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SENATE MEMORIAL 26

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

David Ulibarri

A MEMORIAL

REQUESTING THE ECONOMIC DEVELOPMENT DEPARTMENT TO STUDY THE
EFFECTS OF BELOW-COST SALES ON NEW MEXICO SMALL BUSINESSES.

WHEREAS, fair and healthy competition in the marketplace
provides maximum benefits to New Mexico's small businesses and
residents; and

WHEREAS, certain marketing practices impair competition
and are contrary to the public interest; and

WHEREAS, advertising, offers to sell or sales of
commodities at below cost by retailers or wholesalers, with the
intent of inducing the sale of the commodities and of unfairly
diverting trade from a competitor or otherwise injuring a
competitor, impair or prevent fair competition, slow economic
development and are not in the best interest of the public; and

WHEREAS, any person who is engaged in the production,

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1 manufacture or distribution of a below-cost commodity for the
2 purpose of damaging the competition of an established seller,
3 or a person who intends to sell such a commodity, is engaging
4 in an activity against the public interest; and

5 WHEREAS, the practice of selling merchandise below cost in
6 order to attract patronage is generally a form of unfair
7 competition, and such practice causes commercial dislocations,
8 indirectly burdens and obstructs commerce and diverts business
9 from dealers who maintain fair prices; and

10 WHEREAS, such practice can cause bankruptcies and business
11 failures, which result in unemployment, disruption of leases
12 and nonpayment of taxes and loans and contribute to undesirable
13 consequences, including economic depression;

14 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
15 OF NEW MEXICO that the economic development department be
16 requested to study the impact of below-cost sales on small
17 businesses in New Mexico; and

18 BE IT FURTHER RESOLVED that the economic development
19 department report its findings to the appropriate interim
20 legislative committee by November 2012; and

21 BE IT FURTHER RESOLVED that a copy of this memorial be
22 transmitted to the economic development department.