

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

SENATE BILL 286

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Phillip A. Griego

AN ACT

RELATING TO UNFAIR TRADE PRACTICES; REQUIRING MINIMUM  
STANDARDS FOR REPAIR OF MOTOR VEHICLE BRAKES.

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

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

"57-12-1. SHORT TITLE. -- [~~This act~~] Chapter 57, Article  
12 NMSA 1978 may be cited as the "Unfair Practices Act". "

Section 2. 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. "automotive repair shop" means a person who  
engages in motor vehicle repair or service for compensation;

[A.] B. "person" includes, where applicable,

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 natural persons, corporations, trusts, partnerships,  
2 associations, cooperative associations, clubs, companies,  
3 firms, joint ventures or syndicates;

4 ~~[B.]~~ C. "seller-initiated telephone sale" means a  
5 sale, lease or rental of goods or services in which the seller  
6 or his representative solicits the sale by telephoning the  
7 prospective purchaser and in which the sale is consummated  
8 entirely by telephone or mail, but does not include a  
9 transaction:

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

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

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

22 ~~[D.]~~ E. "unfair or deceptive trade practice" means  
23 any false or misleading oral or written statement, visual  
24 description or other representation of any kind knowingly made  
25 in connection with the sale, lease, rental or loan of goods or

underscored material = new  
[bracketed material] = delete

1 services or in the extension of credit or in the collection of  
2 debts by any person in the regular course of his trade or  
3 commerce, which may, tends to or does deceive or mislead any  
4 person and includes but is not limited to:

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

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

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

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

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

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

25 (7) representing that goods or services are

underscored material = new  
[bracketed material] = delete

1 of a particular standard, quality or grade or that goods are  
2 of a particular style or model if they are of another;

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

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

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

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

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

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

25 (14) using exaggeration, innuendo or

underscored material = new  
[bracketed material] = del ete

1 ambiguity as to a material fact or failing to state a material  
2 fact if doing so deceives or tends to deceive;

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

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

7 (17) failure to deliver the quality or  
8 quantity of goods or services contracted for; and

9 [E-] F. "unconscionable trade practice" means any  
10 act or practice in connection with the sale, lease, rental or  
11 loan, or in connection with the offering for sale, lease,  
12 rental or loan, of any goods or services or in the extension  
13 of credit or in the collection of debts which to a person's  
14 detriment:

15 (1) takes advantage of the lack of knowledge,  
16 ability, experience or capacity of a person to a grossly  
17 unfair degree; or

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

20 Section 3. A new section of the Unfair Practices Act is  
21 enacted to read:

22 "[NEW MATERIAL] BRAKE REPAIR STANDARDS.--It is an  
23 unlawful practice for an automotive repair shop to adjust or  
24 repair the brakes of a motor vehicle in a manner that fails to  
25 leave the brake system in safe working order as required by

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

1 Section 66-3-840 NMSA 1978 or to perform brake adjustments or  
2 repairs that fail to meet or exceed the minimum standards of  
3 practice for the industry. "

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

1 FORTY- FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3  
4  
5 February 9, 1999

6  
7 Mr. President:

8  
9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to  
10 whom has been referred  
11

12  
13 SENATE BILL 286

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, and thence referred to the  
17 PUBLIC AFFAIRS COMMITTEE.

18  
19 Respectfully submitted,  
20  
21  
22  
23  
24  
25

Roman M. Maes, Chairman

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

Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 2 Against

Yes: 5

No: Kysar, Rawson

Excused: Fidel, Macias, Robinson

Absent: None

S0286CT1

underscored material = new  
[bracketed material] = delete



1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3  
4  
5  
6 March 3, 1999

7  
8 Mr. President:

9  
10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

11  
12 SENATE BILL 286

13  
14 has had it under consideration and reports same WITHOUT

15 RECOMMENDATION, and further recommends that it now be referred to

16 the JUDICIARY COMMITTEE.

17  
18  
19 Respectfully submitted,

20  
21  
22  
23  
24 \_\_\_\_\_  
Shannon Robinson, Chairman

FORTY-SECOND LEGISLATURE  
SECOND SESSION

KEYBOARD(TYPE SLUGS)

Page 10

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Ingle, Leavell, Smith, Robinson

Absent: None

S0286PA1

. 124790. 1

underscored material = new  
[bracketed material] = delete