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HOUSE BILL 591

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING ADDITIONAL PENALTIES FOR UNLAWFUL TAKING OF A VEHICLE OR MOTOR VEHICLE; CREATING NEW CRIMINAL OFFENSES KNOWN AS EMBEZZLEMENT OF A VEHICLE OR MOTOR VEHICLE AND FRAUDULENTLY OBTAINING A VEHICLE OR MOTOR VEHICLE; INCLUDING NEW CRIMINAL OFFENSES RELATING TO MOTOR VEHICLES IN THE CRIMINAL OFFENSE OF RACKETEERING; PROVIDING FOR CRIMINAL SENTENCING ENHANCEMENTS IF A STOLEN VEHICLE OR MOTOR VEHICLE IS USED IN THE COMMISSION OF A FELONY; AMENDING AND ENACTING SECTIONS OF THE CRIMINAL CODE; RECOMPILING SECTIONS OF THE MOTOR VEHICLE CODE.

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

Section 1. Section 66-3-501 NMSA 1978 (being Laws 1978, Chapter 35, Section 88, as amended) is recompiled as Section 30-16D-1 NMSA 1978 and is amended to read:

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1 "30-16D-1. REPORT OF STOLEN AND RECOVERED MOTOR
2 VEHICLES.--

3 A. Every sheriff, chief of police or peace officer
4 upon receiving reliable information that any vehicle
5 [~~registered under~~] or motor vehicle as defined by the Motor
6 Vehicle Code has been stolen shall immediately, but in no case
7 later than one week after receiving the information, report the
8 theft to the New Mexico state police or other appropriate law
9 enforcement agency unless, prior thereto, information has been
10 received of the recovery of the vehicle. Any officer, upon
11 receiving information that any vehicle [~~which he~~] that the
12 officer has previously reported as stolen has been recovered,
13 shall immediately report the fact of recovery to the local
14 sheriff's office or police department and to the New Mexico
15 state police.

16 B. The requirement that the theft or recovery of a
17 vehicle be reported to the New Mexico state police is satisfied
18 if the report is made to the national crime information
19 center."

20 Section 2. Section 66-3-502 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 89) is recompiled as Section 30-16D-2 NMSA
22 1978 and is amended to read:

23 "30-16D-2. REPORTS BY OWNERS OF STOLEN AND RECOVERED
24 VEHICLES.--

25 A. The owner or person having a lien or encumbrance
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1 upon a [~~registered~~] vehicle [~~which~~] or motor vehicle as defined
2 by the Motor Vehicle Code that has been stolen or embezzled may
3 notify the New Mexico state police or other appropriate law
4 enforcement agency of [~~such~~] the theft or embezzlement but, in
5 the event of an embezzlement, may make [~~such~~] a report only
6 after having procured the issuance of a warrant for the arrest
7 of the person charged with [~~such~~] the embezzlement.

8 B. Every owner or other person who has given any
9 such notice shall immediately notify the New Mexico state
10 police or the law enforcement agency that took the report of a
11 recovery of [~~such~~] the vehicle."

12 Section 3. Section 66-3-504 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 91, as amended) is recompiled as Section
14 30-16D-3 NMSA 1978 and is amended to read:

15 "30-16D-3. UNLAWFUL TAKING OF A VEHICLE OR MOTOR
16 VEHICLE.--

17 A. [~~Any person who takes~~] Unlawful taking of a
18 vehicle or motor vehicle consists of a person taking any
19 vehicle or motor vehicle as defined by the Motor Vehicle Code
20 intentionally and without consent of the owner. Whoever
21 commits unlawful taking of a vehicle or motor vehicle is guilty
22 of a:

23 (1) [~~of a~~] fourth degree felony if the vehicle
24 or motor vehicle has a value of [~~less~~] not more than two
25 thousand five hundred dollars (\$2,500); [~~and~~]

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1 (2) ~~[of a]~~ third degree felony if the vehicle
2 or motor vehicle has a value of more than two thousand five
3 hundred dollars (\$2,500) ~~[or more]~~ but less than twenty
4 thousand dollars (\$20,000); and

5 (3) second degree felony if the vehicle or
6 motor vehicle has a value of more than twenty thousand dollars
7 (\$20,000).

