

MEMORANDUM 2026-26
2026 Legislative Program: Status Report

This memorandum summarizes the status of the Commission’s 2026 Legislative Program,¹ which includes pending bills related to the Commission’s Biennial Resolution of Authority, ACR 168 (Pacheco);² the Equal Rights Amendment Study,³ AB 2563 (Pacheco);⁴ and the Antitrust Study,⁵ AB 1776 (Aguiar-Curry).⁶

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BIENNIAL RESOLUTION OF AUTHORITY

Commissioner and Assembly Member Pacheco introduced the Resolution of Authority as Assembly Concurrent Resolution (ACR) [168](#).⁷ The staff is grateful to the Assembly Member for her assistance. ACR 168 passed the Senate and Assembly with no “no” votes and a bipartisan list of 70 coauthors.⁸ ACR 168 was adopted by the Senate on July 2, 2026

¹ Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

² [2026 Cal. Stat. ch. 148](#) (ACR 168, Pacheco) EX 1.

³ [Equal Rights Amendment](#), Study I-100.

⁴ [AB 2563](#) (Pacheco) EX 4.

⁵ [Antitrust Law](#), Study B-750.

⁶ [AB 1776](#) (Aguiar-Curry) EX 50.

⁷ [2026 Cal. Stat. ch. 148](#) (ACR 168, Pacheco).

⁸ Assembly Members Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Berman, Boerner, Bonta, Bryan, Calderon, Carrillo, Castillo, Connolly, Davies, Dixon, Elhawary, Ellis, Fong, Gabriel,

and was chaptered on July 15, 2026.⁹

EQUAL RIGHTS AMENDMENT

At its meeting on September 18, 2025, the Commission approved a final recommendation on the Equal Rights Amendment ([Study I-100](#)).¹⁰ Commissioner and Assembly Member Pacheco is carrying legislation implementing this recommendation as Assembly Bill [2563](#).¹¹ The staff is grateful to the Assembly Member for her assistance.

Because it is still in the Legislative process, the staff recommends the Commission wait until after the legislative session ends on August 31, 2026 to consider conforming changes to the Final Recommendation.¹² AB 2563 passed the Senate Committee on the Judiciary on July 16, 2026 and is presently on the Senate Floor.

ANTITRUST LAW: SINGLE FIRM CONDUCT

At its meeting on January 30, 2026, the Commission approved a Staff Draft Final Recommendation on Antitrust Law: Single Firm Conduct ([Study B-750](#)).¹³ Assembly Member Aguiar-Curry, who is the Majority Leader, is carrying the recommendation as Assembly Bill [1776](#).¹⁴ The staff is grateful to the Assembly Member for her assistance.

As noted in prior memoranda,¹⁵ the bill passed the Assembly Committee on the Judiciary on April 7, 2026, with technical amendments,¹⁶ and passed the Assembly Appropriations Committee on May 14, 2026, without further amendments. The bill was amended by the author on May 18, 2026, and passed the Assembly on May 27, 2026.

Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, McKinnor, Nguyen, Ortega, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Rivas, Celeste Rodriguez, Michelle Rodriguez, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, and Zbur are listed as coauthors.

⁹ [2026 Cal. Stat. ch. 148](#) (ACR 168, Pacheco).

¹⁰ [Minutes](#) (September 2025) p. 4; [Equal Rights Amendment](#) (Preprint – Sept. 2025).

¹¹ [AB 2563](#) (Pacheco). Assembly Member Zbur was added as a coauthor on April 9, 2026.

¹² California Law Revision Commission, [Handbook of Practices and Procedures](#) §§ 555, 560, 705; [First Supplement](#) to Memorandum 2026-12, p. 1 describes the amendment process for a Commission bill. Memorandum [2026-17](#), pp. 2-3 explains the bill's prior amendments.

¹³ [Minutes](#) (Jan. 2026) pp. 4-5.

¹⁴ Staff notes that Assembly Member Mark Gonzalez and Senator Hurtado and Principal Coauthors and Assembly Members Bains, Bonta, Connolly, Elhawary, Lee, Ortega, Rogers, and Schiavo and Senators Cortese and Padilla are coauthors.

¹⁵ Memorandum [2026-17](#), pp. 3-4; [First Supplement](#) to Memorandum 2026-17.

¹⁶ At its March 20, 2026, meeting, the Commission considered the [First Supplement](#) to Memorandum 2026-12 which presented the technical revisions made by the Office of Legislative Counsel to the Final Recommendation for Study B-750, Antitrust Law: Single Firm Conduct. The Commission approved including the revisions in the Preprint version of the Final Recommendation ([Minutes](#) (March 2026) p. 3) and it now conforms to AB 1776 as amended April 9, 2026. [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026).

AB 1776 has been amended several times since the last Legislative Program memorandum.¹⁷ The author amended the bill in the Senate on June 16 and June 22, 2026, and again on August 3, 2026 following a request from the Senate Judiciary Committee Chair for further amendments.¹⁸ The bill is scheduled for hearing in the Senate Appropriations Committee on August 10, 2026, where it will likely be placed on the Suspense File¹⁹ for further consideration before the August 14, 2026 deadline for fiscal bills to be reported to the Senate floor.

Because it is still in the Legislative process, the staff recommends the Commission wait until after the legislative session ends on August 31, 2026 to consider conforming changes to the bill in the Final Recommendation.²⁰

Below are the amendments made by the bill to the Recommendation²¹ as they are currently in print and provides brief staff analysis. The staff has created a mock-up of the bill as it amends the Commission's Recommendation at the end of this memorandum.

AB 1776 Amendments

Proposed Section 16730: Purpose Statement

Proposed Section 16730(a) is amended as follows:

(a) The purpose of ~~this section and Sections 16731, 16732, and 16733~~ the Cartwright Act is the promotion and protection of free and fair ~~competition, competition~~ (Clayworth v. Pfizer, Inc. (2010) 49 Cal.4th 758, 783), which is fundamental to a healthy marketplace that protects all trade participants, including workers and consumers, and to an environment that is conducive to the preservation of our democratic, political, and social institutions.

This amendment applies the purpose statement to the entire Cartwright Act, rather than

¹⁷ [First Supplement](#) to Memorandum 2026-17.

¹⁸ AB 1776 passed the Senate Judiciary Committee on June 30, 2026, and Assembly Member Aguiar-Curry agreed to make several of the amendments listed in the committee analysis in concept. [Senate Committee on Judiciary Analysis](#) of AB 1776 (June 30, 2026) pp. 16-17.

¹⁹ The Senate Appropriations Committee's [website](#) states:

The Suspense File process has been a part of the Committee Rules since the mid-1980s as a way to consider the fiscal impacts to the state of legislation as a whole. The committee analysis indicates whether a bill's fiscal impacts meet the criteria for referral to the Suspense File.

Bills that meet the Committee's Suspense threshold will be placed on the Suspense File after testimony is taken at a regular-order hearing. A vote-only Suspense Hearing will be held prior to the deadlines for fiscal committees to hear and report bills to the Senate Floor. Bills will either move on to the Senate Floor for further consideration or be in held in committee and under submission.

²⁰ California Law Revision Commission, [Handbook of Practices and Procedures](#) §§ 555, 560, 705; [First Supplement](#) to Memorandum 2026-12, p. 1 describes the amendment process for a Commission bill.

²¹ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026).

just AB 1776, and imports the *Clayworth v. Pfizer* citation from the Commission’s Comment on that subdivision. The Commission Comment notes that subdivision (a) “expresses the fundamental goal of California’s antitrust law, which is the promotion and protection of free and fair competition,” citing *Clayworth v. Pfizer, Inc.*²² The staff believes these amendments are consistent with the Recommendation because the bill amends the Cartwright Act,²³ California’s primary antitrust law, and *Clayworth* applies generally to the Cartwright Act.

The Commission previously explored this aspect of the purpose statement in Memorandum [2025-52](#).²⁴

Proposed Section 16730(c) is amended as follows:

(c) The California Supreme Court has determined that the Cartwright Act is “broader in range and deeper in reach” than the federal Sherman Anti-Trust Act (*Cianci v. Superior Court* (1985) 40 Cal.3d 903, 920). The California Supreme Court has found the Cartwright Act is not modeled on the federal Sherman Anti-Trust Act and therefore interpretations of federal antitrust law are not conclusive (*Aryeh v. Canon Business Solutions, Inc.* (2013) 55 Cal.4th 1185, 1195). Further, California courts have recognized that the Cartwright Act departs from the Sherman Anti-Trust Act in many respects, including, but not limited to, inclusion of indirect purchaser ~~recovery~~, recovery (Section 16750); use of a proximate cause test for Cartwright Act ~~standing~~, standing and antitrust injury (*Cellular Plus, Inc. v. Superior Court* (1993) 14 Cal. App. 4th 1224, 1232); recognition of broader harms and per se ~~conduct~~, conduct (Sections 16720 to 16729, inclusive); lower actionable market ~~shares~~, structured shares (*Fisherman Wharf Bay Cruise v. Superior Ct.* (2003) 114 Cal. App. 4th 309, 326); structured rule of reason ~~analysis~~, analysis (*In re Cipro Cases I & II* (2015) 61 Cal.4th 116, 147); and differing burdens of proof.

These amendments add case citations verifying that the Cartwright Act departs from federal law in certain respects. All but one of the citations are drawn from the Commission Comment for 16730(c);²⁵ the amendment cites *Cellular Plus, Inc. v. Superior Court* rather than *Kolling v. Dow Jones & Co.*²⁶ However, both cases support the assertion that the Cartwright Act differs from the Sherman Act in its treatment of standing and antitrust industry, and *Cellular* cites *Kolling* in its decision.²⁷ The staff believes these amendments are consistent with the Recommendation.²⁸

²² *Clayworth v. Pfizer, Inc.* (2010) 49 Cal.4th 758, 783; [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) p. 24.

²³ Bus. & Prof. Code §§ [16700-16770](#).

²⁴ Memorandum [2025-52](#), pp. 3-4; [Minutes](#) (January 2025) p. 5.

²⁵ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) p. 24.

²⁶ *Kolling v. Dow Jones & Co.* (1982) 137 Cal.App.3d 709, 723.

²⁷ *Cellular Plus, Inc. v. Superior Court* (1993) 14 Cal.App.4th 1224, 1232.

²⁸ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) pp. 23-24.

Proposed Section 16730(d) is amended as follows:

~~(d) Federal case law on the subject of this article is not binding on California state courts, but courts may consider federal case law as persuasive authority to the extent they find it consistent with California law, including this section.~~

(d) Interpretations of federal antitrust laws are at most instructive when construing California's antitrust laws, as they are not modeled on federal antitrust statutes (Aryeh v. Canon Business Sols., Inc. (2013) 55 Cal.4th 1185, 1195).

These amendments nonsubstantively restate the subdivision for clarity and draws directly from the California Supreme Court case cited, which is also referenced in subdivision (c).²⁹ The staff believes this amendment is consistent with the Recommendation.³⁰

New proposed Section 16730(f) was added as follows:

(f) The Legislature affirms that, as referenced in In re Cipro Cases I & II (2015) 61 Cal. 4th 116, 148, a business may lawfully obtain and maintain market power or monopoly power through the superiority of its products, services, or business acumen.

This amendment was made in response to a request made by the Chair of the Senate Judiciary Committee, as reflected in the committee's analysis:

Add language to expressly affirm that a business may lawfully obtain and maintain market power or monopoly power through the superiority of its products, services, or business acumen.³¹

Proposed Section 16731: Single Firm Conduct

Proposed Section 16731(a) is amended as follows:

~~(a) It is unlawful for one or more persons to act, cause, take, or direct measures, actions, or events that are either of the following:~~

~~(1) In restraint of trade. As used in this paragraph, "restraint of trade" includes, but is not limited to, any actions, measures, or acts included or cognizable under Section 16720, whether directed, caused, or performed by one or more persons. every person to monopolize or monopsonize, to attempt to monopolize or monopsonize, to maintain a monopoly or monopsony, or to combine or conspire with another person to monopolize or monopsonize in any part of trade or~~

²⁹ *Aryeh v. Canon Business Sols., Inc.* (2013) 55 Cal.4th 1185, 1195 ("Interpretations of federal antitrust law are at most instructive, not conclusive, when construing the Cartwright Act, given that the Cartwright Act was modeled not on federal antitrust statutes but instead on statutes enacted by California's sister states around the turn of the 20th century.")

³⁰ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) p. 24.

³¹ [Senate Judiciary Committee Analysis](#) of AB 1776 (June 30, 2026) p. 16.

commerce.

These amendments were made at the request of the Chair of the Senate Judiciary Committee and reference amendments made to the bill after the version reflected in the Recommendation.³² The revisions more closely align the language to Section 2 of the federal Sherman Act, which does not use the term “restraint of trade.”³³ The California Chamber of Commerce raised concerns, reflected in the committee’s analysis, that departing from language in the Sherman Act could lead to uncertainty.³⁴

Proposed Section 16731(b) is amended as follows:

(b) ~~Anticompetitive effects and procompetitive~~ Procompetitive justifications of the challenged conduct shall be evaluated within the same relevant ~~market.~~ market as the conduct that is alleged to be unlawful.

The staff view this as a clarifying change consistent with the Recommendation.³⁵

New Section 16731(c) is added as follows:

(c) Courts adjudicating a claim brought under this section shall use the analytical framework and guidance of the California Supreme Court in the manner described in In re Cipro Cases I & II (2015) 61 Cal. 4th 116, 146–147.

