WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

ENROLLED

HOUSE BILL No. __2473_

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

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

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

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

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

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

Any person who willfully and maliciously sets fire to or burns, or who causes to be burned, or who aids, counsels, procures, persuades, incites, entices or solicits any person to burn, any building or structure of any class or character, whether the property of himself or herself or of another, not included or prescribed in the preceding section, shall be guilty of arson in the second degree and,
upon conviction thereof, be sentenced to the penitentiary for a definite term of imprisonment which is not less than one nor more than ten years. A person imprisoned pursuant to this section is not eligible for parole prior to having served a minimum of one year of his or her sentence or the minimum period required by the provisions of section thirteen, article twelve, chapter sixty-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.

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

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

(a) Any person who willfully and maliciously attempts to set fire to, or burn, or attempts to cause to be burned, or attempts to aid, counsel, procure, persuade, incite, entice or solicit any person to burn, any of the buildings, structures or personal property mentioned in the foregoing sections, or who commits any act preliminary thereto, or in furtherance thereof, shall be guilty of arson in the fourth degree and, upon conviction thereof, be sentenced to the penitentiary for a definite term of imprisonment which is not less than one nor more than two years, or fined not to exceed two thousand five hundred dollars, or both. A person imprisoned pursuant to this section is not eligible for parole prior to having served a minimum of one year of his or her sentence.
(b) The placing or distributing of any inflammable,
explosive or combustible material or substance, or any
device in any building, structure or personal property
mentioned in the foregoing sections, in an arrangement or
preparation with intent to eventually, willfully and
maliciously, set fire to or burn, or to cause to be burned,
or to aid, counsel, procure, persuade, entice or
solicit the setting fire to or burning of any building,
structure or personal property mentioned in the foregoing
sections shall, for the purposes of this section, constitute an
attempt to burn that building, structure or personal
property.

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

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

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

If any person willfully, unlawfully and maliciously sets
fire to any woods, fence, grass, straw or other thing
capable of spreading fire on lands, he or she shall be
guilty of a felony and, upon conviction, shall be sentenced
to the penitentiary for a definite term of imprisonment
which is not less than one year nor more than five years or
fined not to exceed five thousand dollars, or both. He or
she shall, moreover, be liable to any person injured
thereby, or in consequence thereof, for double the amount
of damages sustained by such person. A person
imprisoned pursuant to this section is not eligible for
parole prior to having served a minimum of one year of
his or her sentence or the minimum period required by
the provisions of section thirteen, article twelve, chapter
sixty-two of this code, whichever is greater.

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

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

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

1 Any person convicted of any felony enumerated in sections one, two, three, four, five or six of this article may be ordered to reimburse any fire department or company for the costs expended to control, extinguish and suppress the arson fire, and all reasonable costs associated therewith, including, but not limited to, costs for the personal services rendered by any employees of any fire department or company, and operating costs of equipment and supplies used to control, extinguish or suppress the fire.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schock
Chairman Senate Committee

Neil Fantasia
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Rossell Castellino
Clerk of the Senate

Ray H. Bry
Clerk of the House of Delegates

Earl Ray Tolbert
President of the Senate

Robert C. Richard
Speaker of the House of Delegates

The within is approved this the 15th day of May, 1997.

Andrews
Governor
PRESENTED TO THE
GOVERNOR
Date 4/25/97
Time 1:58 PM