

1 HOUSE BILL 491

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Cynthia Borrego

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10 AN ACT

11 RELATING TO CRIME; PROVIDING THAT MULTIPLE VIOLATIONS OF
12 UNLAWFUL TAKING OF, EMBEZZLEMENT OF, FRAUDULENTLY OBTAINING OR
13 RECEIVING OR TRANSPORTING STOLEN VEHICLES OR MOTOR VEHICLES
14 APPLY TOWARD SENTENCING REGARDLESS OF WHICH SECTION OF LAW WAS
15 VIOLATED PREVIOUSLY; PROVIDING PENALTIES.

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

18 SECTION 1. Section 30-16D-1 NMSA 1978 (being Laws 1978,
19 Chapter 35, Section 91, as amended by Laws 2009, Chapter 253,
20 Section 1 and by Laws 2009, Chapter 261, Section 1) is amended
21 to read:

22 "30-16D-1. UNLAWFUL TAKING OF A VEHICLE OR MOTOR
23 VEHICLE.--

24 A. Unlawful taking of a vehicle or motor vehicle
25 consists of a person taking any vehicle or motor vehicle as

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1 defined by the Motor Vehicle Code intentionally and without
2 consent of the owner. ~~[Whoever commits unlawful taking of a~~
3 ~~vehicle or motor vehicle is guilty of a:~~

4 ~~(1) fourth degree felony for a first offense;~~

5 ~~(2) third degree felony for a second offense;~~

6 and

7 ~~(3) second degree felony for a third or~~
8 ~~subsequent offense.]~~

9 B. The consent of the owner of the vehicle or motor
10 vehicle to its taking shall not in any case be presumed or
11 implied because of the owner's consent on a previous occasion
12 to the taking of the vehicle or motor vehicle by the same or a
13 different person.

14 C. Nothing in this section shall be construed to
15 prohibit the holder of a lien duly recorded with the motor
16 vehicle division of the taxation and revenue department from
17 taking possession of a vehicle to which possession the
18 lienholder is legally entitled under the provisions of the
19 instrument evidencing the lien. A holder of a duly recorded
20 lien who takes possession of a vehicle without the knowledge of
21 the owner of the vehicle shall immediately notify the local
22 police authority of the fact that the holder has taken
23 possession of the vehicle."

24 SECTION 2. Section 30-16D-2 NMSA 1978 (being Laws 2009,
25 Chapter 253, Section 2 and Laws 2009, Chapter 261, Section 2)

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1 is amended to read:

2 "30-16D-2. EMBEZZLEMENT OF A VEHICLE OR MOTOR VEHICLE.--

3 ~~[A.]~~ Embezzlement of a vehicle or motor vehicle consists of a
4 person embezzling or converting to the person's own use a
5 vehicle or motor vehicle as defined by the Motor Vehicle Code,
6 with which the person has been entrusted, with the fraudulent
7 intent to deprive the owner of the vehicle or motor vehicle.

8 ~~[B. Whoever commits embezzlement of a vehicle or~~
9 ~~motor vehicle is guilty of a:~~

10 ~~(1) fourth degree felony for a first offense;~~

11 ~~(2) third degree felony for a second offense;~~

12 and

13 ~~(3) second degree felony for a third or~~
14 ~~subsequent offense.]"~~

15 SECTION 3. Section 30-16D-3 NMSA 1978 (being Laws 2009,
16 Chapter 253, Section 3 and Laws 2009, Chapter 261, Section 3)
17 is amended to read:

18 "30-16D-3. FRAUDULENTLY OBTAINING A VEHICLE OR MOTOR
19 VEHICLE.--~~[A.]~~ Fraudulently obtaining a vehicle or motor
20 vehicle consists of a person intentionally misappropriating or
21 taking a vehicle or motor vehicle as defined by the Motor
22 Vehicle Code that belongs to another person by means of
23 fraudulent conduct, practices or representations.

24 ~~[B. Whoever commits fraudulently obtaining a~~
25 ~~vehicle or motor vehicle is guilty of a:~~

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1 ~~(1) fourth degree felony for a first offense;~~
2 ~~(2) third degree felony for a second offense;~~
3 and
4 ~~(3) second degree felony for a third or~~
5 ~~subsequent offense.]"~~

6 SECTION 4. Section 30-16D-4 NMSA 1978 (being Laws 1978,
7 Chapter 35, Section 92, as amended by Laws 2009, Chapter 253,
8 Section 4 and by Laws 2009, Chapter 261, Section 4) is amended
9 to read:

10 "30-16D-4. RECEIVING OR TRANSFERRING STOLEN VEHICLES OR
11 MOTOR VEHICLES.--~~[A.]~~ Receiving or transferring a stolen
12 vehicle or motor vehicle consists of a person who, with intent
13 to procure or pass title to a vehicle or motor vehicle as
14 defined by the Motor Vehicle Code that the person knows or has
15 reason to believe has been stolen or unlawfully taken, receives
16 or transfers possession of the vehicle or motor vehicle from or
17 to another or who has in the person's possession any vehicle
18 that the person knows or has reason to believe has been stolen
19 or unlawfully taken. This section shall not apply to an
20 officer of the law engaged at the time in the performance of
21 the officer's duty as an officer.

22 ~~[B. Whoever commits receiving or transferring a~~
23 ~~stolen vehicle or motor vehicle is guilty of a:~~

24 ~~(1) fourth degree felony for a first offense;~~
25 ~~(2) third degree felony for a second offense;~~

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1 and

2 ~~(3) second degree felony for a third or~~
3 ~~subsequent offense.]"~~

4 SECTION 5. A new Section 30-16D-5.1 NMSA 1978 is enacted
5 to read:

6 "30-16D-5.1. [NEW MATERIAL] PENALTIES.--Whoever violates
7 any of the provisions described in Sections 30-16D-1 through
8 30-16D-4 NMSA 1978 is guilty of a:

9 A. fourth degree felony for a first offense;

10 B. third degree felony for a second offense,
11 regardless of which provision was the first offense; and

12 C. second degree felony for a third or subsequent
13 offense, regardless of which provision was the first or second
14 offense."