

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 14, 2011
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB11-068 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 2, strike lines 2 through 13.
- 2 Renumber succeeding sections accordingly.
- 3 Page 2, strike lines 17 through 20 and substitute:
 - 4 **"6-1-113.5. Private cause of action - elements - legislative**
 - 5 **declaration.** (1) TO PREVAIL IN A CLAIM BROUGHT UNDER SECTION
 - 6 6-1-113, A PLAINTIFF SHALL ESTABLISH THAT:
 - 7 (a) THE DEFENDANT ENGAGED IN AN UNFAIR OR DECEPTIVE TRADE
 - 8 PRACTICE;
 - 9 (b) THE CHALLENGED PRACTICE OCCURRED IN THE COURSE OF THE
 - 10 DEFENDANT'S BUSINESS, VOCATION, OR OCCUPATION;
 - 11 (c) THE PLAINTIFF SUFFERED INJURY IN FACT TO A LEGALLY
 - 12 PROTECTED INTEREST; AND
 - 13 (d) THE CHALLENGED PRACTICE CAUSED THE PLAINTIFF'S INJURY.
 - 14 (2) THE GENERAL ASSEMBLY DECLARES THAT ITS PURPOSE IN
 - 15 CREATING THIS SECTION IS TO ELIMINATE THE REQUIREMENT,
 - 16 ARTICULATED BY THE COLORADO SUPREME COURT IN *HALL V. WALTER*,
 - 17 969P.2D 224 (1998), THAT, TO PROVE A PRIVATE CAUSE OF ACTION UNDER
 - 18 THIS ARTICLE, A PLAINTIFF MUST ESTABLISH THAT A DEFENDANT'S
 - 19 CHALLENGED PRACTICE SIGNIFICANTLY IMPACTS THE PUBLIC AS ACTUAL
 - 20 OR POTENTIAL CONSUMERS OF THE DEFENDANT'S GOODS, SERVICES, OR
 - 21 PROPERTY."

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