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HOUSE BILL 267

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY
Javier Martínez

AN ACT

RELATING TO FIREARMS AND DESTRUCTIVE DEVICES; PROHIBITING THE
POSSESSION OF FIREARMS OR DESTRUCTIVE DEVICES BY A VIOLENT
MISDEMEANANT.

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 A FELON OR VIOLENT
MISDEMEANANT--PENALTY.--

A. It is unlawful for a felon or a violent
misdemeanant to receive, transport or possess any firearm or
destructive device in this state.

B. Any person violating the provisions of this
section shall be guilty of a fourth degree felony and shall be

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1 sentenced in accordance with the provisions of the Criminal
2 Sentencing Act.

3 C. As used in this section:

4 (1) "destructive device" means:

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

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

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

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

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1 (2) "felon" means a person convicted of a
2 felony offense by a court of the United States or of any state
3 or political subdivision thereof and:

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

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

9 (c) the person has not received a
10 deferred sentence; [~~and~~]

11 (3) "firearm" means any weapon that will or is
12 designed to or may readily be converted to expel a projectile
13 by the action of an explosion; the frame or receiver of any
14 such weapon; or any firearm muffler or firearm silencer.

15 "Firearm" includes any handgun, rifle or shotgun; and

16 (4) "violent misdemeanor" means a person who
17 has been convicted of one of the following offenses:

18 (a) assault, as provided in Section
19 30-3-1 NMSA 1978;

20 (b) battery, as provided in Section
21 30-3-4 NMSA 1978;

22 (c) misdemeanor aggravated battery, as
23 provided in Section 30-3-5 NMSA 1978;

24 (d) assault upon a school employee, as
25 provided in Section 30-3-9 NMSA 1978;

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1 (e) assault upon a sports official, as
2 provided in Section 30-3-9.1 NMSA 1978;

3 (f) battery upon a sports official, as
4 provided in Section 30-3-9.1 NMSA 1978;

5 (g) assault upon a health care worker,
6 as provided in Section 30-3-9.2 NMSA 1978;

7 (h) assault against a household member,
8 as provided in Section 30-3-12 NMSA 1978;

9 (i) battery against a household member,
10 as provided in 30-3-15 NMSA 1978;

11 (j) misdemeanor aggravated battery
12 against a household member, as provided in Section 30-3-16 NMSA
13 1978;

14 (k) misdemeanor criminal damage to the
15 property of a household member, as provided in Section 30-3-18
16 NMSA 1978;

17 (l) deprivation of the property of a
18 household member, as provided in Section 30-3-18 NMSA 1978;

19 (m) harassment, as provided in Section
20 30-3A-2 NMSA 1978;

21 (n) misdemeanor stalking, as provided in
22 Section 30-3A-3 NMSA 1978;

23 (o) unlawful carrying of a deadly
24 weapon, as provided in Section 30-7-2 NMSA 1978;

25 (p) unlawful possession of a handgun by

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1 a person, as provided in Section 30-7-2.2 NMSA 1978;

2 (q) unlawful carrying of a firearm on
3 university premises, as provided in Section 30-7-2.4 NMSA 1978;

4 (r) negligent use of a deadly weapon, as
5 provided in Section 30-7-4 NMSA 1978;

6 (s) negligent use of explosives, as
7 provided in Section 30-7-6 NMSA 1978;

8 (t) misdemeanor unlawful sale,
9 possession or transportation of explosives, as provided in
10 Section 30-7-7 NMSA 1978;

11 (u) unlawful possession of switchblades,
12 as provided in Section 30-7-8 NMSA 1978;

13 (v) a misdemeanor violation of the Bus
14 Passenger Safety Act;

15 (w) enticement of child, as provided in
16 Section 30-9-1 NMSA 1978;

17 (x) indecent exposure, as provided in
18 Section 30-9-14 NMSA 1978;

19 (y) misdemeanor voyeurism, as provided
20 in Section 30-9-20 NMSA 1978;

21 (z) disturbing lawful assembly, as
22 provided in Section 30-13-1 NMSA 1978;

23 (aa) misdemeanor criminal damage to
24 property, as provided in Section 30-15-1 NMSA 1978;

25 (bb) injuring or tampering with a motor

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1 vehicle, as provided in Section 30-16D-5 NMSA 1978;

2 (cc) misdemeanor arson, as provided in
3 Section 30-17-5 NMSA 1978;

4 (dd) misdemeanor cruelty to animals, as
5 provided in Section 30-18-1 NMSA 1978;

6 (ee) misdemeanor injury to a police dog,
7 police horse or fire dog, as provided in Section 30-18-13 NMSA
8 1978;

9 (ff) disorderly conduct, as provided in
10 Section 30-20-1 NMSA 1978;

11 (gg) public affray, as provided in
12 Section 30-20-2 NMSA 1978;

13 (hh) misdemeanor use of telephone to
14 terrify, intimidate, threaten, harass, annoy or offend, as
15 provided in Section 30-20-12 NMSA 1978;

16 (ii) misdemeanor interference with
17 members of staff, public officials or the general public, as
18 provided in Section 30-20-13 NMSA 1978; or

19 (jj) assault upon a peace officer, as
20 provided Section in 30-22-21 NMSA 1978."

21 **SECTION 2. EFFECTIVE DATE.--**The effective date of the
22 provisions of this act is July 1, 2016.