

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

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.