

DOF: 11/01/2018

**DECREE by which several sections of the FEDERAL CONSUMER PROTECTION LAW are reformed and added.**

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**On the margin a seal with the National Shield, that reads: United Mexican States - Office of the President of the Republic"**

**ENRIQUE PEÑA NIETO**, President of the United Mexican States, hereby inform its inhabitants:

That the Honorable Federal Congress has referred to me the following

**DECREE**

"THE CONGRESS OF THE UNITED MEXICAN STATES, ENACTS THE:

**SEVERAL SECTIONS OF THE FEDERAL CONSUMER PROTECTION LAW ARE REFORMED AND ADDED.**

**Only Article.-** Reformed: Articles 7; 7 BIS, first paragraph; 9; 10, second paragraph; 24, parts XIX, XX Bis and XXIII; 25, first paragraph and parts I, II, III, and IV; 25 BIS, part V and VI, and the second paragraph; 44, second paragraph; the name of Chapter V "Of door-to-door sales, delayed or indirect", to "Of door-to-door or outside the commercial establishment sales, delayed or indirect"; 51; 56; 65, Section I; 65 BIS, first paragraph; 66, parts IV and V; 77; 81; 87, first paragraph; 105, second paragraph of subsection b), Section II; 111, third paragraph; 127; 128; 128 BIS, first paragraph; 128 TER, Section VIII; 130; 134, second paragraph; Added: Article 10 BIS; fourth paragraph to article 13; parts XXIV, XXV and XXVI, moving the current Section XXIV to XXVI, to article 24; second paragraph to article 25; Section VII and third and fifth paragraphs, and the current third paragraph becomes fourth paragraph of article 25 BIS; fourth and seventh to article 32, moving current fourth and fifth to fifth and sixth; second paragraph to article 65; Section VI and second paragraph to article 66; article 76 BIS 1; third and fourth paragraphs of article 87; third paragraph, moving the current third to fourth paragraph of article 92; Section I to article 98, moving the order of current parts I, II, III and IV, to become parts II, III, IV and V; fractions IX, X and XI to article 128 TER; and article 134 BIS, of the FEDERAL CONSUMER PROTECTION LAW, as follows:

**ARTICLE 7.-** All suppliers shall inform about and respect prices, rates, guarantees, quantities, qualities, measures, interests, charges, terms, restrictions, installments, dates, methods, reservations and other applicable conditions in the commerce of goods, products or services, especially those that have been offered, placed a lien on or conveyed with the consumer for the delivery of a good or the rendering of a service, and under no circumstance those goods, products and services will be denied to any person, as well as any information regarding them.

**ARTICLE 7 BIS. -** The supplier shall provide in an obvious and visible manner the total amount to be paid for the goods, products or services offered to the consumer.

...

**ARTICLE 9.-** The suppliers of goods and services are administratively responsible for their actions against the rights of the consumers and the actions of their collaborators, subordinates and all kinds of agents, guards or staff that lend their services to them, in addition to any personal responsibility of the transgressor.

**ARTICLE 10.- ...**

The suppliers cannot apply coercive or unfair methods or commercial practices, or abusive or imposed clauses or conditions while supplying products and services. They also cannot lend additional services to the ones originally hired that have not been asked for or accepted expressly, in writing or electronically, by the consumer, nor they can apply charges without the previous consent of the consumer or produced by the corresponding contract.

**ARTICLE 10 BIS. -** The suppliers cannot unfairly raise prices on account of natural or meteorological phenomena, nor health contingencies.

**ARTICLE 13.- ...**

...

...

It will be considered an infraction by the suppliers of goods, products or services, themselves or a mediator, to obstruct or impede visits to verify, or the enforcement administrative procedures ordered by the Agency.

