

1 HOUSE BILL 234

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Marian Matthews and Javier Martínez and Natalie Figueroa  
5 and Antonio Maestas and Meredith A. Dixon  
6  
7  
8  
9

10 AN ACT

11 RELATING TO CRIME; AMENDING THE ELEMENTS OF ROBBERY; CREATING  
12 THE CRIME OF ORGANIZED RETAIL CRIME; ADDING ORGANIZED RETAIL  
13 CRIME TO THE DEFINITION OF "RACKETEERING"; IMPOSING PENALTIES.  
14

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

16 SECTION 1. Section 30-16-2 NMSA 1978 (being Laws 1963,  
17 Chapter 303, Section 16-2, as amended) is amended to read:

18 "30-16-2. ROBBERY.--Robbery consists of the theft of  
19 anything of value from the person of another or from the  
20 immediate control of another by use or threatened use of force  
21 or violence. Robbery includes the use or threatened use of  
22 force or violence to retain anything of value stolen from  
23 another person or to effect an escape from the scene of a  
24 theft.

25 Whoever commits robbery is guilty of a third degree

.223182.6

underscored material = new  
[bracketed material] = delete

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

1 felony.

2           Whoever commits robbery while armed with a deadly weapon  
3 is, for the first offense, guilty of a second degree felony  
4 and, for second and subsequent offenses, [~~is~~] guilty of a first  
5 degree felony."

6           SECTION 2. Section 30-16-20 NMSA 1978 (being Laws 1965,  
7 Chapter 5, Section 2, as amended) is amended to read:

8           "30-16-20. SHOPLIFTING.--

9           A. Shoplifting consists of one or more of the  
10 following acts:

11                   (1) willfully taking possession of merchandise  
12 with the intention of converting it without paying for it;

13                   (2) willfully concealing merchandise with the  
14 intention of converting it without paying for it;

15                   (3) willfully altering a label, price tag or  
16 marking upon merchandise with the intention of depriving the  
17 merchant of all or some part of the value of it; or

18                   (4) willfully transferring merchandise from  
19 the container in or on which it is displayed to another  
20 container with the intention of depriving the merchant of all  
21 or some part of the value of it.

22           B. Whoever commits shoplifting when the value of  
23 the merchandise shoplifted:

24                   (1) is two hundred fifty dollars (\$250) or  
25 less is guilty of a petty misdemeanor;

.223182.6

underscored material = new  
[bracketed material] = delete

1 (2) is more than two hundred fifty dollars  
2 (\$250) but not more than five hundred dollars (\$500) is guilty  
3 of a misdemeanor;

4 (3) is more than five hundred dollars (\$500)  
5 but not more than two thousand five hundred dollars (\$2,500) is  
6 guilty of a fourth degree felony;

7 (4) is more than two thousand five hundred  
8 dollars (\$2,500) but not more than twenty thousand dollars  
9 (\$20,000) is guilty of a third degree felony; or

10 (5) is more than twenty thousand dollars  
11 (\$20,000) is guilty of a second degree felony.

12 [~~C. An individual charged with a violation of this~~  
13 ~~section shall not be charged with a separate or additional~~  
14 ~~offense arising out of the same transaction.~~]

15 C. If an individual commits more than one  
16 shoplifting offense within a period of ninety days, whether  
17 committed at one or more retailers, the prosecution may charge  
18 the different incidents of shoplifting separately based on the  
19 value of merchandise stolen for each incident or jointly based  
20 on an aggregated retail market value of merchandise stolen.  
21 Venue for prosecutions based on an aggregated retail market  
22 value of merchandise stolen shall be proper in any county in  
23 which merchandise was shoplifted.

24 D. As used in this section:

25 (1) "aggregated retail market value" means the

underscored material = new  
[bracketed material] = delete

1 total combined value of all merchandise involved at the price  
2 at which the merchandise would ordinarily be sold by the  
3 retailer with the legitimate sale or distribution of the item;  
4 and

5 (2) "retailer" means a person or business that  
6 sells or facilitates the sale of merchandise to the public for  
7 use or consumption rather than for resale."

