

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 442

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO ARSON; AMENDING THE DEFINITION OF "ARSON"; CHANGING
WHAT QUALIFIES AS AGGRAVATED ARSON; PROVIDING A PENALTY.

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, as amended) is amended to read:

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

A. Arson consists of a person maliciously or
willfully starting a fire or causing an explosion with the
purpose of destroying or damaging:

(1) a building, occupied structure or property
of another person;

(2) a bridge, utility line, fence [or], sign
or wildland; or

(3) any property, whether the person's own

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underscored material = new
[bracketed material] = delete

1 property or the property of another person, to collect
2 insurance for the loss.

3 B. Whoever commits arson when the damage is two
4 hundred fifty dollars (\$250) or less is guilty of a petty
5 misdemeanor.

6 C. Whoever commits arson when the damage is over
7 two hundred fifty dollars (\$250) but not more than five hundred
8 dollars (\$500) is guilty of a misdemeanor.

9 D. Whoever commits arson when the damage is over
10 five hundred dollars (\$500) but not more than two thousand five
11 hundred dollars (\$2,500) is guilty of a fourth degree felony,
12 except that if the person intentionally took measures to
13 accelerate the fire or delay the fire's ignition, the person is
14 guilty of a third degree felony.

15 E. Whoever commits arson when the damage is over
16 two thousand five hundred dollars (\$2,500) but not more than
17 twenty thousand dollars (\$20,000) is guilty of a third degree
18 felony, except that if the person intentionally took measures
19 to accelerate the fire or delay the fire's ignition, the person
20 is guilty of a second degree felony.

21 F. Whoever commits arson when the damage is over
22 twenty thousand dollars (\$20,000) is guilty of a second degree
23 felony.

24 G. Negligent arson consists of a person recklessly
25 starting a fire or causing an explosion, whether on the

1 person's property or the property of another person, and
2 thereby directly:

3 (1) [~~causing~~] causes the death or bodily
4 injury of [~~another person; or~~] a public safety officer;

5 (2) causes the death or bodily injury of
6 another person;

7 [~~(2) —damaging~~] (3) damages or [~~destroying~~]
8 destroys a building or occupied structure of another person; or

9 (4) damages or destroys wildland.

10 H. Whoever commits negligent arson is guilty of a
11 fourth degree felony.

12 I. As used in this section, "occupied structure"
13 includes a boat, trailer, car, airplane, structure or place
14 adapted for the transportation or storage of property, for
15 overnight accommodations of persons or for carrying on business
16 therein, whether or not a person is actually present.

17 J. As used in this section:

18 (1) "public safety officer" means a
19 firefighter, law enforcement officer or other emergency
20 personnel; and

21 (2) "wildland" means any brush-covered land,
22 cut-over land, forest, grasslands or woods; whether publicly or
23 privately owned."

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

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1 "30-17-6. AGGRAVATED ARSON.--

2 A. Aggravated arson consists of [~~the wilful or~~
3 ~~malicious~~] a person maliciously or willfully damaging by any
4 explosive substance or [~~the wilful or malicious~~] maliciously or
5 willfully setting fire to any bridge, aircraft, watercraft,
6 vehicle, [~~pipe line~~] pipeline, utility line, communication line
7 or structure, railway structure, private or public building,
8 dwelling or other structure or wildland or causing a person,
9 including a public safety officer performing the officer's
10 duties, great bodily harm.

11 B. Whoever commits aggravated arson is guilty of a
12 second degree felony.

13 C. As used in this section, "wildland" means any
14 brush-covered land, cut-over land, forest, grasslands or woods;
15 whether publicly or privately owned."

16 SECTION 3. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2019.