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HOUSE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

DISCUSSION DRAFT

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIME; CREATING THE CRIME OF CRIMINAL DAMAGE TO
PROPERTY BY THEFT OR ATTEMPTED THEFT OF REGULATED MATERIAL;
PROHIBITING A SECONDHAND METAL DEALER FROM PURCHASING OR
RECEIVING REGULATED MATERIAL NOT LAWFULLY POSSESSED; PROVIDING
A PENALTY.

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

SECTION 1. A new section of the Criminal Code is enacted
to read:

"[NEW MATERIAL] CRIMINAL DAMAGE TO PROPERTY BY THEFT OR
ATTEMPTED THEFT OF REGULATED MATERIAL--PENALTY.--

A. Criminal damage to property by theft or
attempted theft of regulated material consists of the unlawful
taking or attempted taking of any regulated material from
another that results in damage to real or personal property

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

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

1 when the cost to repair the damage is more than two thousand
2 five hundred dollars (\$2,500). Whoever commits criminal damage
3 to property by theft or attempted theft of regulated material
4 is guilty of a fourth degree felony.

5 B. For the purposes of this section:

6 (1) "aluminum material" means a product made
7 from aluminum, an aluminum alloy or an aluminum byproduct and
8 includes an aluminum beer keg, but does not include other types
9 of aluminum cans used to contain a food or beverage;

10 (2) "bronze material" means:

11 (a) a cemetery vase, receptacle or
12 memorial made from bronze;

13 (b) bronze statuary; or

14 (c) material readily identifiable as
15 bronze;

16 (3) "copper or brass material" means:

17 (a) insulated or noninsulated copper
18 wire, hardware or cable of the type used by a public utility,
19 commercial mobile radio service carrier or common carrier that
20 consists of at least twenty-five percent copper; or

21 (b) a copper or brass item of a type
22 commonly used in construction or by a public utility,
23 commercial mobile radio service carrier or common carrier;

24 (4) "lead material" means:

25 (a) a lead-acid battery; or

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

1 (b) material readily identifiable as
2 being made of or containing lead;

3 (5) "regulated material" means:

- 4 (a) aluminum material;
- 5 (b) bronze material;
- 6 (c) copper or brass material;
- 7 (d) steel material;
- 8 (e) lead material;
- 9 (f) a utility access cover;
- 10 (g) a water meter cover;
- 11 (h) a road or bridge guard rail;
- 12 (i) a highway or street sign;
- 13 (j) a traffic directional or control
14 sign or signal; or
- 15 (k) a catalytic converter that is not
16 part of an entire motor vehicle; and

17 (6) "steel material" means a product made from
18 an alloy of iron, chromium, nickel or manganese, including
19 stainless steel beer kegs."

20 SECTION 2. Section 57-30-2.4 NMSA 1978 (being Laws 2012,
21 Chapter 29, Section 16 and Laws 2012, Chapter 33, Section 16)
22 is amended to read:

23 "57-30-2.4. RESTRICTED TRANSACTIONS--ADDITIONAL
24 DOCUMENTATION REQUIRED.--

25 A. A secondhand metal dealer shall not purchase any

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

1 of the following without written documentation indicating that
2 the seller is the rightful owner or has permission from the
3 rightful owner ~~[or]~~ and that the material was otherwise
4 lawfully obtained:

5 (1) infrastructure grade regulated material
6 that has been burned to remove insulation, unless the seller
7 can produce written proof that the regulated material was
8 lawfully burned;

9 (2) regulated material where the
10 manufacturer's make, model, serial or personal identification
11 number or other identifying marks engraved or etched upon the
12 material have been conspicuously removed or altered;

13 (3) regulated material marked with the name,
14 initials or otherwise identified as the property of an
15 electrical company, a telephone company, a cable company, a
16 water company or other utility company, a railroad or a
17 governmental entity;

18 (4) a utility access cover;

19 (5) a water meter cover;

20 (6) a road or bridge guard rail;

21 (7) a highway or street sign;

22 (8) a traffic directional or control sign or
23 signal;

24 (9) a metal beer keg that is clearly marked as
25 being the property of the beer manufacturer; or

.221325.1

1 (10) a catalytic converter that is not part of
2 an entire motor vehicle.

3 B. The department shall promulgate rules that more
4 specifically describe the type of documentation required before
5 a secondhand metal dealer may engage in a transaction described
6 in this section.

7 C. A secondhand metal dealer shall not purchase or
8 otherwise receive any regulated material that the secondhand
9 metal dealer knows is not lawfully possessed by the person
10 offering to sell or provide the regulated material."