The staff understands this subdivision was added to provide explicit guidance to courts in evaluating whether a person has monopolized or monopsonized. The staff believes this amendment is consistent with the Recommendation because *Cipro* is recognized in a Commission Comment for its analysis.³⁶

New Section 16731(d) is added as follows:

(d) A plaintiff bringing an action pursuant to this section shall be required to allege and, to prevail at trial, prove substantial market power, either through direct or indirect evidence.

This amendment is a corollary of proposed Section 16732(j) which states that a definition of relevant market is not needed where there is direct evidence of market

³² [Senate Judiciary Committee Analysis](#) of AB 1776 (June 30, 2026) pp. 16-17. At the June 30, 2026, committee hearing the author agreed to make several amendments in concept. The analysis stated: “Delete, from Section 2 of the bill, the “unreasonable restraint of trade” prohibition and the reference to “one or more persons” in subdivision (a).”

³³ [15 U.S.C. § 2.](#)

³⁴ [Senate Judiciary Committee Analysis](#) of AB 1776 (June 30, 2026) pp. 18-19; see also [Assembly Committee on Judiciary Analysis](#) of AB 1776 (April 7, 2026) p. 12.

³⁵ [Senate Judiciary Committee Analysis](#) of AB 1776 (June 30, 2026) p. 13.

³⁶ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) p. 24.

power.³⁷ This is declarative of existing law and echoes a Commission Comment.³⁸ Since the purpose of defining a market and market share is to determine whether an arrangement has the *potential* for genuine adverse effects on competition, proof of *actual* detrimental effects can obviate the need for that inquiry.³⁹

This amendment is also responsive to a request from the Chair of the Senate Judiciary Committee, as reflected in the committee's analysis:

Clarify, in Section 2 of the bill, that a plaintiff must allege, and prove, that the defendant has substantial market power.⁴⁰

The staff believes this amendment is consistent with the Recommendation.

New Section 16731(e) is added as follows:

(e) Section 16731 shall not apply to any small business, meaning an independently owned and operated business, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees and average annual gross receipts of ten million dollars (\$10,000,000) or less over the three years prior to the filing of the complaint.

This amendment creates an explicit exemption for small businesses, based on a definition from the Small Business Procurement and Contract Act.⁴¹

The staff notes that this new subdivision is within the spirit of existing law to the extent that small businesses generally do not have sufficient market power to cause the unreasonable restraint of trade targeted by this bill. Current law requires proof of anticompetitive effects on the market, and this amendment establishes objective metrics to exempt businesses whose conduct is unlikely to cause anticompetitive effects.

While the Commission declined to create a separate antitrust structure for large firms,⁴² it did not specifically address exempting small businesses likely for the reasons addressed by this amendment.

New Section 16731(f) is added as follows:

(f) (1) This section does not prevent, limit, or prohibit:
(A) Any exclusive franchise, contract, license, or permit that is granted and supervised by a local, state, or federal governmental agency.

³⁷ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) p. 25. This subdivision was also nonsubstantively amended; see discussion *infra*, p. 7.

³⁸ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) p. 27.

³⁹ *Id.* at p. 21.

⁴⁰ [Senate Judiciary Committee Analysis](#) of AB 1776 (June 30, 2026) p. 17.

⁴¹ Gov. Code § [14837\(d\)\(1\)\(A\)](#).

⁴² [Minutes](#) (September 2025) p. 8.

(B) Conduct required or authorized pursuant to state or federal law that is granted and supervised by a local, state, or federal governmental agency.

(2) This section does not impose any liability on a person or entity for conduct within the scope of authority granted by one or more such exclusive franchises, contracts, licenses, or permits.

(3) For purposes of this subdivision, "local governmental agency" includes a city, county, special district, sanitation district, or joint powers agency.

This section was added in response to concerns raised by entities having exclusive franchises, contracts, licenses, or permits with state or local government to provide certain services needed by the entities, such as waste hauling. Subdivision (f) appears to codify the "state action immunity" doctrine that exists under federal Antitrust Law⁴³ to ensure it extends to AB 1776.

An article in the California Lawyers Association Competition Journal describes the state action immunity doctrine as follows:

In 1943, the U.S. Supreme Court held in *Parker v. Brown* that the federal antitrust laws do not apply to certain state conduct. This decision developed into what is now referred to as "state-action immunity," even though it is more aptly described as an exemption. The *Parker* Court upheld the obviously-anticompetitive California Agricultural Act, which the Supreme Court later characterized as a "state-supervised" market-sharing scheme. Importantly, the decision was grounded in statutory interpretation, but the doctrine has evolved such that federalism and state-sovereignty rationales control the doctrine's scope and development. Like all antitrust exemptions, the state-action-immunity exemption is disfavored, and only recognized "when it is clear that the challenged anticompetitive conduct is undertaken pursuant to a regulatory scheme that 'is the State's own.'"

To determine whether to apply immunity in a traditional case, the Supreme Court adheres to a form of the test developed in *California Retail Liquor Dealers Association v. Midcal Aluminum, Inc.* First, the party seeking exemption must prove that the challenged restraint is "clearly articulated and affirmatively expressed as state policy," and second, the policy must be "actively supervised" by the State itself. Certain parties, like municipalities, need not prove "active supervision." (Citations omitted.)⁴⁴

⁴³ See *Parker v. Brown* (1943) 317 U.S. 341, 351; *South Carolina State Bd. of Dentistry v. Federal Trade Com.* (4th Cir. 2006) 455 F.3d 436, 444-46; see also 98 Ops.Cal.Atty.Gen. 12 (2015); Martin, *State Action Antitrust Immunity for Municipally Supervised Parties* (2005) 72 U. Chi. L.Rev. 1079, 1082.

⁴⁴ Bona and Wake, [The Market Participant Exception to State-Action Immunity from Antitrust Liability](#) (Spring 2014) 23 Competition 156.

Proposed Section 16732: Judicial Guidance

Proposed Section 16732 was deleted.

~~16732. Any of the following may constitute evidence of a violation of Section 16731, but establishing liability shall not require a finding, including, but not limited to, of any of the following:~~

~~(a) The unilateral conduct of the defendant altered or terminated a prior course of dealing between the defendant and a person subject to the exclusionary conduct.~~

~~(b) The defendant treated persons subject to the exclusionary conduct differently than the defendant treated other persons.~~

~~(c) The defendant's price for a product or service was below any measure of the costs to the defendant for providing the product or service required under federal antitrust law.~~

~~(d) The defendant's conduct makes no economic sense apart from its tendency to harm competition.~~

~~(e) The conduct's risk of harming competition or actual harm must be proven with quantitative evidence.~~

~~(f) In a case where a defendant's business is a multisided platform, the defendant's conduct presents harm to competition on more than one side of the multisided platform, or the harm to competition on one side of the multisided platform outweighs any benefits to competition on any other side of the multisided platform.~~

~~(g) In a claim of predatory pricing, the defendant is likely to recoup the losses it sustains from below-cost pricing of the products or services at issue.~~

~~(h) The rival whose ability to compete has been reduced or harmed is as efficient, or nearly as efficient, as the defendant.~~

~~(i) A single firm or person has or might achieve a market share or has market power at or above a threshold recognized under Section 2 of Title 15 of the United States Code.~~

~~(j) A definition of "relevant market" where there is direct evidence of market power.~~

This amendment appears to be made in response to comments in the Assembly Committee on Judiciary analysis, which stated:

While any guidance to the courts on a complex area of law is advisable, the author may wish to consider amending proposed Section 16732 to provide a more affirmative set of factors that a court should consider when evaluating a case rather than a set of factors the court may but need not rely upon, especially when considering that the Law Revision Commission looked askance at many of the cases that developed those factors in its public report.⁴⁵

⁴⁵ [Assembly Committee on Judiciary Analysis](#) of AB 1776 (April 3, 2026) pp. 10-11.

The Commission did look skeptically at the cases at issue, which is why the Commission listed the problematic aspects of their respective decisions. However, the staff anecdotally heard that the list was confusing to those unfamiliar with antitrust law and there were concerns raised that the language could be misinterpreted.

Respectfully submitted,

Sharon Reilly
Executive Director

Comparison of AB 1776, August 3, 2026, to the CLRC Recommendation

SECTION 1. Section 16730 is added to the Business and Professions Code, to read:

16730. (a) The purpose of ~~this section and Sections 16731, 16732, and 16733~~ the Cartwright Act is the promotion and protection of free and fair competition, ~~(Clayworth v. Pfizer, Inc. (2010) 49 Cal.4th 758, 783)~~, which is fundamental to a healthy marketplace that protects all trade participants, including workers and consumers, and to an environment that is conducive to the preservation of our democratic, political, and social institutions.

(b) Protecting competition includes protecting competition between businesses when they compete for workers by prohibiting anticompetitive business practices that impede workers' freedom to choose employment.

(c) The California Supreme Court has determined that the Cartwright Act is "broader in range and deeper in reach" than the federal Sherman Anti-Trust Act (Cianci v. Superior Court (1985) 40 Cal.3d 903, 920). The California Supreme Court has found the Cartwright Act is not modeled on the federal Sherman Anti-Trust Act and therefore interpretations of federal antitrust law are not conclusive (Aryeh v. Canon Business Solutions, Inc. (2013) 55 Cal.4th 1185, 1195). Further, California courts have recognized that the Cartwright Act departs from the Sherman Anti-Trust Act in many respects, including, but not limited to, inclusion of indirect purchaser recovery, ~~(Section 16750)~~; use of a proximate cause test for Cartwright Act standing, ~~and antitrust injury (Cellular Plus, Inc. v. Superior Court (1993) 14 Cal. App. 4th 1224, 1232)~~; recognition of broader harms and per se conduct, ~~(Sections 16720 to 16729, inclusive)~~; lower actionable market shares, ~~(Fisherman Wharf Bay Cruise v. Superior Ct. (2003) 114 Cal. App. 4th 309, 326)~~; structured rule of reason analysis, ~~(In re Cipro Cases I & II (2015) 61 Cal.4th 116, 147)~~; and differing burdens of proof.

~~(d) Federal case law on the subject of this article is not binding on California state courts, but courts may consider federal case law as persuasive authority to the extent they find it consistent with California law, including this section.~~

~~(d) Interpretations of federal antitrust laws are at most instructive, not conclusive, instructive when construing California's antitrust laws, as they are not modeled on federal antitrust statutes (Aryeh v. Canon Business Sols., Inc. (2013) 55 Cal.4th 1185, 1195). Thus, a claim brought pursuant to Section 16731 shall not be dismissed or rejected on the pleadings or merits pursuant to the Sherman Act or any case decided thereunder unless the court also finds that such a dismissal or rejection is consistent with this chapter.~~

(e) California agrees with the United States Department of Justice and the Federal Trade Commission in recognizing that unilateral action and multiparty actions, horizontal and vertical relationships, and various forms of corporate entities can interfere with free and fair competition, as reflected in the Federal Trade Commission and Department of Justice 2023 Merger Guidelines.

~~(f) The Legislature affirms that, as referenced in In re Cipro Cases I & II (2015) 61 Cal. 4th 116, 148, a business may lawfully obtain and maintain market power or monopoly power through the superiority of its products, services, or business acumen.~~

SEC. 2. Section 16731 is added to the Business and Professions Code, to read:

16731. (a) It is unlawful for ~~one or more persons to act, cause, take, or direct measures, actions, or events that~~ are either of the following:

~~(1) In restraint of trade. As used in this paragraph, “restraint of trade” includes, but is not limited to, any actions, measures, or acts included or cognizable under Section 16720, whether directed, caused, or performed by one or more persons.~~

~~(1) Unreasonably restrain trade.~~

~~(2) To monopolize every person to monopolize or monopsonize, to attempt to monopolize or monopsonize, to maintain a monopoly or monopsony, or to combine or conspire with another person to monopolize or monopsonize in any part of trade or commerce.~~

~~(b) Anticompetitive effects and procompetitive~~ Procompetitive justifications of the challenged conduct shall be evaluated within the same relevant ~~market.~~ market as the conduct that is alleged to be unlawful.

~~(c) Courts adjudicating a claim brought under this section shall use the analytical framework and guidance of the California Supreme Court in the manner described in In re Cipro Cases I & II (2015) 61 Cal. 4th 116, 146–147.~~

~~(d) A plaintiff bringing an action pursuant to this section shall be required to allege and, to prevail at trial, prove substantial market power, either through direct or indirect evidence.~~

~~(e) Section 16731 shall not apply to any small business, meaning an independently owned and operated business, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees and average annual gross receipts of ten million dollars (\$10,000,000) or less over the three years prior to the filing of the complaint.~~

~~(f) (1) This section does not prevent, limit, or prohibit an exclusive prohibit:~~

~~(A) Any exclusive franchise, contract, license, or permit authorized by state law that is granted and supervised by a local governmental agency, or local, state, or federal governmental agency.~~

~~(B) Conduct required or authorized pursuant to state or federal law that is granted and supervised by a local, state, or federal governmental agency.~~

~~(2) This section does not impose any liability under this section on a person or entity acting for conduct within the scope of authority granted by one or more such exclusive franchises, contracts, licenses, or permits.~~

~~(2)~~

~~(3) For purposes of this subdivision, “local governmental agency” includes a city, county, special district, sanitation district, or joint powers agency.~~

SEC. 3. Section 16732 is added to the Business and Professions Code, to read:

~~**16732.** Any of the following may constitute evidence of a violation of Section 16731, but establishing liability shall not require a finding, including, but not limited to, of any of the following:~~

~~(a) The unilateral conduct of the defendant altered or terminated a prior course of dealing between the defendant and a person subject to the exclusionary conduct.~~

~~(b) The defendant treated persons subject to the exclusionary conduct differently than the defendant treated other persons.~~

~~(c) The defendant’s price for a product or service was below any measure of the costs to the defendant for providing the product or service required under federal antitrust law.~~

~~(d) The defendant’s conduct makes no economic sense apart from its tendency to harm competition.~~

~~(e) The conduct’s risk of harming competition or actual harm must be proven with quantitative evidence.~~

~~(f) In a case where a defendant's business is a multisided platform, the defendant's conduct presents harm to competition on more than one side of the multisided platform, or the harm to competition on one side of the multisided platform outweighs any benefits to competition on any other side of the multisided platform.~~

~~(g) In a claim of predatory pricing, the defendant is likely to recoup the losses it sustains from below-cost pricing of the products or services at issue.~~

~~(h) The rival whose ability to compete has been reduced or harmed is as efficient, or nearly as efficient, as the defendant.~~

~~(i) A single firm or person has or might achieve a market share or has market power at or above a threshold recognized under Section 2 of Title 15 of the United States Code.~~

~~(j) A definition of "relevant market" where there is direct evidence of market power.~~

~~SEC. 4. Section 16733 is added to the Business and Professions Code, to read:~~

~~16733.~~

~~**16732.** Courts shall liberally interpret California's antitrust laws to best promote free and fair competition and be mindful that California favors "maximizing" effective deterrence of antitrust violations (Clayworth v. Pfizer, Inc. (2010) 49 Cal.4th 758).~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Assembly Concurrent Resolution No. 168

RESOLUTION CHAPTER 148

Assembly Concurrent Resolution No. 168—Relative to the California Law Revision Commission.

