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SENATE BILL 440

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Dianna J. Duran

AN ACT

RELATING TO CRIMINAL LAW; REVISING THE ELEMENTS OF STATUTES REGARDING ARSON; PRESCRIBING PENALTIES; PROVIDING FOR RECOVERY OF FIREFIGHTING COSTS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 30-17-5 NMSA 1978 (being Laws 1970, Chapter 39, Section 1) is amended to read:

"30-17-5. ARSON AND NEGLIGENT ARSON. --

A. Arson consists of maliciously or willfully ~~[starting a fire or causing an explosion with the purpose of destroying or damaging any building, occupied structure or property of another, or bridge, utility line, fence or sign]~~ setting fire to or burning, or by the use of an explosive device or explosive substance destroying, or causing to be

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1 burned or destroyed, in whole or in part, any real or personal  
2 property or with the purpose of destroying or damaging any  
3 property, whether the person's own or another's, to collect  
4 insurance for such loss.

5 (1) Whoever commits arson when the value of  
6 the thing destroyed or damaged or intended to be destroyed or  
7 damaged is one hundred dollars (\$100) or less is guilty of a  
8 petty misdemeanor.

9 (2) Whoever commits arson when the value of  
10 the thing destroyed or damaged or intended to be destroyed or  
11 damaged is over one hundred dollars (\$100) but not more than  
12 [~~one thousand dollars (\$1,000) is guilty of a fourth degree~~  
13 ~~felony~~] two hundred fifty dollars (\$250) is guilty of a  
14 misdemeanor.

15 (3) Whoever commits arson when the value of  
16 the thing destroyed or damaged [~~exceeds one thousand dollars~~  
17 ~~(\$1,000) is guilty of a third degree felony~~] or intended to be  
18 destroyed or damaged is over two hundred fifty dollars (\$250)  
19 but not more than two thousand five hundred dollars (\$2,500)  
20 is guilty of a fourth degree felony.

21 (4) Whoever commits arson when the value of  
22 the thing destroyed or damaged or intended to be destroyed or  
23 damaged is over two thousand five hundred dollars (\$2,500) but  
24 not more than twenty thousand dollars (\$20,000) is guilty of a  
25 third degree felony.

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1                   (5) Whoever commits arson when the value of  
2 the thing destroyed or damaged or intended to be destroyed or  
3 damaged is over twenty thousand dollars (\$20,000) is guilty of  
4 a second degree felony.

5                   B. Negligent arson in the third degree consists of  
6 recklessly starting a fire or causing an explosion, whether on  
7 the ~~[person's property or another's]~~ personal or real property  
8 of the person or on the personal or real property of another  
9 and thereby directly causing the death or great bodily injury  
10 of another. ~~[or damaging or destroying a building or occupied~~  
11 ~~structure of another.]~~

12                   ~~Whoever commits negligent arson is guilty of a fourth~~  
13 ~~degree felony.~~

14                   C. ~~As used in this section, "occupied structure"~~  
15 ~~includes a boat, trailer, car, airplane, structure or place~~  
16 ~~adapted for the transportation or storage of property or for~~  
17 ~~overnight accommodations of persons or for carrying on~~  
18 ~~business therein, whether or not a person is actually~~  
19 ~~present.]~~ Whoever commits negligent arson in the third degree  
20 is guilty of a third degree felony.

21                   C. Negligent arson in the fourth degree consists  
22 of recklessly starting a fire or causing an explosion, whether  
23 on the personal or real property of the person or the personal  
24 or real property of another, when the real or personal  
25 property is destroyed or damaged and that property has a value

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1 of two thousand five hundred dollars (\$2,500) or more.  
2 Whoever commits negligent arson in the fourth degree is guilty  
3 of a fourth degree felony.

4 D. Whoever commits negligent arson that destroys  
5 or damages personal or real property of another that has a  
6 value of less than two thousand five hundred dollars (\$2,500)  
7 is guilty of a misdemeanor.

8 E. As used in this section, "negligent" or  
9 "recklessly" means acting with willful disregard for the  
10 rights or safety of others and in a manner that endangers any  
11 person or property."

12 Section 2. Section 30-17-6 NMSA 1978 (being Laws 1963,  
13 Chapter 303, Section 17-6) is amended to read:

14 "30-17-6. AGGRAVATED ARSON. --

15 A. Aggravated arson consists of [the wilful or  
16 malicious damaging by any explosive substance or the wilful or  
17 malicious setting fire to any bridge, aircraft, watercraft,  
18 vehicle, pipe line, utility line, communication line or  
19 structure, railway structure, private or public building,  
20 dwelling or other structure] committing willful or malicious  
21 arson and causing a person great bodily harm.

22 B. Whoever commits aggravated arson as provided in  
23 Subsection A of this section is guilty of a second degree  
24 felony.

25 C. Whoever commits aggravated arson that inflicts

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1 an injury to a person that does not cause great bodily harm,  
2 but does cause painful temporary disfigurement or temporary  
3 loss or impairment of the functions of any member or organ of  
4 the body is guilty of a third degree felony."

5 Section 3. A new section of Chapter 30, Article 17 NMSA  
6 1978 is enacted to read:

7 "[NEW MATERIAL] RECOVERY OF FIREFIGHTING COSTS. --A person  
8 who is convicted of committing arson in the second degree,  
9 arson in the third degree, arson in the fourth degree,  
10 negligent arson in the third degree or negligent arson in the  
11 fourth degree may be required to pay, in addition to  
12 restitution that he is ordered to pay to victims of his  
13 offense, all reasonable costs associated with extinguishing  
14 the fire he caused or controlling damage from the explosion he  
15 caused. "

16 Section 4. EFFECTIVE DATE. --The effective date of the  
17 provisions of this act is July 1, 2001.