

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 113

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

William "Bill" R. Rehm and Gregg Schmedes and Candace Gould and  
Kelly K. Fajardo

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING THAT THE PENALTY FOR A  
FELON IN POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE IS A  
THIRD DEGREE FELONY; CHANGING THE DEFINITION OF "FELON".

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

**SECTION 1.** Section 30-7-16 NMSA 1978 (being Laws 1981,  
Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT,  
TRANSPORTATION OR POSSESSION BY CERTAIN PERSONS--PENALTY.--

A. It is unlawful for the following persons to  
receive, transport or possess a firearm or destructive device  
in this state:

(1) a felon;

(2) a person subject to an order of protection  
pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978; or

underscored material = new  
[bracketed material] = delete

1 (3) a person convicted of any of the following  
2 crimes:

3 (a) battery against a household member  
4 pursuant to Section 30-3-15 NMSA 1978;

5 (b) criminal damage to property of a  
6 household member pursuant to Section 30-3-18 NMSA 1978;

7 (c) a first offense of stalking pursuant  
8 to Section 30-3A-3 NMSA 1978; or

9 (d) a crime listed in 18 U.S.C. 921.

10 B. A felon found in possession of a firearm shall  
11 be guilty of a [~~fourth~~] third degree felony and shall be  
12 sentenced in accordance with the provisions of the Criminal  
13 Sentencing Act [~~provided that the violation of and the sentence~~  
14 ~~imposed pursuant to this subsection shall be increased to a~~  
15 ~~violation of and the sentence for a third degree felony if the~~  
16 ~~person has previously been convicted of a capital felony or a~~  
17 ~~serious violent offense provided in Paragraph (4) of Subsection~~  
18 ~~L of Section 33-2-34 NMSA 1978]~~.

19 C. Any person subject to an order of protection  
20 pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or convicted  
21 of a crime listed in Paragraph (3) of Subsection A of this  
22 section who receives, transports or possesses a firearm or  
23 destructive device is guilty of a misdemeanor.

24 D. As used in this section:

25 (1) except as provided in Paragraph (2) of

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

1 this subsection, "destructive device" means:

2 (a) any explosive, incendiary or poison  
3 gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge  
4 of more than four ounces; 4) missile having an explosive or  
5 incendiary charge of more than one-fourth ounce; 5) mine; or 6)  
6 similar device;

7 (b) any type of weapon by whatever name  
8 known that will, or that may be readily converted to, expel a  
9 projectile by the action of an explosive or other propellant,  
10 the barrel or barrels of which have a bore of more than one-  
11 half inch in diameter, except a shotgun or shotgun shell that  
12 is generally recognized as particularly suitable for sporting  
13 purposes; or

14 (c) any combination of parts either  
15 designed or intended for use in converting any device into a  
16 destructive device as defined in this paragraph and from which  
17 a destructive device may be readily assembled;

18 (2) the term "destructive device" does not  
19 include any device that is neither designed nor redesigned for  
20 use as a weapon or any device, although originally designed for  
21 use as a weapon, that is redesigned for use as a signaling,  
22 pyrotechnic, line throwing, safety or similar device;

23 (3) "felon" means a person convicted of a  
24 felony offense by a court of the United States or of any state  
25 or political subdivision thereof and:

.216477.1

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

~~[(a) less than ten years have passed since the person completed serving a sentence or period of probation for the felony conviction, whichever is later;~~

~~(b)]~~ (a) the person has not been pardoned for the felony conviction by the proper authority; and

~~[(c)]~~ (b) the person has not received a deferred sentence; and

(4) "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of any such weapon."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020.