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HOUSE BILL 31

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Tim D. Lewis

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; PROVIDING THAT A FELONY CONVICTION FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS SHALL BE USED IN THE SAME MANNER AS ANY OTHER FELONY WHEN SENTENCING A HABITUAL OFFENDER.

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) is amended to read:

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

A. A person convicted of a noncapital felony in this state ~~[whether within the Criminal Code or the Controlled Substances Act or not]~~, including a conviction for a felony pursuant to Section 66-8-102 NMSA 1978, who has incurred one

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underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 prior felony conviction that was part of a separate transaction
2 or occurrence or conditional discharge under Section 31-20-13
3 NMSA 1978 is a habitual offender and [~~his~~] that person's basic
4 sentence shall be increased by one year. The sentence imposed
5 pursuant to this subsection shall not be suspended or deferred,
6 unless the court makes a specific finding that the prior felony
7 conviction and the instant felony conviction are both for
8 nonviolent felony offenses and that justice will not be served
9 by imposing a mandatory sentence of imprisonment and that there
10 are substantial and compelling reasons, stated on the record,
11 for departing from the sentence imposed pursuant to this
12 subsection.

13 B. A person convicted of a noncapital felony in
14 this state [~~whether within the Criminal Code or the Controlled~~
15 ~~Substances Act or not~~], including a conviction for a felony
16 pursuant to Section 66-8-102 NMSA 1978, who has incurred two
17 prior felony convictions that were parts of separate
18 transactions or occurrences or conditional discharge under
19 Section 31-20-13 NMSA 1978 is a habitual offender and [~~his~~]
20 that person's basic sentence shall be increased by four years.
21 The sentence imposed by this subsection shall not be suspended
22 or deferred.

23 C. A person convicted of a noncapital felony in
24 this state [~~whether within the Criminal Code or the Controlled~~
25 ~~Substances Act or not~~], including a conviction for a felony

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1 pursuant to Section 66-8-102 NMSA 1978, who has incurred three
2 or more prior felony convictions that were parts of separate
3 transactions or occurrences or conditional discharge under
4 Section 31-20-13 NMSA 1978 is a habitual offender and [~~his~~]
5 that person's basic sentence shall be increased by eight years.
6 The sentence imposed by this subsection shall not be suspended
7 or deferred.

8 D. As used in this section, "prior felony
9 conviction" means:

10 (1) a conviction, when less than ten years
11 have passed prior to the instant felony conviction since the
12 person completed serving [~~his~~] a sentence or period of
13 probation or parole for the prior felony, whichever is later,
14 for a prior felony committed within New Mexico [~~whether within~~
15 ~~the Criminal Code or not, but not~~], including a conviction for
16 a felony pursuant to the provisions of Section 66-8-102 NMSA
17 1978; or

18 (2) a prior felony, when less than ten years
19 have passed prior to the instant felony conviction since the
20 person completed serving [~~his~~] a sentence or period of
21 probation or parole for the prior felony, whichever is later,
22 for which the person was convicted other than an offense
23 triable by court martial if:

24 (a) the conviction was rendered by a
25 court of another state, the United States, a territory of the

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~~[bracketed material] = delete~~

1 United States or the commonwealth of Puerto Rico;

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

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

7 E. As used in this section, "nonviolent felony
8 offense" means application of force, threatened use of force or
9 a deadly weapon was not used by the offender in the commission
10 of the offense."

11 SECTION 2. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2013.