

HOUSE BILL No. 5692

May 29, 2012, Introduced by Reps. Walsh, Heise, Zorn, MacGregor, LeBlanc, Horn and Lyons and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 71, 72, and 73 (MCL 750.71, 750.72, and
750.73).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 ~~Sec. 71. Definition of "burn" The term "burn" as used in this~~
2 ~~chapter shall mean setting fire to, or doing any act which results~~
3 ~~in the starting of a fire, or aiding, counseling, inducing,~~
4 ~~persuading or procuring another to do such act or acts.~~ **UNLESS THE**
5 **CONTEXT REQUIRES OTHERWISE, THE FOLLOWING TERMS HAVE THE FOLLOWING**
6 **MEANINGS:**

7 **(A) "BUILDING", IN ADDITION TO ITS ORDINARY MEANING, INCLUDES**
8 **ANY STRUCTURE REGARDLESS OF CLASS OR CHARACTER AND ANY BUILDING OR**
9 **STRUCTURE THAT IS WITHIN THE CURTILAGE OF THAT BUILDING OR**
10 **STRUCTURE OR THAT IS APPURTENANT TO OR CONNECTED TO THAT BUILDING**

1 OR STRUCTURE.

2 (B) "BURN" MEANS SETTING FIRE TO, OR DOING ANY ACT THAT
3 RESULTS IN THE STARTING OF A FIRE, OR AIDING, COUNSELING, INDUCING,
4 PERSUADING, OR PROCURING ANOTHER TO DO SUCH AN ACT.

5 (C) "DAMAGE", IN ADDITION TO ITS ORDINARY MEANING, INCLUDES,
6 BUT IS NOT LIMITED TO, CHARRING, MELTING, SCORCHING, BURNING, OR
7 BREAKING.

8 (D) "DWELLING" INCLUDES, BUT IS NOT LIMITED TO, ANY BUILDING,
9 STRUCTURE, VEHICLE, WATERCRAFT, OR TRAILER ADAPTED FOR HUMAN
10 HABITATION THAT WAS ACTUALLY LIVED IN OR REASONABLY COULD HAVE BEEN
11 LIVED IN AT THE TIME OF THE FIRE OR EXPLOSION AND ANY BUILDING OR
12 STRUCTURE THAT IS WITHIN THE CURTILAGE OF THAT DWELLING OR THAT IS
13 APPURTENANT TO OR CONNECTED TO THAT DWELLING.

14 (E) "INDIVIDUAL" MEANS ANY INDIVIDUAL AND INCLUDES, BUT IS NOT
15 LIMITED TO, A FIREFIGHTER, LAW ENFORCEMENT OFFICER, OR OTHER
16 EMERGENCY RESPONDER, WHETHER PAID OR VOLUNTEER, PERFORMING HIS OR
17 HER DUTIES IN RELATION TO A VIOLATION OF THIS CHAPTER, OR
18 PERFORMING AN INVESTIGATION OF A VIOLATION OF THIS CHAPTER.

19 (F) "PERSONAL PROPERTY" INCLUDES ANY PERSONALLY OWNED PROPERTY
20 REGARDLESS OF CLASS, CHARACTER, OR VALUE.

21 (G) "PHYSICAL INJURY" MEANS A SERIOUS INJURY THAT INCLUDES,
22 BUT IS NOT LIMITED TO, A CONTUSION; LOSS OF A LIMB OR USE OF A
23 LIMB; LOSS OF A FOOT, HAND, FINGER, OR THUMB, OR LOSS OF USE OF A
24 FOOT, HAND, FINGER, OR THUMB; LOSS OF AN EYE OR EAR OR LOSS OF USE
25 OF AN EYE OR EAR; LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY
26 FUNCTION; SERIOUS VISIBLE DISFIGUREMENT; A COMATOSE STATE THAT
27 LASTS FOR MORE THAN 3 DAYS; MEASURABLE BRAIN OR MENTAL IMPAIRMENT;

1 A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE; SUBDURAL
2 HEMORRHAGE OR SUBDURAL HEMATOMA; LOSS OF AN ORGAN; HEART ATTACK;
3 HEAT STROKE; HEAT EXHAUSTION; SMOKE INHALATION; A BURN INCLUDING A
4 CHEMICAL BURN; OR POISONING.

