

First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 11-0021.03 Kate Meyer

**SENATE BILL 11-068**

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**SENATE SPONSORSHIP**

**Carroll,**

**HOUSE SPONSORSHIP**

**Solano,**

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**Senate Committees**  
Judiciary

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING AN INCREASE IN CONSUMER PROTECTION UNDER THE**  
102 **"COLORADO CONSUMER PROTECTION ACT".**

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**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://www.leg.state.co.us/billsummaries>.)*

In order to increase protection of Colorado consumers, the bill amends the "Colorado Consumer Protection Act" (act) as follows:

! **Section 1** of the bill generally prohibits persons from engaging in a deceptive or unfair trade practice in the state, and permits the attorney general to identify by rule specific

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
February 22, 2011

SENATE  
Amended 2nd Reading  
February 21, 2011

acts, practices, and methods that constitute unfair or deceptive trade practices.

! Although not required by statute, case law interpreting the act has resulted in a requirement that plaintiffs separately establish that a defendant's challenged practice caused a significant public impact. In order to eliminate this additional burden on consumers, **section 2** creates a rebuttable presumption that a significant public impact has occurred when a plaintiff offers evidence that a defendant engaged in a deceptive trade practice.

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

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3           **SECTION 1.** Part 1 of article 1 of title 6, Colorado Revised  
4 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
5 read:

6           **6-1-113.5. Private cause of action - elements - legislative**  
7 **declaration.** (1) TO PREVAIL IN A CLAIM BROUGHT UNDER SECTION  
8 6-1-113, A PLAINTIFF SHALL ESTABLISH THAT:

9           (a) THE DEFENDANT ENGAGED IN AN UNFAIR OR DECEPTIVE TRADE  
10 PRACTICE;

11           (b) THE CHALLENGED PRACTICE OCCURRED IN THE COURSE OF THE  
12 DEFENDANT'S BUSINESS, VOCATION, OR OCCUPATION;

13           (c) THE PLAINTIFF SUFFERED INJURY IN FACT TO A LEGALLY  
14 PROTECTED INTEREST; AND

15           (d) THE CHALLENGED PRACTICE CAUSED THE PLAINTIFF'S INJURY.

16           (2) THE GENERAL ASSEMBLY DECLARES THAT ITS PURPOSE IN  
17 CREATING THIS SECTION IS TO ELIMINATE THE REQUIREMENT,  
18 ARTICULATED BY THE COLORADO SUPREME COURT IN *HALL V. WALTER,*  
19 969 P.2D 224 (1998), THAT, TO PROVE A PRIVATE CAUSE OF ACTION UNDER  
20 THIS ARTICLE, A PLAINTIFF MUST ESTABLISH THAT A DEFENDANT'S

1 CHALLENGED PRACTICE SIGNIFICANTLY IMPACTS THE PUBLIC AS ACTUAL  
2 OR POTENTIAL CONSUMERS OF THE DEFENDANT'S GOODS, SERVICES, OR  
3 PROPERTY.

4 **SECTION 2. Effective date - applicability.** This act shall take  
5 effect July 1, 2011, and shall apply to causes of action filed on or after  
6 said date.

7 **SECTION 3. Safety clause.** The general assembly hereby finds,  
8 determines, and declares that this act is necessary for the immediate  
9 preservation of the public peace, health, and safety.