

**FIFTY-SIXTH LEGISLATURE
FIRST SESSION, 2023**

March 16, 2023

Mr. Speaker:

Your **JUDICIARY COMMITTEE**, to whom has been referred
**SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 428**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 7, line 7, strike the semicolon and insert in lieu thereof a period and "No action shall be maintained pursuant to this section based upon representations or activities authorized under the Lynn and Erin Compassionate Use Act or the Cannabis Regulation Act;".

2. On page 15, line 25, strike "aware of or".

3. On page 16, lines 9 through 12, remove the brackets and line-through.

4. On page 16, lines 12 through 16, strike the underscored language.

5. On page 16, line 24, after the period, strike the remainder of the line, strike all of line 25 and on page 17, strike all of lines 1 through 8.

6. On page 17, between lines 8 and 9, insert the following new subsections:

"C. A person aware of an unfair or deceptive trade practice or an unconscionable trade practice of another involving the manufacture, marketing, distributing, sale or offering for sale a firearm, destructive device, firearm part or firearm accessory that violated New Mexico or federal law may be granted an injunction against the practice under the principles of equity and on terms that the court considers reasonable and shall be awarded two hundred fifty thousand dollars (\$250,000) per violation.

D. Proof of a claim involving the manufacture, marketing, distributing, sale or offering for sale a firearm, destructive device, firearm part or firearm accessory or other unfair trade practice or an unconscionable trade practice shall

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comply with the specific requirements placed on such a claim by the Unfair Practices Act. Beyond those specific requirements, proof of monetary damage, loss of profits or intent to deceive or take unfair advantage of any person is not required."

7. Reletter the succeeding subsections accordingly.

8. On page 20, line 5, strike "H" and insert in lieu thereof "J".

9. On page 19, line 15, after "shall", strike the remainder of the line, strike all of lines 16 through 25 and on page 20, strike all of lines 1 through 3 and insert in lieu thereof "comply with validly issued subpoenas that seek information about a third-party seller."

10. On page 20, line 4, after the subsection designation "I.", strike the remainder of the line and strike all of lines 5 through 18 and insert in lieu thereof "A willful failure or refusal to respond to a subpoena described in Subsection H of this section shall itself be a violation of the Unfair Practices Act, for which the court shall award the requesting party statutory damages of:

(1) two hundred fifty thousand dollars (\$250,000) and attorney fees and costs if the subpoena was issued in an action involving an allegation that a third-party seller violated the Unfair Practices Act while manufacturing, advertising, distributing or selling a firearm, destructive device, firearm part or firearm accessory in violation of the laws of New Mexico or the United States; or

(2) ten thousand dollars (\$10,000) and attorney fees and costs if the subpoena was issued in an action involving any other allegations actionable under the Unfair Practices Act."

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Respectfully submitted,

Christine Chandler, Chair

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 6 For 3 Against
Yes: 6
No: Nibert, Reeb, Rehm
Excused: Lane, Martínez, J.
Absent: None

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.226313.2

.226285.1

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