

Regulatory Oversight Newsletter — February 2025

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Regulatory Oversight Blog

Make sure to visit Troutman Pepper Locke'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.

New Team Member

TROUTMAN PEPPER LOCKE BOLSTERS REGULATORY INVESTIGATIONS, STRATEGY AND ENFORCEMENT PRACTICE GROUP WITH HIGHLY ACCREDITED REGULATORY PARTNER LUIS A. REYES

AUSTIN – [Luis A. Reyes](#), a regulatory attorney and former high-ranking government official, has joined Troutman Pepper Locke as a partner in its nationally recognized Regulatory Investigations, Strategy and Enforcement (RISE) Practice Group. With more than two decades of experience providing counsel to clients and public service at the White House, Department of Justice, and other federal and state agencies, Reyes bolsters the firm's service offerings in Texas and nationally.

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Troutman Pepper Locke Spotlight

2024 STATE AG YEAR IN REVIEW

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

State attorneys general (AGs) continue to play a pivotal role as innovators, shaping the regulatory environment by leveraging their expertise and resources to influence policy and practice. The public-facing nature of AG offices across the U.S. compels them to respond to constituent concerns on abbreviated timetables. This political

sensitivity, combined with the AGs' authority to address both local and national issues, underscores their significant influence in the current regulatory environment.

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TROUTMAN PEPPER LOCKE PARTNER ASHLEY TAYLOR CO-EDITS ABA BOOK ON CONSUMER PROTECTION AND THE RISE OF STATE ATTORNEY GENERAL ENFORCEMENT

By [Ashley L. Taylor, Jr.](#)

[Ashley L. Taylor, Jr.](#), co-leader of Troutman Pepper Locke's nationally ranked State Attorneys General Practice, co-edited a new book published by the American Bar Association titled **Consumer Protection: Understanding Enforcement Actions Brought by State Attorneys General**. Given the growing regulatory power of state attorneys general in highly regulated industries, companies are at risk of bet-the-company government investigations, enforcement actions, and high-stakes litigation.

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Podcast Updates

BEHIND THE SCENES: THE ROLE OF SENIOR STAFF IN AG OFFICES

By [Stephen C. Piepgrass](#) and Chuck Slemp

In this episode of Regulatory Oversight, Chuck Slemp welcomes Lacey Mase, the chief deputy attorney general (AG) of Tennessee, to explore the inner workings of an AG's office and the pivotal role of its senior staff in driving legal and policy outcomes.

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THE GROWING ROLE OF STATE AGS IN AI REGULATORY & ENFORCEMENT ISSUES

By [Brett Mason](#), [Chris Carlson](#), and [Michael Yaghi](#)

Join Troutman Pepper Locke Partner Brett Mason for a podcast series analyzing the intersection of artificial intelligence (AI), health care, and the law.

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UNDERSTANDING GEORGIA'S CIVIL JUSTICE CLIMATE WITH COMMISSIONER JOHN KING

By [David Dove](#) and [Stephen C. Piepgrass](#)

In this episode of *Regulatory Oversight*, David B. Dove, leader of our firm's Regulatory and Economic Investment Practice in Georgia, is joined by Georgia Insurance Commissioner John King to discuss his office's recent report analyzing Georgia's civil justice climate.

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State AG Regulatory Landscape

PREDICTING WHERE STATE AGS WILL DIRECT THEIR ATTENTION IN 2025

By [Chris Carlson](#), [Clayton Friedman](#), [Ashley L. Taylor, Jr.](#), and [Michael Yaghi](#)

Published in [Law360](#) on January 22, 2025. © Copyright 2025, Portfolio Media, Inc., publisher of Law360. Reprinted here with permission.

In the [first installment](#) of this two-part article, state attorneys general across the U.S. took bold action in 2024 to address what they perceived as unlawful activities by corporations in several areas, including privacy and data security, financial transparency, children's internet safety, and other overall consumer protection claims.

