



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 23-0462	Date:	February 22, 2023
Prime Sponsors:	Rep. Weissman	Bill Status:	House Judiciary
	Sen. Gonzales; Rodriguez	Fiscal Analyst:	Kristine McLaughlin 303-866-4776 kristine.mclaughlin@coleg.gov

Bill Topic: **ADDITIONAL PROTECTIONS IN CONSUMER CODE**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill repeals and reenacts the “Colorado Antitrust Act of 1992” as the “Colorado State Antitrust Act of 2023” and makes several changes. The bill increases state revenue and state and local expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill repeals and reenacts the “Colorado Antitrust Act of 1992” as the “Colorado State Antitrust Act of 2023” and makes several changes. Among other changes, the bill:

- makes facilitating or aiding another person’s anti-trust violation a violation of the act;
- allows the Attorney General to deem investigative records available to public inspection and issue public statements and warnings;
- allows for additional remedies to fully compensate injured parties;
- changes maximum civil penalty from \$250,000 to \$1.0 million per violation;
- changes maximum criminal penalty from \$1.0 million to \$5.0 million; and
- clarifies the statute of limitations for violations and exempts the Attorney General from the statute of limitations.

Additionally, the bill makes several changes to the definition of “unfair or deceptive trade practice,” including:

- removing references to the mental state of the violator,
- adding contract terms that are substantially unconscionable or void against public policy;

- establishing that evidence of a violation constitutes significant impacts to the public;
- amending the definition of "recklessly" to mean without regard to consequences or to the rights, interests, or safety of others; and
- for violations of price gouging, extends the disaster period during which a violation may have occurred from 180 days after the disaster declaration to 180 days after the disaster declaration expires.

State Revenue

Civil and criminal penalties. The bill increases the maximum allowable penalty for a civil violation to \$1 million per violation and increases the maximum allowable penalty for a criminal violation to \$5 million for specified violations. Revenue from these penalties is credited to the General Fund, classified as a damage award, and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these penalties. For informational purposes, the Department of Law has received 29 penalty payments over the past three fiscal years, totaling \$37,289 with an average penalty payment of \$1,286.

Filing fees. The bill may increase cash fund revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

State Expenditures

The bill increases the workload for the Department of Law and Judicial Department, as discussed below.

Department of Law. Workload in the Department of Law will minimally increase to the extent that more deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources.

Judicial Department. The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the changes to deceptive trade practices, allowance for injunctive relief actions, and allowance for the Attorney General to file an action to enforce subpoenas. The fiscal note assumes that this can be accomplished within existing resources and that no change in appropriations is required.

Local Government

Similar to the state, to the extent district attorneys receive deceptive trade practice complaints, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. It applies to conduct occurring on or after the effective date of the bill.

State and Local Government Contacts

Judicial
Secretary of State

Law

Regulatory Agencies