[Filed with Secretary of State July 15, 2026.]

LEGISLATIVE COUNSEL’S DIGEST

ACR 168, Pacheco. California Law Revision Commission: studies.

Existing law requires the California Law Revision Commission to study, and limits the commission to studying, topics approved by resolution of the Legislature or by statute.

This measure would grant approval to the commission to continue its study of designated topics that the Legislature previously authorized or directed the commission to study and two new topics of study, as specified.

The measure would require the commission, before commencing work on any project within its authorized calendar of topics, to submit a detailed description of the scope of work to the Chairs and Vice Chairs of the Assembly Committee on Judiciary and the Senate Committee on Judiciary, and any other policy committee that has jurisdiction, as specified. If a major change to the scope of work occurs during the course of the project, the measure would require the commission to submit a description of the change.

WHEREAS, The California Law Revision Commission is authorized to study topics set forth in the calendar contained in its report to the Governor and the Legislature that have been or are thereafter approved for study by concurrent resolution of the Legislature, and topics that have been referred to the commission for study by concurrent resolution of the Legislature or by statute; and

WHEREAS, The commission, in its annual report covering its activities for 2025 and 2026, recommends continued study of 14 topics, all of which the Legislature has previously authorized or directed the commission to study, and the addition of two new topics of study; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Legislature approves for continued study by the California Law Revision Commission the topics listed below:

(1) Whether the law should be revised that relates to creditors’ remedies, including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code provisions on repossession of property), confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption,

procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, insolvency, and related matters.

(2) Whether the Probate Code should be revised, including, but not limited to, the issue of whether California should adopt, in whole or in part, the Uniform Probate Code, and related matters.

(3) Whether the law should be revised that relates to real and personal property, including, but not limited to, a marketable title act, covenants, servitudes, conditions, and restrictions on land use or relating to land, common interest developments, powers of termination, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant on assignment, subletting, termination, or abandonment of a lease, and related matters.

(4) Whether the law should be revised that relates to family law, including, but not limited to, community property, the adjudication of child and family civil proceedings, child custody, adoption, guardianship, freedom from parental custody and control, and related matters, including other subjects covered by the Family Code.

(5) Whether the law relating to discovery in civil cases should be revised.

(6) Whether the Evidence Code should be revised.

(7) Whether the law relating to arbitration, mediation, and other alternative dispute resolution techniques should be revised.

(8) Whether there should be changes to administrative law.

(9) Recommendations to be reported pertaining to statutory changes that may be necessitated by court unification.

(10) Whether the law of contracts should be revised, including the law relating to the effect of electronic communications on the law governing contract formation, the statute of frauds, the parol evidence rule, and related matters.

(11) Whether the law governing the place of trial in a civil case should be revised.

(12) Whether the Fish and Game Code and related statutory law should be revised to improve its organization, clarify its meaning, resolve inconsistencies, eliminate unnecessary or obsolete provisions, standardize terminology, clarify program authority and funding sources, and make other minor improvements, without making any significant substantive change to the effect of the law.

(13) The Legislature authorizes and requests that the California Law Revision Commission study, report on, and prepare recommended legislation to revise Chapter 6.5 (commencing with Section 25100) and Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code, and related provisions, to improve the organization and expression of the law. Such revisions may include, but are not limited to, grouping similar provisions together, reducing the length and complexity of sections, eliminating obsolete or redundant provisions, and correcting technical errors. The recommended revisions shall not make any substantive changes to the law. The commission's report shall also include a list of substantive issues

that the commission identifies in the course of its work, for possible future study.

(14) Whether the law should be revised to provide special rules that would apply to an area affected by a state of disaster or emergency declared by the federal government, a state of emergency proclaimed by the Governor under Section 8625 of the Government Code, or a local emergency proclaimed by a local governing body or official under Section 8630 of the Government Code. Before beginning a study under this authority, the commission shall provide notice to legislative leadership and any legislative policy committee with jurisdiction over the proposed study topic and shall consider any formal or informal feedback received in response to the notice; and be it further

(15) Whether the Education Code should be revised including, but not limited to, provisions relating to reporting requirements placed on local education agencies.

(16) Whether the Code of Civil Procedure should be revised, including, but not limited to, whether the statutes governing writ procedures should be revised; and be it further

Resolved, That before commencing work on any project within the calendar of topics the Legislature has authorized or directed the commission to study, the commission shall submit a detailed description of the scope of work to the chairs and vice chairs of the Assembly Committee on Judiciary and the Senate Committee on Judiciary, and any other policy committee that has jurisdiction over the subject matter of the study, and if during the course of the project there is a major change to the scope of work, submit a description of the change; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Law Revision Commission and to the author for appropriate distribution.

AMENDED IN ASSEMBLY MAY 18, 2026

AMENDED IN ASSEMBLY APRIL 9, 2026

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 2563

**Introduced by Assembly Member Pacheco
(Coauthor: Assembly Member Zbur)**

February 20, 2026

An act to add Section 14.3 to the Business and Professions Code, to amend Section 51 of, and to add Section 14.1 to, the Civil Code, to add Section 17.5 to the Code of Civil Procedure, to add Section 1207 to the Commercial Code, to add Section 12.4 to the Corporations Code, to add Sections 212.4 and 66262.4 to the Education Code, to add Section 353.7 to the Elections Code, to add Section 212 to the Evidence Code, to add Section 136 to the Family Code, to add Section 23 to the Financial Code, to add Section 9.4 to the Fish and Game Code, to add Section 52 to the Food and Agricultural Code, to amend Section 12926 of, and to add Section 27 to, the Government Code, to add Section 26 to the Harbors and Navigation Code, to add Section 29 to the Health and Safety Code, to add Section 49 to the Insurance Code, to add Section 12.3 to the Labor Code, to add Section 20 to the Military and Veterans Code, to add Section 5.5 to the Penal Code, to add Section 71 to the Probate Code, to add Section 1105 to the Public Contract Code, to add Section 19 to the Public Resources Code, to add Section 23 to the Public Utilities Code, to add Section 12.3 to the Revenue and Taxation Code, to add Section 37 to the Streets and Highways Code, to add Section 23 to the Unemployment Insurance Code, to add Section 552 to the Vehicle Code, to add Section 27 to the Water Code, and to add Section 28 to the Welfare and Institutions Code, relating to sex discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 2563, as amended, Pacheco. Sex discrimination: scope.

(1) The United States and California Constitutions guarantee all persons the right to equal protection of the laws. The California Constitution further recognizes the right of all persons to pursue and obtain safety, happiness, and privacy, guarantees an individual's reproductive freedom in their most intimate decisions, and prohibits disqualification of a person from entering or pursuing a business, profession, vocation, or employment because of, among other things, sex.

This bill would require, under all state laws, that any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination be interpreted to prohibit sex discrimination. The bill would define "sex discrimination" to include, among other things, discrimination based on any of specified actual or perceived characteristics or actions, including based on degree of conformity to sex or gender stereotypes.

This bill would provide that this interpretation reflects the existing protections of specified state constitutional laws, as described above. The bill would require these provisions to be liberally construed to effectuate the purposes of these constitutional protections. *The bill would make related findings and declarations.*

(2) Existing law, the Unruh Civil Rights Act (act), provides that all persons within the jurisdiction of this state are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all business establishments regardless of their sex, race, color, religion, ancestry, national origin, disability status, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status. That act defines "sex" to include, among other things, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.

This bill would further define, for purposes of the act, "sex" to include ~~any—actual—or—perceived~~ characteristics set forth under the above-described definition of "sex discrimination."

(3) Existing law, the California Fair Employment and Housing Act (FEHA), makes certain discriminatory employment and housing practices unlawful, and authorizes a person claiming to be aggrieved by an alleged unlawful practice to file a verified complaint with the

Civil Rights Department. The FEHA defines various terms in connection with unlawful practices, including the term “sex.”

This bill would further define “sex” to include any ~~actual or perceived~~ characteristics set forth under the above-described definition of “sex discrimination.”

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares that this bill*
2 *is declarative of existing law and is not intended to expand or*
3 *contract any existing rights or responsibilities.*

4 ~~SECTION 1.~~

5 *SEC. 2. Section 14.3 is added to the Business and Professions*
6 *Code, to read:*

7 14.3. (a) (1) Any provision that prohibits discrimination on
8 the basis of sex, discrimination on the basis of gender, or similar
9 discrimination shall also be interpreted as prohibiting sex
10 discrimination, as defined in this section.

11 (2) In case of a conflict between the provisions of this section
12 and other provisions of this code that set forth the scope of “sex
13 discrimination,” ~~the provisions of this section shall prevail over~~
14 ~~provisions with a narrower scope.~~ *sex discrimination, gender*
15 *discrimination, or similar discrimination, the provisions that would*
16 *result in greater protections of individuals based on sex, gender,*
17 *or similar discrimination shall prevail.*

18 (3) *This section shall not be construed to impair or diminish*
19 *any other civil rights protection that is broader in scope.*

20 (b) For purposes of this section, the following definitions shall
21 apply:

22 (1) “Discrimination” includes, but is not limited to, harassment.

23 (2) “Pregnancy or related medical conditions” includes, but is
24 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
25 and contraception.

26 (3) “Sex discrimination” includes, but is not limited to,
27 discrimination based on any of the following actual or perceived
28 characteristics or actions:

29 (A) Assigned sex or gender category, including female, male,
30 or nonbinary.

1 (B) Degree of conformity to sex or gender stereotypes.

2 (C) Gender, including gender identity, gender expression, and
3 access to, and use of, gender affirming care and other related health
4 care.

5 (D) Pregnancy or related medical conditions.

6 (E) Decisionmaking, access to care, or potential or actual use
7 of a drug, device, product, or service relating to pregnancy or
8 related medical conditions.

9 (F) Sexual orientation.

10 (G) Variations in sex characteristics, including intersex traits
11 or differences in sex development.

12 (c) This section reflects the existing protections of Sections 1,
13 1.1, 7, and 8 of Article I of the California Constitution recognizing
14 the individual rights to pursue and obtain safety, happiness, and
15 privacy, ensuring equal protection of the laws, protecting the ability
16 to enter or pursue a business, profession, vocation, or employment,
17 and protecting an individual's reproductive freedom. This section
18 shall be liberally construed to effectuate the purposes of these
19 constitutional protections.

20 ~~SEC. 2.~~

21 *SEC. 3.* Section 14.1 is added to the Civil Code, to read:

22 14.1. (a) (1) Any provision that prohibits discrimination on
23 the basis of sex, discrimination on the basis of gender, or similar
24 discrimination shall also be interpreted as prohibiting sex
25 discrimination, as defined in this section.

26 (2) In case of a conflict between the provisions of this section
27 and other provisions of this code that set forth the scope of "~~sex~~
28 ~~discrimination,~~" ~~the provisions of this section shall prevail over~~
29 ~~provisions with a narrower scope: sex discrimination, gender~~
30 ~~discrimination, or similar discrimination, the provisions that would~~
31 *result in greater protections of individuals based on sex, gender,*
32 *or similar discrimination shall prevail.*

33 (3) *This section shall not be construed to impair or diminish*
34 *any other civil rights protection that is broader in scope.*

35 (b) For purposes of this section, the following definitions shall
36 apply:

37 (1) "Discrimination" includes, but is not limited to, harassment.

38 (2) "Pregnancy or related medical conditions" includes, but is
39 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
40 and contraception.

(3) “Sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

(E) Decisionmaking, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.

(F) Sexual orientation.

(G) Variations in sex characteristics, including intersex traits or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual’s reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

~~SEC. 3.~~

SEC. 4. Section 51 of the Civil Code is amended to read:

51. (a) This section shall be known, and may be cited, as the Unruh Civil Rights Act.

(b) All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

(c) This section shall not be construed to confer any right or privilege on a person that is conditioned or limited by law or that is applicable alike to persons of every sex, color, race, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, citizenship, primary language, or

1 immigration status, or to persons regardless of their genetic
2 information.

