



GOVERNMENT AT A GLANCE

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2024 Legislative and Regulatory Preview

Presenting our annual preview of issues we're tracking during state legislative sessions in ERIE's footprint. Each of these issues can have a direct impact on our Company and our Policyholders.

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Pennsylvania

Prior to the 2022 elections, Republicans held majorities in both houses of the General Assembly. Following the 2022 elections, Republicans lost control of the House by the narrowest of margins and maintained control of the Senate. The close political divide in the House (102D/101R, when all seats are filled) and the Republican control of the Senate has, thus far, resulted in relatively few bills getting passed. This situation will continue to pose problems heading into 2024, as a Democratic legislator recently resigned to assume a judgeship - thereby making the breakdown 101D-101R in the House, pending the outcome of a special election scheduled for February 13, 2024. This situation has resulted in the House delaying the start of its work until March 18, 2024.

Priority Issues

- [UM/UIM Stacking](#) - The industry continues to work to pass legislation to reform UM/UIM stacking and repeal mandatory stacking. The Insurance Department has expressed a number of concerns with the legislation, particularly the elimination of inter-policy stacking. The industry continues to work to arrive at legislation which can move forward and it is anticipated that discussions with the trial bar will take place to determine whether there might be any potential common ground which may help to position the legislation to move forward.
- [Security Breach Legislation](#) - This bill includes a number of provisions regarding security breach. One provision requires concurrent notification to the Attorney General in the event of a data breach affecting more than 500 state residents. The industry was successful in securing an amendment to the Attorney General notification requirements exempting insurers subject to the Insurance Data Security Act, as that law requires insurers to report data breaches to the Insurance Commissioner. The bill also reduces the threshold for notification to consumer reporting agencies from 1,000 to 500 affected individuals and requires that affected individuals be provided with free access to credit reports and credit monitoring for twelve months when a breach includes certain information. This bill has passed the Senate and awaits action in the House Consumer Protection, Technology and Utilities Committee.
- [Consumer Data Privacy](#) - Amendments have been secured to include an entity level GLBA exemption. The bill was approved by the House Commerce Committee, but has not yet passed the House and future prospects are unclear.

- Rebates and Inducements - A co-sponsor memo has been issued by the House Insurance Committee chairs for legislation to enact the NAIC Rebate Reform Model Law. The legislation would allow non-cash gifts, items or services of up to \$125 and would allow insurers to offer consumers value-added products and services. The bill has not yet been introduced due most likely due to inactivity in the House Insurance Committee (the last voting meeting was held in June, 2023). If that dynamic continues, the industry may seek a Senate sponsor for the legislation.

District of Columbia

While the Democratic-dominated Council has become even less business friendly after recent election cycles, a moderate industry ally chairs the key committee for insurance issues. On the regulatory front, the city's Department of Insurance, Securities and Banking (DISB) has challenged insurers with its recent initiatives – these include scrutiny of personal auto pricing via the market conduct process and surprise legislation restricting personal lines rate-filings, among others.

Priority Issues

- Protecting Rating/Underwriting Freedom - In 2024, the industry will be focused primarily on ongoing defensive pricing/underwriting battles:
 - Unintentional Bias in Personal Auto - DISB continues to evaluate if personal auto underwriting/rating criteria results in “unintentional bias.” The agency released an initial draft report late last year analyzing aggregate market conduct data using an outside consulting firm. The industry will continue to push back against the methodology and conclusions of the report, which DISB is likely to use to try to restrict insurer risk-evaluation practices.
 - Algorithm Anti-Discrimination - The D.C. attorney general's office may push the reintroduced version of its onerous broad bill to target alleged “discrimination by algorithms” by any organization. Despite lack of recent momentum, ERIE's trades are staying vigilant as part of a broad business coalition.

Illinois

Illinois continues to be a stronghold for Democrats, as the party controls all five statewide executive offices and has supermajorities in both state legislative chambers. Illinois remains a significant challenge for the insurance industry and most of the business community due to strong plaintiff bar and labor influence. While the industry continues to have a good working relationship with the department, industry trades continue to work with the department on several issues of disagreement.

