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Regulatory Oversight Newsletter – May 2023

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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.

REGULATORY OVERSIGHT PODCAST

AI: OVERVIEW AND CURRENT REGULATORY LANDSCAPE (PART ONE)

By Stephen Piepgrass, Michael Yaghi, and Trey Smith

This podcast is the first in a series of episodes covering artificial intelligence (AI). As technology continues to develop, more companies are using AI in their day-to-day business, and with increased use comes increased risk. In this episode, Stephen Piepgrass and colleagues Michael Yaghi and Trey Smith provide an overview of AI, including uses and risks, and the increased focus on AI by various regulators, including state attorneys general, federal agencies, and local governments.

Read more

AI: TECHNOLOGY, OPPORTUNITIES, RISKS, AND BEST PRACTICES (PART TWO)

By Stephen Piepgrass, James Koenig, and Chris Willis

Artificial intelligence (AI) has captured the imagination and generated excitement with consumers and businesses, but at the same time, developments in AI have also raised public concerns and spawned regulation that sometimes threatens to outpace the technological innovation we are seeing. In this second in our series on AI, Stephen Piepgrass and colleagues Jim Koenig and Chris Willis discuss the background of AI, including the opportunities and associated risks it presents, as well as the emerging global best practices surrounding the

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collection, use, and sharing of data and its use in AI.

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AI: IMPACT AND USE IN THE HEALTH CARE INDUSTRY (PART THREE)

By Stephen Piepgrass, Michael Yaghi, and Barry Boise

AI continues to capture the headlines. One recent headline noted that ChatGPT passed the medical boards. In this third episode, Stephen Piepgrass and colleagues Michael Yaghi and Barry Boise discuss the potential risks health care companies may face with increased reliance on AI, as well as the increased focus on AI by various regulators and state attorneys general, particularly in the health care space.

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NEW TEAM MEMBER

TROUTMAN PEPPER'S NATIONALLY RECOGNIZED STATE ATTORNEYS GENERAL PRACTICE ATTRACTS FORMER VIRGINIA AG, STATE CORPORATION COMMISSION CHAIR

Judith Jagdmann, former Chair and Commissioner of the Virginia State Corporation Commission (SCC) and Attorney General for the Commonwealth of Virginia, has joined Troutman Pepper's top-ranked State Attorneys General practice in Richmond, Virginia as a partner.

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CANNABIS UPDATES

MID-ATLANTIC CANNABIS REGULATORY UPDATE

By Christina Sava, Carson Cox, and Bryan Haynes

Several mid-Atlantic state legislatures recently took significant action on the cannabis front, setting the stage for a major expansion of the cannabis market in the region. The impact of these laws varied widely, as shown by the summaries in this blog post.

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AG UPDATES

NAAG SYMPOSIUM AND PRESIDENTIAL SUMMIT: REGULATING AI AND COMBATTING ORGANIZED RETAIL CRIME, WHILE SUPPORTING VETERANS

By Troutman Pepper State Attorneys General Team

In March 2023, the National Association of Attorneys General (NAAG) hosted its *2023 Attorney General Symposium and Presidential Summit* in Philadelphia. Several State AGs and their staff members attended the

meetings. Among the topics discussed, the panels involving artificial intelligence (AI) and organized retail crime (ORC) provided particularly relevant and pressing commentary. The *Presidential Summit* focused on NAAG President and Ohio AG Dave Yost's presidential initiative, highlighting the need for the continued veteran support even after their tours of duty end.

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MICHIGAN AG URGES TRUTHFUL ADVERTISING FROM KROGER

By Troutman Pepper State Attorneys General Team

In March 2023, Michigan Attorney General Dana Nessel's office issued a letter to Kroger Co., urging the company "to add clear signage to your stores to help consumers understand which eggs, exactly, came from caged chickens." The letter expressed concerns about Kroger's confusing and misleading marketing of caged chicken eggs, stemming from a "February 2023 Data for Progress: Cracking Down on Kroger" report.