**ARTICLE 24.- ...**

**I. to XVIII. ...**

**XIX.** Apply and enforce sanctions and other measures established by this law, in the Federal Law on Metrology and Standardization (*Ley Federal sobre Metrología y Normalización*) and other applicable regulations;

**XX. ...**

**XX Bis.** If in the enforcement of its responsibilities it identifies price gouging, restrictions on the offered quantities or divisions in the markets of goods and services resulting from possible monopolistic practices defined by the Economic Competition Federal Law (*Ley Federal de Competencia Económica*), the Agency, on behalf of the consumers, can report it to the Federal Economic Competition Commission (*Comisión Federal de Competencia Económica*);

**XXI. y XXII. ...**

**XXIII.** Publish, through any mean, products and services that have been deemed risky or non-compliant with the applicable laws by verification and other procedures foreseen by the Law; broadcast alerts directed to consumers and let other authorities or agencies know about products or practices in the supply or goods, products or services that have been found to be defective, harmful or life, health or safety threatening to the consumer; issue and order calls to review suppliers and let other authorities know about products or practices in the supply of goods, products or services that are defective, harmful or life, health, security or economy threatening to the consumer;

**XXIV.** Recall goods and services that have been irrefutably determined by the proper authority to put the life or health of the consumer at risk, or when the suppliers have previously informed that their products put the life or health of the consumer at risk and, if applicable, order their destruction, in order to avoid their sale;

**XXV.** Order the repair or replacement of goods, products or services that pose a risk to the life, health, security or economy of the consumer;

**XXVI.** Apply the administrative enforcement procedure, as stipulated in the Fiscal Code of the Federation (*Código Fiscal de la Federación*), to collect the fines that have not been fulfilled in time, and

**XXVII.** Others as defined by this and other laws.

**ARTICLE 25. -** The Agency, in order to perform the duties set by the law, can apply with a previous warning the following collection measures:

**I.** A fine from \$244.36 to \$24,436.82;

**II.** The help from public forces;

**III.** Order an administrative arrest up to 36 hours, and

**IV.** In case the infraction is persisted upon, new fines can be imposed for each day if the corresponding mandate is not followed, up to \$9,774.73, for a period no longer than 180 days.

The collection measures shall be applied proportionally to the gravity of the behavior or omission of the supplier, without a specific priority to their enforcement.

**ARTICLE 25 BIS.- ...**

**I. to IV. ...**

**V.** Post warning seals and information;

**VI.** Order the suspension of the information or advertising referred to by article 35 of this law, and

**VII.** Issue consumer alerts and inform other authorities on defective or harmful products that risk the life, health, security or economy of the consumer, and call to inspect goods or products that are defective or

present damage that is worth of correction, repair or replacement and that the suppliers have reported to the Agency.

Cautionary measures shall be dictated according to the criteria set forth by the Agency and within the corresponding procedure according to article 57 and others related to the Federal Law on Metrology and Standardization (*Ley Federal sobre Metrología y Normalización*); as well as when it has been noticed that there is or there could be a damage done to the economy of a collectivity of consumers in the cases referred to by article 128 TER or when this law is fringed upon by different abusive commercial practices or conducts, such as: breach of the prices or rates shown; the conditioning of sale of goods or services; breach of offers and promotions; discriminatory conducts and false advertisement or information. If the cautionary measure referred to by fraction IV of this law, after the placement of the respective seal and information, the Agency will issue a warning unless the principle mentioned on fraction X of article 1 of this law is at risk. Such measures shall be lifted once the supplier proves with certainty that the causes for the enforcement of the law have ceased. If applicable, the Agency will make it known to other relevant authorities about the steps taken in the enforcement this law. In case that the proof for the preventive step to stop are based on false information or documentation or that the proof is not ideal for its regularization, the Agency will sanction as authorized by article 128 TER fraction XI of this law.

Once the arguments that prove the action referred to by fraction V of this article needs to stop have been presented, the Agency will have ten business days to cease.

The suppliers are bound to immediately inform the authorities if they determine that one of their products can be a life or health hazard to the consumers.

In the case of the preventive measure referred to by fraction VII of this law, the Agency can require from the supplier information in its archives or databases, such as: the number of consumers that were notified, the quantity of products or services involved and their geographic distribution, the actions, timeline, calendars, maintenance or payment programs, letters of intent, budgets, or any other measure aimed at upholding said actions, and can supervise the disposal of the involved products and services and the progress made in assisting the consumers.