5 (H) "PRIOR CONVICTION" MEANS A PREVIOUS CONVICTION FOR A
6 VIOLATION OF THIS CHAPTER THAT ARISES OUT OF A SEPARATE
7 TRANSACTION, WHETHER UNDER THIS CHAPTER, A LOCAL ORDINANCE
8 SUBSTANTIALLY CORRESPONDING TO THIS CHAPTER, A LAW OF THE UNITED
9 STATES SUBSTANTIALLY CORRESPONDING TO THIS CHAPTER, OR A LAW OF
10 ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO THIS CHAPTER, BUT DOES
11 NOT INCLUDE A VIOLATION OF SECTION 79(1)(A).

12 Sec. 72. ~~Burning dwelling house Any person who wilfully or~~
13 ~~maliciously burns any dwelling house, either occupied or~~
14 ~~unoccupied, or the contents thereof, whether owned by himself or~~
15 ~~another, or any building within the curtilage of such dwelling~~
16 ~~house, or the contents thereof, shall be guilty of a felony,~~
17 ~~punishable by imprisonment in the state prison not more than 20~~
18 ~~years.~~

19 (1) A PERSON WHO WILLFULLY OR MALICIOUSLY BURNS, DAMAGES, OR
20 DESTROYS BY FIRE OR EXPLOSIVE ANY OF THE FOLLOWING OR ITS CONTENTS
21 IS GUILTY OF FIRST DEGREE ARSON:

22 (A) A MULTIUNIT BUILDING OR STRUCTURE IN WHICH 1 OR MORE UNITS
23 OF THE BUILDING ARE A DWELLING, REGARDLESS OF WHETHER ANY OF THE
24 UNITS ARE OCCUPIED, UNOCCUPIED, OR VACANT AT THE TIME OF THE FIRE
25 OR EXPLOSION.

26 (B) ANY BUILDING OR STRUCTURE OR OTHER REAL PROPERTY IF THE
27 FIRE OR EXPLOSION RESULTS IN PHYSICAL INJURY TO ANY INDIVIDUAL.

1 (C) A MINE.

2 (2) SUBSECTION (1) APPLIES REGARDLESS OF WHETHER THE PERSON
3 OWNS THE DWELLING, BUILDING, STRUCTURE, OR MINE OR ITS CONTENTS.

4 (3) FIRST DEGREE ARSON IS A FELONY PUNISHABLE BY IMPRISONMENT
5 FOR LIFE OR ANY TERM OF YEARS OR A FINE OF NOT MORE THAN \$20,000.00
6 OR 3 TIMES THE VALUE OF THE PROPERTY DAMAGED OR DESTROYED,
7 WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

8 ~~Sec. 73. Burning of other real property Any person who~~
9 ~~wilfully or maliciously burns any building or other real property,~~
10 ~~or the contents thereof, other than those specified in the next~~
11 ~~preceding section of this chapter, the property of himself or~~
12 ~~another, shall be guilty of a felony, punishable by imprisonment in~~
13 ~~the state prison for not more than 10 years.~~

14 (1) EXCEPT AS PROVIDED IN SECTION 72, A PERSON WHO WILLFULLY
15 OR MALICIOUSLY BURNS, DAMAGES, OR DESTROYS BY FIRE OR EXPLOSIVE A
16 DWELLING, REGARDLESS OF WHETHER IT IS OCCUPIED, UNOCCUPIED, OR
17 VACANT AT THE TIME OF THE FIRE OR EXPLOSION, OR ITS CONTENTS, IS
18 GUILTY OF SECOND DEGREE ARSON.

19 (2) SUBSECTION (1) APPLIES REGARDLESS OF WHETHER THE PERSON
20 OWNS THE DWELLING OR ITS CONTENTS.

21 (3) SECOND DEGREE ARSON IS A FELONY PUNISHABLE BY IMPRISONMENT
22 FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN \$20,000.00 OR
23 3 TIMES THE VALUE OF THE PROPERTY DAMAGED OR DESTROYED, WHICHEVER
24 IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

25 Enacting section 1. This amendatory act takes effect 90 days
26 after the date it is enacted into law.

27 Enacting section 2. This amendatory act does not take effect

1 unless all of the following bills of the 96th Legislature are
2 enacted into law:

3 (a) Senate Bill No. _____ or House Bill No. 5693 (request no.
4 05786'12).

5 (b) Senate Bill No. _____ or House Bill No. 5694 (request no.
6 05787'12).