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SENATE BILL 389

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

L. Skip Vernon

AN ACT

RELATING TO CRIMINAL LAW; ADDING CRIMINAL OFFENSES INVOLVING
AUTO THEFT TO THE LIST OF PREDICATE OFFENSES FOR THE CRIME OF
RACKETEERING; INCREASING PENALTIES FOR OFFENSES INVOLVING AUTO
THEFT; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 30-42-3 NMSA 1978 (being Laws 1980,
Chapter 40, Section 3, as amended) is amended to read:

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

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

- (1) murder, as provided in Section 30-2-1

NMSA 1978;

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- 1 (2) robbery, as provided in Section 30-16-2
2 NMSA 1978;
- 3 (3) kidnapping, as provided in Section 30-4-1
4 NMSA 1978;
- 5 (4) forgery, as provided in Section 30-16-10
6 NMSA 1978;
- 7 (5) larceny, as provided in Section 30-16-1
8 NMSA 1978;
- 9 (6) fraud, as provided in Section 30-16-6
10 NMSA 1978;
- 11 (7) embezzlement, as provided in Section
12 30-16-8 NMSA 1978;
- 13 (8) receiving stolen property, as provided in
14 Section 30-16-11 NMSA 1978;
- 15 (9) bribery, as provided in Sections 30-24-1
16 through 30-24-3 NMSA 1978;
- 17 (10) gambling, as provided in Sections
18 30-19-3, 30-19-13 and 30-19-15 NMSA 1978;
- 19 (11) illegal kickbacks, as provided in
20 Sections 30-41-1 and 30-41-2 NMSA 1978;
- 21 (12) extortion, as provided in Section
22 30-16-9 NMSA 1978;
- 23 (13) trafficking in controlled substances, as
24 provided in Section 30-31-20 NMSA 1978;
- 25 (14) arson and aggravated arson, as provided

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1 in Subsection A of Section 30-17-5 and Section 30-17-6 NMSA
2 1978;

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

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

7 (17) fraudulent securities practices, as
8 provided in the New Mexico Securities Act of 1986;

9 (18) loan sharking, as provided in Sections
10 30-43-1 through 30-43-5 NMSA 1978;

11 (19) distribution of controlled substances or
12 controlled substance [~~analogues~~] analogs, as provided in
13 Sections 30-31-21 and 30-31-22 NMSA 1978; [~~and~~]

14 (20) a violation of the provisions of Section
15 [~~4 of the Money Laundering Act~~] 30-51-4 NMSA 1978;

16 (21) unlawful taking of a vehicle or a motor
17 vehicle, as provided in Section 66-3-504 NMSA 1978;

18 (22) receiving or transferring stolen
19 vehicles or motor vehicles, as provided in Section 66-3-505
20 NMSA 1978; and

21 (23) altering or changing engine numbers or
22 other motor vehicle numbers, as provided in Section 66-3-508
23 NMSA 1978;

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

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1 C. "enterprise" means a sole proprietorship,
2 partnership, corporation, business, labor union, association
3 or other legal entity or a group of individuals associated in
4 fact although not a legal entity and includes illicit as well
5 as licit entities; and

6 D. "pattern of racketeering activity" means
7 engaging in at least two incidents of racketeering with the
8 intent of accomplishing any of the prohibited activities set
9 forth in Subsections A through D of Section 30-42-4 NMSA 1978;
10 provided at least one of the incidents occurred after [~~the~~
11 ~~effective date of the Racketeering Act~~] February 28, 1980 and
12 the last incident occurred within five years after the
13 commission of a prior incident of racketeering. "

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

16 "66-3-504. [UNLAWFUL] TAKING OR EMBEZZLING OF A VEHICLE
17 OR MOTOR VEHICLE. --

18 A. Any person who takes or embezzles any vehicle
19 or motor vehicle intentionally and without consent of the
20 owner is guilty

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

24 ~~(2)] of a third degree felony [if the vehicle~~
25 ~~or motor vehicle has a value of two thousand five hundred~~

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1 ~~dollars (\$2,500) or more]~~ and shall be sentenced pursuant to
2 the provisions of Section 31-18-15 NMSA 1978.

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

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

11 D. Nothing in this section shall be construed to
12 prohibit the holder of a lien duly recorded with the
13 [~~division~~] department from taking possession of a vehicle to
14 which possession the lienholder is legally entitled under the
15 provisions of the instrument evidencing the lien. A holder of
16 a duly recorded lien who takes possession of a vehicle without
17 the knowledge of the owner of the vehicle shall immediately
18 notify the local police authority of the fact that he has
19 taken possession of the vehicle. "

20 Section 3. Section 66-3-505 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 92) is amended to read:

22 "66-3-505. RECEIVING OR TRANSFERRING STOLEN VEHICLES OR
23 MOTOR VEHICLES. --Any person who, with intent to procure or
24 pass title to a vehicle or motor vehicle [~~which~~] that he knows
25 or has reason to believe has been stolen or unlawfully taken,

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1 receives or transfers possession of the [~~same~~] vehicle or
2 motor vehicle from or to another or who has in his possession
3 any vehicle [~~which~~] that he knows or has reason to believe has
4 been stolen or unlawfully taken and who is not an officer of
5 the law engaged at the time in the performance of his duty as
6 such officer is guilty of a fourth degree felony and [~~upon~~
7 ~~conviction shall be sentenced to imprisonment for not less~~
8 ~~than one nor more than five years or to the payment of a fine~~
9 ~~of not more than five thousand dollars (\$5,000) or to both~~
10 ~~such imprisonment and fine in the discretion of the judge~~]
11 shall be sentenced pursuant to the provisions of Section
12 31-18-15 NMSA 1978. "

13 Section 4. Section 66-3-508 NMSA 1978 (being Laws 1978,
14 Chapter 35, Section 95) is amended to read:

15 "66-3-508. ALTERING OR CHANGING ENGINE OR OTHER
16 NUMBERS. --

17 A. No person shall, with fraudulent intent,
18 deface, remove, cover, destroy or alter the manufacturer's
19 serial or engine number or other distinguishing number or
20 identification mark or number placed [~~thereon~~] under
21 assignment of the division of a vehicle required to be
22 registered under the Motor Vehicle Code or any vehicle, motor
23 vehicle or motor vehicle engine for which a dismantler's
24 notification form has been processed through the division, nor
25 shall any person place or stamp any serial, engine or other

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1 number or mark upon [~~such~~] the vehicle except one assigned
2 [~~thereto~~] by the division. [~~Any violation of this provision~~
3 ~~is a felony.~~] A person who violates any provision of this
4 section is guilty of a third degree felony and shall be
5 sentenced pursuant to the provisions of Section 31-18-15 NMSA
6 1978.

7 B. This section shall not prohibit the restoration
8 by an owner of an original serial, engine or other number or
9 mark when [~~such~~] the restoration is made under permit issued
10 by the division nor prevent any manufacturer from placing, in
11 the ordinary course of business, numbers or marks upon
12 vehicles or parts thereof. "

13 Section 5. EFFECTIVE DATE. --The effective date of the
14 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
3
4

5 February 22, 1999
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8 Mr. President:

9
10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
11 referred

12
13 SENATE BILL 389
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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 JUDICIARY COMMITTEE.

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19 Respectfully submitted,
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Shannon Robinson, Chairman

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Howes, Stockard, Smith

Absent: None

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