#### **ARTÍCULO 32.- ...**

...

...

It shall be forbidden to include in the information or advertisement that commercializes a product or service, any inscription or information that points out that they have been guaranteed, approved, recommended or certified by professional associations or societies, when these do not have the appropriate documentation that supports with scientific, objective and irrefutable evidence, the properties or qualities of the product or service, or any other prerequisite needed in the applicable laws.

...

...

Before its broadcast, suppliers may voluntarily present their advertisements to be reviewed by the Agency, so that it issues a non-binding opinion.

#### **ARTÍCULO 44.- ...**

The results from research, surveys and monitoring published by the Agency may be used by the suppliers for advertising purposes, as long as it is indicated in a visible, clear, truthful and demonstrable manner, the medium and date of publishing and it is presented in its entirety to the consumer.

### **Chapter V**

#### **Of door-to-door or outside the commercial establishment sales, delayed or indirect**

**ARTÍCULO 51.** - A door-to-door or outside the commercial establishment sale, delayed or indirect, is understood as the one that is proposed or done outside the premises or the establishment of the suppliers, including the lending of movable property and the rendering of services. That which is described in this chapter does not apply to the trade of perishable goods received by the consumer and paid up front.

**ARTÍCULO 56.** - The contract shall be finished within five business days from the delivery of the good or the signing of the contract, whichever happens last. During this period, the consumer shall have the right to revoke consent without any liability. The revocation shall be done through a warning or through the delivery

of the good personally, by registered or certificate mail, taking the date of revocation as the date of reception, or by any other irrefutable mean. The revocation done following this article voids the transaction; the supplier shall reimburse the consumer the paid amount. In this case, the costs of delivery and insurance shall be paid by the consumer. In the case of services, the latter will not apply if the date of the rendering of the service is after ten business days or less from the date the purchase was placed.

**ARTÍCULO 65.- ...**

I. Name and address of the supplier or, if applicable, of the intermediary;

II. to VII. ...

The Agency shall permanently publish on its web site the list of suppliers or intermediary lenders that have been added to the registry their contract of adhesion.

**ARTÍCULO 65 Bis.** For the purposes of this law, pawn shops are the natural or artificial persons not regulated by financial laws and authorities that usually or professionally do or offer to the public contracts or temporary loan agreements with interest and pledge.

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...

**ARTÍCULO 66.- ...**

I. to III. ...

IV. Keep the original agreed upon price on the installments or reservation of title, unless otherwise stated in other laws or the agreement;

V. In case the transaction has happened, the supplier shall send the consumer at least one account statement bimonthly, through the medium of their choice, that has the information about charges, payments, interests and commissions, among other headings, and

VI. Obey the general regulations regarding collection offices, issued by the Agency according to article 17 Bis 4 of the Law for the Transparency and Organization of Financial Services (*Ley para la Transparencia y Ordenamiento de los Servicios Financieros*).

Noncompliance with this law will be sanctioned according to article 128, except Section VI that will be sanctioned according to article 128 TER.

**ARTÍCULO 76 BIS 1.-** The supplier that offers, commercializes or sells goods, products or services using electronic, optical or any other technological media, shall be guided by the regulations of the Mexican Standard (*Norma Mexicana*) issued by the Ministry of Economy (*Secretaría de Economía*), and shall contain, at least, the following information:

I. The specifications, characteristics, conditions and/or applicable terms of the goods, products or services that are being offered;

II. Means for the consumer to verify that the transaction reflects their intent of acquiring goods, products or services offered and other requirements;

III. Means for the consumer to accept the transaction;

IV. Means that prove that the transaction occurred;

V. Appropriate and reliable security technical means that guarantee the protection and confidentiality of the personal information of the consumer and the transaction itself;

VI. Means to present demands or complaints, and

VII. Means of identity, payment and delivery.

**ARTÍCULO 77.** - Any good or service provided with a guarantee shall comply with this law and the agreement between the supplier and the consumer.

