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HOUSE BILL 49

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Joy Garratt

AN ACT

RELATING TO CRIME; INCREASING THE PENALTY FOR A FELON WHO RECEIVES, TRANSPORTS OR POSSESSES A FIREARM OR DESTRUCTIVE DEVICE.

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

SECTION 1. Section 30-7-16 NMSA 1978 (being Laws 1981, Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT, TRANSPORTATION OR POSSESSION BY CERTAIN PERSONS--PENALTY.--

A. It is unlawful for the following persons to receive, transport or possess a firearm or destructive device in this state:

(1) a felon;

(2) a person subject to an order of protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978; or

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1 (3) a person convicted of any of the following
2 crimes:

3 (a) battery against a household member
4 pursuant to Section 30-3-15 NMSA 1978;

5 (b) criminal damage to property of a
6 household member pursuant to Section 30-3-18 NMSA 1978;

7 (c) a first offense of stalking pursuant
8 to Section 30-3A-3 NMSA 1978; or

9 (d) a crime listed in 18 U.S.C. 921.

10 B. A felon [~~found in possession of a firearm shall~~
11 ~~be guilty of a third degree felony.~~

12 C. ~~A serious violent felon that is found to be in~~
13 ~~possession of a firearm shall be guilty of a third degree~~
14 ~~felony, and notwithstanding the provisions of Section 31-18-15~~
15 ~~NMSA 1978, shall be sentenced to a basic term of six years~~
16 ~~imprisonment] who violates this section is:~~

17 (1) for the first offense, guilty of a second
18 degree felony; and

19 (2) for the second and subsequent offenses,
20 guilty of a first degree felony.

21 [~~D.~~] C. Any person subject to an order of
22 protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or
23 convicted of a crime listed in Paragraph (3) of Subsection A of
24 this section who receives, transports or possesses a firearm or
25 destructive device is guilty of a misdemeanor.

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1 ~~[E-]~~ D. As used in this section:

2 (1) except as provided in Paragraph (2) of
3 this subsection, "destructive device" means:

4 (a) any explosive, incendiary or poison
5 gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge
6 of more than four ounces; 4) missile having an explosive or
7 incendiary charge of more than one-fourth ounce; 5) mine; or 6)
8 similar device;

9 (b) any type of weapon by whatever name
10 known that will, or that may be readily converted to, expel a
11 projectile by the action of an explosive or other propellant,
12 the barrel or barrels of which have a bore of more than one-
13 half inch in diameter, except a shotgun or shotgun shell that
14 is generally recognized as particularly suitable for sporting
15 purposes; or

16 (c) any combination of parts either
17 designed or intended for use in converting any device into a
18 destructive device as defined in this paragraph and from which
19 a destructive device may be readily assembled;

20 (2) the term "destructive device" does not
21 include any device that is neither designed nor redesigned for
22 use as a weapon or any device, although originally designed for
23 use as a weapon, that is redesigned for use as a signaling,
24 pyrotechnic, line throwing, safety or similar device;

25 (3) "felon" means a person convicted of a

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1 felony offense by a court of the United States or of any state
2 or political subdivision thereof and:

3 (a) less than ten years have passed
4 since the person completed serving a sentence or period of
5 probation for the felony conviction, whichever is later;

6 (b) the person has not been pardoned for
7 the felony conviction by the proper authority; and

8 (c) the person has not received a
9 deferred sentence; and

10 (4) "firearm" means any weapon that will or is
11 designed to or may readily be converted to expel a projectile
12 by the action of an explosion or the frame or receiver of any
13 such weapon. [~~and~~

14 ~~(5) "serious violent felon" means a person~~
15 ~~convicted of an offense enumerated in Subparagraphs (a) through~~
16 ~~(n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA~~
17 ~~1978; provided that:~~

18 ~~(a) less than ten years have passed~~
19 ~~since the person completed serving a sentence or a period of~~
20 ~~probation for the felony conviction, whichever is later;~~

21 ~~(b) the person has not been pardoned for~~
22 ~~the felony conviction by the proper authority; and~~

23 ~~(c) the person has not received a~~
24 ~~deferred sentence and completed the total term of deferment as~~
25 ~~provided in Section 31-20-9 NMSA 1978]"~~

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