

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

(1) of a petty misdemeanor if the property is not a vehicle and has a value of one hundred dollars (\$100) or less;

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

hundred dollars (\$2,500);

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

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

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

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

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

A. Any person who takes any vehicle or motor vehicle intentionally and without consent of the owner is guilty:

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

(2) of a third degree felony if the vehicle

or motor vehicle has a value of two thousand five hundred dollars (\$2,500) or more.

B. The consent of the owner of the vehicle or motor vehicle to its taking shall not in any case be presumed or implied because of the owner's consent on a previous occasion to the taking of the vehicle or motor vehicle by the same or a different person.

C. The district courts are given exclusive jurisdiction to hear and try offenses prescribed under this section.

D. Nothing in this section shall be construed to prohibit the holder of a lien duly recorded with the division from taking possession of a vehicle to which possession the lienholder is legally entitled under the provisions of the instrument evidencing the lien. A holder of a duly recorded lien who takes possession of a vehicle without the knowledge of the owner of the vehicle shall immediately notify the local police authority of the fact that he has taken possession of the vehicle."

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