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HOUSE BILL 93

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

R. DAVID PEDERSON

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

**RELATING TO CRIMINAL LAW; REVISING CRIMINAL PENALTIES FOR
FRAUDULENT REFUSAL TO RETURN A LEASED VEHICLE OR OTHER LEASED
PERSONAL PROPERTY; REVISING CRIMINAL PENALTIES FOR UNLAWFUL
TAKING OF A VEHICLE OR MOTOR VEHICLE.**

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

**Section 1. Section 30-16-40 NMSA 1978 (being Laws 1973,
Chapter 154, Section 1, as amended) is amended to read:**

**"30-16-40. FRAUDULENT REFUSAL TO RETURN A LEASED VEHICLE
OR OTHER PERSONAL PROPERTY--PENALTY--PRESUMPTION.--**

**A. Any person who, after leasing a vehicle or
other personal property under a written agreement which
provides for the return of the vehicle or personal property to
a particular place at a particular time and who, with intent
to defraud the lessor of the vehicle or personal property,**

. 119948. 3

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1 fails to return the vehicle or personal property to the place
2 within the time specified, is guilty:

3 (1) ~~[of a fourth degree felony if the~~
4 ~~property is a vehicle or has a value in excess of one hundred~~
5 ~~dollars (\$100); or~~

6 ~~(2)]~~ of a petty misdemeanor if the property
7 is not a vehicle and has a value of one hundred dollars (\$100)
8 or less;

9 (2) of a fourth degree felony if the property
10 is not a vehicle and has a value of more than one hundred
11 dollars (\$100) but less than two thousand five hundred dollars
12 (\$2,500);

13 (3) of a fourth degree felony if the vehicle
14 has a value of less than two thousand five hundred dollars
15 (\$2,500); and

16 (4) of a third degree felony if the property
17 or vehicle has a value of two thousand five hundred dollars
18 (\$2,500) or more.

19 B. Failure of the lessee to return the vehicle or
20 personal property to the place specified within seventy-two
21 hours after mailing to him by certified mail at his address
22 shown on the leasing agreement [of] a written demand to return
23 the vehicle or personal property shall raise a rebuttable
24 presumption that the failure to return the vehicle or personal
25 property was with intent to defraud. "

. 119948. 3

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1 Section 2. Section 66-3-504 NMSA 1978 (being Laws 1978,
2 Chapter 35, Section 91) is amended to read:

3 "66-3-504. UNLAWFUL TAKING OF A VEHICLE OR MOTOR
4 VEHICLE. --

5 A. Any person who [~~shall take~~] takes any vehicle
6 or motor vehicle intentionally and without consent of the
7 owner [~~thereof shall be~~] is guilty: [~~of a felony~~]

8 (1) of a fourth degree felony if the vehicle
9 or motor vehicle has a value of less than two thousand five
10 hundred dollars (\$2,500); and

11 (2) of a third degree felony if the vehicle
12 or motor vehicle has a value of two thousand five hundred
13 dollars (\$2,500) or more.

14 B. The consent of the owner of the vehicle or
15 motor vehicle to its taking shall not in any case be presumed
16 or implied because of [~~such~~] the owner's consent on a previous
17 occasion to the taking of [~~such~~] the vehicle or motor vehicle
18 by the same or a different person.

19 [~~B.~~] C. The district courts are [~~hereby~~] given
20 exclusive jurisdiction to hear and try offenses prescribed
21 under this section.

22 [~~C.~~] D. Nothing in this section shall be construed
23 to prohibit the holder of a lien duly recorded with the
24 division from taking possession of a vehicle to which
25 possession [~~said~~] the lienholder is legally entitled under the

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1 provisions of the instrument evidencing [~~such~~] the lien. A
2 holder of a duly recorded lien who takes possession of a
3 vehicle without the knowledge of the owner of [~~such~~] the
4 vehicle shall immediately notify the local police authority of
5 the fact that he has taken possession of the vehicle. "

6 Section 3. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 1998.

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 January 28, 1998
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9 Mr. Speaker:
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11 Your RULES AND ORDER OF BUSINESS COMMITTEE, to
12 whom has been referred
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15 HOUSE BILL 93
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17 has had it under consideration and finds same to be GERMANE
18 in accordance with constitutional provisions.
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21 Respectfully submitted,
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R. David Pederson, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Lujan, Picraux, Sanchez, Taylor, James G., Williams,

S. M

Absent: None

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 January 30, 1998
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8 Mr. Speaker:
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10 Your JUDICIARY COMMITTEE, to whom has been referred
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12 HOUSE BILL 93
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14 has had it under consideration and reports same with
15 recommendation that it DO PASS.
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17 Respectfully submitted,
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20 _____
21 Thomas P. Foy, Chairman
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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

Page 8

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Alwin, Larranaga, Mallory, Rios, Sanchez, Stewart

Absent: None

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