

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT  
COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 55

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

AN ACT

RELATING TO CRIME; CREATING THE CRIME OF ORGANIZED RETAIL  
CRIME; AMENDING THE ELEMENTS OF ROBBERY; ADDING ORGANIZED  
RETAIL CRIME TO RACKETEERING; IMPOSING PENALTIES.

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

SECTION 1. A new section of Chapter 30, Article 16 NMSA  
1978 is enacted to read:

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

A. Organized retail crime consists of one or more  
of the following acts committed as part of a concerted effort  
by a person or a coordinated plan with one or more  
coconspirators to deprive a retailer of merchandise on two or  
more occasions or deprive multiple retailers located in the  
state of merchandise over the span of one calendar year:

(1) willfully taking possession of merchandise

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1 with the intention of converting the merchandise without paying  
2 for the merchandise;

3 (2) willfully concealing merchandise with the  
4 intention of converting the merchandise without paying for the  
5 merchandise;

6 (3) willfully altering a label, price tag or  
7 marking upon merchandise with the intention of depriving the  
8 retailer of all or some part of the value of the merchandise;  
9 or

10 (4) willfully transferring merchandise from  
11 the container in or on which the merchandise is displayed to  
12 another container with the intention of depriving the retailer  
13 of all or some part of the value of the merchandise.

14 B. Whoever commits organized retail crime when the  
15 aggregated value of the merchandise taken, concealed, altered  
16 or transferred is two hundred fifty dollars (\$250) or less is  
17 guilty of a petty misdemeanor.

18 C. Whoever commits organized retail crime when the  
19 aggregated value of the merchandise taken, concealed, altered  
20 or transferred is over two hundred fifty dollars (\$250) but not  
21 more than five hundred dollars (\$500) is guilty of a  
22 misdemeanor.

23 D. Whoever commits organized retail crime when the  
24 aggregated value of the merchandise taken, concealed, altered  
25 or transferred is over five hundred dollars (\$500) but not more

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1 than two thousand five hundred dollars (\$2,500) is guilty of a  
 2 fourth degree felony.

3 E. Whoever commits organized retail crime when the  
 4 aggregated value of the merchandise taken, concealed, altered  
 5 or transferred is over two thousand five hundred dollars  
 6 (\$2,500) but not more than twenty thousand dollars (\$20,000) is  
 7 guilty of a third degree felony.

8 F. Whoever commits organized retail crime when the  
 9 aggregated value of the merchandise taken, concealed, altered  
 10 or transferred is over twenty thousand dollars (\$20,000) is  
 11 guilty of a second degree felony.

12 G. 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 H. Venue shall be proper in any county in which  
 16 merchandise is stolen.

17 I. As used in this section:

18 (1) "aggregated value" means the total value  
 19 of merchandise taken, concealed, altered or transferred from  
 20 any retailer over the span of one calendar year;

21 (2) "concerted effort" means an arranged,  
 22 planned, coordinated or deliberate action taken in furtherance  
 23 of an objective;

24 (3) "coordinated plan" means an arrangement,  
 25 intention or agreement to work toward a common action, effort

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1 or operation; and

2 (4) "retailer" means a person or business that  
3 sells goods to the public for use or consumption rather than  
4 for resale."

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

7 "30-16-2. ROBBERY.--Robbery consists of the theft of  
8 anything of value from the person of another or from the  
9 immediate control of another by use or threatened use of force  
10 or violence. Robbery consists of the use or threatened use of  
11 force or violence:

12 A. in the theft of anything of value from another  
13 person or from the immediate control of another person;

14 B. to retain anything of value stolen from another  
15 person or the immediate control of another person; or

16 C. to effect an escape from the scene of a theft.

17 Whoever commits robbery is guilty of a third degree  
18 felony.

19 Whoever commits robbery while armed with a deadly weapon  
20 is, for the first offense, guilty of a second degree felony  
21 and, for second and subsequent offenses, [~~is~~] guilty of a first  
22 degree felony."

23 SECTION 3. Section 30-42-3 NMSA 1978 (being Laws 1980,  
24 Chapter 40, Section 3, as amended by Laws 2009, Chapter 253,  
25 Section 7 and by Laws 2009, Chapter 261, Section 7) is amended

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1 to read:

2 "30-42-3. DEFINITIONS.--As used in the Racketeering Act:

3 A. "racketeering" means any act that is chargeable  
4 or indictable under the laws of New Mexico and punishable by  
5 imprisonment for more than one year, involving any of the  
6 following cited offenses:

7 (1) murder, as provided in Section 30-2-1 NMSA  
8 1978;

9 (2) robbery, as provided in Section 30-16-2  
10 NMSA 1978;

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

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

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

17 (6) fraud, as provided in Section 30-16-6 NMSA  
18 1978;

19 (7) embezzlement, as provided in Section  
20 30-16-8 NMSA 1978;

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

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

25 (10) gambling, as provided in Sections

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1 30-19-3, 30-19-13 and 30-19-15 NMSA 1978;

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

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

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

8 (14) arson and aggravated arson, as provided  
9 in Subsection A of Section 30-17-5 and Section 30-17-6 NMSA  
10 1978;

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

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

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

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

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

22 (20) a violation of the provisions of Section  
23 30-51-4 NMSA 1978;

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

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

3 (23) fraudulently obtaining a vehicle or motor  
 4 vehicle, as provided in Section 30-16D-3 NMSA 1978;

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

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

11 (26) organized retail crime, as provided in  
 12 Section 1 of this 2023 act;

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

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

20 D. "pattern of racketeering activity" means  
 21 engaging in at least two incidents of racketeering with the  
 22 intent of accomplishing any of the prohibited activities set  
 23 forth in Subsections A through D of Section 30-42-4 NMSA 1978;  
 24 provided at least one of the incidents occurred after February  
 25 28, 1980 and the last incident occurred within five years after

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1 the commission of a prior incident of racketeering."

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