

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

HOUSE BILL No. 2473

(By Delegate Staton, Damron, Kuhn, Trump, Campbell and Laird)



Passed April 12, 1997

In Effect Ninety Days From Passage

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2473

(BY DELEGATES STATON, DAMRON, KUHN,
TRUMP, CAMPBELL AND LAIRD)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, three, four, five and six, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto two new sections, designated sections seven and eight, all relating to the crime of arson generally, modifying penalties; changing fines; modifying elements for arson crimes; providing definitions; creating felony offenses for injuries to persons injured during the commission of an arson crime and providing penalties therefor; and establishing reimbursement for the expenses of arson suppression.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five and six, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto two new sections, designated sections seven and eight, all to read as follows:

ARTICLE 3. CRIMES AGAINST PROPERTY.

7 MAY - 1 1997
STATE OF WEST VIRGINIA
LEGISLATIVE SERVICE CENTER
CHARLESTON, WEST VIRGINIA

§61-3-1. Burning, etc., of a dwelling or outbuilding; first degree arson; penalty; definitions.

1 (a) Any person who willfully and maliciously sets fire
2 to or burns, or who causes to be burned, or who aids,
3 counsels, procures, persuades, incites, entices or solicits
4 any person to burn, any dwelling, whether occupied,
5 unoccupied or vacant, or any outbuilding, whether the
6 property of himself or herself or of another, shall be
7 guilty of arson in the first degree and, upon conviction
8 thereof, be sentenced to the penitentiary for a definite
9 term of imprisonment which is not less than two nor more
10 than twenty years. A person imprisoned pursuant to this
11 section is not eligible for parole prior to having served a
12 minimum of two years of his or her sentence or the
13 minimum period required by the provisions of section
14 thirteen, article twelve, chapter sixty-two of this code,
15 whichever is greater.

16 (b) As used in subsection (a) of this section:

17 (1) "Dwelling" means any building or structure
18 intended for habitation or lodging, in whole or in part,
19 regularly or occasionally, and shall include, but not be
20 limited to, any house, apartment, hotel, dormitory, hospital,
21 nursing home, jail, prison, mobile home, house trailer,
22 modular home, factory-built home or self-propelled
23 motor home;

24 (2) "Outbuilding" means any building or structure
25 which adjoins, is part of, belongs to, or is used in
26 connection with a dwelling, and shall include, but not be
27 limited to, any garage, shop, shed, barn or stable.

§61-3-2. Burning, etc., of other buildings or structures; second degree arson; penalty.

1 Any person who willfully and maliciously sets fire to
2 or burns, or who causes to be burned, or who aids,
3 counsels, procures, persuades, incites, entices or solicits
4 any person to burn, any building or structure of any class
5 or character, whether the property of himself or herself or
6 of another, not included or prescribed in the preceding
7 section, shall be guilty of arson in the second degree and,

8 upon conviction thereof, be sentenced to the penitentiary
9 for a definite term of imprisonment which is not less than
10 one nor more than ten years. A person imprisoned
11 pursuant to this section is not eligible for parole prior to
12 having served a minimum of one year of his or her
13 sentence or the minimum period required by the
14 provisions of section thirteen, article twelve, chapter sixty-
15 two of this code, whichever is greater.

**§61-3-3. Burning personal property of another of the value of
five hundred dollars or more; third degree arson;
penalty.**

1 Any person who willfully and maliciously sets fire to
2 or burns, or who causes to be burned, or who aids,
3 counsels, procures, persuades, incites, entices or solicits
4 any person to burn, any personal property of any class or
5 character, of the value of not less than five hundred
6 dollars, and the property of another person, shall be guilty
7 of arson in the third degree and, upon conviction thereof,
8 be sentenced to the penitentiary for a definite term of
9 imprisonment which is not less than one nor more than
10 three years. A person imprisoned pursuant to this section
11 is not eligible for parole prior to having served a
12 minimum of one year of his or her sentence.

**§61-3-4. Attempt to commit arson; fourth degree arson;
penalty.**

1 (a) Any person who willfully and maliciously attempts
2 to set fire to, or burn, or attempts to cause to be burned, or
3 attempts to aid, counsel, procure, persuade, incite, entice or
4 solicit any person to burn, any of the buildings, structures
5 or personal property mentioned in the foregoing sections,
6 or who commits any act preliminary thereto, or in
7 furtherance thereof, shall be guilty of arson in the fourth
8 degree and, upon conviction thereof, be sentenced to the
9 penitentiary for a definite term of imprisonment which is
10 not less than one nor more than two years, or fined not to
11 exceed two thousand five hundred dollars, or both. A
12 person imprisoned pursuant to this section is not eligible
13 for parole prior to having served a minimum of one year
14 of his or her sentence.