3 (d) Nothing in this section shall be construed to require any
4 construction, alteration, repair, structural or otherwise, or
5 modification of any sort whatsoever, beyond that construction,
6 alteration, repair, or modification that is otherwise required by
7 other provisions of law, to any new or existing establishment,
8 facility, building, improvement, or any other structure, nor shall
9 anything in this section be construed to augment, restrict, or alter
10 in any way the authority of the State Architect to require
11 construction, alteration, repair, or modifications that the State
12 Architect otherwise possesses pursuant to other laws.

13 (e) For purposes of this section:

14 (1) "Disability" means any mental or physical disability as
15 defined in Sections 12926 and 12926.1 of the Government Code.

16 (2) (A) "Genetic information" means, with respect to any
17 individual, information about any of the following:

18 (i) The individual's genetic tests.

19 (ii) The genetic tests of family members of the individual.

20 (iii) The manifestation of a disease or disorder in family
21 members of the individual.

22 (B) "Genetic information" includes any request for, or receipt
23 of, genetic services, or participation in clinical research that
24 includes genetic services, by an individual or any family member
25 of the individual.

26 (C) "Genetic information" does not include information about
27 the sex or age of any individual.

28 (3) "Medical condition" has the same meaning as defined in
29 subdivision (i) of Section 12926 of the Government Code.

30 (4) "Race" is inclusive of traits associated with race, including,
31 but not limited to, hair texture and protective hairstyles. "Protective
32 hairstyles" includes, but is not limited to, such hairstyles as braids,
33 locs, and twists.

34 (5) "Religion" includes all aspects of religious belief,
35 observance, and practice.

36 (6) "Sex" includes, but is not limited to, pregnancy, childbirth,
37 or medical conditions related to pregnancy or childbirth, and any
38 ~~actual or perceived~~ characteristic in paragraph (3) of subdivision
39 (b) of Section 14.1. "Sex" also includes, but is not limited to, a
40 person's gender. "Gender" means sex, and includes a person's

gender identity and gender expression. “Gender expression” means a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.

(7) “Sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status” includes any of the following:

(A) Any combination of those characteristics.

(B) A perception that the person has any particular characteristic or characteristics within the listed categories or any combination of those characteristics.

(C) A perception that the person is associated with a person who has, or is perceived to have, any particular characteristic or characteristics, or any combination of characteristics, within the listed categories.

(8) “Sexual orientation” has the same meaning as defined in subdivision (s) of Section 12926 of the Government Code.

(f) A violation of the right of any individual under the federal Americans with Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section.

(g) Verification of immigration status and any discrimination based upon verified immigration status, where required by federal law, shall not constitute a violation of this section.

(h) Nothing in this section shall be construed to require the provision of services or documents in a language other than English, beyond that which is otherwise required by other provisions of federal, state, or local law, including Section 1632.

~~SEC. 4.~~

SEC. 5. Section 17.5 is added to the Code of Civil Procedure, to read:

17.5. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of “~~sex discrimination,~~” *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope: that would result in greater

1 *protections of individuals based on sex, gender, or similar*
2 *discrimination shall prevail.*

3 (3) *This section shall not be construed to impair or diminish*
4 *any other civil rights protection that is broader in scope.*

5 (b) For purposes of this section, the following definitions shall
6 apply:

7 (1) “Discrimination” includes, but is not limited to, harassment.

8 (2) “Pregnancy or related medical conditions” includes, but is
9 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
10 and contraception.

11 (3) “Sex discrimination” includes, but is not limited to,
12 discrimination based on any of the following actual or perceived
13 characteristics or actions:

14 (A) Assigned sex or gender category, including female, male,
15 or nonbinary.

16 (B) Degree of conformity to sex or gender stereotypes.

17 (C) Gender, including gender identity, gender expression, and
18 access to, and use of, gender affirming care and other related health
19 care.

20 (D) Pregnancy or related medical conditions.

21 (E) Decisionmaking, access to care, or potential or actual use
22 of a drug, device, product, or service relating to pregnancy or
23 related medical conditions.

24 (F) Sexual orientation.

25 (G) Variations in sex characteristics, including intersex traits
26 or differences in sex development.

27 (c) This section reflects the existing protections of Sections 1,
28 1.1, 7, and 8 of Article I of the California Constitution recognizing
29 the individual rights to pursue and obtain safety, happiness, and
30 privacy, ensuring equal protection of the laws, protecting the ability
31 to enter or pursue a business, profession, vocation, or employment,
32 and protecting an individual’s reproductive freedom. This section
33 shall be liberally construed to effectuate the purposes of these
34 constitutional protections.

35 ~~SEC. 5.~~

36 SEC. 6. Section 1207 is added to the Commercial Code,
37 immediately following Section 1206, to read:

38 1207. (a) (1) Any provision that prohibits discrimination on
39 the basis of sex, discrimination on the basis of gender, or similar

1 discrimination shall also be interpreted as prohibiting sex
2 discrimination, as defined in this section.

3 (2) In case of a conflict between the provisions of this section
4 and other provisions of this code that set forth the scope of “sex
5 discrimination,” *sex discrimination, gender discrimination, or*
6 *similar discrimination*, the provisions of this section shall prevail
7 ~~over provisions with a narrower scope that would result in greater~~
8 *protections of individuals based on sex, gender, or similar*
9 *discrimination shall prevail.*

10 (3) *This section shall not be construed to impair or diminish*
11 *any other civil rights protection that is broader in scope.*

12 (b) For purposes of this section, the following definitions shall
13 apply:

14 (1) “Discrimination” includes, but is not limited to, harassment.

15 (2) “Pregnancy or related medical conditions” includes, but is
16 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
17 and contraception.

18 (3) “Sex discrimination” includes, but is not limited to,
19 discrimination based on any of the following actual or perceived
20 characteristics or actions:

21 (A) Assigned sex or gender category, including female, male,
22 or nonbinary.

23 (B) Degree of conformity to sex or gender stereotypes.

24 (C) Gender, including gender identity, gender expression, and
25 access to, and use of, gender affirming care and other related health
26 care.

27 (D) Pregnancy or related medical conditions.

28 (E) Decisionmaking, access to care, or potential or actual use
29 of a drug, device, product, or service relating to pregnancy or
30 related medical conditions.

31 (F) Sexual orientation.

32 (G) Variations in sex characteristics, including intersex traits
33 or differences in sex development.

34 (c) This section reflects the existing protections of Sections 1,
35 1.1, 7, and 8 of Article I of the California Constitution recognizing
36 the individual rights to pursue and obtain safety, happiness, and
37 privacy, ensuring equal protection of the laws, protecting the ability
38 to enter or pursue a business, profession, vocation, or employment,
39 and protecting an individual’s reproductive freedom. This section

1 shall be liberally construed to effectuate the purposes of these
2 constitutional protections.

3 ~~SEC. 6.~~

4 SEC. 7. Section 12.4 is added to the Corporations Code, to
5 read:

6 12.4. (a) (1) Any provision that prohibits discrimination on
7 the basis of sex, discrimination on the basis of gender, or similar
8 discrimination shall also be interpreted as prohibiting sex
9 discrimination, as defined in this section.

10 (2) In case of a conflict between the provisions of this section
11 and other provisions of this code that set forth the scope of "~~sex~~
12 ~~discrimination,~~" *sex discrimination, gender discrimination, or*
13 *similar discrimination*, the provisions of this section shall prevail
14 ~~over provisions with a narrower scope that would result in greater~~
15 *protections of individuals based on sex, gender, or similar*
16 *discrimination shall prevail.*

17 (3) *This section shall not be construed to impair or diminish*
18 *any other civil rights protection that is broader in scope.*

19 (b) For purposes of this section, the following definitions shall
20 apply:

21 (1) "Discrimination" includes, but is not limited to, harassment.

22 (2) "Pregnancy or related medical conditions" includes, but is
23 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
24 and contraception.

25 (3) "Sex discrimination" includes, but is not limited to,
26 discrimination based on any of the following actual or perceived
27 characteristics or actions:

28 (A) Assigned sex or gender category, including female, male,
29 or nonbinary.

30 (B) Degree of conformity to sex or gender stereotypes.

31 (C) Gender, including gender identity, gender expression, and
32 access to, and use of, gender affirming care and other related health
33 care.

34 (D) Pregnancy or related medical conditions.

35 (E) Decisionmaking, access to care, or potential or actual use
36 of a drug, device, product, or service relating to pregnancy or
37 related medical conditions.

38 (F) Sexual orientation.

39 (G) Variations in sex characteristics, including intersex traits
40 or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual's reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

SEC. 7.

SEC. 8. Section 212.4 is added to the Education Code, to read:

212.4. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of "~~sex discrimination~~," *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope: *that would result in greater protections of individuals based on sex, gender, or similar discrimination shall prevail.*

(3) *This section shall not be construed to impair or diminish any other civil rights protection that is broader in scope.*

(b) For purposes of this section, the following definitions shall apply:

(1) "Discrimination" includes, but is not limited to, harassment.

(2) "Pregnancy or related medical conditions" includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.

(3) "Sex discrimination" includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

1 (E) Decisionmaking, access to care, or potential or actual use
2 of a drug, device, product, or service relating to pregnancy or
3 related medical conditions.

4 (F) Sexual orientation.

5 (G) Variations in sex characteristics, including intersex traits
6 or differences in sex development.

7 (c) This section reflects the existing protections of Sections 1,
8 1.1, 7, and 8 of Article I of the California Constitution recognizing
9 the individual rights to pursue and obtain safety, happiness, and
10 privacy, ensuring equal protection of the laws, protecting the ability
11 to enter or pursue a business, profession, vocation, or employment,
12 and protecting an individual's reproductive freedom. This section
13 shall be liberally construed to effectuate the purposes of these
14 constitutional protections.

15 ~~SEC. 8.~~

16 *SEC. 9.* Section 66262.4 is added to the Education Code, to
17 read:

18 66262.4. (a) (1) Any provision that prohibits discrimination
19 on the basis of sex, discrimination on the basis of gender, or similar
20 discrimination shall also be interpreted as prohibiting sex
21 discrimination, as defined in this section.

22 (2) In case of a conflict between the provisions of this section
23 and other provisions of this code that set forth the scope of "~~sex~~
24 ~~discrimination,~~" *sex discrimination, gender discrimination, or*
25 *similar discrimination*, the provisions of this section shall prevail
26 ~~over provisions with a narrower scope. that would result in greater~~
27 *protections of individuals based on sex, gender, or similar*
28 *discrimination shall prevail.*

29 (3) *This section shall not be construed to impair or diminish*
30 *any other civil rights protection that is broader in scope.*

31 (b) For purposes of this section, the following definitions shall
32 apply:

33 (1) "Discrimination" includes, but is not limited to, harassment.

34 (2) "Pregnancy or related medical conditions" includes, but is
35 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
36 and contraception.

37 (3) "Sex discrimination" includes, but is not limited to,
38 discrimination based on any of the following actual or perceived
39 characteristics or actions:

1 (A) Assigned sex or gender category, including female, male,
2 or nonbinary.

3 (B) Degree of conformity to sex or gender stereotypes.

4 (C) Gender, including gender identity, gender expression, and
5 access to, and use of, gender affirming care and other related health
6 care.

7 (D) Pregnancy or related medical conditions.

8 (E) Decisionmaking, access to care, or potential or actual use
9 of a drug, device, product, or service relating to pregnancy or
10 related medical conditions.

11 (F) Sexual orientation.

12 (G) Variations in sex characteristics, including intersex traits
13 or differences in sex development.

14 (c) This section reflects the existing protections of Sections 1,
15 1.1, 7, and 8 of Article I of the California Constitution recognizing
16 the individual rights to pursue and obtain safety, happiness, and
17 privacy, ensuring equal protection of the laws, protecting the ability
18 to enter or pursue a business, profession, vocation, or employment,
19 and protecting an individual's reproductive freedom. This section
20 shall be liberally construed to effectuate the purposes of these
21 constitutional protections.

22 ~~SEC. 9.~~

23 *SEC. 10.* Section 353.7 is added to the Elections Code, to read:

24 353.7. (a) (1) Any provision that prohibits discrimination on
25 the basis of sex, discrimination on the basis of gender, or similar
26 discrimination shall also be interpreted as prohibiting sex
27 discrimination, as defined in this section.

28 (2) In case of a conflict between the provisions of this section
29 and other provisions of this code that set forth the scope of "~~sex~~
30 ~~discrimination,~~" *sex discrimination, gender discrimination, or*
31 *similar discrimination*, the provisions of this section shall prevail
32 ~~over provisions with a narrower scope that would result in greater~~
33 *protections of individuals based on sex, gender, or similar*
34 *discrimination shall prevail.*

35 (3) *This section shall not be construed to impair or diminish*
36 *any other civil rights protection that is broader in scope.*

37 (b) For purposes of this section, the following definitions shall
38 apply:

39 (1) "Discrimination" includes, but is not limited to, harassment.

(2) “Pregnancy or related medical conditions” includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.

(3) “Sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

(E) Decisionmaking, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.

(F) Sexual orientation.

(G) Variations in sex characteristics, including intersex traits or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual’s reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

~~SEC. 10.~~

SEC. 11. Section 212 is added to the Evidence Code, to read:

212. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of “~~sex discrimination,~~” *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope that would result in greater protections of individuals based on sex, gender, or similar discrimination shall prevail.

1 (3) *This section shall not be construed to impair or diminish*
2 *any other civil rights protection that is broader in scope.*

3 (b) For purposes of this section, the following definitions shall
4 apply:

5 (1) “Discrimination” includes, but is not limited to, harassment.