For the purposes of the last paragraph, the guarantee shall not be shorter than ninety days from the delivery of the good or the rendering of the service.

**ARTICLE 81.** - If the product has been repaired or gone through maintenance and it still shows defects that can be attributed to the author of the repair or the maintenance within ninety natural days after the delivery of the product to the consumer, will have the right for an additional repair or maintenance without any additional cost. If the period of the guarantee is larger than ninety natural days, said period will be the basis for this extension.

**ARTICLE 87.** - If the adhesion contracts require a previous registry to the Agency, the suppliers should present them to the Agency before using them and the Agency shall only verify that the forms comply with the corresponding standard and this law, and shall emit a decision in the thirty business days after the registry application has been submitted. If a resolution has not been reached after that period, the forms shall be considered approved and it shall be the Agency's duty to register them, being proof of registration the application request. In order to modify the duties or conditions of the contracts that require a previous registry it shall be required to request the modification of the registration to the Agency, and it shall be processed as previously described.

...

Adhesion contracts registered before the Agency shall be used in all of their commercial transactions, and truthfully match with the contract forms registered by the authority.

Noncompliance with this law shall be sanctioned according to article 128, except the last paragraph that shall be sanctioned according to article 128 TER.

**ARTICLE 92.-** ...

I. to IV. ...

...

In the case of Section III, if the consumer chooses for product replacement, it shall be new.

...

**ARTICLE 98.-** ...

I. Write an official record of the circumstances in front of two witnesses proposed by the person who was in charge of the verification visit or by the person who did it if the latter refused to propose them, in which the facts or omissions, as well as the opinions of the parties that intervened in the verification visit, if they choose to include them, are included;

II. Examine the products or merchandize, the conditions in which they are offered or the services rendered, and the documents related to the activity at hand;

III. Verify the prices, quantities, qualities, net content, drained mass, rates and measuring devices of said goods and services according to this law;

IV. Confirm the existence or lack of thereof of products or merchandize, according to the line of business of the supplier, and

V. Complete all other actions that aim to uphold the law.

**ARTICLE 105.-** ...

I. ...

II. ...

a) ...

b) ...

An exception to the previous clause, the complaints about educational or similar services rendered, supplied by private parties to children or adolescents, for infringing upon the rights described in the Second Title of the General Law of Rights of Children and Adolescents (*Ley General de los Derechos de Niñas, Niños y Adolescentes*). Such complaint can be presented ten years after the infringement has been noticed.

**ARTICLE 111.-** ...

...

An exception from the settlement stage shall be when the consumer is a minor and an infringement has been done upon some of the rights described in the Second Title of the General Law of the Rights of Children and Adolescents (*Ley General de los Derechos de Niñas, Niños y Adolescentes*).

**ARTICLE 127.-** The infringement of articles 7 BIS, 13, 17, 18 BIS, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 45, 47, 48, 49, 50, 52, 53, 54, 55, 57, 58, 59, 60, 61, 62, 67, 68, 69, 70, 72, 75, 77, 78, 79, 81, 82, 85, 86 QUATER, 87 BIS, 90, 91, 93, 95 y 113 will be sanctioned with a fine from \$488.74 to \$1'563,957.06.

**ARTICLE 128.-** Infringement of articles 7, 8, 10, 10 BIS, 12, 44, 63, 63 Bis, 63 Ter, 63 Quintus, 65, 65 Bis, 65 Bis 1, 65 Bis 2, 65 Bis 3, 65 Bis 4, 65 Bis 5, 65 Bis 6, 65 Bis 7, 66, 73, 73 Bis, 73 Ter, 73 Quater, 73 Quintus, 74, 76 Bis, 80, 86 Bis, 87, 87 Ter, 92, 92 Ter, 98 Bis, and 121 will be sanctioned with a fine from \$702.07 to \$2'745,903.07.

**ARTICLE 128 BIS.-** In particularly grave cases, the Agency might sanction with total or partial closure, up to ninety days with a fine from \$141,929.70 to \$3'974,031.62. The closure shall only be imposed to an establishment upon which the irregularity has been proven.

