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AN ACT

RELATING TO TRADE PRACTICES; PROHIBITING DIFFERENTIAL PRICING
OR SERVICE BASED ON THE BUYER'S GENDER OR PERCEIVED GENDER
IDENTITY; MAKING AN EXCEPTION.

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

SECTION 1. 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. "person" means, where applicable, natural
persons, corporations, trusts, partnerships, associations,
cooperative associations, clubs, companies, firms, joint
ventures or syndicates;

B. "seller-initiated telephone sale" means a sale,
lease or rental of goods or services in which the seller or
the seller's representative solicits the sale by telephoning
the prospective purchaser and in which the sale is
consummated entirely by telephone or mail, but does not
include a transaction:

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

(2) in which the purchaser is accorded the
right of rescission by the provisions of the federal Consumer

1 Credit Protection Act, 15 U.S.C. 1635, or regulations issued
2 pursuant thereto;

3 C. "trade" or "commerce" includes the advertising,
4 offering for sale or distribution of any services and any
5 property and any other article, commodity or thing of value,
6 including any trade or commerce directly or indirectly
7 affecting the people of this state;

8 D. "unfair or deceptive trade practice" means an
9 act specifically declared unlawful pursuant to the Unfair
10 Practices Act, a false or misleading oral or written
11 statement, visual description or other representation of any
12 kind knowingly made in connection with the sale, lease,
13 rental or loan of goods or services or in the extension of
14 credit or in the collection of debts by a person in the
15 regular course of the person's trade or commerce, that may,
16 tends to or does deceive or mislead any person and includes:

17 (1) representing goods or services as those
18 of another when the goods or services are not the goods or
19 services of another;

20 (2) causing confusion or misunderstanding as
21 to the source, sponsorship, approval or certification of
22 goods or services;

23 (3) causing confusion or misunderstanding as
24 to affiliation, connection or association with or
25 certification by another;

1 (4) using deceptive representations or
2 designations of geographic origin in connection with goods or
3 services;

4 (5) representing that goods or services have
5 sponsorship, approval, characteristics, ingredients, uses,
6 benefits or quantities that they do not have or that a person
7 has a sponsorship, approval, status, affiliation or
8 connection that the person does not have;

9 (6) representing that goods are original or
10 new if they are deteriorated, altered, reconditioned,
11 reclaimed, used or secondhand;

12 (7) representing that goods or services are
13 of a particular standard, quality or grade or that goods are
14 of a particular style or model if they are of another;

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

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

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

23 (11) making false or misleading statements
24 of fact concerning the price of goods or services, the prices
25 of competitors or one's own price at a past or future time or

1 the reasons for, existence of or amounts of price reduction;

2 (12) making false or misleading statements
3 of fact for the purpose of obtaining appointments for the
4 demonstration, exhibition or other sales presentation of
5 goods or services;

6 (13) packaging goods for sale in a container
7 that bears a trademark or trade name identified with goods
8 formerly packaged in the container, without authorization,
9 unless the container is labeled or marked to disclaim a
10 connection between the contents and the trademark or trade
11 name;

12 (14) using exaggeration, innuendo or
13 ambiguity as to a material fact or failing to state a
14 material fact if doing so deceives or tends to deceive;

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

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

19 (17) failing to deliver the quality or
20 quantity of goods or services contracted for;

21 (18) violating the Tobacco Escrow Fund Act;
22 or

23 (19) offering or providing unposted or
24 unadvertised pricing or service based on the buyer's gender
25 or perceived gender identity; provided, however, that this