6 (2) “Pregnancy or related medical conditions” includes, but is
7 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
8 and contraception.

9 (3) “Sex discrimination” includes, but is not limited to,
10 discrimination based on any of the following actual or perceived
11 characteristics or actions:

12 (A) Assigned sex or gender category, including female, male,
13 or nonbinary.

14 (B) Degree of conformity to sex or gender stereotypes.

15 (C) Gender, including gender identity, gender expression, and
16 access to, and use of, gender affirming care and other related health
17 care.

18 (D) Pregnancy or related medical conditions.

19 (E) Decisionmaking, access to care, or potential or actual use
20 of a drug, device, product, or service relating to pregnancy or
21 related medical conditions.

22 (F) Sexual orientation.

23 (G) Variations in sex characteristics, including intersex traits
24 or differences in sex development.

25 (c) This section reflects the existing protections of Sections 1,
26 1.1, 7, and 8 of Article I of the California Constitution recognizing
27 the individual rights to pursue and obtain safety, happiness, and
28 privacy, ensuring equal protection of the laws, protecting the ability
29 to enter or pursue a business, profession, vocation, or employment,
30 and protecting an individual’s reproductive freedom. This section
31 shall be liberally construed to effectuate the purposes of these
32 constitutional protections.

33 ~~SEC. 11.~~

34 SEC. 12. Section 136 is added to the Family Code, to read:

35 136. (a) (1) Any provision that prohibits discrimination on
36 the basis of sex, discrimination on the basis of gender, or similar
37 discrimination shall also be interpreted as prohibiting sex
38 discrimination, as defined in this section.

39 (2) In case of a conflict between the provisions of this section
40 and other provisions of this code that set forth the scope of “sex

1 ~~discrimination,”~~ *sex discrimination, gender discrimination, or*
2 *similar discrimination, the provisions of this section shall prevail*
3 ~~over provisions with a narrower scope. that would result in greater~~
4 *protections of individuals based on sex, gender, or similar*
5 *discrimination shall prevail.*

6 (3) *This section shall not be construed to impair or diminish*
7 *any other civil rights protection that is broader in scope.*

8 (b) For purposes of this section, the following definitions shall
9 apply:

10 (1) “Discrimination” includes, but is not limited to, harassment.

11 (2) “Pregnancy or related medical conditions” includes, but is
12 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
13 and contraception.

14 (3) “Sex discrimination” includes, but is not limited to,
15 discrimination based on any of the following actual or perceived
16 characteristics or actions:

17 (A) Assigned sex or gender category, including female, male,
18 or nonbinary.

19 (B) Degree of conformity to sex or gender stereotypes.

20 (C) Gender, including gender identity, gender expression, and
21 access to, and use of, gender affirming care and other related health
22 care.

23 (D) Pregnancy or related medical conditions.

24 (E) Decisionmaking, access to care, or potential or actual use
25 of a drug, device, product, or service relating to pregnancy or
26 related medical conditions.

27 (F) Sexual orientation.

28 (G) Variations in sex characteristics, including intersex traits
29 or differences in sex development.

30 (c) This section reflects the existing protections of Sections 1,
31 1.1, 7, and 8 of Article I of the California Constitution recognizing
32 the individual rights to pursue and obtain safety, happiness, and
33 privacy, ensuring equal protection of the laws, protecting the ability
34 to enter or pursue a business, profession, vocation, or employment,
35 and protecting an individual’s reproductive freedom. This section
36 shall be liberally construed to effectuate the purposes of these
37 constitutional protections.

38 ~~SEC. 12.~~

39 *SEC. 13.* Section 23 is added to the Financial Code, to read:

23. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of ~~“sex discrimination,”~~ *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope that would result in greater protections of individuals based on sex, gender, or similar discrimination shall prevail.

(3) This section shall not be construed to impair or diminish any other civil rights protection that is broader in scope.

(b) For purposes of this section, the following definitions shall apply:

(1) “Discrimination” includes, but is not limited to, harassment.

(2) “Pregnancy or related medical conditions” includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.

(3) “Sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

(E) Decisionmaking, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.

(F) Sexual orientation.

(G) Variations in sex characteristics, including intersex traits or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment,

1 and protecting an individual's reproductive freedom. This section
2 shall be liberally construed to effectuate the purposes of these
3 constitutional protections.

4 ~~SEC. 13.~~

5 *SEC. 14.* Section 9.4 is added to the Fish and Game Code, to
6 read:

7 9.4. (a) (1) Any provision that prohibits discrimination on the
8 basis of sex, discrimination on the basis of gender, or similar
9 discrimination shall also be interpreted as prohibiting sex
10 discrimination, as defined in this section.

11 (2) In case of a conflict between the provisions of this section
12 and other provisions of this code that set forth the scope of "~~sex~~
13 ~~discrimination,~~" *sex discrimination, gender discrimination, or*
14 *similar discrimination*, the provisions of this section shall prevail
15 ~~over provisions with a narrower scope. that would result in greater~~
16 *protections of individuals based on sex, gender, or similar*
17 *discrimination shall prevail.*

18 (3) *This section shall not be construed to impair or diminish*
19 *any other civil rights protection that is broader in scope.*

20 (b) For purposes of this section, the following definitions shall
21 apply:

22 (1) "Discrimination" includes, but is not limited to, harassment.

23 (2) "Pregnancy or related medical conditions" includes, but is
24 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
25 and contraception.

26 (3) "Sex discrimination" includes, but is not limited to,
27 discrimination based on any of the following actual or perceived
28 characteristics or actions:

29 (A) Assigned sex or gender category, including female, male,
30 or nonbinary.

31 (B) Degree of conformity to sex or gender stereotypes.

32 (C) Gender, including gender identity, gender expression, and
33 access to, and use of, gender affirming care and other related health
34 care.

35 (D) Pregnancy or related medical conditions.

36 (E) Decisionmaking, access to care, or potential or actual use
37 of a drug, device, product, or service relating to pregnancy or
38 related medical conditions.

39 (F) Sexual orientation.

(G) Variations in sex characteristics, including intersex traits or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual's reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

~~SEC. 14.~~

SEC. 15. Section 52 is added to the Food and Agricultural Code, to read:

52. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of ~~“sex discrimination,”~~ *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope: *that would result in greater protections of individuals based on sex, gender, or similar discrimination shall prevail.*

(3) *This section shall not be construed to impair or diminish any other civil rights protection that is broader in scope.*

(b) For purposes of this section, the following definitions shall apply:

(1) “Discrimination” includes, but is not limited to, harassment.

(2) “Pregnancy or related medical conditions” includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.

(3) “Sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

(E) Decisionmaking, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.

(F) Sexual orientation.

(G) Variations in sex characteristics, including intersex traits or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual's reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

~~SEC. 15.~~

SEC. 16. Section 27 is added to the Government Code, to read:

27. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of ~~“sex discrimination,”~~ *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope: *that would result in greater protections of individuals based on sex, gender, or similar discrimination shall prevail.*

(3) *This section shall not be construed to impair or diminish any other civil rights protection that is broader in scope.*

(b) For purposes of this section, the following definitions shall apply:

(1) “Discrimination” includes, but is not limited to, harassment.

(2) “Pregnancy or related medical conditions” includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.

(3) “Sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

(E) Decisionmaking, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.

(F) Sexual orientation.

(G) Variations in sex characteristics, including intersex traits or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual’s reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

~~SEC. 16.~~

SEC. 17. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) “Affirmative relief” or “prospective relief” includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) “Age” refers to the chronological age of any individual who has reached a 40th birthday.

(c) Except as provided by Section 12926.05, “employee” does not include any individual employed by that person’s parent, spouse, or child or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) “Employer” includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

“Employer” does not include a religious association or corporation not organized for private profit.

(e) “Employment agency” includes any person undertaking for compensation to procure employees or opportunities to work.

(f) “Essential functions” means the fundamental job duties of the employment position the individual with a disability holds or desires. “Essential functions” does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired based on expertise or the ability to perform a particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer’s judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) (1) “Genetic information” means, with respect to any individual, information about any of the following:

1 (A) The individual's genetic tests.

2 (B) The genetic tests of family members of the individual.

3 (C) The manifestation of a disease or disorder in family members
4 of the individual.

5 (2) "Genetic information" includes any request for, or receipt
6 of, genetic services, or participation in clinical research that
7 includes genetic services, by an individual or any family member
8 of the individual.

9 (3) "Genetic information" does not include information about
10 the sex or age of any individual.

11 (h) "Labor organization" includes any organization that exists
12 and is constituted for the purpose, in whole or in part, of collective
13 bargaining or of dealing with employers concerning grievances,
14 terms or conditions of employment, or of other mutual aid or
15 protection.

16 (i) "Medical condition" means either of the following:

17 (1) Any health impairment related to or associated with a
18 diagnosis of cancer or a record or history of cancer.

19 (2) Genetic characteristics. For purposes of this section, "genetic
20 characteristics" means either of the following:

21 (A) Any scientifically or medically identifiable gene or
22 chromosome, or combination or alteration thereof, that is known
23 to be a cause of a disease or disorder in a person or that person's
24 offspring, or that is determined to be associated with a statistically
25 increased risk of development of a disease or disorder, and that is
26 presently not associated with any symptoms of any disease or
27 disorder.

28 (B) Inherited characteristics that may derive from the individual
29 or family member, that are known to be a cause of a disease or
30 disorder in a person or that person's offspring, or that are
31 determined to be associated with a statistically increased risk of
32 development of a disease or disorder, and that are presently not
33 associated with any symptoms of any disease or disorder.

34 (j) "Mental disability" includes, but is not limited to, all of the
35 following:

36 (1) Having any mental or psychological disorder or condition,
37 such as intellectual disability, organic brain syndrome, emotional
38 or mental illness, or specific learning disabilities, that limits a
39 major life activity. For purposes of this section:

1 (A) “Limits” shall be determined without regard to mitigating
2 measures, such as medications, assistive devices, or reasonable
3 accommodations, unless the mitigating measure itself limits a
4 major life activity.

5 (B) A mental or psychological disorder or condition limits a
6 major life activity if it makes the achievement of the major life
7 activity difficult.

8 (C) “Major life activities” shall be broadly construed and shall
9 include physical, mental, and social activities and working.

10 (2) Any other mental or psychological disorder or condition not
11 described in paragraph (1) that requires special education or related
12 services.

13 (3) Having a record or history of a mental or psychological
14 disorder or condition described in paragraph (1) or (2), which is
15 known to the employer or other entity covered by this part.

16 (4) Being regarded or treated by the employer or other entity
17 covered by this part as having, or having had, any mental condition
18 that makes achievement of a major life activity difficult.

19 (5) Being regarded or treated by the employer or other entity
20 covered by this part as having, or having had, a mental or
21 psychological disorder or condition that has no present disabling
22 effect, but that may become a mental disability as described in
23 paragraph (1) or (2).

24 “Mental disability” does not include sexual behavior disorders,
25 compulsive gambling, kleptomania, pyromania, or psychoactive
26 substance use disorders resulting from the current unlawful use of
27 controlled substances or other drugs.

28 (k) “Veteran or military status” means a member or veteran of
29 the United States Armed Forces, United States Armed Forces
30 Reserve, the United States National Guard, and the California
31 National Guard.

32 (l) “On the bases enumerated in this part” means or refers to
33 discrimination on the basis of one or more of the following: race,
34 religious creed, color, national origin, ancestry, physical disability,
35 mental disability, medical condition, genetic information, marital
36 status, sex, age, sexual orientation, reproductive health
37 decisionmaking, or veteran or military status.

38 (m) “Physical disability” includes, but is not limited to, all of
39 the following:

1 (1) Having any physiological disease, disorder, condition,
2 cosmetic disfigurement, or anatomical loss that does both of the
3 following:

4 (A) Affects one or more of the following body systems:
5 neurological, immunological, musculoskeletal, special sense
6 organs, respiratory, including speech organs, cardiovascular,
7 reproductive, digestive, genitourinary, hemic and lymphatic, skin,
8 and endocrine.

9 (B) Limits a major life activity. For purposes of this section:

10 (i) "Limits" shall be determined without regard to mitigating
11 measures such as medications, assistive devices, prosthetics, or
12 reasonable accommodations, unless the mitigating measure itself
13 limits a major life activity.

14 (ii) A physiological disease, disorder, condition, cosmetic
15 disfigurement, or anatomical loss limits a major life activity if it
16 makes the achievement of the major life activity difficult.

17 (iii) "Major life activities" shall be broadly construed and
18 includes physical, mental, and social activities and working.

19 (2) Any other health impairment not described in paragraph (1)
20 that requires special education or related services.

21 (3) Having a record or history of a disease, disorder, condition,
22 cosmetic disfigurement, anatomical loss, or health impairment
23 described in paragraph (1) or (2), which is known to the employer
24 or other entity covered by this part.

25 (4) Being regarded or treated by the employer or other entity
26 covered by this part as having, or having had, any physical
27 condition that makes achievement of a major life activity difficult.

28 (5) Being regarded or treated by the employer or other entity
29 covered by this part as having, or having had, a disease, disorder,
30 condition, cosmetic disfigurement, anatomical loss, or health
31 impairment that has no present disabling effect but may become
32 a physical disability as described in paragraph (1) or (2).

33 (6) "Physical disability" does not include sexual behavior
34 disorders, compulsive gambling, kleptomania, pyromania, or
35 psychoactive substance use disorders resulting from the current
36 unlawful use of controlled substances or other drugs.

