

1 HOUSE BILL 325

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Sarah Maestas Barnes and Nick L. Salazar

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10 AN ACT

11 RELATING TO SECURITIES; AMENDING THE NEW MEXICO UNIFORM  
12 SECURITIES ACT; ENHANCING PENALTIES FOR CERTAIN VIOLATIONS.

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

15 SECTION 1. Section 58-13C-101 NMSA 1978 (being Laws 2009,  
16 Chapter 82, Section 101) is amended to read:

17 "58-13C-101. SHORT TITLE.--~~[Sections 101 through 701 of~~  
18 ~~this act]~~ Chapter 58, Article 13C NMSA 1978 may be cited as the  
19 "New Mexico Uniform Securities Act"."

20 SECTION 2. Section 58-13C-508 NMSA 1978 (being Laws 2009,  
21 Chapter 82, Section 508) is amended to read:

22 "58-13C-508. CRIMINAL PENALTIES.--

23 A. A person who willfully violates Section ~~[501 or~~  
24 ~~502 of the New Mexico Uniform Securities Act]~~ 58-13C-501 or  
25 58-13C-502 NMSA 1978 is guilty of a third degree felony and,

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1 upon conviction, shall be fined not more than five thousand  
2 dollars (\$5,000) or imprisoned not more than three years, or  
3 both, for each violation. For purposes of Subsection B of  
4 Section 31-18-13 NMSA 1978, the minimum term prescribed by this  
5 subsection is three years.

6 B. A person who willfully violates Section  
7 58-13C-501 or 58-13C-502 NMSA 1978 through an action involving  
8 a person over the age of sixty is guilty of a second degree  
9 felony and, upon conviction, shall be fined not more than ten  
10 thousand dollars (\$10,000) or imprisoned not more than nine  
11 years, or both, for each violation. For purposes of Subsection  
12 B of Section 31-18-13 NMSA 1978, the minimum term prescribed by  
13 this subsection is three years.

14 [~~B-~~] C. A person who willfully violates Section  
15 [505 of the New Mexico Uniform Securities Act] 58-13C-505 NMSA  
16 1978 knowing the statement made to be false or misleading in a  
17 material respect is guilty of a third degree felony and, upon  
18 conviction, shall be fined not more than five thousand dollars  
19 (\$5,000) or imprisoned not more than three years, or both, for  
20 each violation. For purposes of Subsection B of Section  
21 31-18-13 NMSA 1978, the minimum term prescribed by this  
22 subsection is three years.

23 [~~E-~~] D. No criminal penalties apply to violations  
24 of Section [504 of the New Mexico Uniform Securities Act]  
25 58-13C-504 NMSA 1978 or the notice filing requirements of

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1 Section [~~302 or 405 of that act~~] 58-13C-302 or 58-13C-405 NMSA  
2 1978.

3 [~~D-~~] E. Except as provided in Subsections A through  
4 [~~E~~] D of this section, a person who willfully violates any  
5 provision of the New Mexico Uniform Securities Act or a rule  
6 adopted or order issued pursuant to that act is guilty of a  
7 fourth degree felony and, upon conviction, shall be fined not  
8 more than five thousand dollars (\$5,000) or imprisoned not more  
9 than eighteen months, or both, for each violation. For  
10 purposes of Subsection B of Section 31-18-13 NMSA 1978, the  
11 minimum term prescribed by this subsection is eighteen months.

12 [~~E-~~] F. An individual convicted of violating a rule  
13 or order pursuant to the New Mexico Uniform Securities Act may  
14 be fined, but shall not be imprisoned, if the individual did  
15 not have knowledge of the rule or order.

16 [~~F-~~] G. For the purposes of this section,  
17 "willfully" means purposely or intentionally committing the act  
18 or making the omission and does not require an intent to  
19 violate the law or knowledge that the act or omission is  
20 unlawful.

21 [~~G-~~] H. Each offense shall constitute a separate  
22 offense, and a prosecution for any one of such offenses shall  
23 not bar prosecution or conviction for any other offenses.

24 [~~H-~~] I. All persons convicted of criminal  
25 violations of the New Mexico Uniform Securities Act shall be

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1 sentenced in accordance with the Criminal Sentencing Act or its  
2 successor statute.

3 ~~[F.]~~ J. No indictment or information may be brought  
4 pursuant to this section more than five years after the alleged  
5 violation.

6 ~~[J.]~~ K. The attorney general or the proper district  
7 attorney, with or without a referral from the director, may  
8 institute criminal proceedings pursuant to the New Mexico  
9 Uniform Securities Act. The attorney general or district  
10 attorney may request assistance from the director or employees  
11 of the division. When so requested by the director, the  
12 attorney general shall commission as a special assistant  
13 attorney general any attorney employed by the director or  
14 contracted with by the director and approved by the attorney  
15 general to assist the director in carrying out the director's  
16 duties, including providing legal advice and prosecuting  
17 offenders.

18 ~~[K.]~~ L. The New Mexico Uniform Securities Act does  
19 not limit the power of New Mexico to punish a person for  
20 conduct that constitutes a crime pursuant to other laws of New  
21 Mexico."