

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 2/25/2007

SPONSOR Park LAST UPDATED 3/11/2007 HB 1268/aHBIC

SHORT TITLE Advertisement Material Fact Disclosure SB \_\_\_\_\_

ANALYST Moser/Baca

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$0.1	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of HBIC Amendment

The House Business and Industry amendment adds “except as other wise required by federal law” to the disclosure of material facts and conditions requirements in the bill.

#### Synopsis of Original Bill

House Bill 1268 amends Section 57-15-2 NMSA 1978 to require the disclosure of a material fact or prescribed condition of use of an advertised product or service. The Bill provides that the required information may be disclosed in full or through the provision of an internet web site address or a toll-free telephone number in the advertisement. The Bill also provides, as an amendment to the Unfair Practices Act, Section 57-12-1 et. seq. NMSA 1978, that a seller may disclose a material fact or prescribed condition of use by internet web site or by toll-free number.

### FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. The additional, as yet undetermined, fiscal impact on the judiciary would

be proportional to the enforcement of this law and commenced civil actions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

**SIGNIFICANT ISSUES**

HB 1268 places an affirmative duty upon an advertiser to disclose material facts and conditions of use. Under the current Section 57-15-2 NMSA 1978, the extent to which advertising fails to reveal facts material in the light of representations or to disclose prescribed conditions of use is a factor to take into account in determining whether advertising is false.

According to the AOC this Bill leaves advertisers open to civil penalties for failing to include required material facts and conditions of use in the advertisement in full or on a web site or through a toll-free number. This Bill could result in an increase in actions brought by the AG or a DA under Sections 57-15-4 and 57-12-8 NMSA 1978, or by a private citizen seeking an injunction under Section 57-15-5 NMSA 1978 or for an injunction or damages under Section 57-12-10 NMSA 1978.

GM/nt