37 (n) Notwithstanding subdivisions (j) and (m), if the definition
38 of "disability" used in the federal Americans with Disabilities Act
39 of 1990 (Public Law 101-336) would result in broader protection
40 of the civil rights of individuals with a mental disability or physical

1 disability, as defined in subdivision (j) or (m), or would include
2 any medical condition not included within those definitions, then
3 that broader protection or coverage shall be deemed incorporated
4 by reference into, and shall prevail over conflicting provisions of,
5 the definitions in subdivisions (j) and (m).

6 (o) “Race, religious creed, color, national origin, ancestry,
7 physical disability, mental disability, medical condition, genetic
8 information, marital status, sex, age, sexual orientation,
9 reproductive health decisionmaking, or veteran or military status”
10 includes any of the following:

11 (1) Any combination of those characteristics.

12 (2) A perception that the person has any of those characteristics
13 or any combination of those characteristics.

14 (3) A perception that the person is associated with a person who
15 has, or is perceived to have, any of those characteristics or any
16 combination of those characteristics.

17 (p) “Reasonable accommodation” may include either of the
18 following:

19 (1) Making existing facilities used by employees readily
20 accessible to, and usable by, individuals with disabilities.

21 (2) Job restructuring, part-time or modified work schedules,
22 reassignment to a vacant position, acquisition or modification of
23 equipment or devices, adjustment or modifications of examinations,
24 training materials or policies, the provision of qualified readers or
25 interpreters, and other similar accommodations for individuals
26 with disabilities.

27 (q) “Religious creed,” “religion,” “religious observance,”
28 “religious belief,” and “creed” include all aspects of religious
29 belief, observance, and practice, including religious dress and
30 grooming practices. “Religious dress practice” shall be construed
31 broadly to include the wearing or carrying of religious clothing,
32 head or face coverings, jewelry, artifacts, and any other item that
33 is part of an individual observing a religious creed. “Religious
34 grooming practice” shall be construed broadly to include all forms
35 of head, facial, and body hair that are part of an individual
36 observing a religious creed.

37 (r) (1) “Sex” includes, but is not limited to, the following:

38 (A) Pregnancy or medical conditions related to pregnancy.

39 (B) Childbirth or medical conditions related to childbirth.

40 (C) Breastfeeding or medical conditions related to breastfeeding.

1 (2) “Sex” also includes, but is not limited to, a person’s gender.
2 “Gender” means sex, and includes a person’s gender identity and
3 gender expression. “Gender expression” means a person’s
4 gender-related appearance and behavior whether or not
5 stereotypically associated with the person’s assigned sex at birth.

6 (3) “Sex” also includes any ~~actual or perceived~~ characteristics
7 listed in paragraph (3) of subdivision (b) of Section 27.

8 (s) “Sexual orientation” means heterosexuality, homosexuality,
9 and bisexuality.

10 (t) “Supervisor” means any individual having the authority, in
11 the interest of the employer, to hire, transfer, suspend, lay off,
12 recall, promote, discharge, assign, reward, or discipline other
13 employees, or the responsibility to direct them, or to adjust their
14 grievances, or effectively to recommend that action, if, in
15 connection with the foregoing, the exercise of that authority is not
16 of a merely routine or clerical nature, but requires the use of
17 independent judgment.

18 (u) “Undue hardship” means an action requiring significant
19 difficulty or expense, when considered in light of the following
20 factors:

21 (1) The nature and cost of the accommodation needed.

22 (2) The overall financial resources of the facilities involved in
23 the provision of the reasonable accommodations, the number of
24 persons employed at the facility, and the effect on expenses and
25 resources or the impact otherwise of these accommodations upon
26 the operation of the facility.

27 (3) The overall financial resources of the covered entity, the
28 overall size of the business of a covered entity with respect to the
29 number of employees, and the number, type, and location of its
30 facilities.

31 (4) The type of operations, including the composition, structure,
32 and functions of the workforce of the entity.

33 (5) The geographic separateness or administrative or fiscal
34 relationship of the facility or facilities.

35 (v) “National origin” discrimination includes, but is not limited
36 to, discrimination on the basis of possessing a driver’s license or
37 identification card granted under Section 12801.9 of the Vehicle
38 Code.

39 (w) “Race” is inclusive of traits associated with race, including,
40 but not limited to, hair texture and protective hairstyles.

(x) “Protective hairstyles” includes, but is not limited to, such hairstyles as braids, locs, and twists.

(y) “Reproductive health decisionmaking” includes, but is not limited to, a decision to use or access a particular drug, device, product, or medical service for reproductive health. This subdivision and other provisions in this part relating to “reproductive health decisionmaking” shall not be construed to mean that subdivision (r) of this section and other provisions in this part related to “sex” do not include reproductive health decisionmaking.

(z) “Group or class complaint” includes any complaint alleging a pattern or practice. This paragraph is declaratory of, and clarifies, existing law.

~~SEC. 17:~~

SEC. 18. Section 26 is added to the Harbors and Navigation Code, to read:

26. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of “~~sex discrimination,~~” *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope: *that would result in greater protections of individuals based on sex, gender, or similar discrimination shall prevail.*

(3) *This section shall not be construed to impair or diminish any other civil rights protection that is broader in scope.*

(b) For purposes of this section, the following definitions shall apply:

(1) “Discrimination” includes, but is not limited to, harassment.

(2) “Pregnancy or related medical conditions” includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.

(3) “Sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

1 (B) Degree of conformity to sex or gender stereotypes.

2 (C) Gender, including gender identity, gender expression, and
3 access to, and use of, gender affirming care and other related health
4 care.

5 (D) Pregnancy or related medical conditions.

6 (E) Decisionmaking, access to care, or potential or actual use
7 of a drug, device, product, or service relating to pregnancy or
8 related medical conditions.

9 (F) Sexual orientation.

10 (G) Variations in sex characteristics, including intersex traits
11 or differences in sex development.

12 (c) This section reflects the existing protections of Sections 1,
13 1.1, 7, and 8 of Article I of the California Constitution recognizing
14 the individual rights to pursue and obtain safety, happiness, and
15 privacy, ensuring equal protection of the laws, protecting the ability
16 to enter or pursue a business, profession, vocation, or employment,
17 and protecting an individual's reproductive freedom. This section
18 shall be liberally construed to effectuate the purposes of these
19 constitutional protections.

20 ~~SEC. 18:~~

21 *SEC. 19.* Section 29 is added to the Health and Safety Code,
22 to read:

23 29. (a) (1) Any provision that prohibits discrimination on the
24 basis of sex, discrimination on the basis of gender, or similar
25 discrimination shall also be interpreted as prohibiting sex
26 discrimination, as defined in this section.

27 (2) In case of a conflict between the provisions of this section
28 and other provisions of this code that set forth the scope of "~~sex~~
29 ~~discrimination,~~" *sex discrimination, gender discrimination, or*
30 *similar discrimination*, the provisions of this section shall prevail
31 ~~over provisions with a narrower scope; that would result in greater~~
32 *protections of individuals based on sex, gender, or similar*
33 *discrimination shall prevail.*

34 (3) *This section shall not be construed to impair or diminish*
35 *any other civil rights protection that is broader in scope.*

36 (b) For purposes of this section, the following definitions shall
37 apply:

38 (1) "Discrimination" includes, but is not limited to, harassment.

(2) “Pregnancy or related medical conditions” includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.

(3) “Sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

(E) Decisionmaking, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.

(F) Sexual orientation.

(G) Variations in sex characteristics, including intersex traits or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual’s reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

~~SEC. 19.~~

SEC. 20. Section 49 is added to the Insurance Code, to read:

49. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of “~~sex discrimination,~~” *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope that would result in greater protections of individuals based on sex, gender, or similar discrimination shall prevail.

1 (3) *This section shall not be construed to impair or diminish*
2 *any other civil rights protection that is broader in scope.*

3 (b) For purposes of this section, the following definitions shall
4 apply:

5 (1) “Discrimination” includes, but is not limited to, harassment.

6 (2) “Pregnancy or related medical conditions” includes, but is
7 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
8 and contraception.

9 (3) “Sex discrimination” includes, but is not limited to,
10 discrimination based on any of the following actual or perceived
11 characteristics or actions:

12 (A) Assigned sex or gender category, including female, male,
13 or nonbinary.

14 (B) Degree of conformity to sex or gender stereotypes.

15 (C) Gender, including gender identity, gender expression, and
16 access to, and use of, gender affirming care and other related health
17 care.

18 (D) Pregnancy or related medical conditions.

19 (E) Decisionmaking, access to care, or potential or actual use
20 of a drug, device, product, or service relating to pregnancy or
21 related medical conditions.

22 (F) Sexual orientation.

23 (G) Variations in sex characteristics, including intersex traits
24 or differences in sex development.

25 (c) This section reflects the existing protections of Sections 1,
26 1.1, 7, and 8 of Article I of the California Constitution recognizing
27 the individual rights to pursue and obtain safety, happiness, and
28 privacy, ensuring equal protection of the laws, protecting the ability
29 to enter or pursue a business, profession, vocation, or employment,
30 and protecting an individual’s reproductive freedom. This section
31 shall be liberally construed to effectuate the purposes of these
32 constitutional protections.

33 ~~SEC. 20.~~

34 *SEC. 21.* Section 12.3 is added to the Labor Code, to read:

35 12.3. (a) (1) Any provision that prohibits discrimination on
36 the basis of sex, discrimination on the basis of gender, or similar
37 discrimination shall also be interpreted as prohibiting sex
38 discrimination, as defined in this section.

39 (2) In case of a conflict between the provisions of this section
40 and other provisions of this code that set forth the scope of “sex

1 ~~discrimination,”~~ *sex discrimination, gender discrimination, or*
2 *similar discrimination, the provisions of this section shall prevail*
3 ~~over provisions with a narrower scope. that would result in greater~~
4 *protections of individuals based on sex, gender, or similar*
5 *discrimination shall prevail.*

6 (3) *This section shall not be construed to impair or diminish*
7 *any other civil rights protection that is broader in scope.*

8 (b) For purposes of this section, the following definitions shall
9 apply:

10 (1) “Discrimination” includes, but is not limited to, harassment.

11 (2) “Pregnancy or related medical conditions” includes, but is
12 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
13 and contraception.

14 (3) “Sex discrimination” includes, but is not limited to,
15 discrimination based on any of the following actual or perceived
16 characteristics or actions:

17 (A) Assigned sex or gender category, including female, male,
18 or nonbinary.

19 (B) Degree of conformity to sex or gender stereotypes.

20 (C) Gender, including gender identity, gender expression, and
21 access to, and use of, gender affirming care and other related health
22 care.

23 (D) Pregnancy or related medical conditions.

24 (E) Decisionmaking, access to care, or potential or actual use
25 of a drug, device, product, or service relating to pregnancy or
26 related medical conditions.

27 (F) Sexual orientation.

28 (G) Variations in sex characteristics, including intersex traits
29 or differences in sex development.

30 (c) This section reflects the existing protections of Sections 1,
31 1.1, 7, and 8 of Article I of the California Constitution recognizing
32 the individual rights to pursue and obtain safety, happiness, and
33 privacy, ensuring equal protection of the laws, protecting the ability
34 to enter or pursue a business, profession, vocation, or employment,
35 and protecting an individual’s reproductive freedom. This section
36 shall be liberally construed to effectuate the purposes of these
37 constitutional protections.

38 ~~SEC. 21.~~

39 SEC. 22. Section 20 is added to the Military and Veterans Code,
40 to read:

1 20. (a) (1) Any provision that prohibits discrimination on the
2 basis of sex, discrimination on the basis of gender, or similar
3 discrimination shall also be interpreted as prohibiting sex
4 discrimination, as defined in this section.

5 (2) In case of a conflict between the provisions of this section
6 and other provisions of this code that set forth the scope of ~~“sex~~
7 ~~discrimination,”~~ *sex discrimination, gender discrimination, or*
8 *similar discrimination*, the provisions of ~~this section shall prevail~~
9 ~~over provisions with a narrower scope. that would result in greater~~
10 *protections of individuals based on sex, gender, or similar*
11 *discrimination shall prevail.*

12 (3) *This section shall not be construed to impair or diminish*
13 *any other civil rights protection that is broader in scope.*

14 (b) For purposes of this section, the following definitions shall
15 apply:

16 (1) “Discrimination” includes, but is not limited to, harassment.

17 (2) “Pregnancy or related medical conditions” includes, but is
18 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
19 and contraception.

20 (3) “Sex discrimination” includes, but is not limited to,
21 discrimination based on any of the following actual or perceived
22 characteristics or actions:

23 (A) Assigned sex or gender category, including female, male,
24 or nonbinary.

25 (B) Degree of conformity to sex or gender stereotypes.

26 (C) Gender, including gender identity, gender expression, and
27 access to, and use of, gender affirming care and other related health
28 care.

29 (D) Pregnancy or related medical conditions.

30 (E) Decisionmaking, access to care, or potential or actual use
31 of a drug, device, product, or service relating to pregnancy or
32 related medical conditions.

33 (F) Sexual orientation.

34 (G) Variations in sex characteristics, including intersex traits
35 or differences in sex development.

36 (c) This section reflects the existing protections of Sections 1,
37 1.1, 7, and 8 of Article I of the California Constitution recognizing
38 the individual rights to pursue and obtain safety, happiness, and
39 privacy, ensuring equal protection of the laws, protecting the ability
40 to enter or pursue a business, profession, vocation, or employment,

1 and protecting an individual's reproductive freedom. This section
2 shall be liberally construed to effectuate the purposes of these
3 constitutional protections.

