

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 313

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

AN ACT

RELATING TO CRIMINAL LAW; CREATING A NEW OFFENSE KNOWN AS
UNLAWFUL POSSESSION OF A BIOLOGICAL OR CHEMICAL WEAPON;
PROVIDING PENALTIES; ENACTING A NEW SECTION OF THE CRIMINAL
CODE.

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] UNLAWFUL POSSESSION OF A BIOLOGICAL OR
CHEMICAL WEAPON. --

A. Unlawful possession of a biological or chemical
weapon consists of knowingly possessing a biological or
chemical weapon, or a combination of materials used to create
a biological or chemical weapon, with the specific intent to
cause death or great bodily harm to a person.

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underscored material = new
[bracketed material] = delete

1 B. Whoever commits unlawful possession of a
2 biological or a chemical weapon is guilty of a fourth degree
3 felony.

4 C. As used in this section:

5 (1) "biological weapon" means any device or
6 delivery system capable of releasing a biological agent that
7 uses a microorganism or a toxin produced by a living organism,
8 in any form or by any means, that will or may reasonably be
9 expected to cause death or great bodily harm to a person; and

10 (2) "chemical weapon" means any device or
11 delivery system that uses the toxic properties of a chemical,
12 in any form or by any means, that will or may reasonably be
13 expected to cause death or great bodily harm to a person.

14 "Chemical weapon" does not include:

15 (a) riot-control agents when used by
16 law enforcement personnel;

17 (b) chemical herbicides or chemical
18 pesticides; or

19 (c) mace, pepper spray or any other
20 analogous commercially produced personal defense device.

21 D. The provisions of this section do not apply to
22 individuals or institutions authorized by the state or federal
23 government to possess or use biological or chemical weapons. "

24 Section 2. EFFECTIVE DATE. --The effective date of the
25 provisions of this act is July 1, 2002.