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HOUSE BILL 113

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING THAT THE PENALTY FOR A
FELON IN POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE IS A
THIRD DEGREE FELONY; CHANGING THE DEFINITION OF "FELON".

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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[bracketed material] = delete

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 [~~fourth~~] third degree felony and shall be
12 sentenced in accordance with the provisions of the Criminal
13 Sentencing Act [~~provided that the violation of and the sentence~~
14 ~~imposed pursuant to this subsection shall be increased to a~~
15 ~~violation of and the sentence for a third degree felony if the~~
16 ~~person has previously been convicted of a capital felony or a~~
17 ~~serious violent offense provided in Paragraph (4) of Subsection~~
18 ~~L of Section 33-2-34 NMSA 1978]~~.

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

24 D. As used in this section:

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

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~~[bracketed material] = delete~~

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

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

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

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

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020.