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HOUSE BILL 215

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Avon W. Wilson

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

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

1 material that:

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

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

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

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

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

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

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

20 A. Obstruction of mails consists of intentionally
21 obstructing or delaying:

22 (1) the passage of the mail; or

23 (2) any carrier or conveyance carrying the
24 mail.

25 B. Whoever commits obstruction of mails is guilty

1 of a misdemeanor and shall be sentenced pursuant to the
2 provisions of Section 31-19-1 NMSA 1978.

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

5 A. Destruction of a letter box or the mail consists
6 of intentionally:

7 (1) tearing down, taking, damaging or
8 destroying a letter box;

9 (2) breaking open a letter box; or

10 (3) injuring, destroying or defacing mail
11 deposited in a letter box.

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

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

17 A. Mail theft or receipt of stolen mail consists of
18 intentionally:

19 (1) taking or, by fraud or deception,
20 obtaining mail from a post office, postal station, letter box,
21 mail receptacle, authorized depository or mail carrier;

22 (2) taking from mail any article contained in
23 the mail;

24 (3) secreting, embezzling or destroying mail
25 or any article contained in the mail;

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underscored material = new
[bracketed material] = delete

1 (4) taking or, by fraud or deception,
2 obtaining mail or any article contained in the mail that has
3 been delivered to or left for collection on, or adjacent to, a
4 mail receptacle or authorized depository; or

5 (5) buying, receiving, concealing or
6 possessing mail or any article contained in the mail knowing
7 that the mail has been unlawfully taken or obtained.

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

13 C. Whoever commits mail theft or receipt of stolen
14 mail when the value of the mail or article contained in the
15 mail is more than one hundred dollars (\$100) but not more than
16 one thousand dollars (\$1,000) is guilty of a misdemeanor and
17 shall be sentenced pursuant to the provisions of Section
18 31-19-1 NMSA 1978.

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

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

6 F. Whoever commits mail theft or receipt of stolen
7 mail when the value of the mail or article contained in the
8 mail is more than twenty thousand dollars (\$20,000) is guilty
9 of a second degree felony and shall be sentenced pursuant to
10 the provisions of Section 31-18-15 NMSA 1978.

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

13 A. the defendant was unaware that the property was
14 that of another person;

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

18 C. the property involved was that of the
19 defendant's spouse, unless the parties were not living together
20 as husband and wife and were living in separate abodes at the
21 time of the alleged offense.

22 Section 7. EFFECTIVE DATE. --The effective date of the
23 provisions of this act is July 1, 2003.