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HOUSE BILL 410

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Nate Gentry

AN ACT

RELATING TO ARSON; AMENDING THE DEFINITION OF "ARSON"; CHANGING
WHAT QUALIFIES AS AGGRAVATED ARSON; INCORPORATING THE COST OF
FIRE SUPPRESSION INTO THE CALCULATION OF LOSS ATTRIBUTED TO
ARSON.

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 or unlawfully starting a fire or causing an explosion
or aiding or counseling in the burning of property with the
purpose of destroying or damaging:

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

underscored material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

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

3 (3) any property, whether the person's own
4 property or the property of another person, to collect
5 insurance for the loss.

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

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

12 D. Whoever commits arson when the damage is over
13 five hundred dollars (\$500) but not more than two thousand five
14 hundred dollars (\$2,500) is guilty of a fourth 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.

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

22 G. In calculating the total amount of property
23 damage and other losses pursuant to Subsections A through F of
24 this section, the court shall consider the cost of fire
25 suppression.

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underscored material = new
[bracketed material] = delete

1 ~~[G.]~~ H. Negligent arson consists of a person
2 recklessly starting a fire or causing an explosion, whether on
3 the person's property or the property of another person, and
4 thereby directly:

5 (1) causing the death or bodily injury of
6 another person, ~~[or]~~ including a public safety officer
7 performing the officer's duties;

8 (2) damaging or destroying a building or
9 occupied structure of another person; or

10 (3) damaging or destroying wildland.

11 ~~[H.]~~ I. Whoever commits negligent arson is guilty
12 of a fourth degree felony.

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

18 K. As used in this section, "wildland" means any
19 brush-covered land, cut-over land, forest, grasslands, woods or
20 wild land-urban interface."

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

23 "30-17-6. AGGRAVATED ARSON.--

24 A. Aggravated arson consists of the ~~[wilful]~~
25 willful ~~[or]~~, malicious or unlawful damaging by any explosive

underscored material = new
[bracketed material] = delete

1 substance or the ~~[wilful]~~ willful, ~~[or]~~ malicious or unlawful
2 setting fire to any bridge, aircraft, watercraft, vehicle,
3 ~~[pipe-line]~~ pipeline, utility line, communication line or
4 structure, railway structure, private or public building,
5 dwelling or other structure or wildland:

6 (1) causing a person, including a public
7 safety officer performing the officer's duties, great bodily
8 harm;

9 (2) causing property damage and other losses
10 in excess of one million dollars (\$1,000,000);

11 (3) causing or proximately causing multiple
12 structures to burn in any single violation pursuant to Section
13 30-17-5 NMSA 1978;

14 (4) by a person who has been previously
15 convicted of arson on one or more occasions within the past ten
16 years; or

17 (5) by a person who used a device designed to
18 accelerate the fire or delay the fire's ignition.

19 B. Whoever commits aggravated arson is guilty of a
20 second degree felony.

21 C. As used in this section, "wildland" means any
22 brush-covered land, cut-over land, forest, grasslands, woods or
23 wild land-urban interface."

24 SECTION 3. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2017.

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