

HOUSE BILL 234

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO CRIME; AMENDING THE ELEMENTS OF ROBBERY;
HCEDC→**AMENDING THE ELEMENTS OF SHOPLIFTING;**←HCEDC CREATING THE
CRIME OF ORGANIZED RETAIL CRIME; ADDING ORGANIZED RETAIL CRIME
TO THE DEFINITION OF "RACKETEERING"; IMPOSING PENALTIES.

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

SECTION 1. Section 30-16-2 NMSA 1978 (being Laws 1963,
Chapter 303, Section 16-2, as amended) is amended to read:

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"30-16-2. ROBBERY.--Robbery consists of the theft of anything of value from the person of another or from the immediate control of another by use or threatened use of force or violence. Robbery includes the use or threatened use of force or violence to retain anything of value stolen from another person or to effect an escape from the scene of a theft.

Whoever commits robbery is guilty of a third degree felony.

Whoever commits robbery while armed with a deadly weapon is, for the first offense, guilty of a second degree felony and, for second and subsequent offenses, [~~is~~] guilty of a first degree felony."

SECTION 2. Section 30-16-20 NMSA 1978 (being Laws 1965, Chapter 5, Section 2, as amended) is amended to read:

"30-16-20. SHOPLIFTING.--

A. Shoplifting consists of one or more of the following acts:

(1) willfully taking possession of merchandise with the intention of converting it without paying for it;

(2) willfully concealing merchandise with the intention of converting it without paying for it;

(3) willfully altering a label, price tag or marking upon merchandise with the intention of depriving the merchant of all or some part of the value of it; or

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(4) willfully transferring merchandise from the container in or on which it is displayed to another container with the intention of depriving the merchant of all or some part of the value of it.

B. Whoever commits shoplifting when the value of the merchandise shoplifted:

(1) is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor;

(2) is more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor;

(3) is more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony;

(4) is more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony; or

(5) is more than twenty thousand dollars (\$20,000) is guilty of a second degree felony.

~~[G. An individual charged with a violation of this section shall not be charged with a separate or additional offense arising out of the same transaction.]~~

C. If an individual commits more than one shoplifting offense within a period of ninety days, whether committed at one or more retailers, the prosecution may charge

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the different incidents of shoplifting separately based on the value of merchandise stolen for each incident or jointly based on an aggregated retail market value of merchandise stolen. Venue for prosecutions based on an aggregated retail market value of merchandise stolen shall be proper in any county in which merchandise was shoplifted.

D. As used in this section:

(1) "aggregated retail market value" means the total combined value of all merchandise involved at the price at which the merchandise would ordinarily be sold by the retailer with the legitimate sale or distribution of the item; and

(2) "retailer" means a person or business that sells or facilitates the sale of merchandise to the public for use or consumption rather than for resale."

SECTION 3. A new section of Chapter 30, Article 16 NMSA 1978 is enacted to read:

"[NEW MATERIAL] ORGANIZED RETAIL CRIME--PENALTIES.--

A. A person who commits any of the following acts is guilty of organized retail crime:

(1) acts in concert with one or more persons to steal merchandise with an aggregated retail market value of two thousand five hundred dollars (\$2,500) or more from one or more retailers over the span of one year with the intent to sell, exchange or return the merchandise for value;

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(2) acts in concert with one or more persons to receive, purchase or possess merchandise with an aggregated retail market value of two thousand five hundred dollars (\$2,500) or more over the span of one year, knowing or believing it to have been stolen;

(3) acts as an agent of another individual or group of individuals to steal merchandise with an aggregated retail market value of two thousand five hundred dollars (\$2,500) or more from one or more retailers over the span of one year as part of an organized plan to commit theft; or

(4) recruits, coordinates, organizes, supervises, directs, manages or finances another to undertake any of the acts described in this section or any other statute defining theft of merchandise.

B. Venue shall be proper in any county in which merchandise is stolen.

C. Whoever commits organized retail crime is guilty of a second degree felony.

D. As used in this section:

(1) "aggregated retail market value" means the total combined value of all merchandise involved at the price at which the merchandise would ordinarily be sold by the retailer with the legitimate sale or distribution of the item; and

(2) "retailer" means a person or business that

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sells or facilitates the sale of merchandise to the public for use or consumption rather than for resale."

SECTION 4. Section 30-42-3 NMSA 1978 (being Laws 1980, Chapter 40, Section 3, as amended by Laws 2009, Chapter 253, Section 7 and by Laws 2009, Chapter 261, Section 7) 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;

(2) robbery, as provided in Section 30-16-2 NMSA 1978;

(3) kidnapping, as provided in Section 30-4-1 NMSA 1978;

(4) forgery, as provided in Section 30-16-10 NMSA 1978;

(5) larceny, as provided in Section 30-16-1 NMSA 1978;

(6) fraud, as provided in Section 30-16-6 NMSA 1978;

(7) embezzlement, as provided in Section 30-16-8 NMSA 1978;

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(8) receiving stolen property, as provided in Section 30-16-11 NMSA 1978;

(9) bribery, as provided in Sections 30-24-1 through 30-24-3.1 NMSA 1978;

(10) gambling, as provided in Sections 30-19-3, 30-19-13 and 30-19-15 NMSA 1978;

(11) illegal kickbacks, as provided in Sections 30-41-1 and 30-41-2 NMSA 1978;

(12) extortion, as provided in Section 30-16-9 NMSA 1978;

(13) trafficking in controlled substances, as provided in Section 30-31-20 NMSA 1978;

(14) arson and aggravated arson, as provided in Subsection A of Section 30-17-5 and Section 30-17-6 NMSA 1978;

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

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

(17) fraudulent securities practices, as provided in the New Mexico Uniform Securities Act [~~of 1986~~];

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

(19) distribution of controlled substances or controlled substance analogues, as provided in Sections

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30-31-21 and 30-31-22 NMSA 1978;

(20) a violation of the provisions of Section 30-51-4 NMSA 1978;

(21) unlawful taking of a vehicle or motor vehicle, as provided in Section 30-16D-1 NMSA 1978;

(22) embezzlement of a vehicle or motor vehicle, as provided in Section 30-16D-2 NMSA 1978;

(23) fraudulently obtaining a vehicle or motor vehicle, as provided in Section 30-16D-3 NMSA 1978;

(24) receiving or transferring stolen vehicles or motor vehicles, as provided in Section 30-16D-4 NMSA 1978;

[and]

(25) altering or changing the serial number, engine number, decal or other numbers or marks of a vehicle or motor vehicle, as provided in Section 30-16D-6 NMSA 1978; and

(26) organized retail crime, as provided in Section 3 of this 2023 act;

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

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

D. "pattern of racketeering activity" means

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engaging in at least two incidents of racketeering with the intent of accomplishing any of the prohibited activities set forth in Subsections A through D of Section 30-42-4 NMSA 1978; provided at least one of the incidents occurred after February 28, 1980 and the last incident occurred within five years after the commission of a prior incident of racketeering."

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