8 B. The consent of the owner of the vehicle or motor
9 vehicle to its taking shall not in any case be presumed or
10 implied because of the owner's consent on a previous occasion
11 to the taking of the vehicle or motor vehicle by the same or a
12 different person.

13 ~~[C. The district courts are given exclusive~~
14 ~~jurisdiction to hear and try offenses prescribed under this~~
15 ~~section.~~

16 ~~D.]~~ C. Nothing in this section shall be construed
17 to prohibit the holder of a lien duly recorded with the motor
18 vehicle division of the taxation and revenue department from
19 taking possession of a vehicle to which possession the
20 lienholder is legally entitled under the provisions of the
21 instrument evidencing the lien. A holder of a duly recorded
22 lien who takes possession of a vehicle without the knowledge of
23 the owner of the vehicle shall immediately notify the local
24 police authority of the fact that ~~[he]~~ the holder has taken
25 possession of the vehicle."

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1 Section 4. A new Section 30-16D-4 NMSA 1978 is enacted to
2 read:

3 "30-16D-4. [NEW MATERIAL] EMBEZZLEMENT OF A VEHICLE OR
4 MOTOR VEHICLE.--

5 A. Embezzlement of a vehicle or motor vehicle
6 consists of a person embezzling or converting to the person's
7 own use a vehicle or motor vehicle as defined by the Motor
8 Vehicle Code, with which the person has been entrusted, with
9 fraudulent intent to deprive the owner of the vehicle or motor
10 vehicle. Each separate incident of embezzlement constitutes a
11 separate and distinct offense.

12 B. Whoever commits embezzlement of a vehicle or
13 motor vehicle is guilty of a:

14 (1) fourth degree felony if the vehicle or
15 motor vehicle has a value of not more than two thousand five
16 hundred dollars (\$2,500);

17 (2) third degree felony if the vehicle or
18 motor vehicle has a value of more than two thousand five
19 hundred dollars (\$2,500) but less than twenty thousand dollars
20 (\$20,000); and

21 (3) second degree felony if the vehicle or
22 motor vehicle has a value of more than twenty thousand dollars
23 (\$20,000)."

24 Section 5. A new Section 30-16D-5 NMSA 1978 is enacted to
25 read:

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1 "30-16D-5. [NEW MATERIAL] FRAUDULENTLY OBTAINING A
2 VEHICLE OR MOTOR VEHICLE.--

3 A. Fraudulently obtaining a vehicle or motor
4 vehicle consists of a person intentionally misappropriating or
5 taking a vehicle or motor vehicle as defined by the Motor
6 Vehicle Code that belongs to another person by means of
7 fraudulent conduct, practices or representations.

8 B. Whoever commits fraudulently obtaining a vehicle
9 or motor vehicle is guilty of a:

10 (1) fourth degree felony if the vehicle or
11 motor vehicle has a value of not more than two thousand five
12 hundred dollars (\$2,500);

13 (2) third degree felony if the vehicle or
14 motor vehicle has a value of more than two thousand five
15 hundred dollars (\$2,500) but less than twenty thousand dollars
16 (\$20,000); and

17 (3) second degree felony if the vehicle or
18 motor vehicle has a value of more than twenty thousand dollars
19 (\$20,000)."

20 Section 6. Section 66-3-505 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 92) is recompiled as Section 30-16D-6 NMSA
22 1978 and is amended to read:

23 "30-16D-6. RECEIVING OR TRANSFERRING STOLEN VEHICLES OR
24 MOTOR VEHICLES.--[Any]

25 A. Receiving or transferring stolen vehicles or

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1 motor vehicles consists of a person who, with intent to procure
2 or pass title to a vehicle or motor vehicle ~~[which he]~~ as
3 defined by the Motor Vehicle Code that the person knows or has
4 reason to believe has been stolen or unlawfully taken, receives
5 or transfers possession of the ~~[same]~~ vehicle or motor vehicle
6 from or to another or who has in ~~[his]~~ the person's possession
7 any vehicle ~~[which he]~~ that the person knows or has reason to
8 believe has been stolen or unlawfully taken ~~[and who is not]~~.
9 This section shall not apply to an officer of the law engaged
10 at the time in the performance of ~~[his]~~ the officer's duty as
11 ~~[such]~~ an officer ~~[is guilty of a fourth degree felony and upon~~
12 ~~conviction shall be sentenced to imprisonment for not less than~~
13 ~~one nor more than five years or to the payment of a fine of not~~
14 ~~more than five thousand dollars (\$5,000) or to both such~~
15 ~~imprisonment and fine in the discretion of the judge]~~.

