

No. 1982-227

AN ACT

HB 2263

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further defining arson.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 3301 of Title 18, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended to read:

§ 3301. Arson and related offenses.

(a) Endangering persons.—A person commits a felony of the first degree if he intentionally starts a fire or causes an explosion, whether on his own property or on that of another, and thereby recklessly places another person in danger of death or bodily injury.

(b) Endangering property.—A person commits a felony of the second degree if he:

(1) starts a fire or causes an explosion with intent of destroying a building or occupied structure of another;

(2) intentionally starts a fire or causes an explosion, whether on his own property or on that of another, and thereby recklessly places a building or occupied structure of another in danger of damage or destruction; or

(3) starts a fire or causes an explosion with intent of destroying or damaging any property, whether his own or of another, to collect insurance for such loss.

(c) Definitions.—As used in this section the term “occupied structure” means any structure, vehicle or place adapted for overnight accommodation of persons or for carrying on business therein, whether or not a person is actually present. Property is that of another, for the purposes of this section, if anyone other than the actor has a possessory or proprietary interest therein. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an occupied structure of another.]

(a) Arson endangering persons.—

(1) *A person commits a felony of the first degree if he intentionally starts a fire or causes an explosion, or if he aids, counsels, pays or agrees to pay another to cause a fire or explosion, whether on his own property or on that of another, and if:*

(i) he thereby recklessly places another person in danger of death or bodily injury, including but not limited to a firefighter, police officer or other person actively engaged in fighting the fire; or

(ii) he commits the act with the purpose of destroying or damaging an inhabited building or occupied structure of another.

(2) A person who commits arson endangering persons is guilty of murder of the second degree if the fire or explosion causes the death of any person, including but not limited to a firefighter, police officer or other person actively engaged in fighting the fire, and is guilty of murder of the first degree if the fire or explosion causes the death of any person and was set with the purpose of causing the death of another person.

(b) Sentence.—A person convicted of violating the provisions of subsection (a)(2), murder of the first degree, shall be sentenced to death or life imprisonment without right to parole; a person convicted of murder of the second degree, pursuant to subsection (a)(2), shall be sentenced to life imprisonment without right to parole. Notwithstanding provisions to the contrary, no language herein shall infringe upon the inherent powers of the Governor to commute said sentence.

(c) Arson endangering property.—A person commits a felony of the second degree if he intentionally starts a fire or causes an explosion, whether on his own property or that of another, or if he aids, counsels, pays or agrees to pay another to cause a fire or explosion, and if:

(1) he commits the act with intent of destroying or damaging a building or unoccupied structure of another;

(2) he thereby recklessly places an inhabited building or occupied structure of another in danger of damage or destruction; or

(3) he commits the act with intent of destroying or damaging any property, whether his own or of another, to collect insurance for such loss.

(d) Reckless burning or exploding.—A person commits a felony of the third degree if he intentionally starts a fire or causes an explosion, or if he aids, counsels, pays or agrees to pay another to cause a fire or explosion, whether on his own property or on that of another, and thereby recklessly:

(1) places an uninhabited building or unoccupied structure of another in danger of damage or destruction; or

(2) places any personal property of another having a value of \$5,000 or more in danger of damage or destruction.

(e) Failure to control or report dangerous fires.—A person who knows that a fire is endangering the life or property of another and fails to take reasonable measures to put out or control the fire, when he can do so without substantial risk to himself, or to give a prompt fire alarm, commits a misdemeanor of the first degree if:

(1) he knows that he is under an official, contractual or other legal duty to control or combat the fire; or

(2) the fire was started, albeit lawfully, by him or with his assent, or on property in his custody or control.

(f) Possession of explosive or incendiary materials or devices.—A person commits a felony of the third degree if he possesses, manufactures or transports any incendiary or explosive material with the intent to use or to provide such device or material to commit any offense described in subsection (a), (c) or (d).

(g) *Disclosure of true owner.*—Law enforcement officers investigating an offense under this section may require a trustee of a passive trust or trust involving an undisclosed principal or straw party to disclose the actual owner or beneficiary of the real property in question. The name of the actual owner or beneficiary of real estate subject to a passive trust, trust involving an undisclosed principal or arrangement with a straw party when obtained under the provisions of this subsection shall not be disclosed except as an official part of an investigation and prosecution of an offense under this section. A person who refuses to disclose a name as required by this section or who discloses a name in violation of this subsection is guilty of a misdemeanor of the third degree.

(h) *Limitations on liability.*—The provisions of subsections (a), (b), (c), (d) and (e) shall not be construed to establish criminal liability upon any volunteer or paid firefighter or volunteer or paid firefighting company or association if said company or association endangers a participating firefighter or real or personal property in the course of an approved, controlled fire training program or fire evolution, provided that said company or association has complied with the following:

(1) a sworn statement from the owner of any real or personal property involved in such program or evolution that there is no fire insurance policy or no lien or encumbrance exists which applies to such real or personal property;

(2) approval or permits from the appropriate local government or State officials, if necessary, to conduct such program or exercise have been received;

(3) precautions have been taken so that the program or evolution does not affect any other persons or real or personal property; and

(4) participation of firefighters in the program or exercise if voluntary.

(i) *Defenses.*—It is a defense to prosecution under subsections (c) and (d) where a person is charged with destroying a vehicle, lawful title to which is vested in him, if the vehicle is free of any encumbrances, there is no insurance covering loss by fire or explosion or both on the vehicle and the person delivers to the nearest State Police station at least 48 hours in advance of the planned destruction a written sworn statement certifying that the person is the lawful titleholder, that the vehicle is free of any encumbrances and that there is no insurance covering loss by fire or explosion or both on the vehicle.

(j) *Definitions.*—As used in this section the following words and phrases shall have the meanings given to them in this subsection:

“Occupied structure.” Any structure, vehicle or place adapted for overnight accommodation of persons or for carrying on business therein, whether or not a person is actually present. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an occupied structure of another.

“Property of another.” A building or other property, whether real or personal, in which a person other than the actor has an interest which the actor has no authority to defeat or impair, even though the actor may

also have an interest in the building or property.

Section 2. Title 18 is amended by adding a section to read:

§ 3308. Additional fine for arson committed for profit.

(a) General rule.—Any person convicted under section 2506 (relating to arson murder) or 3301 (relating to arson and related offenses) where any consideration was paid or payable, in addition to any sentence of imprisonment, shall be fined an amount double the amount of the consideration or the maximum lawful fine as provided in section 1101 (relating to fines), whichever is greater.

(b) Disposition of fines and forfeitures.—All fines collected and bail deposits forfeited under subsection (a) shall be provided to the Pennsylvania Emergency Management Agency for the Pennsylvania State Firemen's Training School also known as the Vocational Education Fire School and Fire Training and Education Programs.

Section 3. Notwithstanding the provisions of 1 Pa.C.S. § 1955, the amendments to 18 Pa.C.S. § 3301 enacted by the act of April 29, 1982 (P.L.363, No.101), are hereby repealed.

Section 4. This act shall take effect in 60 days.

APPROVED—The 7th day of December, A. D. 1982.

DICK THORNBURGH