

HOUSE FLOOR SUBSTITUTE FOR  
HOUSE BILL 17

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

AN ACT

RELATING TO CRIMINAL LAW; INCREASING THE PENALTY FOR A FELON IN  
POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE TO A THIRD DEGREE  
FELONY; PROVIDING EXCEPTIONS.

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

**SECTION 1.** Section 30-7-16 NMSA 1978 (being Laws 1981,  
Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT,  
TRANSPORTATION OR POSSESSION BY A FELON--PENALTY.--

A. It is unlawful for a felon to receive, transport  
or possess any firearm or destructive device in this state.

B. Any person violating the provisions of this  
section shall be guilty of a fourth degree felony and shall be  
sentenced in accordance with the provisions of the Criminal  
Sentencing Act; provided that the violation of and the sentence

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underscored material = new  
[bracketed material] = delete

1 imposed pursuant to this subsection shall be increased to a  
2 violation of and the sentence for a third degree felony if:

3 (1) the person has previously been convicted  
4 of a serious violent offense as defined in Paragraph (4) of  
5 Subsection L of Section 33-2-34 NMSA 1978; or

6 (2) the court makes a specific finding that  
7 the prior felony conviction was a violent felony offense and  
8 that justice will be served by imposing a sentence for a third  
9 degree felony and that there are substantial and compelling  
10 reasons, stated on the record, for departing from the sentence  
11 for a fourth degree felony.

12 C. As used in this section:

13 (1) except as provided in Paragraph (2) of  
14 this subsection, "destructive device" means:

15 (a) any explosive, incendiary or poison  
16 gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge  
17 of more than four ounces; 4) missile having an explosive or  
18 incendiary charge of more than one-fourth ounce; 5) mine; or 6)  
19 similar device;

20 (b) any type of weapon by whatever name  
21 known that will, or that may be readily converted to, expel a  
22 projectile by the action of an explosive or other propellant,  
23 the barrel or barrels of which have a bore of more than one-  
24 half inch in diameter, except a shotgun or shotgun shell that  
25 is generally recognized as particularly suitable for sporting

1 purposes; [~~and~~] or

2 (c) any combination of parts either  
3 designed or intended for use in converting any device into a  
4 destructive device as defined in this paragraph and from which  
5 a destructive device may be readily assembled;

6 (2) the term "destructive device" does not  
7 include any device that is neither designed nor redesigned for  
8 use as a weapon or any device, although originally designed for  
9 use as a weapon, that is redesigned for use as a signaling,  
10 pyrotechnic, line throwing, safety or similar device;

11 [~~(2)~~] (3) "felon" means a person convicted of  
12 a felony offense by a court of the United States or of any  
13 state or political subdivision thereof and:

14 (a) less than ten years have passed  
15 since the person completed serving [~~his~~] a sentence or period  
16 of probation for the felony conviction, whichever is later;

17 (b) the person has not been pardoned for  
18 the felony conviction by the proper authority; and

19 (c) the person has not received a  
20 deferred sentence; and

21 [~~(3)~~] (4) "firearm" means any weapon that will  
22 or is designed to or may readily be converted to expel a  
23 projectile by the action of an explosion; the frame or receiver  
24 of any such weapon; or any firearm muffler or firearm silencer.  
25 "Firearm" includes any handgun, rifle or shotgun."

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