



GIBSON DUNN

State Attorneys General (AG) Task Force

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The Rise of the State Attorneys General

State AGs have become primary enforcement actors in many fields, including consumer protection, antitrust, and emerging technology. Companies should expect the current State AG enforcement model to be structurally distinct from the one they navigated even three years ago, with Democratic and Republican coalitions taking often aggressive enforcement postures. Companies' compliance and litigation strategies should be calibrated to that structure.

State Attorneys General (State AGs) are increasingly taking a more expansive approach to litigation, investigations, and enforcement actions. Many State AGs are benefiting from increased enforcement budgets and staffing.^[1] Those enhanced resources have been matched by an influx of experienced legal talent. As the *New York Times* [reported](#) in May 2026, thousands of federal lawyers have departed federal agencies since January 2025, with many moving to Democratic State AG offices and advocacy groups challenging the administration's policies in court.

With these added resources, State AGs are increasingly targeting the private sector across industries. Three approaches have emerged. First, Democratic State AGs are seeking to serve as a check on federal policy, including through direct litigation against the Trump administration. Second, Republican State AGs are acting as partners to the federal government in enforcing the administration's priorities. Third, State AGs of both parties have aligned to target certain priority issues, such as youth online safety, artificial intelligence, pharmacy benefit managers, and prediction markets.

Democratic State Attorneys General: A Check on Federal Policy

“[States] have concurrent jurisdiction with the federal government. If the federal government fails to act, [states] can act.” California Attorney General Rob Bonta made that statement in [an interview](#) with Bloomberg in March 2026. Attorney General Bonta is not alone. Democratic State AGs have been particularly active in filing suits against the Trump administration. The Progressive State Leaders Committee reports that since the start of President Trump’s second term, State AGs have [filed](#) at least 115 cases against the Trump administration, on track to [surpass](#) the 138 filed during his first term. That pace outstrips the 78 multistate suits filed against the Obama administration and the 76 filed against the George W. Bush administration.

Our review of 70 State AG litigation matters initiated on or after January 20, 2025, and involving the Trump administration reveals that all 24 Democratic State AG offices—the 23 states with Democratic AGs and the District of Columbia—have participated in at least one such filing. A core coalition of 18 offices appears in a substantial majority of cases, with California, Illinois, Maryland, New Jersey, New York, Oregon, Rhode Island, and Washington each joining at least 40 matters. California (32 lead or co-lead positions), New York (21), Washington (19), Massachusetts (15), Illinois (13), and Rhode Island (13) most frequently anchor these coalitions, and approximately 86 percent of the 70 filings are multistate.

Democratic State AGs have challenged administration actions or filled perceived enforcement gaps on several fronts, including tariffs, environmental regulations, and consumer protection.[\[2\]](#)

Tariffs

After President Trump instituted his signature tariff policies, Oregon Attorney General Dan Rayfield [led](#) a twelve-state coalition in filing a lawsuit challenging the President’s authority to impose tariffs under the International Emergency Economic Powers Act. The Democratic State AGs claimed that the literature cited by the administration concluded that “nearly all of the cost of tariffs (95%) carries over to domestic purchasers.” Likewise, according to an [analysis](#) from the Federal Reserve Bank of New York, U.S. businesses and consumers shouldered nearly 90 percent of the tariffs’ costs. In February 2026, the U.S. Supreme Court [struck](#) down the tariffs and sent the case back to the U.S. Court of International Trade for further proceedings.

Following the Supreme Court’s ruling, President Trump [issued](#) a global 10 percent tariff on nearly every country under Section 122 of the Trade Act of 1974. In response, Democratic State AGs from 22 states, joined by the governors of Pennsylvania and Kentucky, filed a multistate [lawsuit](#) to enjoin these new tariffs, again alleging they violate the Constitution’s separation of powers. In May 2026, the U.S. Court of International Trade [invalidated](#) those tariffs for the State of Washington and two private plaintiffs and found that the remaining states lack standing. Shortly after, the Trump administration [appealed](#) the decision, and further judicial proceedings will determine whether the federal government can continue to collect the tariffs and whether refunds are required.

