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HOUSE BILL 87

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

INTRODUCED BY

Cynthia Borrego

AN ACT

RELATING TO CRIME; PROVIDING THAT MULTIPLE VIOLATIONS OF UNLAWFUL TAKING OF A VEHICLE OR MOTOR VEHICLE, EMBEZZLEMENT OF A VEHICLE OR MOTOR VEHICLE, FRAUDULENTLY OBTAINING A VEHICLE OR MOTOR VEHICLE OR RECEIVING OR TRANSPORTING STOLEN VEHICLES OR MOTOR VEHICLES SHALL BE COMBINED FOR SENTENCING; PROVIDING PENALTIES.

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

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

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

A. Unlawful taking of a vehicle or motor vehicle

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

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

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

7 and

8 ~~(3) second degree felony for a third or~~
9 ~~subsequent offense]~~ a felony offense as enumerated in Section
10 30-16D-4.1 NMSA 1978.

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

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

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1 SECTION 2. Section 30-16D-2 NMSA 1978 (being Laws 2009,
2 Chapter 253, Section 2 and Laws 2009, Chapter 261, Section 2)
3 is amended to read:

4 "30-16D-2. EMBEZZLEMENT OF A VEHICLE OR MOTOR VEHICLE.--

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

11 B. Whoever commits embezzlement of a vehicle or
12 motor vehicle is guilty of [a:

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

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

15 and

16 ~~(3) second degree felony for a third or~~
17 ~~subsequent offense] a felony offense as enumerated in Section~~
18 ~~30-16D-4.1 NMSA 1978.~~"

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

22 "30-16D-3. FRAUDULENTLY OBTAINING A VEHICLE OR MOTOR
23 VEHICLE.--

24 A. Fraudulently obtaining a vehicle or motor
25 vehicle consists of a person intentionally misappropriating or
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1 taking a vehicle or motor vehicle as defined by the Motor
2 Vehicle Code that belongs to another person by means of
3 fraudulent conduct, practices or representations.

4 B. Whoever commits fraudulently obtaining a vehicle
5 or motor vehicle is guilty of [a:

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

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

8 and

9 ~~(3) second degree felony for a third or~~
10 ~~subsequent offense] a felony offense as enumerated in Section~~
11 ~~30-16D-4.1 NMSA 1978."~~

12 SECTION 4. Section 30-16D-4 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 92, as amended by Laws 2009, Chapter 253,
14 Section 4 and by Laws 2009, Chapter 261, Section 4) is amended
15 to read:

16 "30-16D-4. RECEIVING OR TRANSFERRING STOLEN VEHICLES OR
17 MOTOR VEHICLES.--

18 A. Receiving or transferring a stolen vehicle or
19 motor vehicle consists of a person who, with intent to procure
20 or pass title to a vehicle or motor vehicle as defined by the
21 Motor Vehicle Code that the person knows or has reason to
22 believe has been stolen or unlawfully taken, receives or
23 transfers possession of the vehicle or motor vehicle from or to
24 another or who has in the person's possession any vehicle that
25 the person knows or has reason to believe has been stolen or

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1 unlawfully taken. This section shall not apply to an officer
2 of the law engaged at the time in the performance of the
3 officer's duty as an officer.

4 B. Whoever commits receiving or transferring a
5 stolen vehicle or motor vehicle is guilty of [~~a+~~
6 ~~(1) fourth degree felony for a first offense;~~
7 ~~(2) third degree felony for a second offense;~~
8 and
9 ~~(3) second degree felony for a third or~~
10 ~~subsequent offense]~~ a felony offense as enumerated in Section
11 30-16D-4.1 NMSA 1978."

12 SECTION 5. A new Section 30-16D-4.1 NMSA 1978 is enacted
13 to read:

14 "30-16D-4.1. [NEW MATERIAL] PENALTIES.--Whoever commits
15 unlawful taking of a vehicle or motor vehicle pursuant to
16 Section 30-16D-1 NMSA 1978, embezzlement of a vehicle or motor
17 vehicle pursuant to Section 30-16D-2 NMSA 1978, fraudulently
18 obtaining a vehicle or motor vehicle pursuant to Section
19 30-16D-3 NMSA 1978 or receiving or transferring stolen vehicles
20 or motor vehicles pursuant to Section 30-16D-4 NMSA 1978 is
21 guilty of a:

- 22 A. fourth degree felony for a first offense;
- 23 B. third degree felony for a second offense,
24 regardless of which crime was the first offense; and
- 25 C. second degree felony for a third or subsequent

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1 offense, regardless of which crime was the first or second
2 offense."

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