

## THE MICHIGAN PENAL CODE (EXCERPT)

### Act 328 of 1931

#### CHAPTER X

#### ARSON AND BURNING

##### 750.71 Definitions.

Sec. 71. Unless the context requires otherwise, the following terms have the following meanings:

(a) "Building" includes any structure regardless of class or character and any building or structure that is within the curtilage of that building or structure or that is appurtenant to or connected to that building or structure.

(b) "Burn" means setting fire to, or doing any act that results in the starting of a fire, or aiding, counseling, inducing, persuading, or procuring another to do such an act.

(c) "Damage", in addition to its ordinary meaning, includes, but is not limited to, charring, melting, scorching, burning, or breaking.

(d) "Dwelling" includes, but is not limited to, any building, structure, vehicle, watercraft, or trailer adapted for human habitation that was actually lived in or reasonably could have been lived in at the time of the fire or explosion and any building or structure that is within the curtilage of that dwelling or that is appurtenant to or connected to that dwelling.

(e) "Individual" means any individual and includes, but is not limited to, a firefighter, law enforcement officer, or other emergency responder, whether paid or volunteer, performing his or her duties in relation to a violation of this chapter, or performing an investigation of a violation of this chapter.

(f) "Personal property" includes any personally owned property regardless of class, character, or value.

(g) "Physical injury" means an injury that includes, but is not limited to, the loss of a limb or use of a limb; loss of a foot, hand, finger, or thumb, or loss of use of a foot, hand, finger, or thumb; loss of an eye or ear or loss of use of an eye or ear; loss or substantial impairment of a bodily function; serious visible disfigurement; a comatose state that lasts for more than 3 days; measurable brain or mental impairment; a skull fracture or other serious bone fracture; subdural hemorrhage or subdural hematoma; loss of an organ; heart attack; heat stroke; heat exhaustion; smoke inhalation; a burn including a chemical burn; or poisoning.

(h) "Prior conviction" means a previous conviction for a violation of this chapter that arises out of a separate transaction, whether under this chapter, a local ordinance substantially corresponding to this chapter, a law of the United States substantially corresponding to this chapter, or a law of another state substantially corresponding to this chapter, but does not include a violation of section 79(1)(a).

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.71;—Am. 2012, Act 531, Eff. Apr. 3, 2013.

**Former law:** See section 1 of Act 38 of 1927, being CL 1929, § 16933.

##### 750.72 First degree arson.

Sec. 72. (1) A person who willfully or maliciously burns, damages, or destroys by fire or explosive any of the following or its contents is guilty of first degree arson:

(a) A multiunit building or structure in which 1 or more units of the building are a dwelling, regardless of whether any of the units are occupied, unoccupied, or vacant at the time of the fire or explosion.

(b) Any building or structure or other real property if the fire or explosion results in physical injury to any individual.

(c) A mine.

(2) Subsection (1) applies regardless of whether the person owns the dwelling, building, structure, or mine or its contents.

(3) First degree arson is a felony punishable by imprisonment for life or any term of years or a fine of not more than \$20,000.00 or 3 times the value of the property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.72;—Am. 2012, Act 531, Eff. Apr. 3, 2013.

**Former law:** See section 2 of Act 38 of 1927, being CL 1929, § 16934; and Act 272 of 1929.

##### 750.73 Second degree arson.

Sec. 73. (1) Except as provided in section 72, a person who willfully or maliciously burns, damages, or destroys by fire or explosive a dwelling, regardless of whether it is occupied, unoccupied, or vacant at the time of the fire or explosion, or its contents, is guilty of second degree arson.

(2) Subsection (1) applies regardless of whether the person owns the dwelling or its contents.

(3) Second degree arson is a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00 or 3 times the value of the property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.73;—Am. 2012, Act 531, Eff. Apr. 3, 2013.

**Former law:** See section 3 of Act 38 of 1927, being CL 1929, § 16935; and Act 272 of 1929.

#### **750.74 Third degree arson.**

Sec. 74. (1) Except as provided in sections 72 and 73, a person who does any of the following is guilty of third degree arson:

(a) Willfully or maliciously burns, damages, or destroys by fire or explosive any building or structure, or its contents, regardless of whether it is occupied, unoccupied, or vacant at the time of the fire or explosion.

