

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 606
Committee Substitute Favorable 5/3/19
PROPOSED COMMITTEE SUBSTITUTE H606-PCS30452-BQ-25

Short Title: Arson Law Revisions.

(Public)

Sponsors:

Referred to:

April 8, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE PUNISHMENT FOR THE BURNING OF COMMERCIAL
3 STRUCTURES, TO AMEND THE OFFENSE OF ARSON OR OTHER UNLAWFUL
4 BURNINGS THAT RESULT IN INJURY TO A FIREFIGHTER, LAW ENFORCEMENT
5 OFFICER, FIRE INVESTIGATOR, OR EMERGENCY MEDICAL TECHNICIAN, AND
6 TO AUTHORIZE THE COMMISSIONER OF INSURANCE THROUGH THE OFFICE
7 OF STATE FIRE MARSHAL TO INVESTIGATE FIRES.

8 The General Assembly of North Carolina enacts:

9
10 **PART I. BURNING OF COMMERCIAL STRUCTURES**

11 **SECTION 1.(a)** G.S. 14-60 is repealed.

12 **SECTION 1.(b)** G.S. 14-61 reads as rewritten:

13 **"§ 14-61. Burning of certain bridges and buildings.**

14 ~~If~~ Unless the conduct is covered under some other provision of law providing greater
15 punishment, if any person shall wantonly and willfully set fire to or burn or cause to be burned,
16 or aid, counsel or procure the burning of, any public bridge, or private toll bridge, or the bridge
17 of any incorporated company, or any fire-engine house or rescue-squad building, or any house
18 belonging to an incorporated company or unincorporated association and used in the business of
19 such company or association, ~~he~~ the person shall be punished as a Class F felon."

20 **SECTION 1.(c)** G.S. 14-62 reads as rewritten:

21 **"§ 14-62. Burning of certain buildings.**

22 ~~If~~ Unless the conduct is covered under some other provision of law providing greater
23 punishment, if any person shall wantonly and willfully set fire to or burn or cause to be burned,
24 or aid, counsel or procure the burning of, any uninhabited house, or any stable, coach house,
25 outhouse, warehouse, office, shop, mill, barn or granary, or any building, structure or erection
26 used or intended to be used in carrying on any trade or manufacture, or any branch thereof,
27 whether the same or any of them respectively shall then be in the possession of the offender, or
28 in the possession of any other person, ~~he~~ the person shall be punished as a Class F felon."

29 **SECTION 1.(d)** G.S. 14-62.1 reads as rewritten:

30 **"§ 14-62.1. Burning of building or structure in process of construction.**

31 ~~If~~ Unless the conduct is covered under some other provision of law providing greater
32 punishment, if any person shall wantonly and willfully set fire to or burn or cause to be burned,
33 or aid, counsel or procure the burning of, any building or structure in the process of construction
34 for use or intended to be used as a dwelling house or in carrying on any trade or manufacture, or
35 otherwise, whether the same or any of them respectively shall then be in the possession of the



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1 offender, or in the possession of any other person, ~~he~~ the person shall be punished as a Class H
2 felon."

3 **SECTION 1.(e)** G.S. 14-62.2 reads as rewritten:

4 "**§ 14-62.2. Burning of churches and certain other religious buildings.**

5 ~~If~~ Unless the conduct is covered under some other provision of law providing greater
6 punishment, if any person shall wantonly and willfully set fire to or burn or cause to be burned,
7 or aid, counsel or procure the burning of any church, chapel, or meetinghouse, the person shall
8 be punished as a Class E felon."

9 **SECTION 1.(f)** G.S. 14-64 reads as rewritten:

10 "**§ 14-64. Burning of ginhouses and tobacco houses.**

11 (a) ~~If~~ Unless the conduct is covered under some other provision of law providing greater
12 punishment, if any person shall wantonly and willfully set fire to or burn or cause to be burned,
13 or aid, counsel or procure the burning of, any ginhouse or tobacco house, or any part thereof, he
14 the person shall be punished as a Class H felon.

15 (b) The following definitions apply to this section:

16 (1) Ginhouse. – Any building or structure where cotton is ginned.

