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HOUSE BILL 723

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Nathan P. Cote

AN ACT

RELATING TO CRIMINAL LAW; PROHIBITING THE MANUFACTURING,
POSSESSION AND SALE OF COUNTERFEIT GOODS; PRESCRIBING
PENALTIES.

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

Section 1. A new section of the Criminal Code is enacted
to read:

"[NEW MATERIAL] MANUFACTURING, POSSESSION AND SALE OF
COUNTERFEIT GOODS--PENALTIES.--

A. It is unlawful for any person to knowingly, for
commercial advantage or private financial gain, manufacture,
distribute, transport, possess with the intent to sell or sell
any counterfeit labels, marks or goods.

B. A person in possession, custody or control of
more than seventy-five counterfeit labels, marks or goods shall

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1 be presumed to be in possession with the intent to sell.

2 C. A person who violates the provisions of
3 Subsection A of this section when the offense involves:

4 (1) one hundred or fewer counterfeit labels,
5 marks or goods, or the total value of the counterfeit labels,
6 marks or goods is two thousand five hundred dollars (\$2,500) or
7 less, is guilty of a misdemeanor and shall be sentenced
8 pursuant to the provisions of Section 31-19-1 NMSA 1978;

9 (2) more than one hundred, but fewer than one
10 thousand counterfeit labels, marks or goods, or the total value
11 of the counterfeit labels, marks or goods is more than two
12 thousand five hundred dollars (\$2,500) but less than ten
13 thousand dollars (\$10,000), is guilty of a fourth degree felony
14 and shall be sentenced pursuant to the provisions of Section
15 31-18-15 NMSA 1978;

16 (3) a third or subsequent conviction is guilty
17 of a fourth degree felony and shall be sentenced pursuant to
18 the provisions of Section 31-18-15 NMSA 1978;

19 (4) one thousand or more counterfeit labels,
20 marks or goods, or the total value of the counterfeit labels,
21 marks or goods is ten thousand dollars (\$10,000) or more, is
22 guilty of a third degree felony and shall be sentenced pursuant
23 to the provisions of Section 31-18-15 NMSA 1978;

24 (5) the reckless disregard for the person of
25 another that results in injury to another person is guilty of a

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1 third degree felony and shall be sentenced pursuant to the
2 provisions of Section 31-18-15 NMSA 1978; and

3 (6) the reckless disregard for the person of
4 another that results in great bodily harm to or death of
5 another person is guilty of a second degree felony.

6 D. Counterfeit labels, marks or goods are subject
7 to forfeiture pursuant to the provisions of the Forfeiture
8 Act."

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