Environmental Regulation

On Inauguration Day, President Trump issued Executive Order (EO) [14156](#), titled “Declaring a National Energy Emergency,” declaring that the United States has insufficient domestic energy production and infrastructure. The EO also ordered the U.S. Army Corps of Engineers to expedite permitting for energy projects. Fifteen Democratic State AGs are [challenging](#) the order for bypassing the environmental review process required under the Clean Water Act, the Endangered Species Act, and the National Historic Preservation Act. They allege that no genuine national emergency justifies shortening the review and that the order’s emergency declaration is “arbitrary and capricious.” The State AGs amended their complaint in January 2026, adding the U.S. Department of the Interior as a defendant and challenging its actions to bypass requirements under the National Environmental Policy Act, the Endangered Species Act, and other laws when permitting fossil fuel and other energy projects. The defendants have since moved to dismiss and that motion is pending.

The Consumer Financial Protection Bureau

Under the Trump administration, the Consumer Financial Protection Bureau (CFPB) has experienced [funding cuts](#), mass layoffs, and a [pause](#) in enforcement actions and investigations. In February 2025, the Trump administration [issued](#) a stop-work order to CFPB employees, and in April 2025, the agency [sent](#) more than 1,400 reduction-in-force notices. While the U.S. Court of Appeals for the District of Columbia Circuit [considers](#) the CFPB layoffs en banc, Democratic State AGs are attempting to fill the gaps.

Democratic State AGs are opposing changes to the CFPB sought by the Trump administration. In February 2025, 22 Democratic State AGs and the District of Columbia’s Attorney General [submitted](#) an amicus brief opposing the Trump administration’s stop-work order and mass layoffs. The same coalition [filed](#) an amicus brief in May 2025, when the case reached the District of Columbia Circuit. In December 2025, this same coalition, minus Washington, [filed](#) a lawsuit challenging the Trump administration’s attempt to defund the CFPB.

Democratic State AGs also are stepping into areas historically the focus of CFPB enforcement. In May 2025, New York Attorney General Letitia James [filed](#) a lawsuit against a major consumer bank after the CFPB voluntarily [dropped](#) a similar case. AG James alleges that the bank marketed a savings account as a high-rate account, but froze that account’s rate while launching a similarly-named savings account with a higher interest rate, allegedly unlawfully operating a two-tier system of savings accounts that harmed existing customers with the lower-rate savings accounts. After a related class action suit [resulted](#) in a proposed settlement, James [led](#) a coalition of 18 bipartisan State AGs in filing an amicus brief, arguing that the proposed class action settlement failed to provide consumers with appropriate restitution. In April 2026, the court [approved](#) a revised classwide settlement requiring the bank to pay \$425 million into a non-reversionary common fund and to comply with injunctive terms. Due to the settlement, James has [stated](#) she will voluntarily dismiss her lawsuit.

Pricing Practices

Pricing practices, such as algorithmic pricing, so-called “surveillance” pricing, and junk fees have emerged as a Democratic State AG enforcement priority. For example, in January 2026, New York Attorney General Letitia James [opened](#) an investigation into an online grocery delivery platform under New York’s Algorithmic Pricing Disclosure Act, a first-of-its-kind statute that took effect November 10, 2025, and requires companies to clearly disclose when they are using consumers’ personal data to set prices. The same month, California Attorney General Rob Bonta [launched](#) an investigative sweep targeting “surveillance pricing” practices in the retail, grocery, and hotel sectors. Bonta’s announcement explicitly framed the sweep as a response to the Trump administration’s purported “abandonment of critical consumer protection work.” In 2025, California Governor Gavin Newsom announced his [decision](#) to restructure state government resources to create a Business and Consumer Services Agency “dedicated to business regulation and consumer protection.” Governor Newsom recently [appointed](#) Rohit Chopra, former Director of the Consumer Financial Protection Bureau and Commissioner of the Federal Trade Commission, to lead the newly created agency. The agency launched on July 1, 2026.

