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HOUSE BILL 316

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

William "Bill" R. Rehm and Tim D. Lewis and Gregg Schmedes

AN ACT

RELATING TO CRIMINAL LAW; INCREASING THE PENALTY FOR A FELON IN
POSSESSION OF 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 A FELON--PENALTY.--

A. It is unlawful for a felon 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~~] third degree felony and
shall be sentenced in accordance with the provisions of the
Criminal Sentencing Act; provided that the violation of and the
sentence imposed pursuant to this subsection shall be increased

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1 to a violation of and the sentence for a third degree felony if
2 the person has previously been convicted of a capital felony or
3 a serious violent offense provided in Subparagraphs (a) through
4 (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA
5 1978.

6 C. As used in this section:

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

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

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

21 (c) any combination of parts either
22 designed or intended for use in converting any device into a
23 destructive device as defined in this paragraph and from which
24 a destructive device may be readily assembled;

25 (2) the term "destructive device" does not

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1 include any device that is neither designed nor redesigned for
2 use as a weapon or any device, although originally designed for
3 use as a weapon, that is redesigned for use as a signaling,
4 pyrotechnic, line throwing, safety or similar device;

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

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

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

13 (c) the person has not received a
14 deferred sentence; and

15 (4) "firearm" means any weapon that will or is
16 designed to or may readily be converted to expel a projectile
17 by the action of an explosion; the frame or receiver of any
18 such weapon; or any firearm muffler or firearm silencer.

19 "Firearm" includes any handgun, rifle or shotgun."

20 SECTION 2. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2019.