15 (b) The placing or distributing of any inflammable,
16 explosive or combustible material or substance, or any
17 device in any building, structure or personal property
18 mentioned in the foregoing sections, in an arrangement or
19 preparation with intent to eventually, willfully and
20 maliciously, set fire to or burn, or to cause to be burned,
21 or to aid, counsel, procure, persuade, incite, entice or
22 solicit the setting fire to or burning of any building,
23 structure or personal property mentioned in the foregoing
24 sections shall, for the purposes of this section, constitute an
25 attempt to burn that building, structure or personal
26 property.

**§61-3-5. Burning, or attempting to burn, insured property;
penalty.**

1 Any person who willfully and with intent to injure or
2 defraud an insurer sets fire to or burns, or attempts so to
3 do, or causes to be burned, or who aids, counsels, procures,
4 persuades, incites, entices or solicits any person to burn,
5 any building, structure or personal property, of any class
6 or character, whether the property of himself or herself or
7 of another, which shall at the time be insured or which is
8 believed by the person committing an act prohibited by
9 this section to be insured by any person against loss or
10 damage by fire, shall be guilty of a felony and, upon
11 conviction thereof, be sentenced to the penitentiary for a
12 definite term of imprisonment which is not less than one
13 nor more than five years or fined not to exceed ten
14 thousand dollars, or both. A person imprisoned pursuant
15 to this section is not eligible for parole prior to having
16 served a minimum of one year of his or her sentence or
17 the minimum period required by the provisions of section
18 thirteen, article twelve, chapter sixty-two of this code,
19 whichever is greater.

**§61-3-6. Willfully, unlawfully and maliciously setting fire on
lands; penalty.**

1 If any person willfully, unlawfully and maliciously sets
2 fire to any woods, fence, grass, straw or other thing
3 capable of spreading fire on lands, he or she shall be
4 guilty of a felony and, upon conviction, shall be sentenced
5 to the penitentiary for a definite term of imprisonment

6 which is not less than one year nor more than five years or
7 fined not to exceed five thousand dollars, or both. He or
8 she shall, moreover, be liable to any person injured
9 thereby, or in consequence thereof, for double the amount
10 of damages sustained by such person. A person
11 imprisoned pursuant to this section is not eligible for
12 parole prior to having served a minimum of one year of
13 his or her sentence or the minimum period required by
14 the provisions of section thirteen, article twelve, chapter
15 sixty-two of this code, whichever is greater.

**§61-3-7. Causing injuries during an arson-related crime;
penalties.**

1 (a) Any person who violates the provisions of sections
2 one, two, three, four, five or six of this article, which
3 violation causes bodily injury, but does not result in death,
4 to any person shall be guilty of a felony and, upon
5 conviction thereof, shall be sentenced to the penitentiary
6 for a definite term of imprisonment which is not less than
7 two nor more than ten years, or fined not more than five
8 thousand dollars, or both. A person imprisoned pursuant
9 to this section is not eligible for parole prior to having
10 served a minimum of two years of his or her sentence or
11 the minimum period required by the provisions of section
12 thirteen, article twelve, chapter sixty-two of this code,
13 whichever is greater; or

14 (b) Any person who violates the provisions of sections
15 one, two, three, four, five or six of this article, which
16 violation causes serious bodily injury which maims,
17 disfigures, or disables any person, but does not result in
18 death, shall be guilty of a felony and, upon conviction
19 thereof, shall be sentenced to the penitentiary for a
20 definite term of imprisonment which is not less than three
21 nor more than fifteen years, or fined not more than ten
22 thousand dollars, or both. A person imprisoned pursuant
23 to this section is not eligible for parole prior to having
24 served a minimum of three years of his or her sentence or
25 the minimum period required by the provisions of section
26 thirteen, article twelve, chapter sixty-two of this code,
27 whichever is greater.

§61-3-8. Recovery of costs incurred in fighting fires caused by arson.

1 Any person convicted of any felony enumerated in
2 sections one, two, three, four, five or six of this article may
3 be ordered to reimburse any fire department or company
4 for the costs expended to control, extinguish and suppress
5 the arson fire, and all reasonable costs associated therewith,
6 including, but not limited to, costs for the personal services
7 rendered by any employees of any fire department or
8 company, and operating costs of equipment and supplies
9 used to control, extinguish or suppress the fire.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schopover
Chairman Senate Committee

Neil Fantasio
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Dorrell Eckman
Clerk of the Senate

Bugary D. Gray
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

[Signature]
Speaker of the House of Delegates

The within *is approved* this the *18th*
day of *May*, 1997.

[Signature]
Governor

PRESENTED TO THE

GOVERNOR

Date

4/25/97

Time

1:58 pm