

HOUSE BILL 168

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Jenifer Jones and Stefani Lord and Andrea Reeb

AN ACT

RELATING TO FIREARMS; PROHIBITING AN UNDOCUMENTED PERSON FROM RECEIVING, TRANSPORTING OR POSSESSING A FIREARM OR DESTRUCTIVE DEVICE; PROVIDING A PENALTY.

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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(3) an undocumented person; or

~~(3)~~ (4) a person convicted of any of the following crimes:

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

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

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

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

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

C. A serious violent felon that is found to be in possession of a firearm shall be guilty of a third degree felony, and notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a basic term of six years imprisonment.

D. Any person subject to an order of protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or convicted of a crime listed in Paragraph ~~(3)~~ (4) of Subsection A of this section or an undocumented person who receives, transports or possesses a firearm or destructive device is guilty of a misdemeanor.

E. As used in this section:

(1) except as provided in Paragraph (2) of

1 this subsection, "destructive device" means:

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

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

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

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

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

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

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

6 (c) the person has not received a
7 deferred sentence;

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

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

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

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

21 (c) the person has not received a
22 deferred sentence and completed the total term of deferment as
23 provided in Section 31-20-9 NMSA 1978; and

24 (6) "undocumented person" means an individual
25 not legally present in the United States at the time of

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1 receiving, transporting or possessing a firearm or destructive
2 device."

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