

Regulatory Oversight Newsletter – March 2023

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REGULATORY OVERSIGHT PODCAST

2022 Significant Developments in the Tobacco Industry and What to Expect in 2023 (Part One)

By [Stephen Piepgrass](#), [Bryan Haynes](#), [Agustin Rodriguez](#), and [Nick Ramos](#)

In this first of a two-part series focused on significant regulatory developments in the tobacco industry, Stephen Piepgrass is joined by colleagues Bryan Haynes, Agustin Rodriguez and Nick Ramos to review what happened over the past year, and offer thoughts on what to expect in the months ahead.

[Read more](#)

2022 Significant Developments in the Tobacco Industry and What to Expect in 2023 (Part Two)

By [Stephen Piepgrass](#), [Bryan Haynes](#), [Agustin Rodriguez](#), and [Nick Ramos](#)

In this second of a two-part series, Stephen Piepgrass continues his discussion with colleagues Bryan Haynes, Agustin Rodriguez and Nick Ramos about significant developments in the tobacco industry during the past year, and their predictions on what to expect in the months ahead.

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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.

FEDERAL ENFORCEMENT UPDATES

New DOD Rule Limits PPE From China and Other Foreign Nations

By [Hilary Cairnie](#), [Michael Yaghi](#), and Natalia Jacobo

On January 30, the U.S. Department of Defense (DOD) issued an [interim procurement rule](#), prohibiting the procurement of personal protective equipment (PPE) from four “non-allied” countries: China, North Korea, Russia, and Iran.

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New DOD Contracting Process Aims to Attract Innovative Startups

By [Hilary Cairnie](#), [Michael Yaghi](#), and [Daniel Waltz](#)

The Department of Defense (DOD) wants to make it easier for companies with innovative solutions, such as startups, to bid on and receive federal government contracts. As such, DOD recently proposed [a Defense Federal Acquisition Regulations \(DFARS\) amendment](#) to implement provisions of the 2022 and 2023 National Defense Authorization Acts, which provide DOD with the authority to acquire “innovative commercial products and commercial services” under general solicitations using a new, more streamlined competitive selection process called a “commercial solution opening” (CSO). The amendment will add a new subpart to DFARS Part 212 at 212.7X. DOD expects the proposed process to reduce transaction costs for both private and public sectors, which it hopes will encourage smaller companies with innovative ideas and proven solutions to take part in the federal government contracting marketplace.

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REGULATING DIGITAL ASSETS

Regulating Digital Assets: Will Congress Finally Enact a Comprehensive Regulatory Framework in 2023?

By [Stephen Piepgrass](#) and [Trey Smith](#)

The promise of digital assets is to decentralize finance. Yet in 2022, investors in decentralized technologies lost billions of dollars as the global market cap of all cryptocurrencies fell by 64.1% to \$829 billion.

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CANNABIS UPDATES

Virginia General Assembly Passes Bill to Regulate Delta-8 THC

By [Agustin Rodriguez](#), [Abby Hylton](#), and Christina Sava

The Virginia General Assembly recently passed — in both chambers — a bill to regulate delta-8 THC products in the commonwealth. The bill now awaits the governor’s signature. Governor Youngkin and the Republican-controlled House of Delegates have prioritized the control of these novel hemp-derived products over legislation to legalize the retail sale of adult-use marijuana, which will no longer begin in 2024.

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Connecticut AG Sues Retailers for Illegal Delta-8 THC Product Sales

By [Troutman Pepper State Attorneys General Team](#), [Agustin Rodriguez](#), and Christina Sava

On February 9, Attorney General William Tong sued five Connecticut retailers for violating the state's Unfair Trade Practices Act (UTPA) by selling allegedly illegal delta-8 tetrahydrocannabinol (THC) products, many of which mimicked snack foods and candies popular among youth.

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AG UPDATES

Attorneys and Law Firm Plead No Contest in Michigan Collections Fraud Case

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

On March 7, Fishman Group PC President Marc Fishman [pled no contest](#) on behalf of the firm to stealing client assets by filing false proofs of service in collections cases. Previously, Michigan Attorney General Dana Nessel charged the Michigan collections law firm and its attorneys with one count of maintaining a criminal enterprise. Per the court order, the Fishman Group must pay nearly \$150,000 in full restitution to all improperly garnished debtors.