16 B. Whoever commits receiving or transferring stolen
17 vehicles or motor vehicles is guilty of a:

18 (1) fourth degree felony if the vehicle or
19 motor vehicle has a value of not more than two thousand five
20 hundred dollars (\$2,500);

21 (2) third degree felony if the vehicle or
22 motor vehicle has a value of more than two thousand five
23 hundred dollars (\$2,500) but less than twenty thousand dollars
24 (\$20,000); and

25 (3) second degree felony if the vehicle or

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1 motor vehicle has a value of more than twenty thousand dollars
2 (\$20,000)."

3 Section 7. Section 66-3-506 NMSA 1978 (being Laws 1978,
4 Chapter 35, Section 93) is recompiled as Section 30-16D-7 NMSA
5 1978 and is amended to read:

6 "30-16D-7. INJURING OR TAMPERING WITH A MOTOR VEHICLE.--
7 [~~Any~~]

8 A. Injuring or tampering with a motor vehicle
9 consists of a person [~~who shall~~], individually or in
10 association with [~~one or more others do any of the following~~
11 ~~shall be guilty of a misdemeanor and upon conviction thereof~~
12 ~~shall be imprisoned in the county jail for not less than six~~
13 ~~months nor more than one year~~] another person:

14 [~~A.~~] (1) purposely and without authority from
15 the owner [~~start~~] starting or [~~cause~~] causing to be started the
16 engine of any motor vehicle;

17 [~~B.~~] (2) purposely and maliciously [~~shift~~]
18 shifting or [~~change~~] changing the starting device or gears of a
19 standing motor vehicle to a position other than that in which
20 they were left by the owner or driver of [~~said~~] the motor
21 vehicle;

22 [~~C.~~] (3) purposely [~~scratch~~] scratching or
23 [~~damage~~] damaging the chassis, running gear, body, sides, top
24 covering or upholstering of a motor vehicle [~~which~~] that is the
25 property of another;

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1 [~~D-~~] (4) purposely [~~destroy~~] destroying any
2 part of a motor vehicle or purposely [~~cut, mash, mark~~] cutting,
3 mashing or marking or in any other way [~~destroy~~] destroying or
4 [~~damage~~] damaging any part, attachment, fastening or
5 appurtenance of a motor vehicle without the permission of the
6 owner;

7 [~~E-~~] (5) purposely [~~drain~~] draining or [~~start~~]
8 starting the drainage of any radiator, oil tank or gas tank
9 upon a motor vehicle without the permission of the owner;

10 [~~F-~~] (6) purposely [~~put~~] putting any metallic
11 or other substance or liquid in the radiator, carburetor, oil
12 tank, grease cup, oilers, lamps, gas tanks or machinery of the
13 motor vehicle with the intent to injure or damage [~~the same~~] or
14 impede the working of the machinery [~~thereof~~] of the motor
15 vehicle;

16 [~~G-~~] (7) maliciously [~~tighten~~] tightening or
17 [~~loosen~~] loosening any bracket, bolt, wire, nut, screw or other
18 fastening on a motor vehicle; or

19 [~~H-~~] (8) purposely [~~release~~] releasing the
20 brake upon a standing motor vehicle with the intent to injure
21 [~~said~~] the machine.

22 B. Whoever commits injuring or tampering with a
23 motor vehicle is guilty of a misdemeanor.

24 C. As used in this section, "motor vehicle" means a
25 motor vehicle as defined by the Motor Vehicle Code."

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1 Section 8. Section 66-3-507 NMSA 1978 (being Laws 1978,
2 Chapter 35, Section 94) is recompiled as Section 30-16D-8 NMSA
3 1978 and is amended to read:

4 "30-16D-8. ALTERED VEHICLE IDENTIFICATION NUMBERS--
5 CONTRABAND.--

6 A. Any person receiving, disposing of, offering to
7 dispose of or having in [~~his~~] the person's possession any
8 vehicle, [~~or~~] motor vehicle as defined by the Motor Vehicle
9 Code or motor vehicle engine or component shall make adequate
10 inquiry and inspection to determine that no manufacturer's
11 serial number, engine or component number or other
12 distinguishing number or mark or identification mark or number
13 placed [~~there on~~] under assignment of the motor vehicle
14 division of the taxation and revenue department has been
15 removed, defaced, covered, altered or destroyed.

