NathanJohnson
FOR TEXAS ATTORNEY GENERAL

Catching Up To Yesterday

Nathan Johnson's First 30 Days:

Auditing How Texas Law Stacks Up to AI Advances in the Marketplace

When Texas legislators wrote consumer protection, employment, and fair competition laws, they could not have foreseen a marketplace rife with generative AI, algorithmic pricing, and synthetic voice scams. The laws designed to protect Texans must keep pace with advances in technology and marketing innovation: the commercial tools – particularly those driven by AI – that enable dominant industry players to evade the intent and spirit of the law.

In his first month as Texas Attorney General, Nathan Johnson **will conduct a systematic and comprehensive audit of existing consumer protection, fair competition, and employment laws**, to determine where the law falls short of what's needed to protect vulnerable people from crime, consumers from predatory business practices, markets from manipulation, and workers from exploitation. Johnson will then work with legal teams and the Legislature craft and pass new legislation that fills in the identified gaps in the law.

Existing Texas law relies largely on AG enforcement, and leaves much unconsidered and undone.

In its last two legislative sessions the Legislature did address AI in the marketplace. Notably, both the new law and applicable old laws rely for enforcement on an independent Attorney General's office. For example:

- **The Texas Responsible AI Governance Act (TRAIGA) (HB 149) (effective January 1, 2026)** bars the implementation of AI systems built to manipulate people into self-harm or crime, bars discriminatory government use of biometric data, and carries civil penalties from an initial $10,000 up to $200,000 for a violation a company refuses to fix. *The law delegates enforcement to one office alone: the Attorney General.*
- **SB 2373, an AI scam protection law that Johnson authored**, which, unlike TRAIGA, gives Texans a private right of action to sue for damages caused by deepfake and phishing scams. The law also authorizes the Attorney General to impose civil penalties, which can escalate to a felony charge once losses cross $150,000.
- **SB 1188, a companion AI law covering health records, gives the Attorney General injunctive and civil penalty power** over medical providers who misuse AI diagnostic tools or store patient data offshore, with penalties reaching $250,000 for intentional misuse. Discussion of AI in insurance claims did not produce agreement.

Some obvious gaps: Labor protections and Price Fixing

- ***Employment*. Although TRAIGA bars discriminatory use of AI in hiring and firing decisions,** it does not address the predatory use of AI to unethically manipulate wage bargaining, nor does it require private employers to disclose when AI helped decide who or which position gets terminated.
- ***Price fixing*.** For the past several years, lawsuits against price fixing via the use of algorithms, as in the RealPage cases, have wound their way through the courts, led by state attorneys general. Many millions of dollars have been spent litigating how the law applies where a group of dominant market participants all voluntarily funnel their proprietary pricing information into an algorithm and then share the results. Attorneys general should continue to press forward with litigation to resolve these questions. But they should also call upon legislatures to make clear policy decisions to foreclose any doubt as to whether anticompetitive practices may escape the law by resorting to new technological abilities.

Enforcing the rules on the books

As Attorney General, Nathan Johnson would be the only official in Texas with the authority to enforce the state's new AI lawsIn fact, he authored one of these laws himself: SB 2373 gives him the power to go after the deepfake and phishing scams increasingly used to drain people's savings, with cases escalating all the way to felony charges once losses cross $150,000

Moving the law forward, as the federal government stands still

Johnson proposes to establish a biannual report from the OAG’s Consumer Protection Division on technological advances and other changes are creating new vulnerabilities for consumers and employees, to help the Legislature keep the law at pace with developments in the marketplace.

The significance of Johnson’s AI plan extends beyond Texas. On June 29, 2026, the U.S. Supreme Court ruled that the President may remove Federal Trade Commission commissioners at will, ending the independence that has insulated the nation's top consumer protection and antitrust enforcer for 91 years. Roughly two dozen federal agencies now answer to the White House instead of to the law.

In the current environment, state attorneys general who keep the law current with technological and marketplace changes will provide the enforcement powers that the federal government has cast aside. Given the size of the Texas economy, other states will look to Texas for leadership regarding how best to manage the influence of AI in the marketplace: on competition, on personal finances, on employment, on individual privacy and in our lives generally.