Republican State Attorneys General: A Partner in Federal Policy

While Democratic State AGs are filing lawsuits against the federal government and filling perceived enforcement gaps, Republican State AGs are seeking to act in tandem with the administration. Many of their lawsuits, investigations, and enforcement actions complement the administration’s policy agenda. In the same review of 70 active State AG litigations initiated on or after January 20, 2025, 26 Republican AG offices—25 of the 27 states with Republican AGs plus Guam—have joined at least one filing in support of administration policy, with New Hampshire and Pennsylvania as the only Republican AG offices to not yet have participated. The Republican coalition is equally consistent in composition: nine states—Florida, Indiana, Kansas, Louisiana, Missouri, Montana, Nebraska, Oklahoma, and South Dakota—have appeared in all of our tracked filings. Texas, while not consistently appearing in Republican-coordinated multistate filings, has been independently aggressive in pursuing affirmative enforcement against private parties, most notably securing a [\\$1.375 billion settlement](#) with a major internet search platform over data privacy violations in May 2025, alongside investigations and enforcement actions on DEI and ESG matters discussed below.

Diversity, Equity, and Inclusion (DEI)

Following EO [14151](#), titled “Ending Radical and Wasteful Government DEI Programs and Preferencing,” and EO [14173](#), titled “Ending Illegal Discrimination and Restoring Merit-Based Opportunity,” the Texas and Florida AGs issued formal legal opinions asserting that DEI and affirmative action measures constitute unlawful discrimination on the basis of race and sex. Florida AG James Uthmeier [wrote](#) in his legal opinion that various Florida laws that promote affirmative action in hiring practices, race-based preferences in government contracting, and quotas are unconstitutional. Texas AG Ken Paxton’s opinion likewise [asserts](#) that various Texas laws unconstitutionally discriminate on the basis of race and sex—for example, by promoting affirmative action and DEI policies, and through programs such as the “Historically Underutilized Business” and “Disadvantaged Business Enterprise” programs, which create race- and sex-based classifications. Paxton goes further, warning that private companies that engage in DEI programs, such as hiring and promoting based on protected class, establishing affinity groups, or

mandating diversity training, could expose themselves to liability.

Republican State AGs have also targeted specific employers that engage in DEI-related practices. For example, 19 State AGs [sent](#) a warning letter to a large national wholesale retailer demanding that it terminate DEI-related policies.

Environmental, Social, and Governance

In November 2025, the Federal Trade Commission (FTC) [opened](#) an investigation into two major proxy advisory firms to determine if they violated antitrust laws by colluding to steer clients toward Environmental, Social, and Governance (ESG) policies.

Republican State AGs also are backing the administration's rollback of ESG policies. Shortly after the FTC opened its November 2025 investigation, Attorney General Uthmeier [filed](#) suit against the two proxy firms. The suit alleges that the firms violated Florida's consumer protection and antitrust laws by steering shareholders and corporate boards toward ESG policies, which Attorney General Uthmeier characterizes as race- and gender-based quotas and climate mandates, over financial performance. Uthmeier's lawsuit [followed](#) Attorney General Paxton's Civil Investigative Demands into the same firms to determine if they violated Texas consumer protection laws. In May 2026, Paxton [sued](#) one of the firms for allegedly presenting its recommendations as objective while prioritizing ESG considerations over shareholders' financial interests. [Nebraska](#), [Iowa](#), and [West Virginia](#) AGs filed parallel suits the same day.

State Attorneys General Working Across the Aisle

While Democratic and Republican State AGs pursue partisan investigations and lawsuits, several issues cross the political aisle. They include youth online safety, artificial intelligence (AI), pharmacy benefit managers (PBMs), and prediction markets.

Youth Online Safety and Artificial Intelligence

Both Democratic and Republican AGs have focused on online safety for youth and preserving state authority to enact laws and regulations affecting children online.

A bipartisan coalition of State AGs has been pursuing [multistate litigation](#) against a major social media platform alleging that the platform's design contributed to youth mental-health harms. Several states have also pursued independent [actions](#) against social media platforms and other tech companies over related alleged youth-safety issues, as well as alleged violations of children's privacy laws.

In February 2026, a bipartisan coalition of 40 State and Territory AGs [sent](#) a letter to Congress in support of the U.S. Senate's Kids Online Safety Act (KOSA), S. 1748. The AGs' letter notes a preference for the Senate bill over the corresponding House bill because the House bill expressly preempts state laws addressing youth online safety. Additionally, a bipartisan group of 44 State and Territory AGs [issued](#) a letter to 13 companies in August 2025, outlining the AGs' concerns about minors' use of AI chatbots and the need to protect them from allegedly inappropriate content.

