

Which state consumer protection laws may protect kids from junk food marketing?

Kentucky's Unfair Trade Practices Act ("Act") prohibits "unfair, false, misleading, or deceptive acts or practices." Ky. Rev. Stat. Ann. § 367.170(1). The law specifies that "unfair shall be construed to mean unconscionable." Ky. Rev. Stat. Ann. § 367.170(2).

Does Kentucky law provide any special protections for child consumers?

The Act has no specific provision protecting children as vulnerable consumers.

Who can bring a lawsuit?

The Attorney General and consumers can bring suit for violations of the act. Ky. Rev. Stat. Ann. § 367.170; Ky. Rev. Stat. Ann. § 367.220. Nothing in the act prohibits class actions.

What needs to be shown to make out a claim?

In order to make out a claim, a consumer must establish that she, (1) purchased a good primarily for personal, family or household purposes, and (2) suffered an ascertainable loss as a result of the use or employment by another person of a method, act or practice declared unlawful by the Act. Ky. Rev. Stat. Ann. § 367.220(1).

What are the powers of the Attorney General to protect kids from junk food marketing?

When the Attorney General has reason to believe that there has been or will be a violation of the act, and the proceedings would be in the public interest, he or she may move for a restraining order or injunction. Ky. Rev. Stat. Ann. § 367.190(1).

**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.



at Northeastern University School of Law
102 The Fenway
Cushing Hall, Ste. 117
Boston, MA 02115

Phone: 617-373-2026
E-mail: cp@phaionline.org



Contact Us!



How does the law compensate consumers?

Consumers may pursue actual damages, equitable relief and punitive damages. Ky. Rev. Stat. Ann. § 367.220(1).

Who is liable for attorney’s fees?

A court may award reasonable attorney’s fees and costs to the prevailing party. Ky. Rev. Stat. Ann. § 367.220(3).

DISCLAIMER: This legal summary is for informational purposes only. Please consult an attorney for legal advice. All information reflects legal research conducted in 2010.

THANKS: Many thanks for research assistance provided by Northeastern University School of Law Public Health Legal Clinic students Bill Mostyn, Alexandra Geiger and Jordan Barringer. Thanks also to Jennifer Roberston.

FUNDING: This Project is funded by the Robert Wood Johnson Foundation’s Healthy Eating Research Program.

Prepared by Cara Wilking, J.D.