

Regulatory Oversight Newsletter — March 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.

Troutman Pepper Locke Spotlight

TROUTMAN PEPPER LOCKE PARTNER ASHLEY TAYLOR NAMED A 'GO TO LAWYER' BY VIRGINIA LAWYERS WEEKLY FOR BUSINESS LITIGATION

RICHMOND – [Ashley L. Taylor, Jr.](#), co-leader of Troutman Pepper Locke's nationally ranked State Attorneys General Practice, was named to [Virginia Lawyers Weekly's](#) "Go To Lawyers" for business litigation. The program recognizes the top lawyers across the commonwealth in a given practice area based on nominations and an independent selection process.

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Podcast Updates

BIPARTISAN LEADERSHIP AND REFORM AT NAAG: INSIGHTS FROM BRIAN KANE

By [Stephen C. Piepgrass](#) and [Clayton Friedman](#)

In this episode of *Regulatory Oversight*, Clay Friedman, co-leader of the firm's State Attorneys General (AGs) practice, welcomes back Brian Kane, executive director of the National Association of Attorneys General (NAAG). They discuss the significant transitions and reforms at NAAG over the past two years, including the implementation of a bipartisan leadership structure and a comprehensive management review.

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STATE REGULATORS STEP UP: RESPONDING TO THE CFPB'S NEW LEADERSHIP

By James Kim, [Stephen C. Piepgrass](#), [Chris Willis](#), Jesse Silverman, and [Lane R. Page](#)

In this special joint edition of the *Consumer Finance Podcast* and the *Regulatory Oversight Podcast*, host Chris Willis is joined by colleagues Stephen Piepgrass, James Kim, Jesse Silverman, and Lane Page to discuss the ongoing changes at the Consumer Financial Protection Bureau (CFPB) and predict how state regulators and legislatures will react to fill the void. This episode explores the anticipated responses from state attorneys general, financial service regulators, and legislatures, and offers strategic insights for industry players to navigate this complex regulatory environment. Tune in to understand the proactive measures your organization can take to stay compliant and ahead of potential state enforcement actions.

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BALANCING LAW AND PUBLIC SERVICE: INSIGHTS FROM AG FORMELLA

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

In this episode of *Regulatory Oversight*, Chuck Slempp is joined by New Hampshire Attorney General (AG) John Formella to discuss his journey to becoming New Hampshire's AG. Formella highlights his career in private practice, his role as legal counsel to Governor Chris Sununu, and his eventual appointment as AG in 2021. As the new president of the National Association of Attorneys General (NAAG), Formella outlines his initiative to combat substance abuse and drug trafficking, emphasizing bipartisan collaboration and support for law enforcement. He also addresses emerging issues such as elder abuse, data privacy, civil rights, and mental health.

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Workplace Regulatory Updates

EIGHTH CIRCUIT FINDS STATE STANDING TO CHALLENGE EEOC'S PREGNANCY ACCOMMODATION RULES

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

Last week, in *Tennessee v. EEOC*, the Eighth Circuit reversed a district court's decision and reinstated a lawsuit by 17 states (led by the Tennessee and Arkansas attorneys general (AGs)), holding that these states have standing to sue the Equal Employment Opportunity Commission (EEOC) over its regulations implementing the Pregnant Workers Fairness Act, 42 U.S.C. § 2000gg. This decision deserves mention because the court seemingly made it easier to demonstrate standing by finding that the "realities facing" regulated parties can demonstrate a concrete injury even without a threat of enforcement.

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FTC AND DOJ ISSUE ANTITRUST GUIDELINES FOR BUSINESS ACTIVITIES AFFECTING WORKERS

By [Troutman Pepper Locke State Attorneys General Team](#), [Kyara Rivera Rivera](#), and [Christy Matelis](#)

On January 16, the Federal Trade Commission (FTC) and the Department of Justice (DOJ) issued “[Antitrust Guidelines for Business Activities Affecting Workers](#)” (2025 Guidelines). The 2025 Guidelines aim to “promote clarity and transparency” in demonstrating how the agencies identify certain business activities that may violate the antitrust laws. The 2025 Guidelines are intended to replace the 2016 “[Antitrust Guidance for Human Resource Professionals](#),” (2016 Guidelines).

