

LFC Requester:	Scott Sanchez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 21JAN2025 *Check all that apply:*
Bill Number: HB50 Original Correction
 Amendment Substitute

Sponsor: Rep. Cynthia Borrego **Agency Name and Code:** 790 – Department of Public Safety
Short Title: Multiple Violations of Unlawful Taking of a Motor Vehicle **Person Writing:** Julie Gallardo
Phone: 5757601485 **Email:** matthew.broom@dps.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	N/A

(Parenthesis () indicates expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

Total	NFI	NFI	NFI	N/A	N/A	N/A
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(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act : Largely identical to 2024 HB87 and 2023 HB491

SECTION III: NARRATIVE

BILL SUMMARY - Provides the multiple violations of the crimes of unlawful taking of, embezzlement of, or fraudulently obtaining or receiving or transporting stolen vehicles apply toward sentencing regardless of which section of laws was previously violated. Sets (effectively enhanced) penalties.

FISCAL IMPLICATIONS – No Fiscal Impact to DPS.

SIGNIFICANT ISSUES –

Potential Vagueness Concern: In *Kolender v. Lawson*, the United States Supreme Court stated that the void-for-vagueness doctrine requires that penal statutes define criminal offenses with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement. Here, the bill as written would require ordinary people to check an internal cross-reference to an additional statute to determine what the penalty structure is for unlawful trafficking of a motor vehicle, embezzlement of a vehicle or motor vehicle, fraudulently obtaining a vehicle or motor vehicle, or receiving or transferring stolen vehicles or motor vehicles. Not only might this raise constitutionality questions under the void-for-vagueness doctrine, but it also deviates significantly from the drafting style of the rest of the Criminal Code. Penalties for criminal conduct should be set forth in the same statute describing wrongful conduct to avoid void-for-vagueness concerns. A statute similar to Section 31-18-17 NMSA 1978 should be enacted for aggregation of the offenses.

In addition, sentencing laws fall under the Criminal Sentencing Act, not the Criminal Code. If HB 50 intended to allow enhanced sentencing, Section 5 of the bill should be placed correctly in the Criminal Sentencing Act.

PERFORMANCE IMPLICATIONS

DPS is supportive of what this legislation is trying to accomplish as New Mexico has one of the highest rates of auto theft in the nation. Law enforcement here needs additional tools to address the problem, and this statute would assist with that. It would also bring the sentencing for these related offenses more in line with what we believe the original intent of the law was.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP No conflict, duplication, companionship, or relationship issues to DPS.

TECHNICAL ISSUES

No technical issues to DPS.

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Not applicable as there is no impact on DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo will remain.

AMENDMENTS

None at this time.