Pharmacy Benefit Managers

In April 2026, 45 State and Territory AGs [submitted](#) a comment letter in support of the U.S. Department of Labor's (DOL) proposed [rule](#) requiring additional transparency for PBMs that serve self-funded employer healthcare plans under the Employee Retirement Income Security Act of 1974. The State AGs support DOL's proposal to require PBMs to disclose their fees and revenue twice a year. The comment letter also urges DOL to clarify its proposed rule to make clear it would not preempt any state PBM transparency laws, especially since all 50 states have [enacted](#) PBM laws. Lastly, the comment letter calls for DOL to partner with State AGs to enforce PBM transparency.

Prediction Markets

State AGs across the political spectrum have been actively asserting state regulatory authority over prediction markets and event contracts. In April 2026, a bipartisan coalition of 41 State and Territory AGs, led by New Jersey AG Jennifer Davenport, [filed](#) a formal comment letter with the U.S. Commodity Futures Trading Commission (CFTC), urging the agency to confirm through rulemaking that it lacks jurisdiction over sports-related event contracts and that such activity remains subject to state gambling laws. Maryland AG Anthony Brown, who joined the coalition of 41 State and Territory AGs, issued a [statement](#) on the group's outreach to the CFTC and recounted efforts since April 2025 to coordinate states' strategy regarding prediction markets enforcement.

Democratic State AGs in [Massachusetts](#), [Michigan](#), and [Arizona](#) have filed civil enforcement actions or issued cease-and-desist orders against an online prediction market, alongside parallel actions by state gaming regulators in [Illinois](#), [Nevada](#), and other states, generally alleging that the platforms' sports event contracts constitute unlicensed sports wagering or illegal gambling under state gaming laws. In response to cease and desist orders, platform operators have also [filed](#) lawsuits seeking declaratory and injunctive relief on the ground that the Commodity Exchange Act (CEA) gives the CFTC exclusive jurisdiction over event contracts traded on CFTC-registered Designated Contract Markets (DCMs) and accordingly preempts the application of state gambling laws to those contracts. The CFTC, together with the U.S. Department of Justice, [filed](#) parallel suits on April 2, 2026 against Arizona, Connecticut, and Illinois, seeking declaratory judgments in federal district court in each state that the CEA preempts those states' enforcement actions against CFTC-registered DCMs and permanent injunctions against the underlying state proceedings, and has since filed additional suits against other states. The CFTC has also obtained [emergency relief](#) in the Arizona action, where the State has filed criminal charges against a DCM operator. The U.S. Court of Appeals for the Third Circuit became the first federal appellate court to rule on the question in *KalshiEX LLC v. Flaherty*, No. 25-1922 (3d Cir. Apr. 6, 2026), [holding](#), in a 2-1 decision, that sports-related event contracts are "swaps" under the CEA and that the CEA preempts state gambling laws as applied to such contracts on a CFTC-registered DCM. Parallel appeals are pending in the Fourth, Sixth, and Ninth Circuits, with several commentators anticipating Supreme Court review.

[\[1\]](#) For example, in Fiscal Year 2026, the Illinois legislature [approved](#) \$85.7 million—a \$15.7 million or 22.4 percent increase—for the State AG's office. In late 2024, the California legislature [convened](#) a special session to set aside \$25 million for the California Department of Justice and other state agencies specifically to "challenge and defend against unlawful federal

actions.” And for Fiscal Year 2026, Utah Attorney General Derek Brown [received](#) \$4.1 million in new ongoing appropriations to help retain attorneys and hire more staff.

[\[2\]](#) While the subject-matter areas discussed here are illustrative of the Democratic State AG enforcement actions, they are by no means exhaustive. In our review of 70 State AG actions involving the Trump administration, other federal funding and agency-structure challenges (20), immigration and citizenship matters (11), healthcare and LGBTQ-related litigation (10), and education and research funding disputes (10) also account for a large share of the Democratic AG docket.

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Gibson Dunn’s [State Attorneys General Practice Group](#) assists clients in responding to subpoenas and civil investigative demands, interfacing with state or local grand juries, representing clients in civil and criminal proceedings, and taking cases to trial.

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