

**Which state consumer protection provisions could be used to protect kids from junk food marketing?**

Delaware law prohibits “deceptive merchandising practices” under its Consumer Fraud Act (“CFA”). Del. Code. Ann. tit. 6, § 2511 et seq. An unlawful practice under the CFA includes, among other things, “[t]he act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, or the concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale, lease or advertisement of any merchandise . . . .” Del. Code. Ann. tit. 6, § 2513(a).

**Does Delaware law provide any special protections for child consumers?**

Delaware’s CFA does not provide any special protections for child consumers.

**Who can bring a lawsuit?**

The Delaware Attorney General, Del. Code. Ann. tit. 6, § 2522) and individual consumers, Del. Code. Ann. tit. 6, § 2525, may file suit.

**What needs to be shown to make out a claim?**

The elements of a claim under the CFA are: (1) the “act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, or the concealment, suppression, or omission of any material fact, (2) in “connection with the sale, lease or advertisement or any merchandise.” Del. Code. Ann. tit. 6, § 2513(a). Proof of intent is only required for claims alleging the omission or concealment of a material fact. *Stephenson v. Capano Development, Inc.*, 462 A.2d 1069, 1074 (Del. 1983). The plaintiff does not need to prove reliance under the CFA. *Stephenson v. Capano Development, Inc.*, 462 A.2d 1069, 1074 (Del. 1983).

**Using State Consumer  
Protection Law to Limit  
Junk Food  
Marketing to Children**

This project conducted a 50-state survey of existing state consumer protection law and the potential role it might play to limit junk food marketing to children. Each State legal summary describes the most relevant existing consumer protection statute and identifies provisions that might be invoked to protect children from junk food marketing. Procedural provisions and criminal penalties are not discussed.