(b) Willfully and maliciously burns, damages, or destroys by fire or explosive any of the following or its contents:

(i) Any personal property having a value of \$20,000.00 or more.

(ii) Any personal property having a value of \$1,000.00 or more if the person has 1 or more prior convictions.

(2) Subsection (1) applies regardless of whether the person owns the building, structure, other real property or its contents, or the personal property.

(3) Third degree arson is a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00 or 3 times the value of the property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.74;—Am. 1998, Act 312, Eff. Jan. 1, 1999;—Am. 2012, Act 532, Eff. Apr. 3, 2013.

**Former law:** See section 4 of Act 38 of 1927, being CL 1929, § 16936; and Act 272 of 1929.

#### **750.75 Fourth degree arson.**

Sec. 75. (1) Except as provided in sections 72, 73, and 74, a person who does any of the following is guilty of fourth degree arson:

(a) Willfully and maliciously burns, damages, or destroys by fire or explosive any of the following or its contents:

(i) Any personal property having a value of \$1,000.00 or more, but less than \$20,000.00.

(ii) Any personal property having a value of \$200.00 or more if the person has 1 or more prior convictions.

(b) Willfully or negligently sets fire to a woods, prairie, or grounds of another person or permits fire to pass from his or her own woods, prairie, or grounds to another person's property causing damage or destruction to that other property.

(2) Subsection (1)(a) applies regardless of whether the person owns the personal property.

(3) Fourth degree arson is a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.75;—Am. 2012, Act 532, Eff. Apr. 3, 2013.

**Former law:** See section 5 of Act 38 of 1927, being CL 1929, § 16937.

#### **750.76 Arson of insured property.**

Sec. 76. (1) A person who willfully or maliciously burns, damages, or destroys by fire or explosive any of the following or the contents of any of the following is guilty of arson of insured property:

(a) Any dwelling that is insured against loss from fire or explosion if the person caused the fire or explosion with the intent to defraud the insurer.

(b) Except as provided in subdivision (a), any building, structure, or other real property that is insured against loss from fire or explosion if the person caused the fire or explosion with the intent to defraud the insurer.

(c) Any personal property that is insured against loss by fire or explosion if the person caused the fire or explosion with the intent to defraud the insurer.

(2) Subsection (1) applies regardless of whether the person owns the dwelling, building, structure, other real property, or personal property.

(3) Arson of insured property is a felony punishable as follows:

(a) If the person violates subsection (1)(a), imprisonment for life or any term of years or a fine of not more than \$20,000.00 or 3 times the value of the property damaged or destroyed, whichever is greater, or both

imprisonment and a fine.

(b) If the person violates subsection (1)(b), imprisonment for not more than 20 years or a fine of not more than \$20,000.00 or 3 times the value of the property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

(c) If the person violates subsection (1)(c), imprisonment for not more than 10 years or a fine of not more than \$20,000.00 or 3 times the value of the property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.76;—Am. 2012, Act 532, Eff. Apr. 3, 2013.

**Former law:** See section 6 of Act 38 of 1927, being CL 1929, § 16939.

### **750.77 Fifth degree arson.**

Sec. 77. (1) Except as provided in sections 72 to 76, a person who intentionally damages or destroys by fire or explosive any personal property having a value of \$1,000.00 or less and who has 1 or more prior convictions is guilty of fifth degree arson.

(2) Subsection (1) applies regardless of whether the person owns the personal property.

(3) Fifth degree arson is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

(4) As used in this section:

(a) "Personal property" includes an automobile, van, truck, motorcycle, trailer, and other personally owned property.

(b) "Prior conviction" means a prior conviction for a violation of this chapter that arises out of a separate transaction from the violation of this section.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.77;—Am. 1998, Act 312, Eff. Jan. 1, 1999;—Am. 2012, Act 533, Eff. Apr. 3, 2013.

### **750.78 Fire or explosive; prohibited acts; violation as misdemeanor; penalty.**

Sec. 78. (1) Except as provided in sections 72 to 77, a person shall not do any of the following:

(a) Willfully and maliciously burn, damage, or destroy by fire or explosive any of the following or its contents:

(i) Any personal property having a value of \$200.00 or more but less than \$1,000.00.

