

Articles + Publications | January 12, 2022

# Troutman Pepper State Attorneys General Monitor – January 2022

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Troutman Pepper's State Attorneys General team combines legal acumen and government experience to develop comprehensive, thoughtful strategies for clients. Our lawyers handle individual and multistate AG investigations, proactive counseling and litigation, and manage ancillary regulatory issues. Our successful approach has been recognized by *Chambers USA*, which ranked our practice as a leader in the industry.

## Regulatory Oversight Blog

Make sure to [subscribe](#) to Troutman Pepper's [Regulatory Oversight](#) blog to receive the most up to date information on regulatory actions.

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.

## State Attorneys General 2022 Outlook

### STATES ATTORNEYS GENERAL TO EXPAND NATIONAL ROLES IN 2022

By [Stephen Piegrass](#), [Ashley Taylor](#), [Chris Carlson](#), [Daniel Waltz](#), and [Namrata Kang](#)

*Originally Published in Bloomberg BNA*

During the past year, state attorneys general across the nation continued to extend their consumer protection influence, enforcing state and federal laws. Looking ahead to 2022, we see several areas that appear ripe for state AG enforcement.

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## Recent Court Decisions

### RECENT STATE COURT DECISIONS REAFFIRM SCOPE OF STATE ATTORNEY GENERAL AUTHORITY

By Siran Faulders, [Bonnie Gill](#), and Aaron Hardy

As we have recently noted [elsewhere](#), state attorneys general have actively increased their enforcement of both state and federal laws in recent years, and we expect the pace to continue to grow in 2022. A key reason for the prominence of state investigations and litigation can be found in the wide range of statutory authority granted to the state AGs, who have the ability to investigate and enforce laws — ranging from state consumer protection statutes to comprehensive federal laws like the Health Insurance Portability and Accountability Act. With such broad authority, the state AGs can and do exercise discretion in deciding which actions merit their attention.

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## State Attorneys General

### FIVE TIPS FOR WHEN STATE ATTORNEYS GENERAL COME KNOCKING

By [Agustin Rodriguez](#) and [Chris Carlson](#)

The scope and scale of state attorneys general investigations has expanded for several reasons, including a perceived lack of enforcement at the federal level. Many state attorneys general are not reticent to fill a perceived regulatory void, and they routinely conduct investigations and bring enforcement actions when they observe a federal agency is not moving fast enough or otherwise has neglected its responsibility.

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### STATE AGS WANT THE FHA TO ENSURE LENDERS COMPLY WITH COVID-19 RELIEF OPTIONS

By [Ashley Taylor](#), [Stephen Piepgrass](#), Ketan Bhirud, and [Chris Carlson](#)

Twenty-one Democratic state attorneys general claim that many Federal Housing Administration (FHA)-approved mortgage servicers have routinely flouted the agency's mandated COVID-19-related relief options, including its loan modification program. In a [December 21 letter to the FHA](#), the state attorneys general asked the FHA to ensure that all FHA lenders are implementing and fully complying with the required COVID-19 relief options.

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## Attorney General Profile – Hawaii

### NEW AG ON THE BLOCK: HAWAII ATTORNEY GENERAL HOLLY T.M. SHIKADA

By Siran Faulders, [Chris Carlson](#), [Bonnie Gill](#), and [Namrata Kang](#)

On December 8, Gov. David Ige announced the appointment of Holly T.M. Shikada as the next attorney general of Hawaii, subject to Senate confirmation. Shikada has served as the first deputy attorney general since March 2021

and has 30 years of experience within the Department of the Attorney General.

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## **STATE AG ON THE MOVE: CLARE CONNORS**

By Siran Faulders, [Chris Carlson](#), [Bonnie Gill](#), and [Namrata Kang](#)

On December 7, the Senate confirmed Clare Connors as the U.S. attorney for Hawaii. Connors, appointed by Gov. David Ige, served as Hawaii's attorney general since January 2019.

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## **Attorney General Profile – Nebraska**

### **NEBRASKA ATTORNEY GENERAL DOUG PETERSON WILL NOT SEEK A THIRD TERM**

By Siran Faulders and [Chris Carlson](#)

This weekend, Nebraska Attorney General Doug Peterson announced that he will not seek reelection for a third term in 2022. Peterson, a Republican who was first elected in 2014, previously served as an assistant attorney general in the Nebraska attorney general's office from 1988 to 1990, before entering private practice.

