

LFC Requester:

Felix Chavez

## AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

### SECTION I: GENERAL INFORMATION

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** February 27, 2025

*Check all that apply:*

**Bill Number:** HB 61

Original ☐ Correction ☐  
Amendment ☐ Substitute ☒

**Sponsor:** Rep. Christine Chandler, Rep. Sarah Silva, Rep. Janelle Anyanonu

**Agency Name and Code Number:** 305 – New Mexico Department of Justice

**Person Writing**

**Short Title:** Unfair Practice Act Changes

**Analysis:** Nicolas Cordova

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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**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

### **BILL SUMMARY**

#### **Synopsis:**

### **COMMITTEE SUBSTITUTE CHANGES**

Section 1 of the House Commerce & Economic Development Committee (HCEDC) substitute for HB 61 makes several changes to the definitions section of the UPA.

First, Section 1 makes several technical changes to rework HB 61's amendments to the definition of "trade or commerce." The HCEDC substitute ensures the language added to that definition, which HB 61 removes from the definitions of "unfair or deceptive trade practice" and "unconscionable trade practice," accurately tracks the language currently used in those definitions. Second, the section removes from the definition of "trade or commerce" mention of "services provided by licensed professionals," which HB 61 proposed removing from the definition of "unconscionable trade practice."

Section 1 cleans up HB 61's amendments to the definition of "unfair or deceptive trade practice" and ensures that the law's current language stating that the practice be made "in connection with" a person's trade or commerce remains intact.

Section 1 further cleans up HB 61's amendments to the definition of "unconscionable trade practice," by leaving in place the mention of "services provided by licensed professionals."

Section 2 of the HCEDC substitute adds language clarifying that the NMDOJ can pursue "reasonable attorney fees" in actions brought to enforce the UPA.

### **ORIGINAL**

The bill seeks to amend two sections of the Unfair Practices Act ("UPA"). The first section of the bill amends the definitions section of the Act, NMSA 1978, § 57-12-2. The bill would expand the scope of economic activity protected by the UPA to include intangible and real property. The bill also amends the definition of "unfair or deceptive trade practices" to include unfair methods of competition. The second section of the bill amends the civil penalties section of the Act, NMSA 1978, § 57-12-11. The bill raises the maximum civil penalty from \$5,000 per violation to \$10,000 per violation in normal instances. In instances in which an unfair or unconscionable trade practice has arisen out of a disaster or declared state of emergency, the

maximum penalty is an additional \$25,000 per violation. The bill also provides that the attorney general may recover the costs of investigation and enforcement whenever a court imposes a civil liability.

## **FISCAL IMPLICATIONS**

N/A

## **SIGNIFICANT ISSUES**

None noted.

## **PERFORMANCE IMPLICATIONS**

None noted.

## **ADMINISTRATIVE IMPLICATIONS**

None.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Related:

HB 60, proposing to create the Artificial Intelligence Act, states that any violation of the Artificial Intelligence Act constitutes an unfair practice pursuant to the UPA and may be enforced under that law.

HB 224, proposing to add a violation of the Student Loan Bill of Rights Act as a per se unfair or deceptive trade practice.

SB 318, proposing to add definitions to the UPA, amend the UPA's definition of "trade or commerce," add examples of practices that qualify as unfair or deceptive trade practices, amend the definition of "unconscionable trade practice," amend the NMDNJ's authority to enter into assurances of discontinuance, amending the NMDNJ's authority to pursue civil penalties, and amend the NMDNJ's authority to issue civil investigative demands.

HB 574, proposing to add the provision of immigration consultation or services without a law license or supervision by a licensed attorney as a per se unfair or deceptive trade practice.

HB 245, proposing to add a violation of Section 1 of HB 245—which relates to compensation for services related to veterans' benefits matters—as a per se unfair or deceptive trade practice.

## **TECHNICAL ISSUES**

None noted.

## **OTHER SUBSTANTIVE ISSUES**

None noted.

## **ALTERNATIVES**

None noted.

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

The existing gaps in consumer protections for New Mexicans would continue to persist under the status quo.

## **AMENDMENTS**

None noted.