

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 100

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO LEGAL HOLIDAYS; AMENDING SECTIONS OF THE NMSA 1978
TO REPLACE COLUMBUS DAY WITH INDIGENOUS PEOPLES' DAY.

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

SECTION 1. Section 12-5-2 NMSA 1978 (being Laws 1969,
Chapter 114, Section 1, as amended by Laws 1987, Chapter 3,
Section 1 and also by Laws 1987, Chapter 309, Section 1) is
amended to read:

"12-5-2. LEGAL HOLIDAYS--DESIGNATION.--Legal public
holidays in New Mexico are:

- A. New Year's day, January 1;
- B. Martin Luther King, Jr.'s birthday, third Monday
in January;
- C. Washington's and Lincoln's birthday, President's
day, third Monday in February;

.213031.1

- 1 D. Memorial day, last Monday in May;
- 2 E. Independence day, July 4;
- 3 F. Labor day, first Monday in September;
- 4 G. [~~Columbus~~] Indigenous Peoples' day, second
5 Monday in October;
- 6 H. Armistice day and Veterans' day, November 11;
- 7 I. Thanksgiving day, fourth Thursday in November;
- 8 and
- 9 J. Christmas day, December 25."

10 SECTION 2. Section 57-12-21 NMSA 1978 (being Laws 1987,
11 Chapter 212, Section 1, as amended) is amended to read:

12 "57-12-21. DOOR-TO-DOOR SALES--CONTRACTS--REQUIREMENTS--
13 PROHIBITIONS.--

14 A. In connection with [~~any~~] a door-to-door sale, it
15 constitutes an unfair or deceptive trade practice for [~~any~~] a
16 seller to:

17 (1) fail to furnish the buyer with a fully
18 completed receipt or copy of [~~any~~] a contract pertaining to
19 [~~such~~] the sale at the time of its execution that is in the
20 same language as that principally used in the oral sales
21 presentation and that shows the date of the transaction and
22 contains the name and address of the seller and, in immediate
23 proximity to the space reserved in the contract for the
24 signature of the buyer or on the front page of the receipt if a
25 contract is not used and in bold face type of a minimum size of

.213031.1

1 ten points, a statement in substantially the following form:

2 "You, the buyer, may cancel this transaction at any time
3 prior to midnight of the third business day after the date of
4 this transaction. See the attached notice of cancellation form
5 for an explanation of this right.";

6 (2) fail to furnish each buyer, at the time
7 [~~he~~] the buyer signs the door-to-door sales contract or
8 otherwise agrees to buy consumer goods or services from the
9 seller, a completed form in duplicate, captioned "NOTICE OF
10 CANCELLATION", that shall be attached to the contract or
11 receipt and easily detachable and that shall contain in
12 ten-point bold face type the following information and
13 statements in the same language as that used in the contract:

14 "NOTICE OF CANCELLATION

15 _____
16 date

17 You may cancel this transaction, without any penalty or
18 obligation, within three business days from the above date.

19 If you cancel, any property traded in, any payments made
20 by you under the contract or sale and any negotiable instrument
21 executed by you will be returned within ten business days
22 following receipt by the seller of your cancellation notice and
23 any security interest arising out of the transaction will be
24 canceled.

25 If you cancel, you must make available to the seller at

.213031.1

1 your residence, in substantially as good condition as when
2 received, any goods delivered to you under this contract or
3 sale; or you may, if you wish, comply with the instructions of
4 the seller regarding the return shipment of the goods at the
5 seller's expense and risk.

6 If you do make the goods available to the seller and the
7 seller does not pick them up within twenty days of the date of
8 your notice of cancellation, you may retain or dispose of the
9 goods without any further obligation. If you fail to make the
10 goods available to the seller or if you agree to return the
11 goods to the seller and fail to do so, then you remain liable
12 for performance of all obligations under the contract.

13 To cancel this transaction, mail or deliver a signed and
14 dated copy of this cancellation notice or any other written
15 notice or send a telegram to:

16 _____
17 (name of seller)

18 at _____
19 (address of seller's place of business)

20 not later than midnight of _____
21 (date)

22 I hereby cancel this transaction.

23 _____
24 (date)

25 _____

underscoring material = new
[bracketed material] = delete

1 (buyer's signature)";

2 (3) fail, before furnishing copies of the
3 notice of cancellation to the buyer, to complete both copies by
4 entering the name of the seller, the address of the seller's
5 place of business, the date of the transaction and the date,
6 not earlier than the third business day following the date of
7 the transaction, by which the buyer may give notice of
8 cancellation;

9 (4) include in [~~any~~] a door-to-door contract
10 or receipt [~~any~~] a confession of judgment or [~~any~~] a waiver of
11 any of the rights to which the buyer is entitled under this
12 section, including specifically [~~his~~] the buyer's right to
13 cancel the sale in accordance with the provisions of this
14 section;

