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HOUSE BILL 796

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Terry T. Marquardt

AN ACT

RELATING TO CRIMINAL LAW; REVISING THE ELEMENTS OF STATUTES  
REGARDING ARSON; PROVIDING PENALTIES; AMENDING 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 a person maliciously [or] and  
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; or with the purpose of destroying or damaging~~  
~~any property, whether the person's own or another's, to collect~~  
~~insurance for such loss.]~~

underscored material = new  
[bracketed material] = delete

1                   (1) setting fire to or burning, in whole or in  
2 part, real property or personal property;

3                   (2) using an explosive device or an explosive  
4 substance to destroy or cause to be burned or destroyed, in  
5 whole or in part, real property or personal property; or

6                   (3) setting fire to or burning, with the  
7 purpose of destroying or damaging real property or personal  
8 property, whether the person's own property or the property of  
9 another person, in order to collect insurance money for the  
10 property loss.

11                   [(-1)] B. Whoever commits arson when the value of  
12 the [thing] property destroyed or damaged or intended to be  
13 destroyed or damaged is one hundred dollars (\$100) or less is  
14 guilty of a petty misdemeanor.

15                   [(-2)] C. Whoever commits arson when the value of  
16 the [thing] property destroyed or damaged or intended to be  
17 destroyed or damaged is over one hundred dollars (\$100) but not  
18 more than [one thousand dollars (\$1,000) is guilty of a fourth  
19 degree felony] two hundred fifty dollars (\$250) is guilty of a  
20 misdemeanor.

21                   [(-3)] D. Whoever commits arson when the value of  
22 the [thing] property destroyed or damaged [exceeds one thousand  
23 dollars (\$1,000) is guilty of a third degree felony] or  
24 intended to be destroyed or damaged is over two hundred fifty  
25 dollars (\$250) but not more than two thousand five hundred

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underscored material = new  
[bracketed material] = delete

1 dollars (\$2,500) is guilty of a fourth degree felony.

2 ~~[B. Negligent arson consists of recklessly starting~~  
3 ~~a fire or causing an explosion, whether on the person's~~  
4 ~~property or another's, and thereby directly causing the death~~  
5 ~~or bodily injury of another; or damaging or destroying a~~  
6 ~~building or occupied structure of another.~~

7 ~~Whoever commits negligent arson is guilty of a fourth~~  
8 ~~degree felony.~~

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

14 E. Whoever commits arson when the value of the  
15 property destroyed or damaged is over two thousand five hundred  
16 dollars (\$2,500) but not more than twenty thousand dollars  
17 (\$20,000) is guilty of a third degree felony.

18 F. Whoever commits arson when the value of the  
19 property destroyed or damaged or intended to be destroyed or  
20 damaged is over twenty thousand dollars (\$20,000) is guilty of  
21 a second degree felony.

22 G. Negligent arson in the third degree consists of  
23 a person recklessly starting a fire or causing an explosion,  
24 whether on the personal or real property of the person or on  
25 the personal or real property of another person, and directly

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underscored material = new  
[bracketed material] = delete

1 causing death or great bodily harm to another person.

2 H. Whoever commits negligent arson in the third  
3 degree is guilty of a third degree felony.

4 I. Negligent arson in the fourth degree consists of  
5 a person recklessly starting a fire or causing an explosion,  
6 whether on the personal or real property of the person or on  
7 the personal or real property of another person, when the value  
8 of the property destroyed or damaged is two thousand five  
9 hundred dollars (\$2,500) or more.

10 J. Whoever commits negligent arson in the fourth  
11 degree is guilty of a fourth degree felony.

12 K. Negligent arson consists of a person recklessly  
13 starting a fire or causing an explosion, whether on the  
14 personal or real property of the person or on the personal or  
15 real property of another person, when the value of the  
16 property destroyed or damaged is less than two thousand five  
17 hundred dollars (\$2,500).

18 L. Whoever commits negligent arson is guilty of a  
19 misdemeanor.

20 M As used in this section, "recklessly" means  
21 acting with willful disregard for the rights or safety of  
22 others and in a manner that endangers another person or real or  
23 personal property."

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 in the second degree consists  
3 of [the wilful or malicious damaging by any explosive substance  
4 or the wilful or malicious setting fire to any bridge,  
5 aircraft, watercraft, vehicle, pipe line, utility line,  
6 communication line or structure, railway structure, private or  
7 public building, dwelling or other structure, causing a person  
8 great bodily harm.

9 ~~Whoever commits aggravated arson is guilty of a second~~  
10 ~~degree felony]~~ a person maliciously and willfully setting a  
11 fire or causing an explosion that results in great bodily harm  
12 to another person.

13 B. Whoever commits aggravated arson in the second  
14 degree is guilty of a second degree felony.

15 C. Aggravated arson in the third degree consists of  
16 a person maliciously and willfully setting a fire or causing an  
17 explosion that results in temporary, painful disfigurement to  
18 another person or results in an impairment to the functions of  
19 a member or an organ of another person's body.

20 D. Whoever commits aggravated arson in the third  
21 degree is guilty of a third degree felony."

22 Section 3. EFFECTIVE DATE. --The effective date of the  
23 provisions of this act is July 1, 2003.