17 (2) Tobacco house. – Any barn, building, or other structure used for curing and
18 aging tobacco."

19 **SECTION 1.(g)** Article 15 of Chapter 14 of the General Statutes is amended by
20 adding a new section to read:

21 "**§ 14-62.3. Burning of commercial structure.**

22 (a) Definition. – For purposes of this section, the term "commercial structure" means any
23 building or structure that is not designed principally for residential purposes.

24 (b) Burning of Occupied Commercial Structure. – Unless the conduct is covered under
25 some other provision of law providing greater punishment, if any person shall wantonly and
26 willfully set fire to or burn or cause to be burned, or aid, counsel, or procure the burning of any
27 commercial structure that is occupied at the time of the burning, the person shall be punished as
28 a Class D felon.

29 (c) Burning of Unoccupied Commercial Structure. – Unless the conduct is covered under
30 some other provision of law providing greater punishment, if any person shall wantonly and
31 willfully set fire to or burn or cause to be burned, or aid, counsel, or procure the burning of any
32 commercial structure that is unoccupied at the time of the burning, the person shall be punished
33 as a Class E felon."

34
35 **PART II. ARSON OR OTHER UNLAWFUL BURNING THAT RESULTS IN INJURY**
36 **TO A FIREFIGHTER, LAW ENFORCEMENT OFFICER, FIRE INVESTIGATOR, OR**
37 **EMERGENCY MEDICAL TECHNICIAN**

38 **SECTION 2.** G.S. 14-69.3 reads as rewritten:

39 "**§ 14-69.3. Arson or other unlawful burning that results in ~~serious bodily injury~~ serious**
40 **injury or physical injury to a firefighter, law enforcement officer, fire**
41 **investigator, or emergency medical technician.**

42 (a) Definitions. – The following definitions apply in this section:

43 (1) Emergency medical technician. – The term includes an emergency medical
44 technician, an emergency medical technician-intermediate, and an emergency
45 medical technician-paramedic, as those terms are defined in G.S. 131E-155.

46 (2) Fire investigator. – The term includes any person who, individually or as part
47 of an investigative team, has the responsibility and authority to determine the
48 origin, cause, or development of a fire or explosion.

49 (b) Offense Involving Serious Injury. – A person is guilty of a Class ~~E-F~~ felony if the
50 person commits a felony under Article 15 of Chapter 14 of the General Statutes and a firefighter,
51 law enforcement officer, fire investigator, or emergency medical technician suffers serious ~~bodily~~

1 injury while discharging or attempting to discharge official duties on the property, or proximate
2 to the property, that is the subject of the firefighter's, law enforcement officer's, fire investigator's,
3 or emergency medical technician's discharge or attempt to discharge his or her respective duties.

4 (c) Offense Involving Physical Injury. – A person is guilty of a Class I felony if the person
5 commits a felony under Article 15 of Chapter 14 of the General Statutes and a firefighter, law
6 enforcement officer, fire investigator, or emergency medical technician suffers physical injury
7 while discharging or attempting to discharge official duties on the property, or proximate to the
8 property, that is the subject of the firefighter's, law enforcement officer's, fire investigator's, or
9 emergency medical technician's discharge or attempt to discharge his or her respective duties."

10
11 **PART III. COMMISSIONER OF INSURANCE THROUGH OFFICE OF STATE FIRE**
12 **MARSHAL TO INVESTIGATE FIRES**

13 **SECTION 3.(a)** G.S. 58-79-1 reads as rewritten:

