

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

The Wyoming Consumer Protection Act (“WCPA”) outlaws deceptive trade practices, Wyo. Stat. § 40-12-105, including when a person knowingly:

- “Represents that merchandise has a source, origin, sponsorship, approval, accessories or uses it does not have.” Wyo. Stat. Ann. § 40-12-105(a)(i);
- “Represents that he has a sponsorship, approval or affiliation he does not have.” Wyo. Stat. Ann. § 40-12-105(a)(ii); or
- “Engages in unfair or deceptive acts or practices” Wyo. Stat. Ann. § 40-12-105(a)(xv).

### **Does Wyoming law provide any special protections for child consumers?**

The WCPA does not contain any special protections for child consumers.

### **Who can bring a lawsuit?**

The Attorney General and individual consumers may bring lawsuits. Class actions are permitted under this statute. Wyo. Stat. § 40-12-108 (b).

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

A consumer must allege that (1) the defendant knowingly engaged in conduct proscribed by the WCPA, (2) she relied upon an unlawful deceptive trade practice (3) and suffered actual damages. *See* Wyo. Stat. Ann. § 40-12-105; Wyo. Stat. Ann. § 40-12-108(a). Private litigants must also allege that the WCPA violation is “uncured”—the defendant failed to cure the alleged violation after statutorily required notice was given to the defendant. Wyo. Stat. § 40-12-108.

#### **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.



at Northeastern University School of Law  
102 The Fenway  
Cushing Hall, Ste. 117  
Boston, MA 02115

Phone: 617-373-2026  
E-mail: cp@phaionline.org



Contact Us!



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

The Wyoming Attorney General has the power to pursue temporary restraining orders, preliminary or permanent injunctions, and restitution for consumers. Wyo. Stat. Ann. § 40-12-106. The AG also has the power to initiate investigations and issue subpoenas. Wyo. Stat. Ann. § 40-12-112. The AG may pursue civil penalties for willful violations of not more than \$10,000 per violation. Wyo. Stat. Ann. § 40-12-113(c).

### How does the law compensate consumers?

Consumers may bring individual lawsuits and class actions to recover actual damages. Wyo. Stat. Ann. § 40-12-108(a).

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

Prevailing plaintiffs in a private class action may recover attorneys' fees. Wyo. Stat. Ann. § 40-12-108(b). There is no statutory provision allowing an individual consumer to recover attorneys' fees in a private suit unless the case involves a willful violation victimizing the elderly or disabled. Wyo. Stat. Ann. § 40-12-112 (b).

**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.

**Prepared by Cara Wilking, J.D.**