16 B. When the inspection of a vehicle, [~~or~~] motor
17 vehicle or motor vehicle engine or component by any law
18 enforcement officer indicates that the manufacturer's serial
19 number or decal, engine or component number or other
20 distinguishing number or mark or identification mark or number
21 placed [~~thereon~~] under assignment of the division has been
22 removed, defaced, covered, altered or destroyed, that vehicle,
23 motor vehicle or motor vehicle engine or component may be
24 impounded for a period of time not to exceed ninety-six hours
25 unless part of that time [~~shall fall~~] falls upon a Saturday,

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1 Sunday or a legal holiday, in which case the vehicle, motor
2 vehicle or motor vehicle engine or component may be impounded
3 for a period of time not to exceed six days. At the expiration
4 of the stated time period, the vehicle, [~~or~~] motor vehicle or
5 motor vehicle engine or component shall be returned to the
6 person from whom it was taken at no cost unless an ex parte
7 order allowing continued impoundment is issued by a magistrate
8 or district court judge after finding that probable cause
9 exists to believe that the manufacturer's serial number, engine
10 or component number or other distinguishing number or mark or
11 identification mark or number placed [~~thereon~~] under assignment
12 of the division has been removed, defaced, covered, altered or
13 destroyed. Within ten days of the issuance of [~~such an~~] the
14 order, the law enforcement agency shall cause to have the
15 matter of the vehicle, [~~or~~] motor vehicle or motor vehicle
16 engine or component brought before a district court by filing
17 in that court a petition requesting that the vehicle or item be
18 declared contraband unless the court grants an extension of
19 time for [~~such~~] the filing based on some reasonable requirement
20 for extension of [~~such~~] the filing by the law enforcement
21 agency. If at the time of the hearing on that petition the
22 court finds that the manufacturer's serial number, engine or
23 component number or other distinguishing number or mark or
24 identification mark or number placed [~~thereon~~] under assignment
25 of the division has been removed, defaced, covered, altered or

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1 destroyed, the court shall declare the vehicle, motor vehicle
2 or motor vehicle engine or component to be contraband unless
3 one of the exceptions enumerated in this section applies. At
4 the time the vehicle, motor vehicle or motor vehicle engine or
5 component is declared to be contraband, the court shall order
6 that it be disposed of according to Subsection D of this
7 section. Any vehicle, motor vehicle or motor vehicle engine or
8 component in such condition shall not be subject to replevin
9 except by an owner who can trace [~~his~~] the owner's ownership of
10 that vehicle, motor vehicle or motor vehicle engine or
11 component from the manufacturer by furnishing the court records
12 indicating the identity of all intermediate owners. The law
13 enforcement agency seizing [~~such a~~] the vehicle, motor vehicle
14 or motor vehicle engine or component shall provide the person
15 from whom it was taken a receipt for [~~such~~] the vehicle, motor
16 vehicle or motor vehicle engine or component.

17 C. [~~Such~~] The vehicle, motor vehicle or motor
18 vehicle engine or component shall not be considered contraband
19 when:

20 (1) it has been determined that [~~such~~] the
21 vehicle, motor vehicle or motor vehicle engine or component has
22 been reported as stolen;

23 (2) [~~that~~] the vehicle, motor vehicle or motor
24 vehicle engine or component is recovered in the condition
25 described in Subsection B of this section;

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1 (3) it clearly appears that the true owner is
2 in no way responsible for the altering, concealing, defacing,
3 destroying or alteration;

4 (4) the true owner obtains an assigned number
5 issued by the division for ~~[such]~~ the vehicle, motor vehicle or
6 motor vehicle engine or component;

7 (5) the new assigned numbers have been issued
8 for and placed upon the vehicle, motor vehicle or motor vehicle
9 engine or component by the division ~~[of motor vehicles]~~
10 utilizing a unique numbering system for that purpose; or

