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HOUSE BILL 152

44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2000

INTRODUCED BY

Dara Dana

AN ACT

RELATING TO CRIMINAL LAW; ENACTING THE PROTECTION OF MAILS
ACT; CREATING NEW CRIMINAL OFFENSES; PRESCRIBING CRIMINAL
PENALTIES.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Protection of Mails Act".

Section 2. DEFINITIONS.--As used in the Protection of
Mails Act:

A. "authorized depository" means a mailbox, post
office box or rural box used by postal customers to deposit
outgoing mail or used by the postal service to deliver
incoming mail;

B. "letter box" means any mail receptacle intended
or used for the receipt or delivery of mail on a mail route;

C. "mail" means any letter, card, parcel or other
material that:

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1 (1) is sent or delivered by means of the
2 postal service;

3 (2) has postage affixed by the postal
4 customer or postal service or has been accepted for delivery
5 by the postal service; and

6 (3) is placed in any authorized depository
7 or mail receptacle or given to any postal service employee
8 for delivery;

9 D. "mail receptacle" means any place used by the
10 postal service or postal customers to place outgoing mail or
11 receive incoming mail;

12 E. "postage" means a postal service stamp, permit
13 imprint, meter strip or other authorized indication of
14 prepayment for service provided or authorized by the postal
15 service for collection and delivery of mail; and

16 F. "postal service" means the United States postal
17 service.

18 Section 3. OBSTRUCTION OF MAILS--PENALTY.--

19 A. Obstruction of mails consists of knowingly
20 obstructing or delaying:

- 21 (1) the passage of the mail; or
22 (2) any carrier or conveyance carrying the
23 mail.

24 B. Whoever commits obstruction of mails is guilty
25 of a misdemeanor and shall be sentenced pursuant to the
provisions of Section 31-19-1 NMSA 1978.

Section 4. DESTRUCTION OF A LETTER BOX OR THE MAIL--

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PENALTY.--

A. Destruction of a letter box or the mail consists of knowingly:

- (1) tearing down, taking, damaging or destroying a letter box;
- (2) breaking open a letter box; or
- (3) injuring, destroying or defacing mail deposited in a letter box.

B. Whoever commits destruction of a letter box or the mail is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

Section 5. MAIL THEFT OR RECEIPT OF STOLEN MAIL--
PENALTY.--

A. Mail theft or receipt of stolen mail consists of knowingly:

- (1) taking or, by fraud or deception, obtaining mail from a post office, postal station, letter box, mail receptacle, authorized depository or mail carrier;
- (2) taking from mail any article contained in the mail;
- (3) secreting, embezzling or destroying mail or any article contained in the mail;
- (4) taking or, by fraud or deception, obtaining mail or any article contained in the mail that has been delivered to or left for collection on, or adjacent to, a mail receptacle or authorized depository; or
- (5) buying, receiving, concealing or

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1 possessing mail or any article contained in the mail knowing
2 that the mail has been unlawfully taken or obtained.

3 B. Whoever commits mail theft or receipt of stolen
4 mail when the value of the mail or article contained in the
5 mail is one hundred dollars (\$100) or less is guilty of a
6 petty misdemeanor and shall be sentenced pursuant to the
7 provisions of Section 31-19-1 NMSA 1978.

8 C. Whoever commits mail theft or receipt of stolen
9 mail when the value of the mail or article contained in the
10 mail is over one hundred dollars (\$100) but not more than one
11 thousand dollars (\$1,000) is guilty of a misdemeanor and
12 shall be sentenced pursuant to the provisions of Section 31-
13 19-1 NMSA 1978.

14 D. Whoever commits mail theft or receipt of stolen
15 mail when the value of the mail or article contained in the
16 mail is over one thousand dollars (\$1,000) but not more than
17 two thousand five hundred dollars (\$2,500) is guilty of a
18 fourth degree felony and shall be sentenced pursuant to the
19 provisions of Section 31-18-15 NMSA 1978.

20 E. Whoever commits mail theft or receipt of stolen
21 mail when the value of the mail or article contained in the
22 mail is over two thousand five hundred dollars (\$2,500) but
23 not more than twenty thousand dollars (\$20,000) is guilty of
24 a third degree felony and shall be sentenced pursuant to the
25 provisions of Section 31-18-15 NMSA 1978.

F. Whoever commits mail theft or receipt of stolen
mail when the value of the mail or article contained in the

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1 mail is over twenty thousand dollars (\$20,000) is guilty of a
2 second degree felony and shall be sentenced pursuant to the
3 provisions of Section 31-18-15 NMSA 1978.

4 Section 6. DEFENSES.--In any prosecution pursuant to
5 the Protection of Mails Act, it is an affirmative defense
6 that:

7 A. the defendant was unaware that the property was
8 that of another person;

9 B. the defendant reasonably believed that he was
10 entitled to the property involved or had a right to acquire
11 or dispose of it as he did; or

12 C. the property involved was that of the
13 defendant's spouse, unless the parties were not living
14 together as husband and wife and were living in separate
15 abodes at the time of the alleged offense.

16 Section 7. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2000.