8 SECTION 3. A new section of Chapter 30, Article 16 NMSA  
9 1978 is enacted to read:

10 "[NEW MATERIAL] ORGANIZED RETAIL CRIME--PENALTIES.--

11 A. A person who commits any of the following acts  
12 is guilty of organized retail crime:

13 (1) acts in concert with one or more persons  
14 to steal merchandise with an aggregated retail market value of  
15 two thousand five hundred dollars (\$2,500) or more from one or  
16 more retailers over the span of one year with the intent to  
17 sell, exchange or return the merchandise for value;

18 (2) acts in concert with one or more persons  
19 to receive, purchase or possess merchandise with an aggregated  
20 retail market value of two thousand five hundred dollars  
21 (\$2,500) or more over the span of one year, knowing or  
22 believing it to have been stolen;

23 (3) acts as an agent of another individual or  
24 group of individuals to steal merchandise with an aggregated  
25 retail market value of two thousand five hundred dollars

.223182.6

1 (\$2,500) or more from one or more retailers over the span of  
2 one year as part of an organized plan to commit theft; or

3 (4) recruits, coordinates, organizes,  
4 supervises, directs, manages or finances another to undertake  
5 any of the acts described in this section or any other statute  
6 defining theft of merchandise.

7 B. Venue shall be proper in any county in which  
8 merchandise is stolen.

9 C. Whoever commits organized retail crime is guilty  
10 of a second degree felony.

11 D. As used in this section:

12 (1) "aggregated retail market value" means the  
13 total combined value of all merchandise involved at the price  
14 at which the merchandise would ordinarily be sold by the  
15 retailer with the legitimate sale or distribution of the item;  
16 and

17 (2) "retailer" means a person or business that  
18 sells or facilitates the sale of merchandise to the public for  
19 use or consumption rather than for resale."

20 SECTION 4. Section 30-42-3 NMSA 1978 (being Laws 1980,  
21 Chapter 40, Section 3, as amended by Laws 2009, Chapter 253,  
22 Section 7 and by Laws 2009, Chapter 261, Section 7) is amended  
23 to read:

24 "30-42-3. DEFINITIONS.--As used in the Racketeering Act:

25 A. "racketeering" means any act that is chargeable

1 or indictable under the laws of New Mexico and punishable by  
2 imprisonment for more than one year, involving any of the  
3 following cited offenses:

4 (1) murder, as provided in Section 30-2-1 NMSA  
5 1978;

6 (2) robbery, as provided in Section 30-16-2  
7 NMSA 1978;

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

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

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

14 (6) fraud, as provided in Section 30-16-6 NMSA  
15 1978;

16 (7) embezzlement, as provided in Section  
17 30-16-8 NMSA 1978;

18 (8) receiving stolen property, as provided in  
19 Section 30-16-11 NMSA 1978;

20 (9) bribery, as provided in Sections 30-24-1  
21 through 30-24-3.1 NMSA 1978;

22 (10) gambling, as provided in Sections  
23 30-19-3, 30-19-13 and 30-19-15 NMSA 1978;

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

.223182.6

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

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

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

5 (14) arson and aggravated arson, as provided  
6 in Subsection A of Section 30-17-5 and Section 30-17-6 NMSA  
7 1978;

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

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

12 (17) fraudulent securities practices, as  
13 provided in the New Mexico Uniform Securities Act [~~of 1986~~];

14 (18) loan sharking, as provided in Sections  
15 30-43-1 through 30-43-5 NMSA 1978;

16 (19) distribution of controlled substances or  
17 controlled substance analogues, as provided in Sections  
18 30-31-21 and 30-31-22 NMSA 1978;

19 (20) a violation of the provisions of Section  
20 30-51-4 NMSA 1978;

21 (21) unlawful taking of a vehicle or motor  
22 vehicle, as provided in Section 30-16D-1 NMSA 1978;

23 (22) embezzlement of a vehicle or motor  
24 vehicle, as provided in Section 30-16D-2 NMSA 1978;

25 (23) fraudulently obtaining a vehicle or motor

.223182.6

1 vehicle, as provided in Section 30-16D-3 NMSA 1978;

2 (24) receiving or transferring stolen vehicles  
3 or motor vehicles, as provided in Section 30-16D-4 NMSA 1978;  
4 [~~and~~]

5 (25) altering or changing the serial number,  
6 engine number, decal or other numbers or marks of a vehicle or  
7 motor vehicle, as provided in Section 30-16D-6 NMSA 1978; and

8 (26) organized retail crime, as provided in  
9 Section 3 of this 2023 act;

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

12 C. "enterprise" means a sole proprietorship,  
13 partnership, corporation, business, labor union, association or  
14 other legal entity or a group of individuals associated in fact  
15 although not a legal entity and includes illicit as well as  
16 licit entities; and

17 D. "pattern of racketeering activity" means  
18 engaging in at least two incidents of racketeering with the  
19 intent of accomplishing any of the prohibited activities set  
20 forth in Subsections A through D of Section 30-42-4 NMSA 1978;  
21 provided at least one of the incidents occurred after February  
22 28, 1980 and the last incident occurred within five years after  
23 the commission of a prior incident of racketeering."