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NEW YORK AG RELEASES DATA SECURITY GUIDELINES ON CONSUMER PERSONAL INFORMATION PROTECTION

By Troutman Pepper State Attorneys General Team

Drawing from her experience investigating and prosecuting businesses in the aftermath of cybersecurity breaches, New York Attorney General Letitia James released a guide to help companies implement effective data security measures that will safeguard the personal information of New York consumers. The guide offers a range of recommendations intended to help companies prevent data breaches and fortify their data security protocols.

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NORTH CAROLINA AG WARNS CONSUMERS OF FAKE ONLINE REVIEWS

By Troutman Pepper State Attorneys General Team

In his most recent monthly column, North Carolina Attorney General Josh Stein shared insights on how customers can avoid falling prey to fake online reviews. Although AG Stein acknowledged that online reviews can be useful when deciding which products to buy or services to use, he cautioned that not all reviews are written by real people. In fact, many highly rated products or services consist of fake reviews, which could inaccurately reflect the quality of a product or service and lead to poor purchasing decisions. According to the statement, in 2021 alone, fake online reviews influenced a staggering $152 billion in online spending.

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ELEVEN STATE AGS REACH $500K SETTLEMENT WITH TELEHEALTH COMPANY

By Troutman Pepper State Attorneys General Team

On April 14, 11 state attorneys general reached a $500,000 bipartisan settlement with telehealth company Visibly, Inc. over violations of the states' consumer protection statutes and health and safety laws. The AGs alleged that Visibly advertised, marketed, promoted, offered for sale, and sold its online vision tests to customers in a manner that violates states' laws.

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STATE AG BIPARTISAN COALITION MOVES JOINTLY TO PROTECT VETERANS' RIGHTS

By Troutman Pepper State Attorneys General Team, Misha Tseytlin, Timothy McHugh, and Kevin LeRoy

On April 14, a bipartisan coalition of state attorneys general from across the country joined forces to protect the rights of military veterans, which if successful would secure full educational benefits potentially worth billions of dollars for about 1.7 million post-9/11-era veterans and counting. Virginia AG Jason Miyares led the coalition of 33 states and the District of Columbia[1] in filing an amici brief with the U.S. Supreme Court, urging the Court to safeguard veterans' educational benefits and reaffirm the pro-veteran canon of construction, which traces its roots to the founding of the United States.

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CALIFORNIA AG SUPPORTS NEW VICTIM'S COMPENSATION FUND BILL

By Troutman Pepper State Attorneys General Team

On April 7, California Attorney General Rob Bonta and Assembly member Brian Maienschein announced new legislative bill AB 1366, which creates a state Treasury Victims of Consumer Fraud Restitution Fund (VCFRF) to benefit victims of consumer fraud. Currently, victims may receive restitution after a judgment. However, if a business collapses and cannot pay restitution, victims can go without any compensation. The VCFRF seeks to remedy this issue.

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WEST VIRGINIA AG ANNOUNCES 2024 RUN FOR GOVERNOR

By Troutman Pepper State Attorneys General Team

On April 4, West Virginia Attorney General Patrick Morrisey (R) announced his GOP bid for governor. A three-term AG since 2013, AG Morrisey secured multimillion-dollar antitrust and consumer protection settlements, while also defending state laws and educating citizens on protecting their identities. AG Morrisey is the first Republican to serve as AG in West Virginia since 1933.

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IT'S NOT JUST THE FEDS: STATE AGS ARE REACHING THROUGH YOUR CORPORATION

By Clayton Friedman, Trey Smith, Michael Yaghi, Ketan Bhirud, and Chris Carlson

State attorneys general are increasingly taking offensive positions, bringing lawsuits against companies and executives they accuse of bad conduct. A team of attorneys from Troutman Pepper, led by Clayton Friedman and Trey Smith, explore recent cases and how executives can strengthen the corporate veil.

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IOWA AG JOINS 21-STATE LETTER AGAINST NEW DOE GAS STOVE REGULATIONS

By Troutman Pepper State Attorneys General Team

On April 3, Iowa Attorney General Brenna Bird (R) announced her participation in a 21-state letter, opposing new Department of Energy (DOE) gas stove regulations that the states claimed would prohibit the sale of more than 50% of "all currently available gas stoves."

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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 state law. Cannabis remains an illegal controlled substance under federal law.

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