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[False Claim Act and Qui Tam Updates](#)

DOJ AND 18 STATES REACH FALSE CLAIMS ACT SETTLEMENT WITH QOL

By [Troutman Pepper Locke State Attorneys General Team](#), [Michael S. Lowe](#), and [Amy Pritchard Williams](#)

The U.S. Department of Justice (DOJ) and 18 state attorneys general (AGs) announced a settlement with Boston-based QOL Medical, LLC (QOL) and its CEO, Frederick Cooper, to resolve allegations that the company provided unlawful kickbacks to health care providers. Under the terms of the settlement, QOL and Cooper agreed to pay \$47 million to resolve allegations that QOL manipulated health care providers into prescribing a drug called Sucraid — an FDA-approved therapy for a rare genetic disorder, Congenital Sucrase-Isomaltase Deficiency (CSID). Regulators alleged that QOL and Cooper violated the Anti-Kickback Statute and federal and state False Claims Acts.

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VERMONT AG CLARK SECURES \$2.7M JUDGMENT AGAINST MENTAL HEALTH COUNSELOR

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

On February 4, a Vermont Superior Court judge entered a judgment of over \$2.7 million against Phoenix Counseling & Wellness, PLC (Phoenix), and the company’s owner for alleged violations of the Vermont False Claims Act (VFCA). Vermont Attorney General (AG) Charity Clark and her office’s Medicaid Fraud and Residential Abuse Unit (MFRAU) received complaints regarding the quality of care and maintenance of patient treatment records by Phoenix.

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EMERGING TRENDS: FEDERAL ENFORCEMENT OF CONTRACT CYBERSECURITY REQUIREMENTS

By [Hilary Cairnie](#), [Sadia Mirza](#), [Daniel Waltz](#), and [Bonnie Gill](#)

Government Contracting and Cyber/Privacy Attorneys at Troutman Pepper Locke LLP discuss the U.S. Justice Department’s efforts to combat cybersecurity fraud and some best practices for government contractors seeking to mitigate noncompliance risks.

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Other Multistate Enforcement Updates

22 AGS CHALLENGE NEW YORK'S CLIMATE SUPERFUND LAW

By [Troutman Pepper Locke State Attorneys General Team](#) and [Warren F. "Jay" Myers](#)

A coalition of industry associations and 22 state attorneys general (AGs), led by West Virginia AG JB McCuskey, filed a lawsuit against the State of New York in the U.S. District Court for the Northern District of New York challenging the validity of the state's recently enacted Climate Change Superfund Act. The complaint asserts that the act's retroactive imposition of multibillion-dollar fines on fossil fuel companies is both preempted by federal law and violates several bedrock constitutional principles.

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Single State Regulatory Updates

MINNESOTA AG RELEASES REPORT DETAILING AI AND SOCIAL MEDIA'S IMPACT ON MINORS

By [Troutman Pepper Locke State Attorneys General Team](#), [Kyara Rivera Rivera](#), and [Trey Smith](#)

On February 4, the Office of the Minnesota Attorney General (AG) released its second [Report on Emerging Technology and Its Effect on Youth Well-Being](#), outlining the effects young Minnesota residents allegedly experience from using social media and artificial intelligence (AI). The report highlights alleged adverse effects that technology platforms have on minors and claims that specific design choices exacerbate these issues.

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NEW YORK ISSUES PROPOSED REGULATIONS ABOUT OVERDRAFT FEES

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

Given the future uncertainty of the Consumer Financial Protection Bureau's (CFPB) efforts to regulate bank overdraft fees, New York's Department of Financial Services (DFS) has stepped in to fill a perceived gap. The DFS announced [proposed regulations](#) to tackle what it perceives as unfair overdraft fees. The proposed regulations will "ensure consumers will no longer be burdened with overdraft fees for minor transactions and require banks to provide timely notifications to consumers about overdraft fees to improve transparency."

