

# Regulatory Oversight Newsletter — April 2024

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## REGULATORY OVERSIGHT BLOG

Make sure to visit Troutman Pepper's [Regulatory Oversight](#) blog to receive the most up-to-date information on regulatory actions and [subscribe](#) to our mailing list to receive a monthly digest.

Regulatory Oversight will provide in-depth analysis into regulatory actions by various state and federal authorities, including state attorneys general and other state administrative agencies, the Consumer Financial Protection Bureau (CFPB) and the Federal Trade Commission (FTC). Contributors to the blog will include attorneys with multiple specialties, including regulatory enforcement, litigation, and compliance.

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## New Team Member

### TROUTMAN PEPPER WELCOMES FORMER SENIOR COUNSEL AND DIRECTOR OF LEGAL POLICY FOR THE KENTUCKY AG'S OFFICE

By [Troutman Pepper State Attorneys General Team](#)

[Blake Christopher](#), former senior counsel and director of legal policy for the Kentucky Attorney General's (AG) Office, has joined Troutman Pepper's Regulatory Investigations, Strategy + Enforcement (RISE) practice and nationally recognized State AG team.

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## Podcast

### LEADING WITH PURPOSE: OREGON AG ELLEN ROSENBLUM DISCUSSES HER ROLE AT NAAG

By [Ashley Taylor](#)

In this episode of *Regulatory Oversight*, Ashley Taylor welcomes Oregon Attorney General (AG) Ellen Rosenblum to discuss her new role as president of the National Association of Attorneys General (NAAG).

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## Antitrust Updates

### STATE ANTITRUST ENFORCEMENT VENUE ACT: RECENT UPDATES

By Drew Mann, [McKayla Riter](#), & [Rachel Buck](#)

Just over a year has passed since President Biden signed the State Antitrust Enforcement Venue Act (the State AG Venue Act or Act) into law, and state attorneys general (AG) have already taken advantage of the law's provisions.

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### CALIFORNIA DOJ TO RAMP UP CRIMINAL ANTITRUST ENFORCEMENT

By Drew Mann & Tim Bado

On March 6, the California Department of Justice's (California DOJ) Antitrust Chief Paula Blizzard, announced at the American Bar Association's National Institute on White Collar Crime that her office is planning to reinvigorate criminal antitrust prosecutions. California's antitrust law, the Cartwright Act, prohibits practices that restrict commerce, prevent competition, or enter agreements that lessen competition. Blizzard touted that the Cartwright Act is "broader and deeper" than its federal counterpart, the Sherman Act. She conceded that the California DOJ has not brought a criminal prosecution under the Cartwright Act in 25 years, but she expects that to change.

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## Tobacco Updates

### MASSACHUSETTS HIGH COURT UPHOLDS LOCAL TOBACCO SALES BAN

By [Bryan Haynes](#), [Agustin Rodriguez](#), & [Nick Ramos](#)

The Massachusetts Supreme Judicial Court (SJC) recently upheld, in a unanimous decision, the town of Brookline's ordinance banning the sale of tobacco and e-cigarette products to anyone born after Jan. 1, 2000 (the Tobacco Sales Ban). Brookline is the first U.S. locality to impose a tobacco sales ban based on a specific date.

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## Environmental Updates

### CALIFORNIA AG SETTLES ALLEGED VIOLATIONS OF ENGINE EMISSION CONTROL AND CERTIFICATION REQUIREMENTS

By [Troutman Pepper State Attorneys General Team](#)

California Attorney General (AG) Rob Bonta and the California Air Resources Board (the Board) have reached a

\$46 million agreement with engine manufacturer [Cummins Inc.](#) to settle alleged violations of California's engine emission control and certification requirements.

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## **NEW YORK AG SUES TOP BEEF PRODUCER FOR ALLEGED FALSE “NET-ZERO” CLAIMS AND DECEPTIVE TRADE PRACTICES**

By [Troutman Pepper State Attorneys General Team](#)

New York Attorney General (AG) Letitia James is suing [JBS USA Food Company](#) and JBS USA Food Company Holdings under New York's consumer protection laws for allegedly attempting to boost consumer sales by making sustainability claims in its advertising that it had “no viable plan” for achieving.

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## **11 AGS SIGN LETTER IN SUPPORT OF GSA’S PROPOSED RULE ON PLASTIC PACKAGING**

By [Troutman Pepper State Attorneys General Team](#)

The U.S. General Service Administration (GSA) proposed an amendment to the General Services Acquisition Regulation (GSAR) aimed at reducing single-use plastic packaging. Specifically, the proposed amendment allows suppliers to voluntarily supply the government with “single use plastic free” (SUP-free) packaging and, in return, the suppliers will be eligible for a SUP-free filter icon on the GSA website that allows purchasers within the government to easily identify SUP-free products. Eleven attorneys general (AGs) from Massachusetts, California, Illinois, Connecticut, Maryland, Delaware, Minnesota, Oregon, Washington, Vermont, and Washington, D.C. signed a [letter](#) in support of the new rule. They identified some proposed modifications, arguing that the GSA's proposed amendment does not go far enough to combat what the AGs deem to be a “plastic waste crisis.”