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## **Crypto Updates**

### **NEW JERSEY INTRODUCES A VIRTUAL CURRENCY AND BLOCKCHAIN BILL**

By [Keith Barnett](#), Timothy Butler, [Carlin McCrory](#), and [Dominyka Plukaite](#)

On November 22, the New Jersey State Senate [introduced](#) Senate Bill No. 4163 (NJ S4163), titled "Virtual Currency and Blockchain Regulation Act." The bill, sponsored by Senators Thomas Kean, Jr. (R) and Robert Singer (R), if enacted, would establish a regulatory framework for New Jersey virtual currency businesses, create provisions governing the use of blockchain with certain business entities, and create incentives for virtual currency businesses in the state. NJ S4163 addresses eight topics.

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### **CRYPTO CEOS ARE THE MOST RECENT EXECUTIVES TO ASK FOR CLEARER FEDERAL GUIDANCE**

By Matt Fay and Ketan Bhirud

In December, cryptocurrency executives testified before the House Financial Services Committee that they would like clearer guidance because the lack of a federal framework is causing uncertainty and inconsistent oversight at both the federal and state levels. These comments are not unique to cryptocurrency executives, but mirror recent

ones from cannabis and data privacy leaders.

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## Regulatory Updates

### NEW REGULATIONS POTENTIALLY ON THE HORIZON FOR SYNTHETIC NICOTINE IN 2022

By [Michael Jordan](#) and [Bryan Haynes](#)

On December 15, New Jersey Congresswoman Mikie Sherrill introduced the Clarifying Authority Over Nicotine Act of 2021 — a bipartisan bill designed to give the U.S. Food and Drug Administration (FDA) the authority to regulate synthetic nicotine products just as it regulates nicotine products made or derived from tobacco. In a [press release](#), Rep. Sherrill stated, “This bill will ensure all tobacco products, including products made with synthetic nicotine, are regulated by the FDA in order to protect kids in our communities and those who may seek to use these products.”

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### CHANGES AHEAD FOR SOCIAL MEDIA REGULATION?

By [Stephen Piegrass](#), [Chris Carlson](#), and [Abbey Thornhill](#)

On December 8, Instagram CEO Adam Mosseri appeared before the Senate Subcommittee on Consumer Protection, Product Safety, and Data Security to answer questions about the social media platform’s effects on children and teens. His appearance followed an announcement by a bipartisan coalition of state attorneys general (AGs) regarding an investigation into whether Instagram promoted its platform to children and young adults despite knowing that its use was associated with physical and mental health harms. The AGs’ investigation and Mosseri’s appearance before Congress raise questions about the regulatory future of Big Tech companies and social media platforms.

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## TTB Updates

### TTB PROPOSES FAVORABLE CHANGES TO PERMIT APPLICATION AND REPORTING REQUIREMENTS FOR CERTAIN INDUSTRY MEMBERS

By [John West](#) and [Nick Ramos](#)

On December 3, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued a [proposed rulemaking](#) aimed at modernizing and streamlining permit application and reporting requirements for distilled spirits plants (DSPs), wineries, importers, wholesalers, alcohol beverage dealers, and other permittees. TTB’s proposed changes are good for the industry because they will reduce the regulatory burden imposed by the application process and certain reporting requirements associated with those permits. Below is a summary of the key proposed changes. Industry members are welcome to submit comments via the [Regulations.gov](#) website or via postal mail on or before February 1, 2022.

[Read more](#)

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## FTC Updates

### FTC SETTLES WITH AUTORENEWAL COMPANY MYLIFE.COM

By Timothy Butler, [Keith Barnett](#), [Carlin McCrory](#), and Matt White

On December 15, a district judge in California approved a settlement between MyLife.com, Inc. (MyLife), its CEO Jeffrey Tinsley, and the Department of Justice (DOJ) on behalf of the Federal Trade Commission (FTC). The settlement bans MyLife and Tinsley from engaging in deceptive negative option marketing and requires them to pay \$21 million due to allegations that they tricked consumers with “teaser background reports” and trapped consumers in difficult-to-cancel subscription programs. MyLife is a company that sells consumer background reports.

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### AUTOMATIC RENEWAL STATE LAW CHANGES EFFECTIVE JANUARY 1, 2022

By Timothy Butler, [Keith Barnett](#), [Carlin McCrory](#), and Matt White

Colorado and Delaware have enacted new laws for automatic renewal or negative options offers. The new laws became effective January 1, 2022. Illinois already has a law on the books related to automatic renewals but has recently made a few minor amendments to it.

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## Leadership Updates

### SENATE CONFIRMS FCC CHAIR JESSICA ROSENWORCEL TO LEAD FCC FOR ANOTHER TERM

By [Namrata Kang](#) and Ketan Bhirud

On December 7, the Senate voted to confirm Jessica Rosenworcel as the permanent chair of the Federal Communications Commission (FCC), making her the first woman to hold that title.

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