

1 HOUSE BILL 514

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

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO FIREARMS; PROHIBITING AN UNDOCUMENTED PERSON FROM
12 RECEIVING, TRANSPORTING OR POSSESSING A FIREARM OR DESTRUCTIVE
13 DEVICE.
14

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

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

18 "30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT,
19 TRANSPORTATION OR POSSESSION BY CERTAIN PERSONS--PENALTY.--

20 A. It is unlawful for the following persons to
21 receive, transport or possess a firearm or destructive device
22 in this state:

23 (1) a felon;

24 (2) a person subject to an order of protection
25 pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978; [or]

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1 (3) an undocumented person; or

2 ~~(3)~~ (4) a person convicted of any of the
3 following crimes:

4 (a) battery against a household member
5 pursuant to Section 30-3-15 NMSA 1978;

6 (b) criminal damage to property of a
7 household member pursuant to Section 30-3-18 NMSA 1978;

8 (c) a first offense of stalking pursuant
9 to Section 30-3A-3 NMSA 1978; or

10 (d) a crime listed in 18 U.S.C. 921.

11 B. A felon found in possession of a firearm shall
12 be guilty of a third degree felony.

13 C. A serious violent felon that is found to be in
14 possession of a firearm shall be guilty of a third degree
15 felony, and notwithstanding the provisions of Section 31-18-15
16 NMSA 1978, shall be sentenced to a basic term of six years
17 imprisonment.

18 D. Any person subject to an order of protection
19 pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or convicted
20 of a crime listed in Paragraph ~~(3)~~ (4) of Subsection A of
21 this section who receives, transports or possesses a firearm or
22 destructive device is guilty of a misdemeanor.

23 E. As used in this section:

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

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

6 (b) any type of weapon by whatever name
7 known that will, or that may be readily converted to, expel a
8 projectile by the action of an explosive or other propellant,
9 the barrel or barrels of which have a bore of more than one-
10 half inch in diameter, except a shotgun or shotgun shell that
11 is generally recognized as particularly suitable for sporting
12 purposes; or

13 (c) any combination of parts either
14 designed or intended for use in converting any device into a
15 destructive device as defined in this paragraph and from which
16 a destructive device may be readily assembled;

17 (2) the term "destructive device" does not
18 include any device that is neither designed nor redesigned for
19 use as a weapon or any device, although originally designed for
20 use as a weapon, that is redesigned for use as a signaling,
21 pyrotechnic, line throwing, safety or similar device;

22 (3) "felon" means a person convicted of a
23 felony offense by a court of the United States or of any state
24 or political subdivision thereof and:

25 (a) less than ten years have passed

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1 since the person completed serving a sentence or period of
2 probation for the felony conviction, whichever is later;

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

5 (c) the person has not received a
6 deferred sentence;

7 (4) "firearm" means any weapon that will or is
8 designed to or may readily be converted to expel a projectile
9 by the action of an explosion or the frame or receiver of any
10 such weapon; ~~and~~

11 (5) "serious violent felon" means a person
12 convicted of an offense enumerated in Subparagraphs (a) through
13 (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA
14 1978; provided that:

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

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

20 (c) the person has not received a
21 deferred sentence and completed the total term of deferment as
22 provided in Section 31-20-9 NMSA 1978; and

23 (6) "undocumented person" means an individual
24 not legally present in the United States at the time of the
25 possession at issue."

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