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SENATE BILL 313

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Cisco McSorley

AN ACT

**RELATING TO CRIMINAL SENTENCING; AMENDING THE HABITUAL
OFFENDER STATUTE WITH REGARD TO FELONY CONVICTIONS FOR
POSSESSION OR TRAFFICKING OF CONTROLLED SUBSTANCES.**

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

**Section 1. Section 31-18-17 NMSA 1978 (being Laws 1977,
Chapter 216, Section 6, as amended by Laws 1993, Chapter 77,
Section 9 and also by Laws 1993, Chapter 283, Section 1) is
amended to read:**

**"31-18-17. HABITUAL OFFENDERS-- ALTERATION OF BASIC
SENTENCE. --**

**A. For the purposes of this section, "prior felony
conviction" means:**

**(1) a conviction for a prior felony committed
within New Mexico whether within the Criminal Code or not; or**

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[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 (2) any prior felony for which the person was
2 convicted other than an offense triable by court martial if:

3 (a) the conviction was rendered by a
4 court of another state, the United States, a territory of the
5 United States or the commonwealth of Puerto Rico;

6 (b) the offense was punishable, at the
7 time of conviction, by death or a maximum term of imprisonment
8 of more than one year; or

9 (c) the offense would have been
10 classified as a felony in this state at the time of
11 conviction.

12 B. Any person convicted of a noncapital felony in
13 this state whether within the Criminal Code [~~or the Controlled~~
14 ~~Substances Act~~] or not who has incurred one prior felony
15 conviction which was part of a separate transaction or
16 occurrence or conditional discharge under Section [~~31-20-7~~]
17 31-20-13 NMSA 1978 is a habitual offender and his basic
18 sentence shall be increased by one year, and the sentence
19 imposed [~~by~~] pursuant to this subsection shall not be
20 suspended or deferred; provided that when the instant felony
21 conviction or a prior felony conviction is a felony conviction
22 for possession of a controlled substance or trafficking of a
23 controlled substance, as provided in the Controlled Substances
24 Act, the sentence imposed pursuant to this subsection may be
25 increased by one year.

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1 C. Any person convicted of a noncapital felony in
2 this state whether within the Criminal Code [~~or the Controlled~~
3 ~~Substances Act~~] or not who has incurred two prior felony
4 convictions which were parts of separate transactions or
5 occurrences or conditional discharge under Section [~~31-20-7~~]
6 31-20-13 NMSA 1978 is a habitual offender and his basic
7 sentence shall be increased by four years, and the sentence
8 imposed [~~by~~] pursuant to this subsection shall not be
9 suspended or deferred; provided that when the instant felony
10 conviction or a prior felony conviction is a felony conviction
11 for possession of a controlled substance or trafficking of a
12 controlled substance, as provided in the Controlled Substances
13 Act, the sentence imposed pursuant to this subsection may be
14 increased by four years.

15 D. Any person convicted of a noncapital felony in
16 this state whether within the Criminal Code [~~or the Controlled~~
17 ~~Substances Act~~] or not who has incurred three or more prior
18 felony convictions [~~which~~] that were parts of separate
19 transactions or occurrences or conditional discharge under
20 Section [~~31-20-7~~] 31-20-13 NMSA 1978 is a habitual offender
21 and his basic sentence shall be increased by eight years, and
22 the sentence imposed [~~by~~] pursuant to this subsection shall
23 not be suspended or deferred; provided that when the instant
24 felony conviction or a prior felony conviction is a felony
25 conviction for possession of a controlled substance or

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[bracketed material] = delete

1 trafficking of a controlled substance, as provided in the
2 Controlled Substances Act, the sentence imposed pursuant to
3 this subsection may be increased by eight years. "

4 Section 2. EFFECTIVE DATE. -- The effective date of the
5 provisions of this act is July 1, 2001.

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