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SENATE BILL 126

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

INTRODUCED BY

DIANNA J. DURAN

AN ACT

RELATING TO CRIMINAL LAW; INCREASING SENTENCING ENHANCEMENTS
FOR THE USE OF A FIREARM IN THE COMMISSION OF A NONCAPITAL
FELONY; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1. Section 31-18-16 NMSA 1978 (being Laws 1977,
Chapter 216, Section 5, as amended) is amended to read:

"31-18-16. USE OF FIREARM - ALTERATION OF BASIC
SENTENCE - - SUSPENSION AND DEFERRAL LIMITED. - -

A. When a separate finding of fact by the court or
jury shows that a firearm was ~~[used]~~ possessed by an offender
in the commission of a noncapital felony, the basic sentence
of imprisonment prescribed for the offense in Section 31-18-15
NMSA 1978 shall be increased by ~~[one year]~~ five years, and the
sentence imposed by this subsection shall be the first ~~[year]~~

Underscored material = new
[bracketed material] = delete

Underscored material = new
[bracketed material] = delete

1 years served and shall not be suspended or deferred; provided
2 that when the offender is a serious youthful offender or a
3 youthful offender, the sentence imposed by this subsection may
4 be increased by [~~one year~~] five years.

5 ~~[B. For a second or subsequent noncapital felony~~
6 ~~in which a firearm is used, the basic sentence of imprisonment~~
7 ~~prescribed in Section 31-18-15 NMSA 1978 shall be increased by~~
8 ~~three years, and the sentence imposed by this subsection shall~~
9 ~~be the first three years served and shall not be suspended or~~
10 ~~deferred; provided that when the offender is a serious~~
11 ~~youthful offender or a youthful offender, the sentence imposed~~
12 ~~by this subsection may be increased by three years.]~~

13 B. When a separate finding of fact by the court or
14 jury shows that a firearm was discharged in the commission of
15 a noncapital felony, the basic sentence of imprisonment
16 prescribed for the offense in Section 31-18-15 NMSA 1978 shall
17 be increased by ten years, and the sentence imposed by this
18 subsection shall be the first years served and shall not be
19 suspended or deferred; provided that when the offender is a
20 serious youthful offender or a youthful offender, the sentence
21 imposed by this subsection may be increased by ten years.

22 C. When a separate finding of fact by the court or
23 jury shows that a firearm was used and resulted in injury to
24 another person in the commission of a noncapital felony, the
25 basic sentence of imprisonment prescribed for the offense in

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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5
6 January 28, 1998

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8 Mr. President:

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10 Your COMMITTEES' COMMITTEE, to whom has been referred

11
12 SENATE BILL 126

13
14 has had it under consideration and finds same to be GERMANE,
15 pursuant to Senate Executive Message No. 10, and thence referred to
16 the PUBLIC AFFAIRS COMMITTEE.

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19 Respectfully submitted,

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24 _____
25 Manny M. Aragon, Chairman

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

Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

Date _____

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