

The Intersection of Regulation and Business:

Where Market Winners and Losers are Chosen



Background:

- It could be the business degree from SMU... or:
- At 26 I saw first hand what government can do to an industry...
 - Medical Malpractice Defense Practice = Meet Tort Reform
- 5 Years later – Budget, Planning, and Policy Advisor to Governor Perry
- 2 Years after that – Appointed Workers' Compensation Commissioner by Governor Perry – Re-Appointed twice by Governor Abbott
 - Regulated a \$3 billion annual Texas industry with a \$100 million+ budget, 20 field offices, and over 600 personnel.
- Now: Registered Contract Lobbyist



The Role of the Lobbyist

- Every lobbyist will say it differently, but the goal is to: effectuate legislative and regulatory change that benefits your clients' business interests; or alternatively, block change that negatively affects your clients' business



Roadmap

- The Intersection of Regulation and Business:
 - Why Active Participation is Crucial
 - Accomplishing Favorable Results
 - Global Perspectives – Examples Across Industries
 - Automobile and Related Industry Perspectives



The Intersection of Regulation and Business:

Why Active Participation is Crucial



Is Monitoring the Intersection of Regulation and Business necessary?

- “[F]rom our view, it is important to note how strong CPA is linked to business performance... Especially when comparing the costs of CPA to costs of these other factors, CPA can seem like a no-brainer... businesses should, when possible, engage in CPA – because businesses that do tend to outperform competitors.”
- “Due to their CPA efforts, aggressive firms were able to attract a 14% larger market share than average firms.”
- “Corporate political activity: Good, Bad Ugly”



Okay, it's necessary, but how necessary?

- “[I]f managers choose not to participate in the political arena, they can be confident that other interested parties (possibly even rival firms) will be active on issues of importance. It is vital that firms recognize choosing a strategy of passively reacting to policy, or even trying to anticipate public policy, leaves the process more open to being shaped by efforts of other interest groups.”
- - Political environments and business strategy: Implications for managers



In Other Words:



HOW POLITICS REALLY WORKS:
**If you're not at
the table, you're
on the menu**

The Intersection of Regulation and Business:

Accomplishing Favorable Results



How To Accomplish Favorable Results

- Understand the Rules of the Game (generally speaking)
- Leveraging Resources (having the right tools in the toolbox)
- Plan and Execute (case study discussion)



Some General Rules of the Game

- Government acts as a self-interested rational actor
- Government sides with parties they know will be there long term
- Bills with less opposition have a higher success rate
- Government will likely delay legislative or regulatory action if parties are negotiating “in good faith”
- Messaging is critical
- Knowing the political environment is necessary



Leveraging Necessary Resources

- Lobby representation
- PR / media campaigns
- Organized grassroots action
- Coalition building
- 501(c)(4)s – special interest groups
- 501(c)(6)s – trade associations
- Political Action Committees



The Intersection of Regulation and Business:

Global Perspectives – Examples Across Industries



The Intersection Applies Across All Industries

Select examples from recent material:

- General Electric – wind turbines
- General Electric – Honeywell takeover
- McDonald’s – animal welfare
- Ocean Spray – “100% juice”
- Starbucks – coffee bean roasting and taxes



THE BRANNAN FIRM

GPM Glast, Phillips & Murray
A Professional Corporation

The Intersection of Regulation and Business:

