



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4907 (as passed by the House)
House Bill 4908 (Substitute H-1 as passed by the House)
Sponsor: Representative John Walsh
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 1-24-14

CONTENT

House Bill 4907 would amend the Michigan Penal Code to do the following:

- Delete a requirement that a person act intentionally when committing certain arson offenses.
- Refer to the value of property damaged or destroyed, in provisions setting maximum fines for these offenses.
- Base the fines for other arson offenses on whether the person intended to defraud the insurer, rather than whether he or she caused the fire or explosion with the intent to defraud the insurer.

House Bill 4908 (H-1) would amend the Code of Criminal Procedure to do the following:

- Revise the felony description in the sentencing guidelines designations for certain arson offenses.
- Delete the sentencing guidelines designation for arson of mines.

The bill also would repeal sections of the Michigan Penal Code that prohibit setting fire to mines and mining material and setting fire to a hotel or place of public abode.

A more detailed description of the bills follows.

House Bill 4907

Intentional Act & Destroyed Property

Under Section 78 of the Penal Code, except as otherwise provided for first-, second-, third-, fourth-, or fifth-degree arson or arson of insured property, a person is subject to misdemeanor penalties if he or she intentionally does either of the following:

- Willfully and maliciously burns, damages, or destroys by fire or explosive any personal property having a value of less than \$1,000.
- Negligently, carelessly, or recklessly sets fire to a hotel or motel or its contents and, by doing so, endangers the life or property of another.

The bill would delete "intentionally" from that prohibition.

The penalties for a violation described above include a maximum fine based on the value of the property damaged. The bill would base the maximum fine on the value of the property damaged or destroyed.

Intent to Defraud Insurer

Section 79 of the Penal Code prohibits a person from using, arranging, placing, devising, or distributing 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 or aiding, counseling, inducing, persuading, or procuring another to do so. The violation is subject to graduated penalties based on the value of the property and the offender's prior convictions. Several of the fines apply if the person "caused the fire or explosion with the intent to defraud the insurer". Under the bill, those fines instead would apply if the person "intended to defraud the insurer".

House Bill 4908 (H-1)

Felony Arson Descriptions

In the sentencing guidelines, the felony descriptions of violations of Section 79 of the Penal Code refer to placing incendiary or explosives with intent to commit arson. Under the bill, those descriptions instead would refer to preparing to burn with intent to commit arson.

Repealed Provisions

The bill would repeal Sections 80 and 496 of the Penal Code.

Under Section 80, willfully and maliciously burning or setting fire to material in any part of a mine that is in use or operation is a felony punishable by imprisonment for life or any term of years. The bill also would delete the sentencing guidelines designation for that violation. Currently, it is a Class D property felony with a statutory maximum sentence of imprisonment for life.

Under Section 496, carelessly, recklessly, or negligently setting fire to any hotel, rooming house, lodging house, or any place of public abode, or to the bedding, furniture, curtains, drapes, or other furnishings in any such place, is a misdemeanor. Section 496 also requires a plainly written notice of this provision to be posted in a conspicuous place in each sleeping room of a hotel, rooming house, lodging house, and other place of public abode.

MCL 750.78 & 750.79 (H.B. 4907)
777.16c (H.B. 4908)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: John Maxwell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.