Priority Issues

- Biometric Information Privacy Act (BIPA) - An industry and business coalition will again seek legislation to address negative Illinois Supreme Court rulings affecting businesses subject to lawsuits under BIPA despite expected continued trial bar challenges.
- Auto Rate Regulation/Underwriting and Rating Factors - The industry is monitoring for a resurgence of legislation seeking to prohibit auto insurers from using established factors such as gender, credit-based insurance score, education level, and employment to set insurance rates, and give the Illinois DOI power to reject or modify auto insurance rate increases.
- Market Conduct - The DOI is again seeking legislation concerning various aspects of market conduct and nonfinancial examinations and the industry continues to try to work through issues with various versions of legislation.

- Auto Theft Coverage - The DOI is again seeking legislation that would prevent an insurer from excluding coverage for theft for lack of evidence of forcible entry, leaving unlocked, or leaving a key or fob in the car. The bill would also prohibit carriers from refusing to provide insurance on the basis of the specific geographic location of the risk (rather than “solely” on the basis of the specific geographic location in current law).
- Insurance Zip Codes - Legislation is again expected that would prohibit insurers from using an individual's zip code in underwriting or rating, including the determination of premiums.
- Flood Insurance - The industry is monitoring for various legislative proposals dealing with flood insurance.
- Direct Marketing - The Retail Merchants Association is leading an effort in working with the Attorney General's office to help clarify issues with a law enacted last year relating to postcard solicitations.

Indiana

Republicans dominate the political landscape, holding all statewide offices along with supermajorities in both state legislative chambers. The emergence of anti-big business rural Republicans within the legislature has led to more challenges and less predictable outcomes for the business community, but strong insurance-minded leaders in the legislature help balance that dynamic for the industry. The insurance industry continues to have a positive working relationship with Insurance Commissioner Amy Beard, who is dedicated to a balanced regulatory environment that is not overly burdensome.

Priority Issues

- Insurer Data Transparency - Industry trades and the DOI are seeking legislation to delay to July 1, 2025, the effective date of last year's enacted legislation that required insurers to provide insureds notices of material change. The DOI has expressed that the rulemaking process has taken longer than expected and supports the one-year delay to finalize their rules.
- Third-Party Litigation Financing - Industry-supported legislation is being considered that would build on the law enacted last year related to civil proceeding advance payment CPAP providers and contracts.
- Driving Privilege Cards - Legislation has been introduced that would create and make available to for Indiana residents who cannot provide proof of identity and lawful status in the United State a driving privilege card to confer driving privileges and ensure proper financial responsibility is obtained.
- Proof of Insurance and License Suspensions - Legislation is being considered that would require the BMV to send a copy of its “proof of financial responsibility request” to the insurance carrier identified in the most recent registration for a vehicle involved in an accident and create a mechanism for drivers to request an administrative hearing to show proof of insurance before their license can be suspended. The industry is attempting to remove the insurance carrier from the process, as it stands in current law.
- Tort Reform - Bills have been introduced dealing with seat belt admissibility, premises liability, enhanced penalties for the rejection of a qualified settlement offer, and limits on evidence allowable in the recovery of non-economic damages.
- Worker's Compensation - Legislation is being considered to provide that a bid specification that's entered into, issued, amended, or renewed after June 30, 2024, may not contain a provision requiring an employer to have or maintain a specified experience rating and require certain insurance companies that make a successful subrogation claim to revise an insured

party's prior experience ratings in a specified manner. The industry is currently reviewing the bill for possible amendments.

- Crimes Involving Fraud - Legislation was introduced that proposes an increase to the penalty for fraud to a Level 4 felony if the pecuniary loss is at least \$100,000 or if the pecuniary loss is at least \$50,000 and the victim is an endangered adult or less than 18 years of age.

Kentucky

The legislature is required to pass a two-year state budget in even-numbered years, so that will be a focal point of this year's session. Republicans continue to have supermajorities in both the House and the Senate, but some challenges will continue for the industry because of strong trial bar influence. On the regulatory side, Insurance Commissioner Sharon Clark has generally provided a balanced regulatory approach and fostered open communication between the industry and department.