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LOOKING BACK AT 2024'S NOTEWORTHY STATE AG LITIGATION

By [Chris Carlson](#), [Clayton Friedman](#), [Ashley L. Taylor, Jr.](#), and [Michael Yaghi](#)

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Technology Updates

THE AGA: BIPARTISAN COLLABORATION AND TACKLING AI CHALLENGES

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

In a recent interview, Karen White, the executive director of the Attorney General Alliance (AGA), discussed the organization's impactful partnership with PBS, its involvement in the Bipartisan Leadership Project, and its proactive stance on artificial intelligence (AI). Originally a regional group, the AGA has grown into a significant force addressing complex issues through bipartisan collaboration and innovative partnerships.

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INSIDE NEW COMMERCE TECH RESTRICTIONS: KEY RISK TAKEAWAYS

By [Peter Jeydel](#)

This article was originally published on January 23, 2025 on [Law360](#) and is republished here with permission.

The U.S. Department of Commerce's Bureau of Industry and Security has [issued the final rule](#) that will determine how its Information and Communications Technology and Services regulations will work going forward.

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INSIDE NEW COMMERCE TECH RESTRICTIONS: MITIGATION STRATEGIES

By [Peter Jeydel](#)

This article was originally published on January 24, 2025 on [Law360](#) and is republished here with permission.

The U.S. Department of Commerce's Bureau of Industry and Security has [issued the final rule](#) that will determine how its Information and Communications Technology and Services regulations will work going forward.

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MISSOURI AG ANNOUNCES NEW RULE FOR BIG TECH

By [Troutman Pepper Locke State Attorneys General Team](#) and [Jeff Johnson](#)

Missouri's attorney general (AG) announced on X.com (formerly Twitter) that he is "issuing a rule requiring Big Tech to guarantee algorithmic choice for social media users." [X.com post (January 17, 2025, roughly 3:35 p.m. EST)] He intends to use his authority "under consumer protection law," known as the Missouri Merchandising Practices Act in that state, "to ensure Big Tech companies are transparent about the algorithms they use and offer consumers the option to select alternatives." [x.com post] The Missouri AG touts this rule as the "first of its kind" in an "effort to protect free speech and safeguard consumers from censorship." [[Press release](#)]

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NEW JERSEY AG PLATKIN ANNOUNCES NEW GUIDANCE ON AI USE

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

On January 9, New Jersey Attorney General (AG) Matthew J. Platkin and the Division on Civil Rights (DCR) launched a new Civil Rights and Technology Initiative aimed at addressing the potential for discrimination and bias associated with artificial intelligence (AI) and other decision-making technologies. The announcement is one of many recent examples of AG's leading the development of AI regulation. The New Jersey initiative is informed by recommendations from Governor Phil Murphy's Artificial Intelligence Task Force, which emphasized the need for public education on bias and discrimination related to AI deployment.

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OREGON ISSUES AI GUIDANCE FOR BUSINESSES

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

As one of her last acts in office, on December 24, 2024, Oregon Attorney General (AG) Ellen Rosenblum issued guidance for businesses deploying artificial intelligence (AI) technologies. The guidance highlights the risks associated with the commercial use of AI, and underscores that, despite the absence of a specific AI law in Oregon, a company's use of AI must still comply with existing laws.

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Advertising and Marketing Updates

WASHINGTON AG BROWN LEASHES \$3.75M SETTLEMENT WITH PUPPYLAND OVER DECEPTIVE ADVERTISING AND SALES PRACTICES

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

Washington Attorney General (AG) Nick Brown secured a \$3.75 million [settlement](#) with Puppyland, known for selling purebred and mixed breed puppies, over unlawful advertising and sales practices. The settlement resolves a [lawsuit](#) filed by former AG Bob Ferguson, addressing multiple violations under the state's Consumer Protection Act. The complaint alleged that Puppyland misrepresented the breeding standard of puppies sold; failed to honor advertised health guarantees; channeled customers into loans with interest rates approaching 200% "without adequate time to review and understand the terms;" and used nondisparagement provisions in their purchase agreements that restricted truthful online reviews.

