

2018 Regular Session

SENATE BILL NO. 54

BY SENATOR MARTINY

ARSON. Creates the crime of negligent arson. (gov sig)

1 AN ACT

2 To enact R.S. 14:52.2 and R.S. 15:562.1(3)(j), relative to arson; to create the crime of
3 negligent arson; to provide definitions; to provide penalties; and to provide for
4 related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 14:52.2 is hereby enacted to read as follows:

7 **§52.2. Negligent arson**

8 **A. Negligent arson is the damaging of any property of another, movable**
9 **or immovable, by the setting of fire or causing an explosion, without consent of**
10 **the owner or custodian of the property, under either of the following**
11 **circumstances:**

12 **(1) The offender's criminal negligence causes the fire or the explosion.**

13 **(2) The offender's conduct, whether or not amounting to criminal**
14 **negligence, causes the fire or the explosion and the offender fails to report the**
15 **fire or the explosion, as soon as reasonably possible, to the proper authorities,**
16 **including any law enforcement agency, fire department, or emergency services**
17 **agency within the jurisdiction in which the property is located.**

1 **B. If the offender knows or should have known that he has no possessory**
2 **right to the property or other interest therein, or has not previously established**
3 **a right of entry into or onto the property, it may be inferred that the setting of**
4 **the fire or the causing of the explosion was without consent of the owner or**
5 **custodian of the property.**

6 **C. Whoever commits the crime of negligent arson where it is not**
7 **foreseeable that human life might be endangered shall be subject to the**
8 **following:**

9 **(a) On a first conviction shall be fined not more than one thousand**
10 **dollars, or imprisoned for not more than six months, or both. In addition, the**
11 **offender shall be ordered to pay restitution for damages sustained.**

12 **(b) On a second and subsequent conviction, shall be fined not more than**
13 **two thousand dollars and imprisoned, with or without hard labor, for not more**
14 **than two years. In addition, the offender shall be ordered to pay restitution for**
15 **damages sustained.**

16 **D. Whoever commits the crime of negligent arson where it is foreseeable that human**
17 **life might be endangered shall be fined not more than three thousand dollars and**
18 **imprisoned, with or without hard labor, for not more than three years. In addition, the**
19 **offender shall be ordered to pay restitution for damages sustained.**

20 **E. Whoever commits the crime of negligent arson resulting in death or**
21 **serious bodily injury to a human being shall be fined not more than five**
22 **thousand dollars and imprisoned, with or without hard labor, for not more than**
23 **five years. In addition, the offender shall be ordered to pay restitution for**
24 **damages sustained. For the purposes of this Subsection, "serious bodily injury"**
25 **means bodily injury that involves unconsciousness, extreme physical pain or**
26 **protracted and obvious disfigurement, or protracted loss or impairment of the**
27 **function of a bodily member, organ, or mental faculty, or a substantial risk of**
28 **death.**

29 **F. Any person convicted of a violation of this Section shall register with**

1 **the state fire marshal in accordance with R.S. 15:562.3.**

2 Section 2. R.S. 15:562.1(3)(j) is hereby enacted to read as follows:

3 §562.1. Definitions

4 For the purposes of this Chapter, the following shall apply:

5 * * *

6 (3) "Offense involving arson" includes the following:

7 * * *

8 **(j) Negligent arson (R.S. 14:52.2).**

9 * * *

10 Section 2. This Act shall become effective upon signature by the governor or, if not
11 signed by the governor, upon expiration of the time for bills to become law without signature
12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
13 vetoed by the governor and subsequently approved by the legislature, this Act shall become
14 effective on the day following such approval.

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy Wells.

DIGEST

SB 54 Reengrossed 2018 Regular Session Martiny

Proposed law creates the crime of negligent arson. Proposed law defines negligent arson as the damaging of any property of another, movable or immovable, by the setting of fire or causing an explosion, without consent of the owner or custodian of the property, under either of the following circumstances:

- (1) The offender's criminal negligence causes the fire or explosion.
- (2) The offender's conduct, whether or not amounting to criminal negligence, causes the fire or explosion and the offender fails to report the fire or explosion, as soon as reasonably possible, to the proper authorities, including any law enforcement agency, fire department, emergency services agency within the jurisdiction in which the property is located.

Proposed law provides that if the offender knows or should have known that he has no possessory right to the property or other interest therein, or has not previously established a right of entry into or onto the property, it may be inferred that the setting of the fire or the causing of the explosion was without consent of the owner or custodian of the property.

Proposed law provides that whoever commits the crime of negligent arson, where it is foreseeable that human life might be endangered, is to be fined not more than \$3,000 and imprisoned, with or without hard labor, for not more than three years, and in addition must pay restitution.

Proposed law provides that whoever commits the crime of negligent arson resulting in death or serious bodily injury to a human being is to be fined not more than \$5,000, or imprisoned, with or without hard labor, for not more than five years, and in addition must pay restitution.

Proposed law defines "serious bodily injury" as bodily injury that involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

Proposed law provides that any person convicted of a violation of proposed law must register with the state fire marshal in accordance with present law requiring the registration of certain arson offenders.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 14:52.2)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Delete proposed law relative to an offender causing a fire or explosion with certain criminal intent or criminal negligence.
2. Delete proposed law relative to an offender causing a fire or explosion while engaged in certain drug crimes.
3. Delete proposed law relative to an offender causing a fire or explosion while manufacturing a bomb.
4. Delete proposed law relative to an absent property owner or custodian.
5. Delete proposed law relative to fires or explosions classified as "accidental" or "natural."
6. Delete proposed law relative to a fire or explosion that is part of a permissible controlled burn or for which the offender had a permit.
7. Change imprisonment for a first offense of negligent arson from one year to six months.
8. Change penalty language from "where there was no immediate threat to human life" to "where it was not foreseeable that human life might be endangered."
9. Delete penalty for negligent arson resulting in the death of a person.

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Changes the definition of negligent arson.
2. Changes second conviction penalty for negligent arson when it is not foreseeable that human life might be endangered to not more than \$2,000 and imprisoned, with or without hard labor, for not more than two years.

3. Requires a fine of not more than \$3,000 and imprisonment, with or without hard labor, for not more than 3 years when it is foreseeable that human life might be endangered.
4. Requires a fine of not more than \$5,000 and imprisonment, with or without hard labor, for not more than 5 years when the crime of negligent arson results in the death or serious bodily injury and requires restitution for damages sustained.
5. Defines "serious bodily injury".