

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0732.01 Jennifer Berman x3286

HOUSE BILL 24-1014

HOUSE SPONSORSHIP

Weissman and Mabrey,

SENATE SPONSORSHIP

Gonzales,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ELIMINATION OF A JUDICIALLY CREATED
102 REQUIREMENT THAT A SIGNIFICANT NUMBER OF CONSUMERS BE
103 HARMED BEFORE REMEDIES MAY BE AVAILABLE UNDER THE
104 "COLORADO CONSUMER PROTECTION ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes that evidence that a person has engaged in an unfair or deceptive trade practice constitutes a significant impact to the public.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) For more than 100 years, it has been the policy of the United
5 States and of Colorado to promote honest competition among businesses
6 and to discourage unfair competition;

7 (b) In 1914, Congress passed the "Federal Trade Commission
8 Act", 15 U.S.C. sec. 41 et seq., to prohibit "unfair methods of competition
9 in commerce";

10 (c) The "Federal Trade Commission Act" has been continually
11 updated as the economy has evolved and currently prohibits "[u]nfair
12 methods of competition in or affecting commerce, and unfair or deceptive
13 acts or practices in or affecting commerce";

14 (d) In 1915, the Colorado general assembly passed legislation
15 prohibiting "untrue, deceptive, or misleading" advertising, as codified in
16 C.L. 1921 § 6942;

17 (e) In 1969, the Colorado general assembly passed the first
18 modern consumer protection law to prohibit "deceptive trade practices"
19 and to protect consumers from unfair, unconscionable, and deceptive acts
20 or practices;

21 (f) In 1998, in *Hall v. Walter*, 969 P.2d 224, 234 (Colo. 1998), the
22 Colorado supreme court limited the application of the "Colorado
23 Consumer Protection Act", part 1 of article 1 of title 6, Colorado Revised
24 Statutes, by holding that an injured individual or business must prove that
25 an unfair, unconscionable, or deceptive act or practice "significantly
26 impacts the public", placing a requirement on injured individuals or

1 businesses to prove circumstances far outside their own knowledge or
2 control;

3 (g) The requirement that an injured individual or business prove
4 that an unfair or deceptive trade practice "significantly impacts the
5 public" is nowhere to be found in the text of the "Colorado Consumer
6 Protection Act";

7 (h) According to the most recent 50-state survey from the National
8 Consumer Law Center, Colorado is one of only 7 states that curtail their
9 consumer protection laws with this type of "significantly impacts the
10 public" limitation;

11 (i) According to the federal trade commission, Colorado ranks
12 above the national average for reports of consumer fraud per capita, with
13 the fourteenth highest reporting numbers; and

14 (j) By eliminating this 25-year-old judicially created limitation on
15 the "Colorado Consumer Protection Act", Colorado can join the
16 overwhelming majority of other states that do not impose such limitation
17 and, thereby, better promote honest competition among businesses,
18 discourage unfair competition, and protect consumers.

19 **SECTION 2.** In Colorado Revised Statutes, 6-1-105, **amend** (2)
20 as follows:

21 **6-1-105. Unfair or deceptive trade practices.** (2) Evidence that
22 a person has engaged in AN UNFAIR OR a deceptive trade practice:

23 (a) ~~shall be~~ IS prima facie evidence of intent to injure competitors
24 and to destroy or substantially lessen competition; AND

25 (b) IS SUFFICIENT TO ESTABLISH A SIGNIFICANT IMPACT TO THE
26 PUBLIC.

27 **SECTION 3. Applicability.** This act applies to evidence

1 concerning acts and omissions that occur on or after the effective date of
2 this act.

3 **SECTION 4. Safety clause.** The general assembly finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, or safety or for appropriations for
6 the support and maintenance of the departments of the state and state
7 institutions.