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FTC AND ILLINOIS AG SETTLE MATTER AGAINST GRUBHUB FOR \$140M

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

On December 17, 2024, the Federal Trade Commission (FTC) and Illinois Attorney General (AG) Kwame Raoul settled their lawsuit against Grubhub for \$140 million (Grubhub will only have to pay \$25 million, with the balance suspended due to Grubhub's inability to pay).

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Health Sciences Updates

WEST VIRGINIA AG REACHES \$17M SETTLEMENT WITH PFIZER AND RANBAXY OVER ANTITRUST AND CONSUMER PROTECTION VIOLATION CLAIMS

By [Troutman Pepper Locke State Attorneys General Team](#), [Melissa O'Donnell](#), and [Kyara Rivera Rivera](#)

West Virginia Attorney General (AG) Patrick Morrissey announced a total \$17 million settlement agreement with pharmaceutical companies, Pfizer and Ranbaxy after more than a decade of litigation regarding the companies' alleged "pay-for-delay" antitrust violations related to the cholesterol drug, Lipitor.

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HIPAA SECURITY RULE REVAMP IS ON THE HORIZON

By [Brent Hoard](#) and [Emma Trivax](#)

On January 6, the Department of Health and Human Services (HHS) Office for Civil Rights (OCR) published significant proposed amendments ([proposed rule](#)) to the Security Rule under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Key drivers for the proposed rule include the dramatic increase in cyberattacks, including ransomware, the rapid adoption of cloud computing, mobile devices, and other technologies, and inconsistent compliance with the existing Security Rule identified by the OCR's investigations.

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NEW YEAR, NEW LIABILITY FOR PRIVATE EQUITY

By [Allison O'Neil](#), [Warren F. "Jay" Myers](#), [Colleen O'Connor](#), and [Troutman Pepper Locke State Attorneys General Team](#)

Newly Signed Massachusetts Law Ramps up Regulation and AG Liability for Private Equity Investments in Health Care

Private equity firms and health care companies operating in Massachusetts will now face enhanced liability risks following the recent passage and enactment of legislation regulating private equity investment in Massachusetts health care. This new law greatly expands the authority of the Massachusetts attorney general (AG) and other state health care regulators to examine the involvement of private equity funds and other "significant investors" in the state's health care sector. Here's what you need to know:

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Telecommunications Updates

U.S. SUPREME COURT DECLINES TO OVERTURN NEW YORK'S AFFORDABLE BROADBAND ACT

By [Troutman Pepper Locke State Attorneys General Team](#) and [Dascher Pasco](#)

The U.S. Supreme Court closed out 2024 by confirming states' authority to regulate internet service providers. On December 16, 2024, the Court denied certiorari in *New York State Telecommunications Association, Inc., et al. v. Attorney General Letitia James*, Case No. 21-1975, allowing New York's Affordable Broadband Act (ABA) to stand.

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Tobacco Updates

FEDERAL APPELLATE COURT AGREES THAT FDA CANNOT REGULATE "PREMIUM CIGARS"

By [Bryan Haynes](#), [Agustin Rodriguez](#), [Michael Jordan](#), and [Nick Ramos](#)

Yet again, the premium cigar industry has prevailed in federal court against the U.S. Food and Drug Administration (FDA). As we have previously discussed [here](#) and [here](#), FDA appealed a federal district court decision vacating its rule (the Deeming Rule) subjecting premium cigars to the Federal Food, Drug, and Cosmetic Act, as amended by the Tobacco Control Act (TCA). On January 24, the U.S. Court of Appeals for the District of Columbia Circuit (the D.C. Circuit) issued an opinion agreeing^[1] with (i) the district court's ruling that FDA acted arbitrarily and capriciously when it sought to include premium cigars in its Deeming Rule and (ii) the district court's vacatur of the Deeming Rule as applied to premium cigars, but it remanded the case to the district court to determine the appropriate definition of "premium cigar." Now, the district court will reconsider the appropriate definition of "premium cigar," which will ultimately determine the types of cigars that are not subject to the TCA and FDA's Deeming Rule. In one potential setback for industry, the D.C. Circuit also stated that it understood the district court's order as granting relief from user fees prospectively but that it does not read it as permitting the refunding of past user fee payments.