[Read more](#)

Colorado AG Green Lights Consumer-Business Dispute Resolution Program

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

On March 7, Colorado Attorney General Phil Weiser [announced](#) a permanent Department of Law Consumer Mediation Program after a yearlong successful pilot program. Considering the department's high number of complaints — nearly 18,000 national complaints in 2022 — the new program will enable the department to oversee informal negotiations to help resolve more consumer-business disputes, thereby increasing customer satisfaction.

[Read more](#)

Illinois AG Proves It's Risky Business to Defy an Investigative Subpoena

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

On March 1, Illinois Attorney General Kwame Raoul [filed suit](#) against Energy Acquisitions Group LLC (EAG), seeking compliance with a Special Assistant Attorneys General's (SPAAG) investigative subpoena concerning deceptive business practices of the alternative retail energy supplier industry (ARES). AG Raoul strives to bar EAG from conducting business in the state of Illinois — at the very least until EAG complies with the subpoena.

[Read more](#)

Texas AG Takes Next Step to Stop New DOL ESG Investing Rule

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

On February 22, Texas Attorney General Ken Paxton (R) [moved](#) for a [preliminary injunction](#) as a next step after [previously filing a multistate lawsuit](#) against the Biden administration to stop a new Department of Labor (DOL) rule that allegedly prioritizes environmental, social, and governance (ESG) investing over traditional financial investment principles.

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California Legislative Bills Target Artificial Intelligence

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

On February 6 and January 30 respectively, Senator Bill Dodd (D) introduced [Senate Bill 313](#) (SB 313), and Assemblymember Rebecca Baur-Kahan (D) initiated [Assembly Bill 331](#) (AB 331) on artificial intelligence (AI).

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Casino Operator’s Challenge to Washington’s Tribal Sports Gaming Fails

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

The U.S. District Court of Washington decided all bets are off for Maverick Gaming LLC regarding its challenge to tribal casinos. Last week, Judge David Estudillo dismissed [Maverick’s suit](#), which challenged [a state law](#) permitting sports betting at tribal casinos and subsequent amendments to Washington’s tribal compacts effectuating the new bill’s provisions. As grounds for dismissal, the court cited Maverick’s failure to join Shoalwater Tribe — a necessary party — to the lawsuit.

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North Carolina AG Settles With Joint Active Systems

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

On February 1, North Carolina Attorney General Josh Stein [announced](#) that his Medicaid Investigations Division reached a \$500,000 settlement with Joint Active Systems, Inc. (JAS). The AG’s Medicaid Investigations Division “investigates and prosecutes health care providers that defraud the Medicaid program, patient abuse of Medicaid recipients ... and misappropriation of any patients’ private funds in nursing homes receiving Medicaid funds.”

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Attorneys General Enforce Lemon Laws and Penalize Puppy Mills

By [Agustin Rodriguez](#), [Chris Carlson](#), and [Namrata Kang](#)

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The American Veterinary Medical Association estimates that over 65% of US households own a pet. Puppies are a particularly popular choice. But sometimes, after a puppy comes home to its new family, it might appear lethargic or in pain, and stumble when walking.

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AG Bonta Issues New Investigative Sweep of Mobile Application Companies

By [Troutman Pepper State Attorneys General Team](#), [Joshua Davey](#), [Molly DiRago](#), Robyn Lin, and John Sample

On January 27, California Attorney General Rob Bonta [announced](#) an “investigative sweep” of businesses with mobile applications for allegedly failing to comply with the California Consumer Privacy Act (CCPA). This ongoing sweep targets popular mobile applications in the retail, travel, and food service industries that fail to offer a mechanism for consumers to opt out of data sales or that fail to process consumer opt-out requests, including requests submitted via an authorized agent like Permission Slip.

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Petroleum Storage Company Settles 2020 Environmental Explosion Claims

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

Texas Attorney General Ken Paxton and Magellan Terminals Holdings LP settled Texas Clean Air Act violations claims, resulting from an alleged explosion and fire at the company’s Corpus Christi bulk petroleum facility. Magellan agreed to pay Texas \$588,000 in civil penalties and \$12,000 in attorney’s fees as part of the settlement.

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New York AG Scrutinizes Madison Square Garden Facial Recognition Technology Banning Attorneys

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

In January 2023, New York Attorney General Letitia James sent a [letter](#) to Madison Square Garden Entertainment Corporation (MSG), seeking information about its use of facial recognition technology to prohibit ticketholders from entering its venues, such as Madison Square Garden and Radio City Music Hall. New York’s biometric identifier law requires companies using facial recognition technology to disclose the use to consumers. Madison Square Garden started using this technology in 2018 to identify security threats — a practice under prior scrutiny.

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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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