

HOUSE SAFETY AND CIVIL AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 195

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO CRIMINAL LAW; AMENDING THE EXPLOSIVES ACT TO CHANGE
THE TITLE TO THE WEAPONS OF MASS DESTRUCTION AND EXPLOSIVES
ACT; ESTABLISHING CRIMES RELATING TO THE POSSESSION,
MANUFACTURE AND USE OF, OR THREAT TO USE, A WEAPON OF MASS
DESTRUCTION; PROVIDING PENALTIES.

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

SECTION 1. Section 30-7-17 NMSA 1978 (being Laws 1981,
Chapter 246, Section 1) is amended to read:

"30-7-17. SHORT TITLE.--Sections [~~1 through 6 of this
act]~~ 30-7-17 through 30-7-22 NMSA 1978 may be cited as the
"Weapons of Mass Destruction and Explosives Act"."

SECTION 2. Section 30-7-18 NMSA 1978 (being Laws 1981,
Chapter 246, Section 2, as amended) is amended to read:

"30-7-18. DEFINITIONS.--As used in the Weapons of Mass

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underscored material = new
[bracketed material] = delete

1 Destruction and Explosives Act:

2 A. "chemical warfare agent" means:

3 (1) any weaponized toxic or poisonous
4 chemical, including the following agents or any analog thereof:

5 (a) nerve agents, including tabun,
6 sarin, soman, cyclosarin and the V-series of nerve agents;

7 (b) choking agents, including phosgene
8 and diphosgene;

9 (c) blood agents, including hydrogen
10 cyanide, cyanogen chloride and arsine; and

11 (d) blister agents, including sulfur
12 mustard agents, nitrogen mustard agents, arsenicals, urticants
13 and incapacitating agents; or

14 (2) any other dangerous chemical or hazardous
15 material when the chemical or material is designed or intended
16 to cause great bodily harm or death or widespread and
17 substantial damage to property;

18 ~~[A.]~~ B. "explosive" means any chemical compound or
19 mixture or device, the primary or common purpose of which is to
20 explode, and includes but is not limited to dynamite and other
21 high explosives, black powder, pellet powder, initiating
22 explosives, detonators, safety fuses, squibs, detonating cord,
23 igniter cord and igniters; ~~[and~~

24 ~~B.]~~ C. "explosive device" or "incendiary device"
25 means:

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1 (1) any explosive bomb, grenade, missile or
2 similar device;

3 (2) any device or mechanism used or created to
4 start a fire or explosion with or without a timing mechanism,
5 except cigarette lighters and matches; or

6 (3) any incendiary bomb or grenade, fire bomb
7 or similar device or any device [~~which~~] that includes a
8 flammable liquid or compound and a wick or igniting agent
9 composed of any material [~~which~~] that is capable of igniting
10 the flammable liquid or compound;

11 D. "nuclear agent" means any explosive nuclear
12 device that is designed to cause a nuclear yield;

13 E. "radiological agent" means any:

14 (1) radiological exposure device designed to
15 contain radioactive material that can expose a person to
16 ionizing radiation at a level dangerous to human life;

17 (2) radiological dispersal device that is an
18 explosive device utilized to spread radioactive material; or

19 (3) simple radiological dispersal device that
20 is a container designed to release radiological material as a
21 weapon without an explosion;

22 F. "vector" means a living organism or molecule,
23 including a recombinant molecule or biological product that may
24 be engineered as a result of biotechnology, that is capable of
25 carrying a biological agent or toxin to a host;

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1 G. "weapon of mass destruction" means a chemical
2 warfare agent, weaponized biological warfare agent, nuclear
3 agent or radiological agent;

4 H. "weaponized" means that a substance or agent has
5 been processed, prepared, packaged or synthesized for use as a
6 weapon or munition; and

7 I. "weaponized biological warfare agent" means any
8 weaponized pathogen, toxin, vector or endogenous biological
9 regulator."

10 SECTION 3. Section 30-7-20 NMSA 1978 (being Laws 1981,
11 Chapter 246, Section 4) is amended to read:

12 "30-7-20. FACSIMILE OR HOAX BOMB, [OR] EXPLOSIVE OR
13 WEAPON OF MASS DESTRUCTION.--Any person who intentionally
14 gives, mails or sends or causes to be sent any false or
15 facsimile bomb or explosive or weapon of mass destruction to
16 another person or places or causes to be placed at any location
17 any false or facsimile bomb or explosive or weapon of mass
18 destruction, with the intent that any other person thinks it is
19 a real bomb or explosive or weapon of mass destruction, is
20 guilty of a fourth degree felony."

21 SECTION 4. Section 30-7-21 NMSA 1978 (being Laws 1981,
22 Chapter 246, Section 5) is amended to read:

23 "30-7-21. FALSE REPORT.--

24 A. False report consists of knowingly conveying or
25 causing to be conveyed to any police agency or fire department

1 a false report concerning a fire or explosion or the placement
2 of any explosives or explosive or incendiary device or any
3 other destructive substance or any weapon of mass destruction
4 and includes but is not limited to setting off a fire alarm.

5 B. Any person who commits false report [~~which~~] that
6 causes death or great bodily harm to another person is guilty
7 of a fourth degree felony, but if such death or great bodily
8 harm is not caused, the person is guilty of a misdemeanor."

9 SECTION 5. A new section of the Weapons of Mass
10 Destruction and Explosives Act is enacted to read:

11 "[NEW MATERIAL] POSSESSION, MANUFACTURE AND USE OF WEAPONS
12 OF MASS DESTRUCTION.--

13 A. Any person who knowingly and without lawful
14 authority possesses, develops, manufactures, produces or
15 transfers any weapon of mass destruction is guilty of a second
16 degree felony and shall be sentenced pursuant to Section
17 31-18-15 NMSA 1978.

18 B. Any person who knowingly and intentionally uses
19 against another person a weapon of mass destruction and thereby
20 causes the death of a person is guilty of a first degree felony
21 for use of a weapon of mass destruction resulting in the death
22 of a person and shall be sentenced pursuant to Section 31-18-15
23 NMSA 1978.

24 C. Any person who knowingly and intentionally uses
25 against another person a weapon of mass destruction and thereby

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1 causes great bodily harm to a person is guilty of a second
2 degree felony and shall be sentenced pursuant to Section
3 31-18-15 NMSA 1978.

4 D. Any person who knowingly and intentionally uses
5 a weapon of mass destruction against property with the intent
6 to cause widespread and substantial damage to that property is
7 guilty of a third degree felony and shall be sentenced pursuant
8 to Section 31-18-15 NMSA 1978.

9 E. Any person who, without lawful authority, uses
10 recombinant technology or any other scientific technology to
11 create new pathogens or more virulent forms of existing
12 pathogens for the purpose of creating a weapon of mass
13 destruction is guilty of a first degree felony and shall be
14 sentenced pursuant to Section 31-18-15 NMSA 1978."

15 SECTION 6. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2015.