Priority Issues

- Auto Glass Fraud - The industry is pursuing legislation to address abusive practices with respect to auto glass replacement.
- Delivery Network Companies - Industry-supported legislation that failed last session is expected again this year to establish a framework for delivery network companies (DNCs), including insurance coverage requirements for DNCs and DNC drivers.
- Medical Cannabis - Legislation was enacted last session (effective 1/1/25) that provides for the regulation and use of medical cannabis in Kentucky. While the law specifies that workers' compensation insurers are not required to provide reimbursement, industry trades are now seeking to broaden that provision to any property/casualty insurer.
- Third-Party Litigation Financing - Legislation introduced on behalf of the litigation financing industry that failed last session is expected to return next year. Thus far, the group hasn't produced a version of the bill in Kentucky that the industry can agree to.
- Distracted Driving - The industry continues to work with advocates to build support for "hands-free" legislation, but the bill's prospects are unclear as it's failed the past several sessions.
- Underinsured Motorists (UIM) Carrier Offset - The trial bar is seeking legislation to address the offset of applicable liability coverage for UIM carriers in scenarios where multiple people are injured in an accident. The industry continues to review the proposal.
- Fortified Housing - Legislation is being drafted that would create the "Strengthen Kentucky Homes Program," intended to promote stronger homes to resist losses due to catastrophic weather events.
- Minor Settlements - In 2022, industry-supported legislation based upon the NCOIL Minor Settlements Act was enacted. However, APCIA has reported some banks are refusing to establish related financial accounts without a court order. APCIA is looking to support legislation this session to address this issue.
- Workers' Compensation – Medical Opinion Testimony - APCIA is discussing legislation intended to address the Kentucky Supreme Court's holding that only physicians licensed in Kentucky may provide testimony on the extent of disability in a workers' compensation case.
- Data Privacy - Legislation has been refiled that would require entities collecting data to protect the privacy of such data and provide for a limited private cause of action for failure to cure certain violations. The industry continues to stress the need to ensure appropriate Gramm-Leach-Bliley exemptions are included in any legislation.

Maryland

Democrats hold veto-proof supermajorities and all statewide executive offices, including governor. The state's legislative environment has remained difficult for businesses and insurers. On the regulatory side, current Maryland Insurance Administration (MIA) Commissioner Kathleen Birrane has stayed on under Gov. Wes Moore (D) after her term expired last May. This holdover appointment status could continue given her active role at the NAIC and possible need to mentor any new candidate.

Priority Issues

- Public Adjuster Reforms - Two favorable MIA bills would further regulate the conduct of public adjusters, a frequent source of claims abuses. The first would protect consumers by banning public adjuster solicitations within a 24-hour period after a loss and within certain hours of the day; the second would increase civil penalties for violations by licensees, including public adjusters from \$500 to \$5,000.
- Non-Economic Damages Cap Repeal - The industry is facing a reintroduced bill to remove the statutory caps on noneconomic damages in personal injury and wrongful death cases. Unlike the past few years, this may be the trial bar's primary focus this session.
- Rating/Underwriting Factor Restrictions - Personal auto insurers will again face attempts to ban standard industry rating/underwriting factors (credit, territory, gender etc.). A variety of socioeconomic trends, including insurance affordability issues, have made this a more politicized fight in recent years.
- Auto Insurance Verification - The Maryland Motor Vehicle Administration has introduced a bill to require carrier online verification participation on a "book of business" instead of individual transaction basis.
- Maryland Auto - The industry is concerned about any further legislation regarding Maryland Auto (formerly MAIF), the state's quasi-private residual market that is struggling with historic losses and a declining surplus. The organization's 2023 report to the General Assembly contained legislative recommendations to allow expansion of its customer base.

New York

Democrats hold every statewide office and veto proof majorities in both houses of the legislature. Recent elections have resulted in an increase in progressive legislators. This political environment, and particularly the anti-business sentiment of many progressive legislators, continue to pose challenges for the insurance industry and the business community in general. The Department of Financial Services (DFS) continues to be a challenging regulator. DFS is currently short-staffed and filing approval delays continue to be a problem.

Priority Issues

- Wrongful Death - Legislation to allow unlimited noneconomic damages in wrongful death cases passed both houses last year, but was vetoed by the Governor near the end of 2023. The Governor had previously vetoed a similar bill that was passed by the legislature in 2022. It is highly likely that the legislature will again pass wrongful death legislation in 2024 and, if so, we will again work with allies to urge a veto.
- Deceptive Acts and Practices - Legislation to greatly expand New York's deceptive acts and practices statute has been under consideration in recent years. This year, Governor Hochul has identified this issue as a priority she included in her State of the State address on January 9, 2024. The language for the Governor's proposal is not yet available and it is unclear at this time to what degree it might differ from the current pending bill. Attorney General James has also

identified passage of Unfair Deceptive and Abusive Act and Practices (UDAAP) legislation as a top priority for 2024.

