

Massachusetts

**Summary of Consumer
Protection Law to
Protect Kids from
Junk Food Marketing**

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

Massachusetts' consumer protection law ("Chapter 93A") is modeled off of the Federal Trade Commission Act ("FTCA"). It broadly prohibits "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce . . ." Mass. Gen. Laws Ann. ch. 93A, § 2(a). In construing Chapter 93A courts are to be guided by the Federal Trade Commission and federal court interpretations of the Federal Trade Commission Act ["FTCA"]." Mass. Gen. Laws Ann. ch. 93A, § 2(b).

Does Massachusetts law provide any special protections for child consumers?

Chapter 93A has no specific provision protecting children as vulnerable consumers, but, as noted above, Massachusetts courts are to look to federal law and to FTC interpretations of the FTCA for guidance. The Federal Trade Commission has recognized an exception from the general "reasonable person" standard for FTCA actions when advertising is aimed at a vulnerable

or particularly susceptible audience. Federal Trade Commission, *See* Deception Policy Statement, appended to *In re Cliffdale Assocs., Inc.*, 103 F.T.C. 110, 177 (1984), <http://www.ftc.gov/bcp/policystmt/ad-decept.htm>. This lesser standard should be applied when children, who by their very nature are particularly susceptible, are the target audience of food advertising.

Who can bring a lawsuit?

The Attorney General. Mass. Gen. Laws Ann. ch. 93A, § 4 individual consumers. Mass. Gen. Laws Ann. ch. 93A, § 9, and classes of individual consumers or persons engaged in conduct of any trade or commerce (class actions), Mass. Gen. Laws Ann. ch. 93A, §§ 9(2), 11.

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.

