

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

The Louisiana Unfair Trade Practices Act (“LUTPA”) is modeled off of the Federal Trade Commission Act (“FTCA”) and prohibits “unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.” La. Rev. Stat. Ann. § 51:1405(A).

Does Louisiana law provide any special protections for child consumers?

The LUTPA does not provide any special protections for child consumers.

Who can bring a lawsuit?

The Attorney General and consumers may bring an action under the law. La. Rev. Stat. Ann. § 51:1407(A); La. Rev. Stat. Ann. § 51:1409(A).

What needs to be shown to make out a claim?

To make out a claim a consumer must show (1) that the defendant engaged in an unfair or deceptive act or practice in the conduct of any trade or commerce; (2) that the consumer suffered an ascertainable loss; (3) as a result of the illegal conduct. La. Rev. Stat. Ann. § 51:1409(A). What constitutes an unfair or deceptive practice is determined on a case-by-case basis. *Adelmann-Chester v. Kent*, 33 So.3d 187, 202 (La. App. 4 Cir. 2009) (citing *Core v. Martin*, 543 So.2d 619 (La. App. 2 Cir. 1989)).

**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.



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

The Attorney General can investigate, conduct studies and research, conduct hearings, and compel public disclosure. La. Rev. Stat. Ann. § 51:1404. The Attorney General may promulgate rules and regulations that interpret the provisions of the LUPTA. La. Rev. Stat. Ann. § 51:1405 (B). The Attorney General is authorized to seek injunctive relief and request civil penalties. La. Rev. Stat. Ann. § 51:1407(A),(B). Upon a finding that the Attorney General initiated action involved an illegal act or practice was "entered into with the intent to defraud," a court may impose a civil penalty of up to \$5,000 for each violation. La. Rev. Stat. Ann. § 51:1407(B). Violations of an injunction may result in a civil penalty of up to \$5,000. La. Rev. Stat. Ann. § 51:1416.

How does the law compensate consumers?

Consumers may pursue actual damages, La. Rev. Stat. Ann. §51:1409 (A), and in limited cases injunctive relief. Defense Research Institute (DRI), *Unfair Trade Practices: A Compendium of State Law* 235 (2005). If a court finds the violation was done knowingly after the defendant was put on notice by the Attorney General, the consumer shall be awarded treble actual damages. La. Rev. Stat. Ann. § 51:1409(A).

Who is liable for attorney's fees?

Reasonable attorney's fees and costs shall be awarded to prevailing consumers; however, if a consumer's suit is groundless or brought in bad faith or to harass, the consumer may be liable for the defendant's attorney fees and costs. La. Rev. Stat. Ann. § 51:1409(A).

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.
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