...

**ARTICLE 128 TER.-** ...

I. to VI. ...

VII. Relapse of infringement of article 28 of this law;

VIII. Those that infringe upon the rights referred to on the Second Title of the General Law of Rights of Children and Adolescents (*Ley General de los Derechos de Niñas, Niños y Adolescentes*);

IX. When there are any differences between the texts of the contract of adhesion registered before the Consumer Protection Federal Agency (*Procuraduría Federal del Consumidor*) and the one used, damaging the consumers.

X. Behaviors that generally infringe upon the regulations regarding collection offices issued by the Agency according to article 17 Bis 4 of the Law for the Transparency and Organization of Financial Services (*Ley para la Transparencia y Ordenamiento de los Servicios Financieros*), and

XI. When the causes that began the cautionary measure cease based on false documents or information or information that is not ideal to prove its regularization.

**ARTICLE 130.-** It is understood that there is a relapse when the same offender violates two or more times the same regulation in the lapse of three years, starting from the day the first offence was committed, and whose infractions to the Law have been proven by the same administrative unit of the Agency within its jurisdiction.

**ARTÍCULO 134.-** ...

The authority shall not enforce the right referred to on the last paragraph, once the fines have been sent for their collection, nor when the infractions are imposed on account of verification and surveillance procedures complying with this law and other related regulations.

**ARTICLE 134 BIS.-** The fines imposed by the Agency will be considered fiscal credits and will be enforced on its authority as a fiscal entity under the Administrative Enforcement Procedure (*Procedimiento Administrativo de Ejecución*) foreseen in the Federal Fiscal Code (*Código Fiscal de la Federación*) and its Regulations.

The Agency shall implement payment methods through the use of electronic, optical or any other technological means.

When the offender has paid the fines imposed within thirty business days after it has been notified, there will be a fifty percent discount on the amount, as long as there have not been any defense recourses placed for said fine.

#### **Temporary**

**First.** - This Decree will come into effect the next day after being published in the Official Gazette of the Federation (*Diario Oficial de la Federación*).

**Second.** - From the date this Decree comes into effect, the regulations that contravene or oppose it are void.

**Third.** - The pecuniary sanctions imposed before the enforcement of this Decree will be governed by the current regulations at the time of their resolution.

**Fourth.** - The administrative procedure of enforcement referenced to by article 134 Bis will come into effect the following 180 days, starting from the enforcement of this Decree.

**Fifth.** - The Title-holder of the Federal Executive shall issue and reform the appropriate Regulations within 180 days after this Decree has been published.

**Sixth.** - The Title-holder of the Consumer Protection Federal Agency (*Procuraduría Federal del Consumidor*) should adapt the Charter (*Estatuto Orgánico*) of the decentralized organization within 180 days after the publishing of the reform to the By-laws of the Consumer Protection Federal Agency (*Reglamento de la Procuraduría Federal del Consumidor*).

**Seventh.** - The expenditures stemming from the enforcement of this Decree shall be covered by the Budget of the current fiscal year of the Agency and the years thereon.

**Eight.** - The updates referred to by this Decree will apply from January 1st to December 31 of each year.

**Ninth.** - The Ministry shall issue within a maximum of nine months from this Decree coming into effect, the Mexican Norm referred to by article 76 Bis 1.

Mexico City, November 14, 2017.- Sen. **Ernesto Cordero Arroyo**, President.- Rep. **Jorge Carlos Ramírez Marín**, President.- Sen. **Lorena Cuéllar Cisneros**, Secretary.- Rep. **María Eugenia Ocampo Bedolla**, Secretary.- Signatures."

Complying with Section I of Article 89 of the Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*) and for it to be properly published and complied with, I issue this Decree in the seat of the Federal Executive Power, in Mexico City, on January nine of two thousand and eighteen. - **Enrique Peña Nieto**. - Signature. - Minister of the Interior (*Secretario de Gobernación*), **Miguel Ángel Osorio Chong**. - Signature.