Automobile and Related Industry Perspectives



Gig Economy & Ridesharing

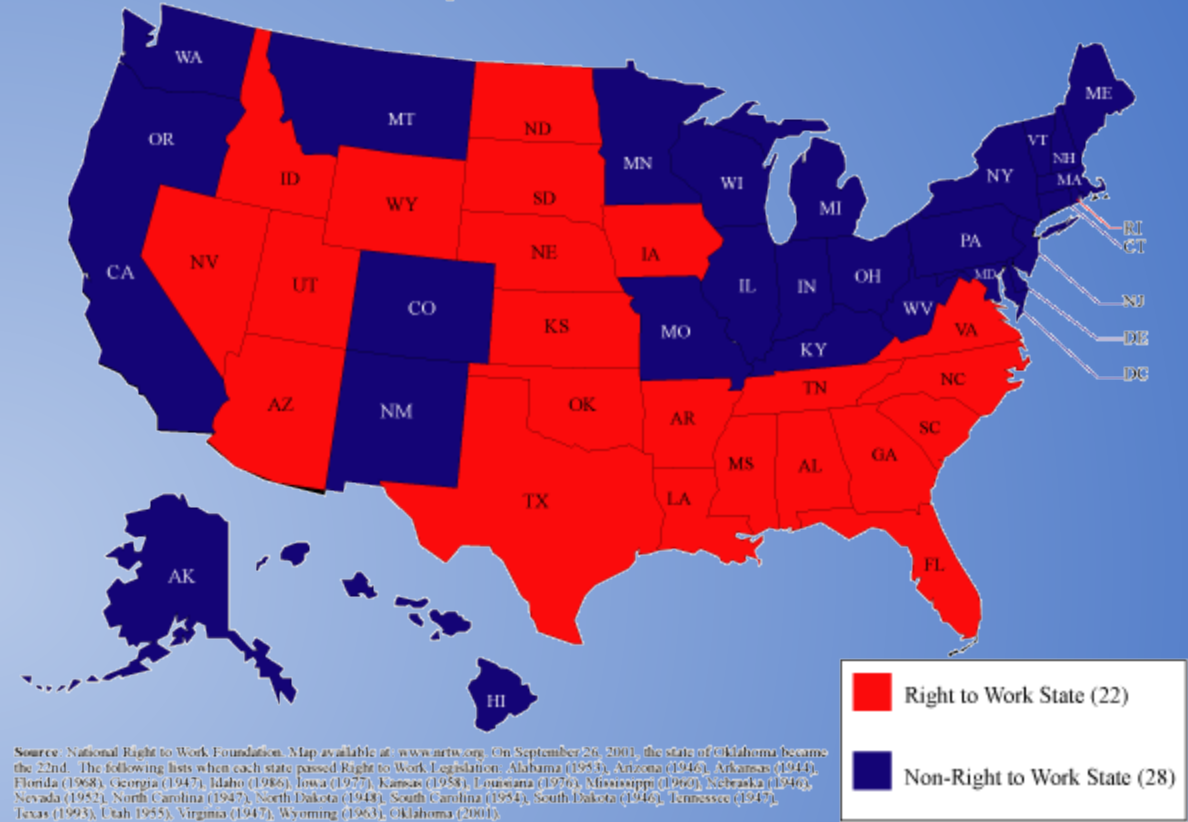
- How does the gig economy work – really?
 - Employee vs. Independent Contractor (11/13 lecture)



Right to Work States

Uber – the bellwether

- The Texas story
- California and New York
 - AB 5
 - \$90M ROI vs. “domino” effect
 - Political Environment
 - Union states vs. Right to Work states
- National Labor Relations Board



Tesla vs. Texas Association of Auto Dealers

- 2014 - Gov. Rick Perry calls dealership laws "antiquated protections" that should be revisited. At the time, Texas was trying to entice Tesla to build its \$5 billion lithium-ion battery plant here. The company ultimately chose Nevada.
 - Texas Tribune
- 2015 - **Giving a nod to long-established franchised auto dealerships,** Gov. Greg Abbott says Texas doesn't need to carve out a loophole in its laws that would allow Tesla to sell its high-end electric cars directly to consumers.
 - Texas Tribune
- Tesla Service Centers begin operation



Tesla vs. Texas Association of Auto Dealers

- 2017, 2018 - Tesla admits financial problems...
- 2019 – TADA exploits:
 - Texas Legislature refused to hear bills allowing direct car sales
 - Texas blocked Tesla buyers from revealing the state's \$2,500 alternative-fueled-vehicle incentive
 - Took a last-minute change in legislation to keep the servicing vehicle centers legal
- Where do they go from here?



Other Examples

- Scooters – San Antonio contract and ordinance
 - Fallout

- GM
 - Autonomous Vehicles
 - Texas legislation - SB 2205 (2017)



Questions?

Ryan Brannan

512.575.3005

rbrannan@gpm-law.com

ryan@brannanllc.com

