

SUPPORT HB24-1014

Members of the House Judiciary Committee

Colorado ranks 12<sup>th</sup> highest per capita consumer fraud complaints and this must be changed.

Please pass this bill as it rejects the prior phrase that a “substantial public impact” must occur as that is a goal almost impossible to reach.

Thank You,

Sara Gagliardi

Mona Moffatt

Volunteer lobbyists



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Denver, CO. 80203  
303-831-6099  
NFIB.com

February 7, 2024

Re: Written testimony concerning HB 24-1014, Removal of the Public Requirement for Colorado Consumer Protection Act

The National Federation of Independent Business is an 80-year-old, Not for Profit membership organization with approximately 300,000 dues paying members nationally and dedicated to making it possible for every individual to own, operate and grow their business free from over regulation by government. Our membership is comprised of small and independent businesses engaged in every industry imaginable and who have an **average of 5-9 employees**.

**Colorado membership of the National Federation of Independent Business (NFIB) OPPOSES HB 24-1014.**

HB 24-1014 seeks to eliminate the public impact requirement of the CCPA so that it can be applied to purely private disputes—such as those between a seller and a buyer. If passed into law, HB 24-1014 would increase lawsuits against Colorado small businesses for frivolous causes which might have nothing to do with the violations addressed under the Colorado Consumer Protection Act. These lawsuits will put Colorado small businesses out of business because of high cost offering a defense.

The problem with Section 2 is that, if passed into law, will eviscerate the most important protection against abusive and expansive use of CCPA claims in private litigation. The result will be a proliferation of CCPA claims that extend well beyond, and run contrary to, the intent of the CCPA from its enactment to today.

HB 24-1014 would also jeopardize Colorado's, already, anemic affordable housing crisis.

Single-family housing would easily fall victim to the same issues that have plagued multi-family, for-sale, housing products for the last decade. HB 24-1014 could also create unintended consequences within the insurance industry. Insurance companies will not be willing to assume the risk of single party lawsuits 24-1014 would bring.

**NFIB Colorado therefore requests the committee NOT PASS 24-1014.**

A.F. Tony Gagliardi, State Director, 303-831-6099

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0732.01 Jennifer Berman x3286

HOUSE BILL 24-1014

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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".

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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://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.*

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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.