

HOUSE BILL 491

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

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AN ACT

RELATING TO CRIME; PROVIDING THAT MULTIPLE VIOLATIONS OF UNLAWFUL TAKING OF, EMBEZZLEMENT OF, FRAUDULENTLY OBTAINING OR RECEIVING OR TRANSPORTING STOLEN VEHICLES OR MOTOR VEHICLES APPLY TOWARD SENTENCING REGARDLESS OF WHICH SECTION OF LAW WAS VIOLATED PREVIOUSLY; 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 consists of a person taking any vehicle or motor vehicle as

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

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

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

6 and

7 ~~(3) second degree felony for a third or~~  
8 ~~subsequent offense.]~~

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

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

24 SECTION 2. Section 30-16D-2 NMSA 1978 (being Laws 2009,  
25 Chapter 253, Section 2 and Laws 2009, Chapter 261, Section 2)

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1 is amended to read:

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

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

8 [~~B. Whoever commits embezzlement of a vehicle or  
9 motor vehicle is guilty of a:~~

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

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

12 and

13 ~~(3) second degree felony for a third or  
14 subsequent offense.]"~~

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

18 "30-16D-3. FRAUDULENTLY OBTAINING A VEHICLE OR MOTOR  
19 VEHICLE.--~~[A.]~~ Fraudulently obtaining a vehicle or motor  
20 vehicle consists of a person intentionally misappropriating or  
21 taking a vehicle or motor vehicle as defined by the Motor  
22 Vehicle Code that belongs to another person by means of  
23 fraudulent conduct, practices or representations.

24 [~~B. Whoever commits fraudulently obtaining a  
25 vehicle or motor vehicle is guilty of a:~~

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1                   ~~(1) fourth degree felony for a first offense;~~  
2                   ~~(2) third degree felony for a second offense;~~  
3                   and  
4                   ~~(3) second degree felony for a third or~~  
5                   ~~subsequent offense.]"~~

6                   SECTION 4. Section 30-16D-4 NMSA 1978 (being Laws 1978,  
7                   Chapter 35, Section 92, as amended by Laws 2009, Chapter 253,  
8                   Section 4 and by Laws 2009, Chapter 261, Section 4) is amended  
9                   to read:

10                   "30-16D-4. RECEIVING OR TRANSFERRING STOLEN VEHICLES OR  
11                   MOTOR VEHICLES.--~~[A.]~~ Receiving or transferring a stolen  
12                   vehicle or motor vehicle consists of a person who, with intent  
13                   to procure or pass title to a vehicle or motor vehicle as  
14                   defined by the Motor Vehicle Code that the person knows or has  
15                   reason to believe has been stolen or unlawfully taken, receives  
16                   or transfers possession of the vehicle or motor vehicle from or  
17                   to another or who has in the person's possession any vehicle  
18                   that the person knows or has reason to believe has been stolen  
19                   or unlawfully taken. This section shall not apply to an  
20                   officer of the law engaged at the time in the performance of  
21                   the officer's duty as an officer.

22                   ~~[B. Whoever commits receiving or transferring a~~  
23                   ~~stolen vehicle or motor vehicle is guilty of a:~~

24                   ~~(1) fourth degree felony for a first offense;~~  
25                   ~~(2) third degree felony for a second offense;~~

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1 and

2 ~~(3) second degree felony for a third or~~  
3 ~~subsequent offense.]"~~

4 SECTION 5. A new Section 30-16D-5.1 NMSA 1978 is enacted  
5 to read:

6 "30-16D-5.1. [NEW MATERIAL] PENALTIES.--Whoever violates  
7 any of the provisions described in Sections 30-16D-1 through  
8 30-16D-4 NMSA 1978 is guilty of a:

9 A. fourth degree felony for a first offense;

10 B. third degree felony for a second offense,  
11 regardless of which provision was the first offense; and

12 C. second degree felony for a third or subsequent  
13 offense, regardless of which provision was the first or second  
14 offense."