



**Legislative
Council Staff**

Nonpartisan Services for Colorado's Legislature

HB 19-1289

**FINAL
FISCAL NOTE**

Drafting Number: LLS 19-1043 **Date:** September 3, 2019
Prime Sponsors: Rep. Weissman **Bill Status:** Signed into Law
Sen. Foote; Gonzales **Fiscal Analyst:** Ariel Hammerquist | 303-866-3469
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Bill Topic: CONSUMER PROTECTION ACT

**Summary of
Fiscal Impact:**

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

This bill adds "recklessly" as a culpable mental state for certain violations of the Colorado Consumer Protection Act and increases the potential penalty for violations. In addition, the bill specifies certain terms that are prohibited in standard form contracts. This bill potentially increases state revenue and workload on an ongoing basis.

**Appropriation
Summary:** No appropriation is required.

**Fiscal Note
Status:** The fiscal note reflects the enacted bill.

Summary of Legislation

This bill adds "recklessly" as a culpable mental state for violating the Colorado Consumer Protection Act (CCPA). Under this bill, "recklessly" means a reckless disregard for the truth or falsity of a statement or advertisement. In addition, the potential penalty cap for a violation of the CCPA is increased from not more than \$2,000 to \$20,000 per violation and from not more than \$10,000 to \$50,000 per violation committed against an elderly person. Lastly, the bill creates a non-exhaustive list that specifies certain terms that are prohibited in standard form contracts including:

- a requirement that the consumer or employee party adjudicate a claim arising in a location that is more than 100 miles from where that party resides;
- a requirement that a party to the contract be allowed to unilaterally select the individual or entity who will resolve disputes between the parties; or
- a term that attempts to award or limit costs or fees that is inconsistent with Colorado law or controlling case law.

State Revenue

Beginning in FY 2019-20, the bill will increase state General Fund revenue by increasing the potential civil penalty for violating the CCPA. The penalty cap is increased from \$2,000 to \$20,000 per violation and from \$10,000 to \$50,000 per violation committed against an elderly person. Civil penalties are set at the discretion of the court and for that reason the precise impact to the state General Fund has not been estimated. Civil penalties are subject to TABOR; however, under the March 2019 Legislative Council Staff forecast a TABOR surplus is not expected in FY 2020-21.

State Expenditures

Beginning in FY 2019-20, this bill increases workload in the Judicial Department and the Department of Law (DOL), as described below.

Department of Law. Workload will increase for the DOL to investigate and potentially pursue civil actions in cases where a person recklessly violates the CCPA. Overall, this impact is expected to be minimal, as the DOL is assumed to prioritize consumer complaint investigations within its existing appropriations.

Judicial Department. Workload will increase in the trial courts in the Judicial Department to hear cases brought by the DOL and district attorneys against persons who recklessly violate the CCPA. Additional civil actions may also be brought by affected consumers, both in regards to reckless acts and prohibited provisions in contracts. Overall, the impact on the trial courts is assumed to be minimal and absorbable within existing appropriations.

Local Government

Similar to the DOL impact above, district attorneys will have an increase in workload to investigate and pursue civil actions against persons recklessly violating the CCPA. While district attorneys are statutorily enabled to bring these civil actions, it is a rare occurrence. Therefore, any impact on workload or costs for district attorney is assumed to be minimal. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

Effective Date

This bill was signed into law by the Governor and took effect on May 28, 2019. Sections 1, 2, and 4 apply to civil actions filed on or after the effective date. Section 3 applies to judgements entered into on or after the effective date of this act.

State and Local Government Contacts

District Attorneys
Judicial

Information Technology
Law