- Bad Faith - As has been the case in recent years, passage of very expansive bad faith legislation (both first and third party) will be a top legislative priority for the trial bar. We will strongly oppose this legislation.
- Prohibiting Lead Paint Exclusions in Rental Policies - Legislation to prohibit lead paint exclusions in rental policies has passed the Assembly in recent years but has not passed the Senate. The current Senate sponsor (who was the previous Assembly sponsor) will likely continue to apply pressure to try to advance the bill. We will continue to oppose this legislation.
- Online Auto Insurance Verification - New York's current insurance verification system (Insurance Information Enforcement System - IIES) was put in place over twenty years ago and is antiquated by modern standards. In recent years, our industry partners and other allies have worked to urge the Governor's office and the Department of Motor Vehicles to move to a modernized online insurance verification system and they are now supportive of modernization. The necessary legislation passed the Senate but did not pass the Assembly in 2023. We will again work with allies to secure the passage of this legislation in 2024.
- Opposing Limitations on Risk Based Pricing - A number of problematic bills limiting risk based pricing are currently pending, though they have not gotten traction in the past. A very problematic bill is pending in the Senate and we will work to strongly oppose this bill if it gains traction. Also, legislation has also been introduced to ban underwriting/rating based on whether tenants receive housing assistance and it is likely that there will be legislative activity on this issue.
- Third Party Litigation Financing - Advancing legislation to regulate third party litigation financing (including discovery and disclosure provisions) continues to be a top priority. Legislation with discovery and disclosure language has been introduced, but it lacks an interest rate cap which will be necessary in order for passage in the Assembly. We will continue to work with a broad based coalition to work to secure an agreement on legislation which will be acceptable to both houses.

North Carolina

The state is politically split with Democrat Roy Cooper as governor and a supermajority Republican legislature. Overall, North Carolina has been very business-friendly, but its antiquated personal lines rating system remains a pain point for many insurers. While the commissioner's staff openly communicates with ERIE's trades, recent public controversy over his hiring practices and a strained relationship with the legislature have cast some uncertainty on his future.

Priority Issues

- Rebating Reform - The industry-supported rebating reform bill is alive for the short session and remains a major priority for ERIE's trades this year. The pro-competitive bill would allow producers/carriers to offer non-cash items or value-added services, like mitigation, to potential customers.
- Roofing Anti-Fraud Reform - After the industry's "storm chaser" bill stalled again in 2023, ERIE's trades are working with stakeholders to add separate anti-fraud roofing language to the criminal code.
- Implementation of Auto Changes - Last year's massive insurance omnibus bill contained many major auto changes (minimums increase, UIM offset changes and rating flexibility for inexperience and unsafe drivers) along with an unworkable effective date for carrier/Rate

Bureau implementation. Delaying this date is a major “must-do” item for the industry this session.

- Tort Defense / Third-Party Litigation Funding (TPLF):
 - ERIE’s trades will remain vigilant against a resurgent and politically active trial bar in the short session, despite staving off the worst bills in 2023 and prior sessions.
 - Finally, legislation to regulate TPLF, a practice that can incentivize litigation and abusive profiteering by outside parties, is alive for the short session. The industry is tentatively supporting this effort pending a key definitional change.

Ohio

While Republicans continue with full control of state government, division within the House Republican majority and tension between the House and Senate resulted in only 16 passed bills in 2023, a decades-long low. On the regulatory side, Judith French has served as Director of the Department of Insurance since January 2021. Under French’s leadership, an overall positive relationship with the industry is expected to continue.

