

<b>LFC Requester:</b>	<b>Connor Jorgensen</b>
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**AGENCY BILL ANALYSIS  
2013 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**LFC@NMLEGIS.GOV**

*And*

**DFA@STATE.NM.US**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**      X   **Amendment**            
**Correction**           **Substitute**          

**Date** 01/29/2013  
**Bill No:** HB297--305

**Sponsor:** William "Bill" R. Rehm  
**Short**        FIREARM PENALTIES FOR  
**Title:**        SENTENCING

**Reviewing**    Attorney General's Office  
**Person Writing**    Trevor A. Rigler, AAG  
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**SECTION II: FISCAL IMPACT \*\*\*\*FOR LFC OFFICIAL PURPOSES\*\*\*\***  
**AGO STAFF SHOULD LEAVE SHAGED AREAS BLANK**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

**BILL SUMMARY**

Summary Synopsis:

HB 297, if enacted into law, would make three changes to existing criminal laws regarding firearms.

First, it would change the penalty for defendants convicted of felon in possession of a firearm from a fourth degree felony to a third degree felony for a first offense, and would create a second degree felony for a subsequent offense with a mandatory five year minimum of incarceration. The penalty would not replace any other applicable enhancement.

Second, it would impose a five year sentencing enhancement on a first offense of larceny of a firearm and would impose a ten year sentencing enhancement on a subsequent offense of larceny of a firearm. The enhancement cannot be suspended or deferred. The bill would not change the original charging scheme for the underlying offense of larceny of a firearm: a fourth degree felony penalty when the value of the firearm is below \$2,500, a third degree felony penalty when the value of the firearm is at least \$2,500 but not more than \$20,000, and a second degree felony penalty when the value of the firearm is above \$20,000.

Third, it would increase the firearm enhancement for noncapital felonies from one year to five years for a first offense and from three years to ten years for a subsequent noncapital felony offense.

**FISCAL IMPLICATIONS WITH ENACTING THIS BILL**

The bill primarily amends existing law by enhancing penalties rather than creating new offenses. As a result, it might have an impact in the sense that it could encourage more indicted defendants to demand a trial on the merits instead of entering into a plea and disposition agreement with the prosecution.

**SIGNIFICANT LEGAL ISSUES**

Because the bill creates no new offenses and merely expands penalties, it should comply with the large body of jurisprudence on sentencing enhancements.

**PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL**

None

**ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL**

None

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION**

None

**TECHNICAL ISSUES OR DRAFTING ERROR**

None

**OTHER SUBSTANTIVE LEGAL ISSUES**

None

**ALTERNATIVES TO ENACTING THIS BILL**

None

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

**AMENDMENTS NEEDED TO IMPROVE THIS BILL**

None