14 **"§ 58-79-1. Fires investigated; reports; records.**

15 ~~The Director of the State Bureau of Investigation, through the State Bureau of Investigation,~~
16 ~~The Commissioner of Insurance, through~~ the Office of the State Fire Marshal, ~~Marshal, the State~~
17 ~~Bureau of Investigation,~~ and the chief of the fire department, or chief of police where there is no
18 chief of the fire department, in municipalities and towns, and the county fire marshal and the
19 sheriff of the county and the chief of the rural fire department where such fire occurs outside of
20 a municipality, are hereby authorized to investigate the cause, origin, and circumstances of every
21 fire occurring in such municipalities or counties in which property has been destroyed or
22 damaged, and shall specially make investigation whether the fire was the result of carelessness
23 or design. A preliminary investigation shall be made by the chief of fire department or chief of
24 police, where there is no chief of fire department in municipalities, and by the county fire marshal
25 and the sheriff of the county or the chief of the rural fire department where such fire occurs
26 outside of a municipality, and must be begun within three days, exclusive of Sunday, of the
27 occurrence of the fire, and the ~~Director of the State Bureau of Investigation, through the State~~
28 ~~Bureau of Investigation, Commissioner of Insurance, through the Office of the State Fire~~
29 ~~Marshal,~~ shall have the right to supervise and direct the investigation when ~~he~~ the Commissioner
30 deems it expedient or necessary.

31 The officer making the investigation of fires shall forthwith notify the ~~Director of the State~~
32 ~~Bureau of Investigation, Commissioner of Insurance,~~ and must within one week of the occurrence
33 of the fire furnish to the ~~Director of the State Bureau of Investigation Commissioner of Insurance~~
34 a written statement of all facts relating to the cause and origin of the fire, the kind, value and
35 ownership of the property destroyed, and such other information as is called for by the forms
36 provided by the ~~Director of the State Bureau of Investigation Commissioner of Insurance.~~
37 Departments capable of submitting the required information by the utilization of computers and
38 related equipment, by means of an approved format of standard punch cards, magnetic tapes or
39 an approved telecommunications system, may do so in lieu of the submission of the written
40 statement as provided for in this section. The ~~Director of the State Bureau of Investigation~~
41 Commissioner of Insurance shall keep ~~in his office~~ a record of all reports submitted pursuant to
42 this section. These reports shall at all times be open to public inspection."

43 **SECTION 3.(b)** G.S. 58-79-5 reads as rewritten:

44 **"§ 58-79-5. Commissioner of Insurance and Director of the State Bureau of Investigation**
45 **to make examination; arrests and prosecution.**

46 It is the duty of the Commissioner of Insurance, through the Office of the Fire Marshal, and
47 the Director of the State Bureau of Investigation to examine, or cause examination to be made,
48 into the cause, circumstances, and origin of all fires occurring within the State to which ~~his~~ his
49 or her attention has been called in accordance with the provisions of G.S. 58-79-1, or by
50 interested parties, by which property is accidentally or unlawfully burned, destroyed, or
51 damaged, whenever in ~~his~~ his or her judgment the evidence is sufficient, and to specially examine

1 and decide whether the fire was the result of carelessness or the act of an incendiary. The
2 Commissioner of Insurance, through the Office of State Fire Marshal, and the Director of the
3 State Bureau of Investigation shall, in person, by deputy or otherwise, fully investigate all
4 circumstances surrounding such fire, and, when in ~~his~~-their opinion such proceedings are
5 necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant
6 of any facts or to have means of knowledge in relation to the matters as to which an examination
7 is herein required to be made, and shall cause the same to be reduced in writing. If the
8 Commissioner of Insurance, through the Office of State Fire Marshal, and the Director of the
9 State Bureau of Investigation or any deputy appointed to conduct such investigations, ~~is~~-are of
10 the opinion that there is evidence to charge any person or persons with the crime of arson, or
11 other willful burning, or fraud in connection with the crime of arson or other willful burning, ~~he~~
12 the Director may arrest with a warrant or cause such person or persons to be arrested, charged
13 with such offense, and prosecuted, and shall furnish to the district attorney of the district all such
14 evidence, together with the names of witnesses and all other information ~~obtained by him,~~
15 obtained, including a copy of all pertinent and material testimony taken in the case."

