

**LFC Requester:**

Emily Hilla

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)****(Analysis must be uploaded as a PDF)****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** February 21, 2025 *Check all that apply:*  
**Bill Number:** Senate Bill 439 Original  Correction   
 Amendment  Substitute

**Sponsor:** Sen. Joshua A. Sanchez **Agency Name and Code** State Ethics Commission (410)  
**Short Title:** Deceptive Franchise Practices Act **Number:** \_\_\_\_\_  
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**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)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<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**

#### **BILL SUMMARY**

##### Synopsis:

Senate Bill 439 enacts the Deceptive Franchise Practices Act, which aims to prohibit unfair contractual provisions and business practices in franchise agreements between franchisors and franchisees operating in New Mexico.

The bill defines a "franchise" as an arrangement, either "oral or written for a definite or indefinite period," in which a "manufacturer, distributor or representative grants to a person a license to use a trade name, service mark or related characteristic" and where there is a "community of interest in the marketing of products or services related to marketing, service, or repair of products at wholesale, retail, leasing, or otherwise." (Section 2).

Key provisions of the bill include:

- Unlawful Provisions in Franchise Agreements (Section 3)  
A franchise agreement may not contain provisions that:
  - Require franchisees to "purchase goods, supplies, inventories or services exclusively from the franchisor" when comparable options exist.
  - Permit the franchisor to compete unfairly within a franchisee's exclusive territory.
  - Allow for unilateral modifications of agreements "without the consent in writing of the franchisee."
  - Allow a franchisor to terminate a franchise "without good cause or in bad faith."
  - Impose non-compete clauses exceeding two years or beyond a "reasonable area" where the franchisee operates.
  - Require franchisees to "participate in any advertising campaign or promotional materials" without a specified cost limit.
  
- Unlawful Acts and Practices by Franchisors (Section 4)  
The bill prohibits franchisors from engaging in coercive or deceptive business practices, including:
  - Coercing franchisees into purchasing goods or services "not necessary to the operation of the franchise" or not required by law.
  - Failing to deliver goods, supplies, or services in a reasonable time after a franchisee's order.
  - Denying a "surviving spouse, heirs, or estate" the opportunity to continue ownership after a franchisee's death.
  - Unfair discrimination among franchisees.
  - Increasing prices on goods already ordered by a franchisee before receiving an official price change notification.
  - Using "deceptive advertising" or engaging in fraudulent business practices.

- Franchise Termination and Legal Remedies (Sections 5-7)
  - Franchisors must provide at least “ninety days' notice” before terminating or electing not to renew a franchise.
  - Franchisees harmed by a violation of the act may “bring an action to recover damages or reform the franchise agreement.” (Section 6).
  - Legal claims must be filed “within five years” of the violation.
  
- Applicability and Effective Date (Sections 8-9)
  - The act applies only to agreements entered into or renewed after June 30, 2025.
  - The effective date is July 1, 2025.

**FISCAL IMPLICATIONS**

**SIGNIFICANT ISSUES**

**PERFORMANCE IMPLICATIONS**

**ADMINISTRATIVE IMPLICATIONS**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

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

**AMENDMENTS**