4 ~~SEC. 22.~~

5 *SEC. 23.* Section 5.5 is added to the Penal Code, to read:

6 5.5. (a) (1) Any provision that prohibits discrimination on the
7 basis of sex, discrimination on the basis of gender, or similar
8 discrimination shall also be interpreted as prohibiting sex
9 discrimination, as defined in this section.

10 (2) In case of a conflict between the provisions of this section
11 and other provisions of this code that set forth the scope of "~~sex~~
12 ~~discrimination,~~" *sex discrimination, gender discrimination, or*
13 *similar discrimination*, the provisions of this section shall prevail
14 ~~over provisions with a narrower scope that would result in greater~~
15 *protections of individuals based on sex, gender, or similar*
16 *discrimination shall prevail.*

17 (3) *This section shall not be construed to impair or diminish*
18 *any other civil rights protection that is broader in scope.*

19 (b) For purposes of this section, the following definitions shall
20 apply:

21 (1) "Discrimination" includes, but is not limited to, harassment.

22 (2) "Pregnancy or related medical conditions" includes, but is
23 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
24 and contraception.

25 (3) "Sex discrimination" includes, but is not limited to,
26 discrimination based on any of the following actual or perceived
27 characteristics or actions:

28 (A) Assigned sex or gender category, including female, male,
29 or nonbinary.

30 (B) Degree of conformity to sex or gender stereotypes.

31 (C) Gender, including gender identity, gender expression, and
32 access to, and use of, gender affirming care and other related health
33 care.

34 (D) Pregnancy or related medical conditions.

35 (E) Decisionmaking, access to care, or potential or actual use
36 of a drug, device, product, or service relating to pregnancy or
37 related medical conditions.

38 (F) Sexual orientation.

39 (G) Variations in sex characteristics, including intersex traits
40 or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual's reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

~~SEC. 23.~~

SEC. 24. Section 71 is added to the Probate Code, to read:

71. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of "~~sex discrimination~~," *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope: *that would result in greater protections of individuals based on sex, gender, or similar discrimination shall prevail.*

(3) *This section shall not be construed to impair or diminish any other civil rights protection that is broader in scope.*

(b) For purposes of this section, the following definitions shall apply:

(1) "Discrimination" includes, but is not limited to, harassment.

(2) "Pregnancy or related medical conditions" includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.

(3) "Sex discrimination" includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

1 (E) Decisionmaking, access to care, or potential or actual use
2 of a drug, device, product, or service relating to pregnancy or
3 related medical conditions.

4 (F) Sexual orientation.

5 (G) Variations in sex characteristics, including intersex traits
6 or differences in sex development.

7 (c) This section reflects the existing protections of Sections 1,
8 1.1, 7, and 8 of Article I of the California Constitution recognizing
9 the individual rights to pursue and obtain safety, happiness, and
10 privacy, ensuring equal protection of the laws, protecting the ability
11 to enter or pursue a business, profession, vocation, or employment,
12 and protecting an individual's reproductive freedom. This section
13 shall be liberally construed to effectuate the purposes of these
14 constitutional protections.

15 ~~SEC. 24.~~

16 SEC. 25. Section 1105 is added to the Public Contract Code,
17 to read:

18 1105. (a) (1) Any provision that prohibits discrimination on
19 the basis of sex, discrimination on the basis of gender, or similar
20 discrimination shall also be interpreted as prohibiting sex
21 discrimination, as defined in this section.

22 (2) In case of a conflict between the provisions of this section
23 and other provisions of this code that set forth the scope of "~~sex~~
24 ~~discrimination,~~" *sex discrimination, gender discrimination, or*
25 *similar discrimination*, the provisions of this section shall prevail
26 ~~over provisions with a narrower scope that would result in greater~~
27 *protections of individuals based on sex, gender, or similar*
28 *discrimination shall prevail.*

29 (3) *This section shall not be construed to impair or diminish*
30 *any other civil rights protection that is broader in scope.*

31 (b) For purposes of this section, the following definitions shall
32 apply:

33 (1) "Discrimination" includes, but is not limited to, harassment.

34 (2) "Pregnancy or related medical conditions" includes, but is
35 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
36 and contraception.

37 (3) "Sex discrimination" includes, but is not limited to,
38 discrimination based on any of the following actual or perceived
39 characteristics or actions:

1 (A) Assigned sex or gender category, including female, male,
2 or nonbinary.

3 (B) Degree of conformity to sex or gender stereotypes.

4 (C) Gender, including gender identity, gender expression, and
5 access to, and use of, gender affirming care and other related health
6 care.

7 (D) Pregnancy or related medical conditions.

8 (E) Decisionmaking, access to care, or potential or actual use
9 of a drug, device, product, or service relating to pregnancy or
10 related medical conditions.

11 (F) Sexual orientation.

12 (G) Variations in sex characteristics, including intersex traits
13 or differences in sex development.

14 (c) This section reflects the existing protections of Sections 1,
15 1.1, 7, and 8 of Article I of the California Constitution recognizing
16 the individual rights to pursue and obtain safety, happiness, and
17 privacy, ensuring equal protection of the laws, protecting the ability
18 to enter or pursue a business, profession, vocation, or employment,
19 and protecting an individual's reproductive freedom. This section
20 shall be liberally construed to effectuate the purposes of these
21 constitutional protections.

22 ~~SEC. 25.~~

23 *SEC. 26.* Section 19 is added to the Public Resources Code, to
24 read:

25 19. (a) (1) Any provision that prohibits discrimination on the
26 basis of sex, discrimination on the basis of gender, or similar
27 discrimination shall also be interpreted as prohibiting sex
28 discrimination, as defined in this section.

29 (2) In case of a conflict between the provisions of this section
30 and other provisions of this code that set forth the scope of "~~sex~~
31 ~~discrimination,~~" *sex discrimination, gender discrimination, or*
32 *similar discrimination*, the provisions of this section shall prevail
33 ~~over provisions with a narrower scope that would result in greater~~
34 *protections of individuals based on sex, gender, or similar*
35 *discrimination shall prevail.*

36 (3) *This section shall not be construed to impair or diminish*
37 *any other civil rights protection that is broader in scope.*

38 (b) For purposes of this section, the following definitions shall
39 apply:

40 (1) "Discrimination" includes, but is not limited to, harassment.

(2) “Pregnancy or related medical conditions” includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.

(3) “Sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

(E) Decisionmaking, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.

(F) Sexual orientation.

(G) Variations in sex characteristics, including intersex traits or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual’s reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

~~SEC. 26.~~

~~SEC. 27.~~ Section 23 is added to the Public Utilities Code, to read:

23. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of ~~“sex discrimination,”~~ *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope: *that would result in greater*

1 *protections of individuals based on sex, gender, or similar*
2 *discrimination shall prevail.*

3 (3) *This section shall not be construed to impair or diminish*
4 *any other civil rights protection that is broader in scope.*

5 (b) For purposes of this section, the following definitions shall
6 apply:

7 (1) “Discrimination” includes, but is not limited to, harassment.

8 (2) “Pregnancy or related medical conditions” includes, but is
9 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
10 and contraception.

11 (3) “Sex discrimination” includes, but is not limited to,
12 discrimination based on any of the following actual or perceived
13 characteristics or actions:

14 (A) Assigned sex or gender category, including female, male,
15 or nonbinary.

16 (B) Degree of conformity to sex or gender stereotypes.

17 (C) Gender, including gender identity, gender expression, and
18 access to, and use of, gender affirming care and other related health
19 care.

20 (D) Pregnancy or related medical conditions.

21 (E) Decisionmaking, access to care, or potential or actual use
22 of a drug, device, product, or service relating to pregnancy or
23 related medical conditions.

24 (F) Sexual orientation.

25 (G) Variations in sex characteristics, including intersex traits
26 or differences in sex development.

27 (c) This section reflects the existing protections of Sections 1,
28 1.1, 7, and 8 of Article I of the California Constitution recognizing
29 the individual rights to pursue and obtain safety, happiness, and
30 privacy, ensuring equal protection of the laws, protecting the ability
31 to enter or pursue a business, profession, vocation, or employment,
32 and protecting an individual’s reproductive freedom. This section
33 shall be liberally construed to effectuate the purposes of these
34 constitutional protections.

35 ~~SEC. 27.~~

36 ~~SEC. 28.~~ Section 12.3 is added to the Revenue and Taxation
37 Code, to read:

38 12.3. (a) (1) Any provision that prohibits discrimination on
39 the basis of sex, discrimination on the basis of gender, or similar

1 discrimination shall also be interpreted as prohibiting sex
2 discrimination, as defined in this section.

3 (2) In case of a conflict between the provisions of this section
4 and other provisions of this code that set forth the scope of “~~sex~~
5 ~~discrimination,~~” *sex discrimination, gender discrimination, or*
6 *similar discrimination*, the provisions of this section shall prevail
7 ~~over provisions with a narrower scope that would result in greater~~
8 *protections of individuals based on sex, gender, or similar*
9 *discrimination shall prevail.*

10 (3) *This section shall not be construed to impair or diminish*
11 *any other civil rights protection that is broader in scope.*

12 (b) For purposes of this section, the following definitions shall
13 apply:

14 (1) “Discrimination” includes, but is not limited to, harassment.

15 (2) “Pregnancy or related medical conditions” includes, but is
16 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
17 and contraception.

18 (3) “Sex discrimination” includes, but is not limited to,
19 discrimination based on any of the following actual or perceived
20 characteristics or actions:

21 (A) Assigned sex or gender category, including female, male,
22 or nonbinary.

23 (B) Degree of conformity to sex or gender stereotypes.

24 (C) Gender, including gender identity, gender expression, and
25 access to, and use of, gender affirming care and other related health
26 care.

27 (D) Pregnancy or related medical conditions.

28 (E) Decisionmaking, access to care, or potential or actual use
29 of a drug, device, product, or service relating to pregnancy or
30 related medical conditions.

31 (F) Sexual orientation.

32 (G) Variations in sex characteristics, including intersex traits
33 or differences in sex development.

34 (c) This section reflects the existing protections of Sections 1,
35 1.1, 7, and 8 of Article I of the California Constitution recognizing
36 the individual rights to pursue and obtain safety, happiness, and
37 privacy, ensuring equal protection of the laws, protecting the ability
38 to enter or pursue a business, profession, vocation, or employment,
39 and protecting an individual’s reproductive freedom. This section

1 shall be liberally construed to effectuate the purposes of these
2 constitutional protections.

3 ~~SEC. 28.~~

4 SEC. 29. Section 37 is added to the Streets and Highways Code,
5 to read:

6 37. (a) (1) Any provision that prohibits discrimination on the
7 basis of sex, discrimination on the basis of gender, or similar
8 discrimination shall also be interpreted as prohibiting sex
9 discrimination, as defined in this section.

10 (2) In case of a conflict between the provisions of this section
11 and other provisions of this code that set forth the scope of "~~sex~~
12 ~~discrimination,~~" *sex discrimination, gender discrimination, or*
13 *similar discrimination*, the provisions of this section shall prevail
14 ~~over provisions with a narrower scope that would result in greater~~
15 *protections of individuals based on sex, gender, or similar*
16 *discrimination shall prevail.*

17 (3) *This section shall not be construed to impair or diminish*
18 *any other civil rights protection that is broader in scope.*

19 (b) For purposes of this section, the following definitions shall
20 apply:

21 (1) "Discrimination" includes, but is not limited to, harassment.

22 (2) "Pregnancy or related medical conditions" includes, but is
23 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
24 and contraception.

25 (3) "Sex discrimination" includes, but is not limited to,
26 discrimination based on any of the following actual or perceived
27 characteristics or actions:

28 (A) Assigned sex or gender category, including female, male,
29 or nonbinary.

30 (B) Degree of conformity to sex or gender stereotypes.

31 (C) Gender, including gender identity, gender expression, and
32 access to, and use of, gender affirming care and other related health
33 care.

34 (D) Pregnancy or related medical conditions.

35 (E) Decisionmaking, access to care, or potential or actual use
36 of a drug, device, product, or service relating to pregnancy or
37 related medical conditions.

38 (F) Sexual orientation.

39 (G) Variations in sex characteristics, including intersex traits
40 or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual's reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

~~SEC. 29.~~

SEC. 30. Section 23 is added to the Unemployment Insurance Code, to read:

23. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of "~~sex discrimination,~~" *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope that would result in greater protections of individuals based on sex, gender, or similar discrimination shall prevail.

(3) *This section shall not be construed to impair or diminish any other civil rights protection that is broader in scope.*

(b) For purposes of this section, the following definitions shall apply:

(1) "Discrimination" includes, but is not limited to, harassment.

(2) "Pregnancy or related medical conditions" includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.

(3) "Sex discrimination" includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

1 (E) Decisionmaking, access to care, or potential or actual use
2 of a drug, device, product, or service relating to pregnancy or
3 related medical conditions.

4 (F) Sexual orientation.

5 (G) Variations in sex characteristics, including intersex traits
6 or differences in sex development.

7 (c) This section reflects the existing protections of Sections 1,
8 1.1, 7, and 8 of Article I of the California Constitution recognizing
9 the individual rights to pursue and obtain safety, happiness, and
10 privacy, ensuring equal protection of the laws, protecting the ability
11 to enter or pursue a business, profession, vocation, or employment,
12 and protecting an individual's reproductive freedom. This section
13 shall be liberally construed to effectuate the purposes of these
14 constitutional protections.

15 ~~SEC. 30.~~

16 *SEC. 31.* Section 552 is added to the Vehicle Code, to read:

17 552. (a) (1) Any provision that prohibits discrimination on
18 the basis of sex, discrimination on the basis of gender, or similar
19 discrimination shall also be interpreted as prohibiting sex
20 discrimination, as defined in this section.