11 (6) a person licensed under the provisions of
12 Sections ~~[214 through 222 of this act]~~ 66-4-1 through 66-4-9
13 NMSA 1978, when in the course of ~~[his]~~ the person's business
14 and consistent with the provisions of Section ~~[95 of this act]~~
15 66-3-508 NMSA 1978 and the rules and regulations promulgated by
16 the division, removes, defaces, covers, alters or destroys the
17 manufacturer's serial or engine or component number or other
18 distinguishing number or identification mark or number placed
19 under assignment of the division of a vehicle required to be
20 registered under the Motor Vehicle Code ~~[or number placed~~
21 ~~thereon under assignment of the division]~~.

22 D. If it is impossible to locate a true owner who
23 meets the provisions of Subsection C of this section to claim
24 ~~[such a]~~ the vehicle, motor vehicle or motor vehicle engine or
25 component, it may be retained by the law enforcement agency

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1 confiscating it as long as it is used for police purposes,
2 after which time, or if not suitable for police use, it shall
3 be destroyed."

4 Section 9. Section 66-3-508 NMSA 1978 (being Laws 1978,
5 Chapter 35, Section 95) is recompiled as Section 30-16D-9 NMSA
6 1978 and is amended to read:

7 "30-16D-9. ALTERING OR CHANGING ENGINE OR OTHER
8 NUMBERS.--

9 A. No person shall, with fraudulent intent, deface,
10 remove, cover, destroy or alter the manufacturer's serial [~~or~~
11 number, engine number, decal or other distinguishing number or
12 identification mark or number placed [~~thereon~~] under assignment
13 of the motor vehicle division of the taxation and revenue
14 department of a vehicle required to be registered under the
15 Motor Vehicle Code or any vehicle, motor vehicle or motor
16 vehicle engine or component as defined by the Motor Vehicle
17 Code for which a dismantler's notification form has been
18 processed through the division, nor shall any person place or
19 stamp any serial, engine, decal or other number or mark upon
20 [~~such~~] the vehicle except one assigned [~~thereto~~] by the
21 division. Any violation of this provision is a fourth degree
22 felony.

23 B. This section shall not prohibit the restoration
24 by an owner of an original serial, engine, decal or other
25 number or mark when [~~such~~] the restoration is made under permit

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1 issued by the division nor prevent any manufacturer from
2 placing, in the ordinary course of business, numbers, decals or
3 marks upon vehicles or parts thereof."

4 Section 10. Section 30-42-3 NMSA 1978 (being Laws 1980,
5 Chapter 40, Section 3, as amended) is amended to read:

6 "30-42-3. DEFINITIONS.--As used in the Racketeering Act:

7 A. "racketeering" means any act that is chargeable
8 or indictable under the laws of New Mexico and punishable by
9 imprisonment for more than one year, involving any of the
10 following cited offenses:

11 (1) murder, as provided in Section 30-2-1 NMSA
12 1978;

13 (2) robbery, as provided in Section 30-16-2
14 NMSA 1978;

15 (3) kidnapping, as provided in Section 30-4-1
16 NMSA 1978;

17 (4) forgery, as provided in Section 30-16-10
18 NMSA 1978;

19 (5) larceny, as provided in Section 30-16-1
20 NMSA 1978;

21 (6) fraud, as provided in Section 30-16-6 NMSA
22 1978;

23 (7) embezzlement, as provided in Section
24 30-16-8 NMSA 1978;

25 (8) receiving stolen property, as provided in

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1 Section 30-16-11 NMSA 1978;

2 (9) bribery, as provided in Sections 30-24-1
3 through ~~[30-24-3]~~ 30-24-3.1 NMSA 1978;

4 (10) gambling, as provided in Sections
5 30-19-3, 30-19-13 and 30-19-15 NMSA 1978;

6 (11) illegal kickbacks, as provided in
7 Sections 30-41-1 and 30-41-2 NMSA 1978;

8 (12) extortion, as provided in Section 30-16-9
9 NMSA 1978;

10 (13) trafficking in controlled substances, as
11 provided in Section 30-31-20 NMSA 1978;