Priority Issues

- Storm Scammers - The industry continues to pursue long-time priority legislation that would provide essential consumer protections in residential roofing transactions and crack down on scammers who seek to profit off the misfortunes of property owners. While some slow progress has been made in discussions between roofers and industry trades, it’s unclear whether the bill will advance this year.
- Third-Party Litigation Financing - Legislation continues to be considered to reform the abusive practice of third-party litigation financing. The industry continues to work with the Ohio Alliance for Civil Justice and U.S. Chamber of Commerce to advocate for this legislation.
- Asbestos Litigation Reform - Legislation continues to be considered to require a plaintiff in a tort action alleging an asbestos claim to file specified disclosures. The bill is intended to address the practice of “over-naming,” which is a type of abuse occurring in asbestos lawsuits.
- Insurance Omnibus Bill - Multi-topic insurance legislation has been introduced which presently contains DOI-approved provisions regarding commercial manuscript policies, regulatory reform for NAIC accreditation, and bail bond tax clarification.

Tennessee

Tennessee is a Republican trifecta state with a Republican governor and supermajorities in both state legislative chambers. While Tennessee is considered a business-friendly state, a significant number of Republicans are plaintiff attorneys or friends with plaintiff attorneys in their rural districts, so tort reform issues can be challenging. The regulatory climate in Tennessee has generally been viewed as positive and the industry maintains a solid working relationship with the department, which has fostered a balanced regulatory environment.

Priority Issues

- Insurer Use of Credit - A legislator has expressed interest in introducing legislation to limit or prohibit an insurer’s use of credit. APCA has prepared materials should legislation be introduced.
- Auto Repair - The following industry-opposed legislation dealing with auto repair and repair facilities is expected to resurface this year:

- Removal of Total Loss Auto from Repair Facility Property - Would require an insurer or insured individual to remove from a repair facility's property an automobile deemed a total loss within five business days after the automobile is deemed a total loss.
- Notification of Automotive Body Part Repair by Auto Insurer to Insured - Would prohibit, as an unfair claims settlement practice, an auto insurer from directing a body shop to repair a motor vehicle without first providing the insured with written notice of the insured's right to approve the type of body parts to be used in the repair of the motor vehicle and an opportunity to select the type of body parts to be used.
- Dog Breed Restrictions - Industry-opposed legislation could return that would prohibit a homeowner's insurer from making certain changes to or refusing to issue a policy based solely on the specific breed or mixture of breeds of a dog at the insured property.
- Child Sex Abuse Statute of Limitations - The industry will continue to monitor for legislation from last year that would allow civil actions for an injury or illness based on child sexual abuse occurring on or after the legislation's effective date to be brought at any time.
- Clear and Convincing Evidence - Legislation is expected to resurface that would require a person to prove a claim by clear and convincing evidence to recover for any tort established by common law or by statute, with an exemption for workers' compensation insurance.
- Written Notice to Claimant - Legislation may resurface that would require an insurance company to provide written notice to a claimant when the company makes a settlement payment of a third-party liability claim.
- Exhibit to Civil Actions as Evidence - Legislation is expected that would increase from \$4,000 to \$25,000 the total amount of medical, hospital, and doctor bills that may be itemized with copies and attached as an exhibit to a complaint or civil warrant as prima facie evidence that the bills paid or incurred were necessary and reasonable.
- ESG - More consideration of ESG bills is expected in 2024. The industry will be on the alert for any legislation affecting the insurance industry.

Virginia

In 2023, Democrats took back the Virginia House to regain full control of the General Assembly. With many new faces and the trial bar taking top leadership positions across both houses, it is a much more hostile climate for the industry. That said, GOP Gov. Glenn Youngkin could provide a few pro-business vetoes. On the regulatory front, Bureau of Insurance Commissioner Scott White has kept the regulatory environment balanced, although the agency's recent timelines for regulatory implementations have been onerous.

Priority Issues

- Tort Defense - Among many, two adverse tort bills ones have been introduced by the new Senate Majority Leader, a practicing plaintiffs' attorney:
 - Auto Bad Faith - The uninsured/underinsured motorist (UM/UIM) bad faith bill from prior years is back and worse than ever. The poorly written bill would still create a new bad faith cause of action for UM/UIM claims, but instead of potentially double the policy limits, would result in an award of double whatever the jury verdict is, plus attorney's fees and costs. The industry will strongly oppose this terrible proposal, but the House may not be a backstop like in the past.
 - State Class Action - Insurers and the business community will again oppose this trial bar priority to allow state class actions, thus increasing litigation and costly settlements.
- Towing Issues - As in 2023, towing remains a hot topic with a mix of good and bad bills:

- The industry is supporting bills to subject towers to the state's Consumer Protection Act, to prohibit tower solicitation at accident scenes, and to reduce the maximum hook-up fee by \$100.
- Insurers are tracking a proposed regulatory approach by towing interests that seems like the old towing and recovery board. Before it was abolished in 2012, this group was dominated by towers to the detriment of insurers.
- Finally, APCIA/industry is trying to get legislative scrutiny on the Virginia Department of Transportation's unfair billing of insurers under the agency's trucking tow incentive fee program.
- Fire Assessment Increase - A long-dormant proposal to raise the state's fire insurance tax assessment is back. The industry will oppose the current effort to double the fee to 2% in phases by 2028.