(ii) Any personal property having a value of less than \$200.00, if the person has 1 or more prior convictions.

(iii) Any personal property having a value of less than \$200.00.

(b) Negligently, carelessly, or recklessly set fire to a hotel or motel or its contents, and, by setting that fire, endanger the life or property of another person.

(2) Subsection (1) applies regardless of whether the person owns the building, structure, hotel, motel, or its contents, or the personal property.

(3) A violation of this section is a misdemeanor punishable as follows:

(a) If the person violates subsection (1)(a)(i) or (ii), imprisonment for not more than 1 year and a fine of not more than \$2,000.00 or 3 times the value of the property damaged or destroyed, whichever is greater.

(b) If the person violates subsection (1)(a)(iii) or (b), imprisonment for not more than 93 days and a fine of not more than \$500.00 or 3 times the value of the property damaged or destroyed, whichever is greater.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.78;—Am. 2012, Act 533, Eff. Apr. 3, 2013;—Am. 2014, Act 111, Eff. July 9, 2014.

**Former law:** See section 1 of Ch. 45 of R.S. 1846, being CL 1857, § 5924; CL 1871, § 7790; How., § 9402; CL 1897, § 11653; CL 1915, § 15424; and CL 1929, § 16942.

### **750.79 Using inflammable, combustible, or explosive material, liquid, or substance near building or personal property with intent to commit arson of any degree; aiding or abetting; total value of property; enhanced sentence; prior convictions.**

Sec. 79. (1) A person who uses, arranges, places, devises, or distributes an inflammable, combustible, or explosive material, liquid, or substance or any device in or near a building, structure, other real property, or personal property with the intent to commit arson in any degree or who aids, counsels, induces, persuades, or procures another to do so is guilty of a crime as follows:

(a) If the property has a combined value of less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the combined value of the property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the combined value of the property damaged or destroyed, whichever is greater, or both imprisonment and a fine:

(i) The property has a combined value of \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the combined value of the property damaged or destroyed, whichever is greater, or both imprisonment and a fine:

(i) The property has a combined value of \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(iii) Except as provided in subdivisions (d) and (e), the property is a building, structure, or real property. This subparagraph applies regardless of whether the person owns the building, structure, or other real property.

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the combined value of the property damaged or destroyed, whichever is greater, or both imprisonment and a fine:

(i) The property has a combined value of \$20,000.00 or more.

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for committing or attempting to commit an offense for a violation or attempted violation of subdivision (a) or (b)(ii).

(iii) The property has a value of more than \$2,000.00 and is insured against loss by fire or explosion and the person intended to defraud the insurer.

(iv) Except as provided in subdivisions (c)(iii) and (e) and subparagraphs (v) and (vi), the property is a building, structure, or other real property, and the fire or explosion results in injury to any individual. This subparagraph applies regardless of whether the person owns the building, structure, or other real property.

(v) Except as provided in subdivisions (c)(iii) and (e) and subparagraph (vi), the property is a building, structure, or other real property and insured against loss from fire or explosion, and the person intended to defraud the insurer. This subparagraph applies regardless of whether the person owns the building, structure, or other real property.

(vi) The property is a dwelling. This subparagraph applies regardless of whether the person owns the dwelling.

(e) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$20,000.00 or 3 times the combined value of the property intended to be burned or destroyed, whichever is greater, or both imprisonment and a fine:

(i) The property is a dwelling and is insured against loss by fire or explosion and the person intended to defraud the insurer. This subparagraph applies regardless of whether the person owns the property.

(ii) The property is a dwelling and the fire or explosion results in physical injury to any individual.

(2) The combined value of property intended to be burned in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property damaged or destroyed.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) The total value of property damaged or destroyed.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.79;—Am. 2012, Act 533, Eff. Apr. 3, 2013;—Am. 2014, Act 111, Eff. July 9, 2014.

**Former law:** See section 5 of Ch. 45 of R.S. 1846, being CL 1897, § 11657; CL 1915, § 15428; CL 1929, § 16946; and Act 189 of 1897.

**750.80 Repealed. 2014, Act 112, Eff. July 9, 2014.**

**Compiler's note:** The repealed section pertained to setting fire to mines and mining equipment.