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Gaming Updates

SWEEPSTAKES CASINOS: THRIVING IN AN EVER-CHANGING INDUSTRY – INTERVIEW WITH ATTORNEY STEPHEN C. PIEPGRASS

By [Stephen C. Piepgrass](#)

Stephen Piepgrass, co-leader of Troutman Pepper Locke's Regulatory Investigations, Strategy + Enforcement (RISE) Practice Group, was interviewed in the February 17, 2025 *CasinoReviews.net* article, "[Sweepstakes Casinos: Thriving in an Ever-Changing Industry – Interview with Attorney Stephen C. Piepgrass.](#)"

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Tobacco Updates

NEW US AG SHIFTS RESOURCES AWAY FROM TOBACCO ENFORCEMENT

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

Our colleagues recently [wrote](#) about 14 memoranda from the new U.S. Attorney General (AG) Pam Bondi to Department of Justice (DOJ) employees framing the DOJ's current policies and enforcement priorities. In a [memorandum](#) addressing DOJ's general charging, plea bargaining, and sentencing policy, the AG stated the following: "To free resources to address more pressing priorities, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) shall shift resources from its Alcohol and Tobacco Enforcement Programs to focus on matters relating to the other priorities set forth herein. No resources shall be diverted from the ATF's regulatory responsibilities, such as federal firearms licenses and background checks."

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CALIFORNIA AND DENVER IMPOSE NEW RESTRICTIONS ON NICOTINE ANALOG PRODUCTS

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

In what appear to be the first restrictions of their kind, the [state of California](#) and [the city and county of Denver](#) have adopted bans on flavored tobacco products that cover not only products containing tobacco and nicotine, but also nicotinic alkaloids and nicotine analogs.

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FDA WITHDRAWS PROPOSED BANS ON MENTHOL CIGARETTES AND FLAVORED CIGARS

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

In late January, the U.S. Food and Drug Administration (FDA) withdrew its proposed rules to prohibit menthol as a characterizing flavor in [cigarettes](#) and all characterizing flavors in [cigars](#). Although either proposal could be revived under a future administration, the withdrawal ends both of the current rulemaking processes. The move also strongly indicates shifting FDA priorities under the second Trump administration. Amid these changes, industry may find the agency more receptive to its arguments — particularly those submitted in comments to proposed rulemaking.

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SUPREME COURT WEIGHS VAPE VENUE DISPUTE

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

On January 21, the Supreme Court [heard arguments](#) in a case addressing who may challenge Food and Drug Administration (FDA) marketing denial orders for new tobacco products.

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[Cannabis Regulatory Updates](#)

VIRGINIA'S PATH TO A REGULATED MARIJUANA MARKET: LEGISLATIVE ADVANCES AND POLITICAL HURDLES

By Jean Smith-Gonnell and Chuck Slemp

The Virginia General Assembly has once again advanced legislation to establish a regulated market for recreational marijuana sales. Virginia is unique in that it allows personal possession of cannabis but bans retail sales outside of medical marijuana dispensaries. The legislation, [HB 2485](#) sponsored by Delegate Paul Krizek, D-Fairfax County, and [SB970](#) by Senator Aaron Rouse, D-Virginia Beach, passed the Democratic-controlled legislature on a party-line vote (53-46 in the House and 21-19 in the Senate). The bills now move on to Virginia's Governor Glenn Youngkin.

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MISSOURI LEGISLATURE'S PROPOSALS TO REGULATE HEMP-DERIVED CONSUMABLE PRODUCTS

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

Last year, we [wrote](#) about the former Missouri governor's efforts to curb the availability of intoxicating hemp products to Missouri consumers by executive order. There are now several proposed bills in the Missouri legislature that seek to regulate hemp-derived consumable products in the state, a few of which we summarize below. In general, the proposed legislation addresses issues related to youth access, licensing, taxation, advertising and marketing, testing, and labeling. This type of proposed legislation is worth monitoring in Missouri, and other states, as states take more aggressive action to prohibit or regulate the availability of such products to consumers in the absence of a coherent, federal regulatory framework.

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A NEED FOR BALANCE – HOW SB25-076'S REQUIREMENTS COULD HURT LICENSED CANNABIS BUSINESSES IN COLORADO

By Jean Smith-Gonnell and Cole White

On January 22, lawmakers in Colorado introduced [SB25-076](#), (the act) which aims to address concerns surrounding the availability of intoxicating products (including regulated cannabis products) within the state, especially to children and young adults. To address these concerns, the act would impose new requirements on licensed businesses related to serving sizes and labeling requirements and would restrict sales of certain products

to adults under 26 years old. While the intent behind the act is to mitigate potential risks associated with high-potency cannabis, the approach taken is arguably too extreme and places excessive burdens on the industry. A more nuanced strategy is needed to balance public health concerns with the operational realities of licensed cannabis businesses.

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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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