15 (5) fail to inform each buyer orally, at the
16 time [~~he~~] the buyer signs the contract or purchases the goods
17 or services, of [~~his~~] the right to cancel;

18 (6) misrepresent in any manner the buyer's
19 right to cancel;

20 (7) fail or refuse to honor [~~any~~] a valid
21 notice of cancellation by a buyer and, within ten business days
22 after the receipt of [~~such~~] the notice, fail to:

23 (a) refund all payments made under the
24 contract or sale;

25 (b) return in substantially as good

.213031.1

1 condition as when received by the seller any goods or property
2 traded in; and

3 (c) cancel and return any negotiable
4 instrument executed by the buyer in connection with the
5 contract or sale and take any action necessary or appropriate
6 to terminate promptly [~~any~~] a security interest created in the
7 transaction;

8 (8) negotiate, transfer, sell or assign any
9 notice or other evidence of indebtedness to a finance company
10 or other third party prior to midnight of the fifth business
11 day following the day the contract was signed or the goods or
12 services were purchased; and

13 (9) fail to notify the buyer, within ten
14 business days of receipt of [~~his~~] the notice of cancellation,
15 whether the seller intends to repossess or to abandon any
16 shipped or delivered goods.

17 B. The cancellation period provided for in this
18 section as applied to telephone initiated sales shall not begin
19 until the buyer has been informed of [~~his~~] the right to cancel
20 and has been provided with copies of the notice of
21 cancellation.

22 C. For the purposes of this section:

23 (1) "business day" means any calendar day
24 except Sunday or the following business holidays: New Year's
25 day; [~~Washington's birthday~~] President's day; Memorial day;

.213031.1

1 Independence day; Labor day; [~~Columbus~~] Indigenous Peoples'
2 day; Armistice day and Veterans' day; Thanksgiving day;
3 Christmas day; Martin Luther King, Jr.'s birthday; and any
4 other legal public holiday of the state of New Mexico or the
5 United States;

6 (2) "consumer goods or services" means goods
7 or services other than perishable goods or agricultural
8 products purchased, leased or rented primarily for personal,
9 family or household purposes, including courses of instruction
10 or training, regardless of the purpose for which they are
11 taken;

12 (3) "door-to-door sale" means a sale, lease or
13 rental of consumer goods or services with a purchase price of
14 twenty-five dollars (\$25.00) or more, whether under single or
15 multiple contracts, in which the seller or [~~his~~] the seller's
16 representative personally solicits the sale, including those in
17 response to or following an invitation by the buyer, and the
18 buyer's agreement or offer to purchase is made at a place other
19 than the place of business of the seller. A door-to-door sale
20 includes seller initiated telephone sales. A door-to-door sale
21 does not include a transaction:

22 (a) made pursuant to prior negotiations
23 in the course of a visit by the buyer to a retail business
24 establishment having a fixed permanent location where the goods
25 are exhibited or the services are offered for sale on a

.213031.1

1 continuing basis;

2 (b) in which the consumer is accorded
3 the right of rescission by the provisions of the Consumer
4 Credit Protection Act, 15 U.S.C. 1635, or regulations issued
5 pursuant thereto;

6 (c) in which the buyer has initiated the
7 contract and the goods or services are needed to meet a bona
8 fide immediate personal emergency of the buyer, and the buyer
9 furnishes the seller with a separate dated and signed personal
10 statement in the buyer's handwriting describing the situation
11 requiring immediate remedy and expressly acknowledging and
12 waiving the right to cancel the sale within three business
13 days;

14 (d) in which the buyer has initiated the
15 contract and specifically requested the seller to visit [~~his~~]
16 the buyer's home for the purpose of repairing or performing
17 maintenance upon the buyer's personal property. If in the
18 course of such a visit the seller sells the buyer the right to
19 receive additional services or goods other than replacement
20 parts necessarily used in performing the maintenance or in
21 making the repairs, the sale of those additional goods or
22 services would not fall within this exclusion;

23 (e) pertaining to the sale or rental of
24 real property, to the sale of insurance or to the sale of
25 securities or commodities by a broker-dealer registered with

.213031.1

1 the securities and exchange commission; or

2 (f) in which a consumer acquires the use
3 of goods under the terms of a rental-purchase agreement made
4 pursuant to the provisions of the Rental-Purchase Agreement
5 Act, with an initial rental period of one week or less, by
6 placing a telephone call to a lessor and by requesting that
7 specific goods be delivered to the consumer's residence or such
8 other place as the consumer directs and consummation of the
9 rental-purchase agreement occurs after the goods are delivered;

10 (4) "place of business" means the main or
11 permanent branch office or local address of a seller;

12 (5) "purchase price" means the total price
13 paid or to be paid for the consumer goods or services,
14 including all interest and service charges; and

15 (6) "seller" means any person, partnership,
16 corporation or association engaged in the door-to-door sale of
17 consumer goods or services."