12 (14) arson and aggravated arson, as provided
13 in Subsection A of Section 30-17-5 and Section 30-17-6 NMSA
14 1978;

15 (15) promoting prostitution, as provided in
16 Section 30-9-4 NMSA 1978;

17 (16) criminal solicitation, as provided in
18 Section 30-28-3 NMSA 1978;

19 (17) fraudulent securities practices, as
20 provided in the New Mexico Securities Act of 1986;

21 (18) loan sharking, as provided in Sections
22 30-43-1 through 30-43-5 NMSA 1978;

23 (19) distribution of controlled substances or
24 controlled substance analogues, as provided in Sections
25 30-31-21 and 30-31-22 NMSA 1978; ~~[and]~~

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1 (20) a violation of the provisions of Section
2 [~~4 of the Money Laundering Act~~] 30-51-4 NMSA 1978;

3 (21) unlawful taking of a vehicle or motor
4 vehicle as provided in Section 30-16D-3 NMSA 1978;

5 (22) embezzlement of a vehicle or motor
6 vehicle as provided in Section 30-16D-4 NMSA 1978;

7 (23) fraudulently obtaining a vehicle or motor
8 vehicle as provided in Section 30-16D-5 NMSA 1978;

9 (24) receiving or transferring stolen vehicles
10 or motor vehicles as provided in Section 30-16D-6 NMSA 1978;

11 and

12 (25) altering or changing the serial number,
13 engine number, decal or other numbers or marks of a vehicle or
14 motor vehicle as provided in Section 30-16D-9 NMSA 1978;

15 B. "person" means an individual or entity capable
16 of holding a legal or beneficial interest in property;

17 C. "enterprise" means a sole proprietorship,
18 partnership, corporation, business, labor union, association or
19 other legal entity or a group of individuals associated in fact
20 although not a legal entity and includes illicit as well as
21 licit entities; and

22 D. "pattern of racketeering activity" means
23 engaging in at least two incidents of racketeering with the
24 intent of accomplishing any of the prohibited activities set
25 forth in Subsections A through D of Section 30-42-4 NMSA 1978;

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1 provided at least one of the incidents occurred after [~~the~~
2 ~~effective date of the Racketeering Act~~] February 28, 1980 and
3 the last incident occurred within five years after the
4 commission of a prior incident of racketeering."

5 Section 11. A new section of Chapter 31, Article 18 NMSA
6 1978 is enacted to read:

7 "[NEW MATERIAL] USE OF A STOLEN VEHICLE OR MOTOR VEHICLE--
8 ALTERATION OF BASIC SENTENCE.--

9 A. When a separate finding of fact by the court or
10 jury shows that a vehicle or motor vehicle unlawfully taken,
11 embezzled or fraudulently obtained was used in the commission
12 of a noncapital felony, the basic sentence of imprisonment
13 prescribed for the offense in Section 31-18-15 NMSA 1978 shall
14 be increased by one year; provided that when the offender is a
15 serious youthful offender or a youthful offender, the sentence
16 may be increased by one year. The sentence imposed by this
17 subsection shall be the first year served and shall not be
18 suspended or deferred.

19 B. For a second or subsequent noncapital felony in
20 which a vehicle or motor vehicle unlawfully taken, embezzled or
21 fraudulently obtained is used, the basic sentence of
22 imprisonment prescribed in Section 31-18-15 NMSA 1978 shall be
23 increased by three years; provided that when the offender is a
24 serious youthful offender or a youthful offender, the sentence
25 may be increased by three years. The sentence imposed by this

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1 subsection shall be the first three years served and shall not
2 be suspended or deferred.

3 C. If the case is tried before a jury and if a
4 prima facie case has been established showing that a vehicle or
5 motor vehicle unlawfully taken, embezzled or fraudulently
6 obtained was used in the commission of the noncapital felony,
7 the court shall submit the issue to the jury by special
8 interrogatory. If the case is tried by the court and if a
9 prima facie case has been established showing that a vehicle or
10 motor vehicle unlawfully taken, embezzled or fraudulently
11 obtained was used in the commission of the noncapital felony,
12 the court shall decide the issue and shall make a separate
13 finding of fact regarding the unlawful taking, embezzlement or
14 fraud."

15 Section 12. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2008.