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HOUSE BILL 118

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO CRIMINAL PENALTIES; CHANGING THE CLASSIFICATION OF VIOLATION OF SECTION 30-7-16 NMSA 1978 (BEING LAWS 1981, CHAPTER 225, SECTION 1, AS AMENDED) FROM A FOURTH TO A THIRD DEGREE FELONY.

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

SECTION 1. Section 30-7-16 NMSA 1978 (being Laws 1981, Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT, TRANSPORTATION OR POSSESSION BY A FELON--PENALTY.--

A. It is unlawful for a felon to receive, transport or possess any firearm or destructive device in this state.

B. Any person violating the provisions of this section shall be guilty of a [~~fourth~~] third degree felony and shall be sentenced in accordance with the provisions of the

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1 Criminal Sentencing Act.

2 C. As used in this section:

3 (1) "destructive device" means:

4 (a) any explosive, incendiary or poison
5 gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge
6 of more than four ounces; 4) missile having an explosive or
7 incendiary charge of more than one-fourth ounce; 5) mine; or 6)
8 similar device;

9 (b) any type of weapon by whatever name
10 known that will, or that may be readily converted to, expel a
11 projectile by the action of an explosive or other propellant,
12 the barrel or barrels of which have a bore of more than one-
13 half inch in diameter, except a shotgun or shotgun shell that
14 is generally recognized as particularly suitable for sporting
15 purposes; and

16 (c) any combination of parts either
17 designed or intended for use in converting any device into a
18 destructive device as defined in this paragraph and from which
19 a destructive device may be readily assembled.

20 The term "destructive device" does not include any device
21 that is neither designed nor redesigned for use as a weapon or
22 any device, although originally designed for use as a weapon,
23 that is redesigned for use as a signaling, pyrotechnic, line
24 throwing, safety or similar device;

25 (2) "felon" means a person convicted of a

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1 felony offense by a court of the United States or of any state
2 or political subdivision thereof and:

3 (a) less than ten years have passed
4 since the person completed serving ~~his~~ a sentence or period
5 of probation for the felony conviction, whichever is later;

6 (b) the person has not been pardoned for
7 the felony conviction by the proper authority; and

8 (c) the person has not received a
9 deferred sentence; and

10 (3) "firearm" means any weapon that will or is
11 designed to or may readily be converted to expel a projectile
12 by the action of an explosion; the frame or receiver of any
13 such weapon; or any firearm muffler or firearm silencer.

14 "Firearm" includes any handgun, rifle or shotgun."

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