by the state’s attorney general and district attorneys and does not include a private right of action. The Sherman Act is enforced criminally by the Department of Justice (“DOJ”) and civil claims can be brought by the DOJ, the Federal Trade Commission, state attorneys general, and private litigants.
- **Market Power Standard.** The COMPETE Act uses the standard of “substantial market power” rather than the “monopoly power” standard under Section 2 of the Sherman Act. “Substantial market power” is not defined in the text, but presumably is a threshold lower than “monopoly power.”
- **Carve-outs.** The COMPETE Act contains express carve-outs for small businesses and franchise arrangements. The Sherman Act has no direct analog for this provision.
- **Federal Precedent.** The COMPETE Act declares that California state courts should consider federal antitrust laws as “at most instructive when construing California’s antitrust laws,” and emphasizes that California’s antitrust laws in general are intended to be “broader in range and deeper in reach” than the federal antitrust laws. This distinction and the lower market power standard should mean that it is somewhat easier to state a claim under California antitrust law than under Section 2 of the Sherman Act, but the degree of divergence will depend on how California courts apply this guidance in practice. Given that only the attorney general and district attorneys may bring cases under the COMPETE Act, any new distinctions between California and federal antitrust law may emerge slowly.

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Overall, the COMPETE Act creates a new risk of state liability for businesses that arguably enjoy substantial market power, but the scope of conduct proscribed may ultimately be largely consistent with federal law in practice.

The Willkie antitrust team will closely monitor how the law is interpreted going forward and can provide additional guidance on the implications of the COMPETE Act for your business.

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