

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

The Nevada Deceptive Trade Practices Act (“NDTPA”) provides that a person engages in a deceptive trade practice if, in the course of his or her business or occupation, he or she:

- “Knowingly makes a false representation as to the source, sponsorship, approval or certification of goods or services for sale or lease” Nev. Rev. Stat. Ann. § 598.0915(2);
- “Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations or quantities of goods or services for sale . . .” Nev. Rev. Stat. Ann. § 598.0915(5);
- “Advertises goods or services with intent not to sell or lease them as advertised.” Nev. Rev. Stat. Ann. § 598.0915(9); or
- “Knowingly makes any other false representation in a transaction.” (catch-all provision). Nev. Rev. Stat. Ann. § 598.0915(15).

The NDTPA defines “advertisement” to mean “the attempt by publication, dissemination, solicitation or circulation to induce, directly or indirectly, any person to enter into any obligation to lease or to acquire any title or interest in any property.” Nev. Rev. Stat. Ann. § 598.0905.

Does Nevada law provide any special protections for child consumers?

The NDTPA does not contain any special protections for child consumers. The NDTPA’s definition of “advertisement” includes indirect and direct attempts to induce consumers to buy products. Nev. Rev. Stat. Ann. § 598.0905. Advertising aimed at children intended to generate “pester power” whereby children pester their parents into buying a product for them is a classic form of “indirect” food marketing. The inclusion of indirect marketing practices in the definition of “advertisement” may prove beneficial to consumers in cases where deceptive advertising is aimed at children but the parent is the ultimate purchaser.

Who can bring a lawsuit?

The Attorney General, Nev. Rev. Stat. Ann. § 598.0963(1), and individual consumers, Nev. Rev. Stat. Ann. § 41.0600(1), may file suit. Nothing in the NDTPA prohibits class actions and at least one court has allowed for a class action brought under the NDTPA. *Nevada Power Co. v. Eighth Judicial Dist. Court of Nevada*, 102 P.3d 578 (Nev. 2004).

**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.



