

HOUSE BILL 574

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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AN ACT

RELATING TO UNFAIR BUSINESS PRACTICES; AMENDING THE UNFAIR PRACTICES ACT; ADDING PROVIDING IMMIGRATION CONSULTATIONS OR SERVICES WITHOUT HOLDING A LICENSE TO PRACTICE LAW OR WITHOUT BEING UNDER THE SUPERVISION OF A LICENSED ATTORNEY, INCLUDING HOLDING ONESELF OUT AS A "NOTARIO" OR "NOTARIO PUBLICO", TO THE DEFINITION OF "UNFAIR OR DECEPTIVE TRADE PRACTICE".

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 57-12-2 NMSA 1978 (being Laws 1967, Chapter 268, Section 2, as amended) is amended to read:

"57-12-2. DEFINITIONS.--As used in the Unfair Practices Act:

A. "person" means, where applicable, natural persons, corporations, trusts, partnerships, associations, cooperative associations, clubs, companies, firms, joint

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1 ventures or syndicates;

2 B. "seller-initiated telephone sale" means a sale,
3 lease or rental of goods or services in which the seller or the
4 seller's representative solicits the sale by telephoning the
5 prospective purchaser and in which the sale is consummated
6 entirely by telephone or mail, but does not include a
7 transaction:

8 (1) in which a person solicits a sale from a
9 prospective purchaser who has previously made an authorized
10 purchase from the seller's business; or

11 (2) in which the purchaser is accorded the
12 right of rescission by the provisions of the federal Consumer
13 Credit Protection Act, 15 U.S.C. 1635, or regulations issued
14 pursuant thereto;

15 C. "trade" or "commerce" includes the advertising,
16 offering for sale or distribution of any services and any
17 property and any other article, commodity or thing of value,
18 including any trade or commerce directly or indirectly
19 affecting the people of this state;

20 D. "unfair or deceptive trade practice" means an
21 act specifically declared unlawful pursuant to the Unfair
22 Practices Act, a false or misleading oral or written statement,
23 visual description or other representation of any kind
24 knowingly made in connection with the sale, lease, rental or
25 loan of goods or services or in the extension of credit or in

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1 the collection of debts by a person in the regular course of
2 the person's trade or commerce, that may, tends to or does
3 deceive or mislead any person and includes:

4 (1) representing goods or services as those of
5 another when the goods or services are not the goods or
6 services of another;

7 (2) causing confusion or misunderstanding as
8 to the source, sponsorship, approval or certification of goods
9 or services;

10 (3) causing confusion or misunderstanding as
11 to affiliation, connection or association with or certification
12 by another;

13 (4) using deceptive representations or
14 designations of geographic origin in connection with goods or
15 services;

16 (5) representing that goods or services have
17 sponsorship, approval, characteristics, ingredients, uses,
18 benefits or quantities that they do not have or that a person
19 has a sponsorship, approval, status, affiliation or connection
20 that the person does not have;

21 (6) representing that goods are original or
22 new if they are deteriorated, altered, reconditioned,
23 reclaimed, used or secondhand;

24 (7) representing that goods or services are of
25 a particular standard, quality or grade or that goods are of a

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1 particular style or model if they are of another;

2 (8) disparaging the goods, services or
3 business of another by false or misleading representations;

4 (9) offering goods or services with intent not
5 to supply them in the quantity requested by the prospective
6 buyer to the extent of the stock available, unless the
7 purchaser is purchasing for resale;

8 (10) offering goods or services with intent
9 not to supply reasonable expectable public demand;

10 (11) making false or misleading statements of
11 fact concerning the price of goods or services, the prices of
12 competitors or one's own price at a past or future time or the
13 reasons for, existence of or amounts of price reduction;

14 (12) making false or misleading statements of
15 fact for the purpose of obtaining appointments for the
16 demonstration, exhibition or other sales presentation of goods
17 or services;

18 (13) packaging goods for sale in a container
19 that bears a trademark or trade name identified with goods
20 formerly packaged in the container, without authorization,
21 unless the container is labeled or marked to disclaim a
22 connection between the contents and the trademark or trade
23 name;

24 (14) using exaggeration, innuendo or ambiguity
25 as to a material fact or failing to state a material fact if

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1 doing so deceives or tends to deceive;

2 (15) stating that a transaction involves
3 rights, remedies or obligations that it does not involve;

4 (16) stating that services, replacements or
5 repairs are needed if they are not needed;

6 (17) failing to deliver the quality or
7 quantity of goods or services contracted for;

8 (18) violating the Tobacco Escrow Fund Act;
9 [~~or~~]

10 (19) providing immigration consultations or
11 services without holding a license to practice law or without
12 being under the supervision of a licensed attorney, including
13 holding oneself out as a "notario" or "notario publico" in
14 violation of Subsection C of Section 14-14A-24 NMSA 1978; or

15 [~~(19)~~] (20) offering or providing unposted or
16 unadvertised pricing or service based on the buyer's gender or
17 perceived gender identity; provided, however, that this
18 provision does not apply to persons regulated by the office of
19 superintendent of insurance pursuant to the New Mexico
20 Insurance Code; and

21 E. "unconscionable trade practice" means an act or
22 practice in connection with the sale, lease, rental or loan, or
23 in connection with the offering for sale, lease, rental or
24 loan, of any goods or services, including services provided by
25 licensed professionals, or in the extension of credit or in the

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1 collection of debts that to a person's detriment:

2 (1) takes advantage of the lack of knowledge,
3 ability, experience or capacity of a person to a grossly unfair
4 degree; or

5 (2) results in a gross disparity between the
6 value received by a person and the price paid."

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