West Virginia

Historic GOP supermajorities mean a largely favorable climate for the industry; however, the party's populist, anti-business contingents and a growing trial bar influence have offset this somewhat. 2024 is a key election year – the governor's seat is open with Gov. Jim Justice (R) term-limited and running for U.S. Senate, and the entire state House and half the state Senate are on the ballot. On the regulatory side, the industry has a good working relationship with the Offices of the Insurance Commissioner.

Priority Issues

- Public Adjuster Reform - The West Virginia Insurance Federation (WVIF) will be pushing an ERIE-supported bill based on last year's Kentucky law and proposed NCOIL model legislation. This would reform the state's public adjuster licensing/conduct requirements to prevent claims abuses.
- Delivery Network Model - ERIE's trades will again be supporting model legislation to regulate delivery network companies like Uber Eats and Grubhub. The effort will likely face the same attempts by corporate stakeholders to weaken the bill's insurance protections that stalled last year's bill.
- Proactive Tort Reforms - The WVIF's top priorities include the following tort reforms, although such items may find tougher sledding since a plaintiffs' attorney was named House Judiciary Chair right before session:
 - Jury Anchoring - This legislation would prevent a party in a civil trial to refer to a specific dollar amount or range to suggest to the jury an amount to award as damages for noneconomic loss.
 - Collateral Source Payment Disclosure - This long-term industry priority would provide jurors with full information about collateral sources of payments received by a plaintiff when jury awards are being determined.
- VFD/EMS Surcharges - ERIE's trades continue to monitor the perennial volunteer fire department surcharge increase issue, which now includes emergency medical services funding. The state's continued budget surplus should hopefully help in this area.

Wisconsin

Divided state government with Democratic Gov. Tony Evers and Republican majorities in both the Senate and the Assembly has led to little movement on industry issues. For 2024, the industry anticipates a continuation of the current environment in which few industries and groups expect success of significant legislative initiatives. From a regulatory perspective, the Office of the Commissioner of

Insurance (OCI) is led by Nathan Houdek. OCI continues to work collegially with the industry on issues of mutual concern.

Priority Issues

- Nonrecourse Civil Litigation Advances (Third-Party Litigation Financing) - Legislation to govern nonrecourse civil litigation advances is under consideration. Although the bill has passed committee, it's unclear whether it will advance further.
- Driver Education - Legislation that would require approved driver education courses to include instruction on the hazards posed by highway work zones has passed committee and is awaiting floor action.
- Liability Exemption - Legislation is being considered that would provide a liability exemption for motor vehicle sellers after the sale of a vehicle.
- Catalytic Converters - Legislation is being considered to make it a Class I felony to remove the catalytic converter from a vehicle without the owner's consent, punishable by a fine of up to \$10,000 or imprisonment for up to three years and six months, or both.
- PFAS Programs - Legislation continues to be considered relating to programs and requirements to address perfluoroalkyl and polyfluoroalkyl substances (PFAS), human-made chemicals that have been used in consumer products since the 1940s.
- Workers' Compensation - Management and labor representatives on the Worker's Compensation Advisory Council have agreed to the introduction of two bills for this legislative session. Provisions of interest include a medical fee schedule for hospitals, a PTSD presumption for EMS and volunteer firefighters, indexing of permanent total disability benefits, advance payments for permanent partial disability, and various clarifications.
- Medical Marijuana - State Assembly leaders released a plan to legalize medical marijuana in Wisconsin. The Speaker indicated he has the votes to pass the legislation in his house. The outlook in the Senate is more uncertain since the proposal is considered one of the strictest in the nation, including permitting only five state-run dispensaries. The industry is monitoring the proposal and exploring whether language is needed to exempt workers' compensation.