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FDA PROPOSES LIMITING NICOTINE LEVELS IN CIGARETTES AND CERTAIN OTHER COMBUSTED TOBACCO PRODUCTS

By [Bryan Haynes](#), [Agustin Rodriguez](#), and [Zie Alere](#)

On January 15, the U.S. Food and Drug Administration (FDA) issued a [proposed rule](#) that would set a maximum nicotine level in combusted cigarettes and certain other combusted tobacco products.

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VAPE COMPANIES CHALLENGE IOWA'S NEW VAPE DIRECTORY LAW

By [Agustin Rodriguez](#) and [Nick Ramos](#)

On December 17, 2024, Iowans for Alternatives to Smoking & Tobacco, Inc., Global Source Distribution, LLC, and others filed a complaint^[1] and motion for a preliminary injunction^[2] in federal district court against the Iowa Department of Revenue (the Department) challenging [Iowa House File 2677](#) (HF 2677), a law imposing certification and directory requirements on vapor products sold in Iowa. A hearing on the plaintiffs' motion for a preliminary injunction is scheduled for March 5. If the court rules in the plaintiffs' favor, it could stay enforcement of the new law until the case is ultimately resolved. While the Department was [previously scheduled](#) to publish the vapor products directory on January 2 and begin enforcement on February 3, the Department has not published the directory, and its website indicates that it will not be enforcing the directory. The Department's [website](#) states: "Publication and enforcement of Iowa's vapor products directory is delayed until further notice. The Department will make an additional announcement before publication and enforcement of the vapor products directory begins. During the delay, manufacturers should continue to submit certification applications."

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Cannabis Regulatory Updates

THE CURRENT LANDSCAPE OF TEXAS CANNABIS POLICY AND LAWS: A 2025 OVERVIEW

By Jean Smith-Gonnell and Julia St. John

The Texas legislative session kicked off on January 14, and cannabis policy is set to be a major topic of debate. The state, known for its conservative stance on many issues, is at a crossroads with its cannabis laws, facing both calls for stricter regulations and pushes for legalization.

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WEED-ING THROUGH THE LAWS: A SNAPSHOT OF US CANNABIS LEGISLATION

By Jean Smith-Gonnell and Carmen Williams

Marijuana legislation is continuing to evolve in the new year across jurisdictions throughout the U.S. Below, we dive into a brief survey of notable changes to marijuana legislation across the U.S. during the first three weeks of 2025.

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CANNABIS RESCHEDULING: ALJ CANCELS UPCOMING HEARINGS ON PROPOSED RULEMAKING

By Jean Smith-Gonnell, [Zie Alere](#), and [Nick Ramos](#)

Hearings on the merits of the Drug Enforcement Agency's (DEA) proposed cannabis rescheduling, initially set to begin this month, have been cancelled. The preliminary hearing period has been littered with accusations that the DEA improperly excluded certain parties from participating, that the DEA itself does not adequately support rescheduling, and that the DEA engaged in improper *ex parte* communications with anti-rescheduling parties.

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FEDERAL APPEALS COURT DEALS ANOTHER BLOW TO INTOXICATING HEMP PRODUCTS IN VIRGINIA

By Jean Smith-Gonnell, [Agustin Rodriguez](#), and [Michael Jordan](#)

On January 7, the U.S. Court of Appeals for the Fourth Circuit [found](#) that Virginia's hemp product restrictions do not violate federal law. The ruling is the latest defeat for the Virginia hemp industry's efforts to overturn [Virginia S.B. 903](#), a law intended to prohibit the sale of intoxicating hemp products like delta-8 and delta-10 tetrahydrocannabinol (THC) gummies and beverages in the Commonwealth.

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Stephanie Kozol, Senior Government Relations Manager – State Attorneys General, 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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