18 **SECTION 3.** Section 57-30-2 NMSA 1978 (being Laws 2008,
19 Chapter 29, Section 2, as amended) is amended to read:

20 "57-30-2. DEFINITIONS.--As used in the Sale of Recycled
21 Metals Act:

22 A. "aluminum material" means a product made from
23 aluminum, an aluminum alloy or an aluminum byproduct.

24 "Aluminum material" includes an aluminum beer keg but does not
25 include other types of aluminum cans used to contain a food or

.213031.1

1 beverage;

2 B. "bronze material" means:

3 (1) a cemetery vase, receptacle or memorial
4 made from bronze;

5 (2) bronze statuary; or

6 (3) material readily identifiable as bronze;

7 C. "business day" means any calendar day except

8 Sunday and the following holidays: New Year's day;

9 [~~Washington's birthday~~] President's day; Memorial day;

10 Independence day; Labor day; [~~Columbus~~] Indigenous Peoples'

11 day; Armistice day and Veterans' day; Thanksgiving day;

12 Christmas day; Martin Luther King, Jr.'s birthday; and any

13 other legal public holiday of the state of New Mexico or the

14 United States;

15 D. "copper or brass material" means:

16 (1) insulated or noninsulated copper wire,
17 hardware or cable of the type used by a public utility,
18 commercial mobile radio service carrier or common carrier that
19 consists of at least twenty-five percent copper; or

20 (2) a copper or brass item of a type commonly
21 used in construction or by a public utility, commercial mobile
22 radio service carrier or common carrier;

23 E. "department" means the regulation and licensing
24 department;

25 F. "lead material" means:

1 (1) a lead-acid battery; or

2 (2) material readily identifiable as being
3 made of or containing lead;

4 G. "peace officer" means any full-time salaried and
5 commissioned or certified law enforcement officer of a police
6 or sheriff's department that is part of or administered by the
7 state or a political subdivision of the state;

8 H. "personal identification document" means:

9 (1) a driver's license;

10 (2) a military identification card; or

11 (3) a passport issued by the United States or
12 by another country and recognized by the United States;

13 I. "regulated material" means:

14 (1) aluminum material;

15 (2) bronze material;

16 (3) copper or brass material;

17 (4) steel material;

18 (5) lead material;

19 (6) a utility access cover;

20 (7) a water meter cover;

21 (8) a road or bridge guard rail;

22 (9) a highway or street sign;

23 (10) a traffic directional or control sign or
24 signal; or

25 (11) a catalytic converter that is not part of

.213031.1

underscored material = new
~~[bracketed material] = delete~~

1 an entire motor vehicle;

2 J. "secondhand metal dealer" means a scrap metal
3 processor in the business of operating or maintaining a scrap
4 metal yard in a physical location in which scrap metal or
5 cast-off regulated material is purchased for shipment, sale or
6 transfer;

7 K. "steel material" means a product made from an
8 alloy of iron, chromium, nickel or manganese, including
9 stainless steel beer kegs; and

10 L. "superintendent" means the superintendent of
11 regulation and licensing."

12 SECTION 4. Section 58-5-7 NMSA 1978 (being Laws 1975,
13 Chapter 330, Section 3, as amended) is amended to read:

14 "58-5-7. LEGAL HOLIDAYS FOR BANKS.--

15 A. The following legal holidays may be observed by
16 banks, notwithstanding the provisions of Sections 12-5-1
17 through 12-5-9 NMSA 1978:

18 New Year's Day January 1

19 Martin Luther King, Jr.'s Birthday 3rd Monday in
20 January

21 [~~Washington's Birthday~~] President's Day 3rd Monday in
22 February

23 Memorial Day the date
24 determined by the director to be the date recognized by the
25 majority of the federal reserve districts in New Mexico

.213031.1

underscoring material = new
[bracketed material] = delete

- 1 Independence Day July 4
- 2 Labor Day 1st Monday in
- 3 September
- 4 [~~Columbus~~] Indigenous Peoples' Day..... 2nd Monday in
- 5 October
- 6 Armistice Day and Veterans' Day November 11
- 7 Thanksgiving Day 4th Thursday in
- 8 November
- 9 Christmas Day December 25.

10 Whenever one of these bank holidays falls on a Sunday, the
 11 following Monday is a legal bank holiday. Whenever one of
 12 these bank holidays falls on a Saturday, that Saturday and the
 13 preceding Friday are legal bank holidays.

14 B. Nothing in this section shall be deemed to
 15 require a bank to close or cease operating any remote financial
 16 service unit installed pursuant to the Remote Financial Service
 17 Unit Act or any automated teller machines located on the bank
 18 premises during all or any part of a legal bank holiday."

19 SECTION 5. EFFECTIVE DATE.--The effective date of the
 20 provisions of this act is July 1, 2019.

underscored material = new
 [bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25