

LFC Requester:

Felix Chavez

### AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

#### SECTION I: GENERAL INFORMATION

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** January 21, 2025

*Check all that apply:*

**Bill Number:** HB 61

Original   x        Correction       
Amendment           Substitute     

**Sponsor:** Rep. Christine Chandler

**Agency Name and Code Number:** 305 – New Mexico  
Department of Justice

**Person Writing**

**Short Title:** Unfair Practice Act Changes

**Analysis:** Adolfo Mendez

**Phone:** 505-537-7676

**Email:** legisfir@nmag.gov

#### SECTION II: FISCAL IMPACT

##### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

##### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

##### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis:

The bill seeks to amend two sections of the Unfair Practices Act (“UPA”). The first section of the bill amends the definitions section of the Act, NMSA 1978, § 57-12-2. The bill would expand the scope of economic activity protected by the UPA to include intangible and real property. The bill also amends the definition of “unfair or deceptive trade practices” to include unfair methods of competition. The second section of the bill amends the civil penalties section of the Act, NMSA 1978, § 57-12-11. The bill raises the maximum civil penalty from \$5,000 per violation to \$10,000 per violation in normal instances. In instances in which an unfair or unconscionable trade practice has arisen out of a disaster or declared state of emergency, the maximum penalty is an additional \$25,000 per violation. The bill also provides that the attorney general may recover the costs of investigation and enforcement whenever a court imposes a civil liability.

**FISCAL IMPLICATIONS**

N/A

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

None noted.

**PERFORMANCE IMPLICATIONS**

None noted.

**ADMINISTRATIVE IMPLICATIONS**

None.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Related:

HB 60, proposing to create the Artificial Intelligence Act, states that any violation of the Artificial Intelligence Act constitutes an unfair practice pursuant to the UPA and may be

enforced under that law.

### **TECHNICAL ISSUES**

In Section 2 of the Bill, it states, “In any action brought under Section [49-15-7 NMSA 1953] 57-12-8 NMSA 1978, [...]” However, neither NOneSource, nor the hard copy statutory compilation contain the citation to 49-15-7 NMSA 1953. Both of those sources reflect 57-12-11 as reading “In any action brought under Section 57-12-8 NMSA 1978, [...]” The reference to 49-15-7 may be a technical drafting error that should be reviewed and potentially corrected.

### **OTHER SUBSTANTIVE ISSUES**

None noted.

### **ALTERNATIVES**

None noted.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The existing gaps in consumer protections for New Mexicans would continue to persist under the status quo.

### **AMENDMENTS**

None noted.