21 (2) In case of a conflict between the provisions of this section
22 and other provisions of this code that set forth the scope of "~~sex~~
23 ~~discrimination,~~" *sex discrimination, gender discrimination, or*
24 *similar discrimination*, the provisions of this section shall prevail
25 ~~over provisions with a narrower scope that would result in greater~~
26 *protections of individuals based on sex, gender, or similar*
27 *discrimination shall prevail.*

28 (3) *This section shall not be construed to impair or diminish*
29 *any other civil rights protection that is broader in scope.*

30 (b) For purposes of this section, the following definitions shall
31 apply:

32 (1) "Discrimination" includes, but is not limited to, harassment.

33 (2) "Pregnancy or related medical conditions" includes, but is
34 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
35 and contraception.

36 (3) "Sex discrimination" includes, but is not limited to,
37 discrimination based on any of the following actual or perceived
38 characteristics or actions:

39 (A) Assigned sex or gender category, including female, male,
40 or nonbinary.

1 (B) Degree of conformity to sex or gender stereotypes.

2 (C) Gender, including gender identity, gender expression, and
3 access to, and use of, gender affirming care and other related health
4 care.

5 (D) Pregnancy or related medical conditions.

6 (E) Decisionmaking, access to care, or potential or actual use
7 of a drug, device, product, or service relating to pregnancy or
8 related medical conditions.

9 (F) Sexual orientation.

10 (G) Variations in sex characteristics, including intersex traits
11 or differences in sex development.

12 (c) This section reflects the existing protections of Sections 1,
13 1.1, 7, and 8 of Article I of the California Constitution recognizing
14 the individual rights to pursue and obtain safety, happiness, and
15 privacy, ensuring equal protection of the laws, protecting the ability
16 to enter or pursue a business, profession, vocation, or employment,
17 and protecting an individual's reproductive freedom. This section
18 shall be liberally construed to effectuate the purposes of these
19 constitutional protections.

20 ~~SEC. 31.~~

21 *SEC. 32.* Section 27 is added to the Water Code, to read:

22 27. (a) (1) Any provision that prohibits discrimination on the
23 basis of sex, discrimination on the basis of gender, or similar
24 discrimination shall also be interpreted as prohibiting sex
25 discrimination, as defined in this section.

26 (2) In case of a conflict between the provisions of this section
27 and other provisions of this code that set forth the scope of ~~“sex~~
28 ~~discrimination,”~~ *sex discrimination, gender discrimination, or*
29 *similar discrimination*, the provisions of this section shall prevail
30 ~~over provisions with a narrower scope; that would result in greater~~
31 *protections of individuals based on sex, gender, or similar*
32 *discrimination shall prevail.*

33 (3) *This section shall not be construed to impair or diminish*
34 *any other civil rights protection that is broader in scope.*

35 (b) For purposes of this section, the following definitions shall
36 apply:

37 (1) “Discrimination” includes, but is not limited to, harassment.

38 (2) “Pregnancy or related medical conditions” includes, but is
39 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
40 and contraception.

(3) “Sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

(E) Decisionmaking, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.

(F) Sexual orientation.

(G) Variations in sex characteristics, including intersex traits or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual’s reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

~~SEC. 32.~~

SEC. 33. Section 28 is added to the Welfare and Institutions Code, to read:

28. (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of ~~“sex discrimination,”~~ *sex discrimination, gender discrimination, or similar discrimination*, the provisions of this section shall prevail over provisions with a narrower scope that would result in greater protections of individuals based on sex, gender, or similar discrimination shall prevail.

(3) This section shall not be construed to impair or diminish any other civil rights protection that is broader in scope.

1 (b) For purposes of this section, the following definitions shall
2 apply:

3 (1) “Discrimination” includes, but is not limited to, harassment.

4 (2) “Pregnancy or related medical conditions” includes, but is
5 not limited to, childbirth, abortion, lactation, miscarriage, fertility,
6 and contraception.

7 (3) “Sex discrimination” includes, but is not limited to,
8 discrimination based on any of the following actual or perceived
9 characteristics or actions:

10 (A) Assigned sex or gender category, including female, male,
11 or nonbinary.

12 (B) Degree of conformity to sex or gender stereotypes.

13 (C) Gender, including gender identity, gender expression, and
14 access to, and use of, gender affirming care and other related health
15 care.

16 (D) Pregnancy or related medical conditions.

17 (E) Decisionmaking, access to care, or potential or actual use
18 of a drug, device, product, or service relating to pregnancy or
19 related medical conditions.

20 (F) Sexual orientation.

21 (G) Variations in sex characteristics, including intersex traits
22 or differences in sex development.

23 (c) This section reflects the existing protections of Sections 1,
24 1.1, 7, and 8 of Article I of the California Constitution recognizing
25 the individual rights to pursue and obtain safety, happiness, and
26 privacy, ensuring equal protection of the laws, protecting the ability
27 to enter or pursue a business, profession, vocation, or employment,
28 and protecting an individual’s reproductive freedom. This section
29 shall be liberally construed to effectuate the purposes of these
30 constitutional protections.

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AMENDED IN SENATE AUGUST 3, 2026

AMENDED IN SENATE JUNE 22, 2026

AMENDED IN SENATE JUNE 16, 2026

AMENDED IN ASSEMBLY MAY 18, 2026

AMENDED IN ASSEMBLY APRIL 9, 2026

AMENDED IN ASSEMBLY MARCH 23, 2026

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 1776

Introduced by Assembly Member Aguiar-Curry

(Principal coauthor: Assembly Member Mark González)

(Principal coauthor: Senator Hurtado)

**(Coauthors: Assembly Members Bains, Bonta, Connolly, Elhawary,
Lee, Ortega, Rogers, and Schiavo)**

(Coauthors: Senators Cortese and Padilla)

February 9, 2026

An act to add Sections 16730, 16731, and 16732 to the Business and Professions Code, relating to business regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1776, as amended, Aguiar-Curry. Cartwright Act: violations.

Existing law, commonly known as the Cartwright Act, identifies certain acts as unlawful restraints of trade and unlawful trusts and prescribes provisions for its enforcement. Chapter 338 of the Statutes of 2025 provides that in a complaint for any violation of the Cartwright Act, it is sufficient to contain factual allegations demonstrating that the existence of a contract, combination in the form of a trust, or conspiracy

to restrain trade or commerce is plausible. Chapter 338 of the Statutes of 2025 also provides that a complaint for any violation of the Cartwright Act is not required to allege facts tending to exclude the possibility of independent action. Existing case law, *In re Cipro Cases I & II* (2015) 61 Cal. 4th 116, establishes a rule of reason analysis for certain claims under the Cartwright Act, which, among other things, determines whether an act was made for the purpose of avoiding competition and whether the anticompetitive effects of the agreement outweigh any procompetitive justifications.

~~This bill would prohibit one or more persons from acting, causing, taking, or directing measures, actions, or events that are to unreasonably restrain trade or monopolize or monopsonize in any person from monopolizing or monopsonizing any part of trade or commerce, as provided. The bill would prohibit anticompetitive effects in one market from being offset by purported benefits in a separate market. provided, and would require procompetitive justifications of the challenged conduct to be evaluated within the same relevant market, as specified.~~ The bill would require courts to use the analytical framework and guidance provided in *In re Cipro Cases I & II*. The bill would require a plaintiff bringing an action under its provisions to allege, and prove at trial, *substantial* market power through either direct or indirect evidence. The bill would exempt a small business, as defined, from these provisions. *The bill would provide that its provisions do not prevent, limit, or prohibit certain conduct and legal instruments, including exclusive franchises granted and supervised by a local, state, or federal governmental agency.* The bill would also make related findings and declarations. The bill would require courts to liberally interpret California's antitrust laws to best promote free and fair competition, as provided.

Because the bill would expand the scope of activities prohibited by the Cartwright Act, the violation of which is punishable as a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16730 is added to the Business and
2 Professions Code, to read:

3 16730. (a) The purpose of the Cartwright Act is the promotion
4 and protection of free and fair competition (*Clayworth v. Pfizer,*
5 *Inc.* (2010) 49 Cal.4th 758, 783), which is fundamental to a healthy
6 marketplace that protects all trade participants, including workers
7 and consumers, and to an environment that is conducive to the
8 preservation of our democratic, political, and social institutions.

9 (b) Protecting competition includes protecting competition
10 between businesses when they compete for workers by prohibiting
11 anticompetitive business practices that impede workers' freedom
12 to choose employment.

13 (c) The California Supreme Court has determined that the
14 Cartwright Act is "broader in range and deeper in reach" than the
15 federal Sherman Anti-Trust Act (*Cianci v. Superior Court* (1985)
16 40 Cal.3d 903, 920). The California Supreme Court has found the
17 Cartwright Act is not modeled on the federal Sherman Anti-Trust
18 Act and therefore interpretations of federal antitrust law are not
19 conclusive (*Aryeh v. Canon Business Solutions, Inc.* (2013) 55
20 Cal.4th 1185, 1195). Further, California courts have recognized
21 that the Cartwright Act departs from the Sherman Anti-Trust Act
22 in many respects, including, but not limited to, inclusion of indirect
23 purchaser recovery (Section 16750); use of a proximate cause test
24 for Cartwright Act standing and antitrust injury (*Cellular Plus, Inc.*
25 *v. Superior Court* (1993) 14 Cal. App. 4th 1224, 1232); recognition
26 of broader harms and per se conduct (Sections 16720 to 16729,
27 inclusive); lower actionable market shares (*Fisherman Wharf Bay*
28 *Cruise v. Superior Ct.* (2003) 114 Cal. App. 4th 309, 326);
29 structured rule of reason analysis (*In re Cipro Cases I & II* (2015)
30 61 Cal.4th 116, 147); and differing burdens of proof.

31 (d) Interpretations of federal antitrust laws are at most
32 ~~instructive, not conclusive, instructive~~ when construing California's
33 antitrust laws, as they are not modeled on federal antitrust statutes
34 (*Aryeh v. Canon Business Sols., Inc.* (2013) 55 Cal.4th 1185,
35 1195). ~~Thus, a claim brought pursuant to Section 16731 shall not~~
36 ~~be dismissed or rejected on the pleadings or merits pursuant to the~~
37 ~~Sherman Act or any case decided thereunder unless the court also~~

1 ~~finds that such a dismissal or rejection is consistent with this~~
2 ~~chapter.~~

3 (e) California agrees with the United States Department of
4 Justice and the Federal Trade Commission in recognizing that
5 unilateral action and multiparty actions, horizontal and vertical
6 relationships, and various forms of corporate entities can interfere
7 with free and fair competition, as reflected in the Federal Trade
8 Commission and Department of Justice 2023 Merger Guidelines.

9 (f) *The Legislature affirms that, as referenced in In re Cipro*
10 *Cases I & II (2015) 61 Cal. 4th 116, 148, a business may lawfully*
11 *obtain and maintain market power or monopoly power through*
12 *the superiority of its products, services, or business acumen.*

13 SEC. 2. Section 16731 is added to the Business and Professions
14 Code, to read:

15 16731. (a) ~~It is unlawful for one or more persons to act, cause,~~
16 ~~take, or direct measures, actions, or events that do either of the~~
17 ~~following:~~

18 ~~(1) Unreasonably restrain trade.~~

19 ~~(2) Monopolize every person to monopolize or monopsonize,~~
20 ~~attempt to monopolize or monopsonize, maintain a monopoly or~~
21 ~~monopsony, or combine or conspire with another person to~~
22 ~~monopolize or monopsonize any part of trade or commerce.~~

23 (b) ~~Anticompetitive effects and procompetitive~~ *Procompetitive*
24 *justifications of the challenged conduct shall be evaluated within*
25 *the same relevant market. market as the conduct that is alleged to*
26 *be unlawful.*

27 (c) Courts adjudicating a claim brought under this section shall
28 use the analytical framework and guidance of the California
29 Supreme Court in the manner described in *In re Cipro Cases I &*
30 *II (2015) 61 Cal. 4th 116, 146–147.*

31 (d) A plaintiff bringing an action pursuant to this section shall
32 be required to allege and, to prevail at trial, prove *substantial*
33 *market power*, either through direct or indirect evidence.

34 (e) Section 16731 shall not apply to any small business, meaning
35 an independently owned and operated business, the principal office
36 of which is located in California, the officers of which are
37 domiciled in California, and which, together with affiliates, has
38 100 or fewer employees and average annual gross receipts of ten
39 million dollars (\$10,000,000) or less over the three years prior to
40 the filing of the complaint.

(f) (1) This section does not prevent, limit, or ~~prohibit an exclusive prohibit~~:

(A) ~~Any exclusive~~ franchise, contract, license, or permit ~~authorized by state law~~ that is granted and supervised by a ~~local governmental agency, or local, state, or federal governmental agency.~~

(B) ~~Conduct required or authorized pursuant to state or federal law that is granted and supervised by a local, state, or federal governmental agency.~~

(2) ~~This section does not impose any liability under this section on a person or entity acting for conduct within the scope of authority granted by one or more such exclusive franchises, contracts, licenses, or permits.~~

~~(2)~~
(3) For purposes of this subdivision, “local governmental agency” includes a city, county, special district, sanitation district, or joint powers agency.

SEC. 3. Section 16732 is added to the Business and Professions Code, to read:

16732. Courts shall liberally interpret California’s antitrust laws to best promote free and fair competition and be mindful that California favors “maximizing” effective deterrence of antitrust violations (Clayworth v. Pfizer, Inc. (2010) 49 Cal.4th 758).

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.