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## **Consumer Protection Updates**

### **NEW JERSEY AG CRACKS DOWN ON BUMBLE FOR ALLEGEDLY MISREPRESENTING CRIMINAL BACKGROUND CHECKS POLICY**

By [Troutman Pepper State Attorneys General Team](#)

New Jersey Attorney General (AG) Matthew J. Platkin and the Division of Consumer Affairs (Division) took action against the popular dating app company, Bumble, Inc., for alleged violations of the state's consumer protection and internet dating safety laws.

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### **NEW YORK AG SUES YELLOWSTONE CAPITAL OVER ALLEGED “FRAUDULENT LOANS” TARGETING SMALL BUSINESSES**

By [Troutman Pepper State Attorneys General Team](#)

New York Attorney General (AG) Letitia James filed a lawsuit on March 5 against Yellowstone Capital, its founder David Glass, and a network of 30 other affiliated companies and individuals. James alleges that Yellowstone Capital, acting through a myriad of different company names, engaged in an orchestrated predatory lending scheme. James' lawsuit is among a wave of recent enforcement actions targeting alleged deceptive financial practices.

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## **CALIFORNIA AG BONTA UPHOLDS \$21M PENALTY AGAINST ASHFORD UNIVERSITY OVER GI BILL ERRORS**

By [Timothy McHugh](#), [John West](#), [Namrata Kang](#), & [Nick Ramos](#)

In a recent ruling, the California Court of Appeal largely [affirmed a lower court's decision](#) from March 2022, finding that Ashford University (now known as University of Arizona Global Campus), an online, for-profit college, had engaged in deceptive recruitment practices vis-à-vis veterans eligible for federal GI Bill educational benefits. California Attorney General (AG) Rob Bonta initiated the action in November 2017, alleging that Ashford University had caused harm to a significant number of students, many of whom were veterans, by disseminating false and misleading statements about career outcomes, cost and financial aid, pace of degree programs, and transfer credits.

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## **FCC ESTABLISHES NEW RULES TO ENHANCE CONSUMER CONTROL OVER AUTOMATED CALLS AND TEXTS**

By [Clayton Friedman](#), [Brooke Conkle](#), [Natalia Jacobo](#), & [Namrata Kang](#)

On February 16, the Federal Communications Commission (FCC) made a significant move to combat consumers' receipt of unwanted communications. The Telephone Consumer Protection Act (TCPA) already regulates automated calls and texts absent an exemption or the prior express consent of the called party. The FCC has now adopted new measures aimed at empowering consumers with the option to further prevent automated calls and texts.

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## **Crypto Updates**

### **8 STATE AGS ARGUE THAT SEC'S CRYPTO ENFORCEMENT ACTION IS UNLAWFUL**

By [Troutman Pepper State Attorneys General Team](#)

On February 29, the state of Montana, supported by seven other states, filed an amicus brief arguing that the Securities and Exchange Commission (SEC) lacks authority to regulate crypto assets. The attorneys general (AG)

submitted the brief in response to the SEC's enforcement action alleging violations of the Exchange Act against Payward, a secondary market crypto platform. The AGs argue that the SEC's position, with respect to regulating the crypto market, may potentially preempt consumer protection and other state laws, thus disrupting the traditional division of powers between the states and the federal government.

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## Local Government Updates

### UNIQUE ASPECTS OF DATA INCIDENT RESPONSE IN LOCAL GOVERNMENT

By [Stephen Piepgrass](#), [Sadia Mirza](#), Whitney Shephard, & [Gene Fishel](#)

*This article was originally published in [American City & County](#) on March 1, 2024.*

For years, private companies have struggled to protect the data of consumers against security incidents and cyber-attacks by malicious threat actors. More recently, there has been a growing surge of data breaches impacting the public sector, and local governments face unique challenges in responding to such incidents.

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## 2024 State AG Elections Updates

### 2024 STATE AG ELECTIONS: A LANDSCAPE OF CHANGE AND COMPETITION

By [Troutman Pepper State Attorneys General Team](#)

As we look ahead to 2024, significant changes are underway in state attorney general (AG) elections, with 10 AGs facing reelection due to incumbents pursuing other offices or opting out. Open seats in North Carolina, Oregon, Pennsylvania, Utah, Washington, and West Virginia, indicate that at least six new AGs will come into power. Additionally, Indiana, Missouri, Montana, and Vermont will hold their AG elections, with incumbents facing challengers in those races.

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For more information on the 2024 State AG Elections, please visit our [State Attorneys General Election Tracker](#).

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## Cannabis Updates

### REASSESSING OREGON'S DRUG POLICY: A SHIFT TOWARD RECRIMINALIZATION

By Jean Smith-Gonnell & Cole White

In the grand experiment of American democracy, it is often said that states serve as laboratories, testing policies that challenge the status quo without risking the stability of the whole. Oregon, known in recent years for its pioneering drug decriminalization laws, is at a crossroads that marks the end of a significant experiment. State

legislators recently passed a bill aiming to [recriminalize the possession of small amounts of certain substances](#), a move now awaiting Democratic Governor Tina Kotek's approval. Last week, the governor announced that [she plans to sign the bill](#). The move toward recriminalization highlights a broader conversation on the re-evaluation of drug policy, public health, and social justice in a post war-on-drugs environment in the U.S.

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Stephanie Kozol, Senior Government Relations Manager – State Attorneys General, and [Mac McCullough](#), Senior Privacy & Security Advisor, also contributed to this newsletter.

*Our Cannabis Practice provides advice on issues related to applicable federal and state law. Marijuana remains an illegal controlled substance under federal law.*

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