

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

Missouri's Merchandising Practices Act ("MPA") prohibits "deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce . . . whether committed before, during or after the sale, advertisement or solicitation." Mo. Ann. Stat. § 407.020(1). Missouri regulations promulgated by the Attorney General, further provide that "[a] seller shall not make a representation or statement of fact in an advertisement that is false or has the capacity to mislead prospective purchasers," Mo. Code Regs. Ann. tit. 15 § 60-7.020, and "[a] seller shall not omit any material fact in an advertisement." Mo. Code Regs. Ann. tit. 15 § 60-7.030

Does Missouri law provide any special protections for child consumers?

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

Who can bring a lawsuit?

The Attorney General, Mo. Ann. Stat. § 407.100(1), individual consumers, Mo. Ann. Stat. § 407.025(1), and classes of individual consumers (class actions), Mo. Ann. Stat. § 407.025(2), may file suit.

What needs to be shown to make out a claim?

To make out a claim under the MPA, a plaintiff must show: 1) that he purchased or leased merchandise primarily for personal, family or household purposes; 2) that he suffered an ascertainable loss of money or property; and 3) that this loss was a result of the defendant's unlawful actions under the MPA. Mo. Ann. Stat. § 407.025 (1); *Hess v. Chase Manhattan Bank, USA, N.A.*, 220 S.W.3d 758, 773 (2007).

The Missouri Code of State Regulations provides that "reliance and intent that others rely upon such concealment, suppression or omission" are not elements...that a plaintiff consumer must prove in order to recover. Mo. Code. Regs. Ann. 15 § 60-9.110.

**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.

