

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

Minnesota's Prevention of Consumer Fraud Act prohibits "any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby . . ." Minn. Stat. Ann. § 325F.69(1).

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

Minnesota's Consumer Fraud act does not have any specific provision protecting children as vulnerable consumers.

**Who can bring a lawsuit?**

The Attorney General, Minn. Stat. Ann. § 8.31(3), individual consumers, Minn. Stat. Ann. § 8.31(3a), and classes of individual consumers (class actions), *see, e.g., Wiegand v. Wasler Auto. Groups, Inc.*, 683 N.W.2d 807 (Minn. 2004) (reversing dismissal of class action brought under Minn. Stat. Ann. § 325F.69 (1)), may file suit.

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

Under Minnesota law, in order for a plaintiff to state a claim under the Prevention of Consumer Fraud Act, he or she must show: 1) that the defendant engaged in conduct prohibited by the statute; 2) that the plaintiff suffered an injury; and 3) a causal relationship between the plaintiff's alleged injury and the defendant's wrongful conduct. *Certified Question U.S. Dist. Court Order v. Phillip Morris*, 621 N.W.2d 2, 13 (Minn. 2001). Under the Prevention of Consumer Fraud Act, the consumer must additionally prove that the defendant engaged in the deceptive practice "with the intent that others rely thereon." Minn. Stat. Ann. § 325F.69(1). Individual consumers are not required to plead reliance in order to make out a claim under the Minnesota Prevention of Consumer Fraud Act. *Certified Question U.S. Dist. Court Order v. Phillip Morris*, 621 N.W.2d 2, 13 (Minn. 2001). Private actions under the Prevention of Consumer Fraud Act are limited to those that will "benefit the public at large" and the plaintiff has the "burden of demonstrating a public benefit in order to state a claim." *King v. Reed, LLC*, 2008 U.S. Dist. LEXIS 1341, at \*11 (D. Minn. 2008) (citing *Ly v. Nystron*, 615 N.W.2d 302, 314 (Minn. 2000)).

**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 Minnesota Attorney General may seek injunctive relief and a civil penalty to be determined by the court of not more than \$25,000. Minn. Stat. Ann. § 8.31(3).

**How does the law compensate consumers?**

Prevailing plaintiffs may recover damages and other equitable relief as determined by the court. Minn. Stat. Ann. § 8.31(3a).

**Who is liable for attorney's fees?**

Prevailing plaintiffs may recover "costs of investigation and reasonable attorney's fees." Minn. Stat. Ann. § 8.31(3a).

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

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