16 **SECTION 3.(c)** G.S. 58-79-10 reads as rewritten:

17 **"§ 58-79-10. Powers of Commission of Insurance and Director of the State Bureau of**
18 **Investigation in investigations.**

19 The Commissioner of Insurance, through the Office of State Fire Marshal, and the Director
20 of the State Bureau of Investigation, or ~~his~~-their deputy appointed to conduct such examination,
21 ~~has~~-have the powers of a trial justice for the purpose of summoning and compelling the attendance
22 of witnesses to testify in relation to any matter which is by provisions of this Article a subject of
23 inquiry and investigation, and may administer oaths and affirmations to persons appearing as
24 witnesses before them. False swearing in any such matter or proceeding is perjury and shall be
25 punished as such. The Commissioner of Insurance, through the Office of State Fire Marshal, and
26 the Director of the State Bureau of Investigation or ~~his~~-their deputy ~~has~~-have authority at all times
27 of the day or night, in performance of the duties imposed by the provisions of this Article, to
28 enter upon and examine any building or premises where any fire has occurred, and other buildings
29 and premises adjoining or near the same. All investigations held by or under the direction of the
30 Commissioner of Insurance through the Office of State Fire Marshal and Director of the State
31 Bureau of Investigation or ~~his~~-their deputy may, in their discretion, be private, and persons other
32 than those required to be present by the provisions of this Article may be excluded from the place
33 where the investigation is held, and witnesses may be kept apart from each other and not allowed
34 to communicate with each other until they have been examined."

35 **SECTION 3.(d)** G.S. 58-79-15 reads as rewritten:

36 **"§ 58-79-15. Failure to comply with summons or subpoena.**

37 The failure of a person to comply with a summons or subpoena of the Commissioner of
38 Insurance, through the Office of State Fire Marshal, and the Director of the State Bureau of
39 Investigation or ~~his~~-their deputy under G.S. 58-79-10 shall be brought before a court of record
40 and punished as for contempt in the same manner as if he had failed to appear and testify before
41 said court of record."

42 **SECTION 3.(e)** G.S. 58-79-40 reads as rewritten:

43 **"§ 58-79-40. Insurance company to furnish information.**

44 (a) The chief of any municipal fire or police department, county fire marshal or sheriff,
45 ~~or~~ special agent of the State Bureau of ~~Investigation~~-Investigation, or the Office of State Fire
46 Marshal, may request any insurance company investigating a fire loss of real or personal property
47 to release any information in its possession relative to that loss. The company shall release the
48 information and cooperate with any official authorized to request such information pursuant to
49 this section. The information shall include, but is not limited to:

- 50 (1) Any insurance policy relevant to a fire loss under investigation and any
51 application for such a policy;

- 1 (2) Policy premium payment records;
2 (3) History of previous claims made by the insured for fire loss;
3 (4) Material relating to the investigation of the loss, including statements of any
4 person, proof of loss, and any other relevant evidence.

5 (b) If an insurance company (or insurance agency) has reason to suspect that a fire loss
6 to its insured's real or personal property was caused by incendiary means, the company shall
7 furnish the State Bureau of ~~Investigation~~ Investigation, and the Office of State Fire Marshal, with
8 all relevant material acquired during its investigation of the fire loss, cooperate with and take
9 such action as may be requested of it by any law-enforcement agency, and permit any person
10 ordered by a court to inspect any of its records pertaining to the policy and the loss.

11 (c) In the absence of fraud or malice, no insurance company (or insurance agency), or
12 person who furnishes information on its behalf, shall be liable for damages in a civil action or
13 subject to criminal prosecution for any oral or written statement made or any other action that is
14 necessary to supply information required pursuant to this section.

15 (d) The officials and departmental and agency personnel receiving any information
16 furnished pursuant to this section shall hold the information in confidence until such time as its
17 release is required pursuant to a criminal or civil proceeding.

18 (e) Any official referred to in subsection (a) of this section may be required to testify as
19 to any information in his possession regarding the fire loss of real or personal property in any
20 civil action in which any person seeks recovery under a policy against an insurance company for
21 the fire loss."

22 **SECTION 3.(f)** This section becomes effective October 1, 2019.

23

24 **PART IV. SAVINGS CLAUSE AND EFFECTIVE DATE**

25 **SECTION 4.(a)** Prosecutions for offenses committed before the effective date of
26 this act are not abated or affected by this act, and the statutes that would be applicable but for
27 this act remain applicable to those prosecutions.

28 **SECTION 4.(b)** Except as otherwise provided, this act becomes effective December
29 1, 2019, and applies to offenses committed on or after that date.