

# Legislative Analysis

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## ARSON REVISIONS

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**House Bill 4907 without amendment**

**House Bill 4908 (Substitute H-1)**

**Sponsor: Rep. John Walsh**

**Committee: Criminal Justice**

**Complete to 11-4-13**

## **A SUMMARY OF HOUSE BILLS 4907 & 4908 AS REPORTED BY COMMITTEE 10-30-13**

Together, the bills would amend the arson statutes to make several revisions considered technical in nature.

House Bill 4807 amends the Michigan Penal Code (MCL 750.78 and 750.79). Currently, Section 78 prohibits a person from intentionally willfully and maliciously burning, damaging, or destroying by fire or explosive any personal property, and also negligently, carelessly, or recklessly setting fire to a hotel or motel or its contents. Since the element of "intent" is already present in the prohibited conduct, the bill would delete the word "intentionally."

In computing the maximum fine that could be imposed for a conviction of willfully and maliciously burning, damaging, or destroying personal property by fire or explosive, the bill would allow the value of the property destroyed to be considered (currently, only the value of "damaged" property is considered).

Section 79 makes it a criminal offense to use or place inflammable or explosive materials or liquids in or near a building or property with the intent to commit arson in any degree, or aid or abet another to do so. The bill would amend several provisions pertaining to property insured against loss by fire or explosion by replacing the phrase "caused the fire or explosion with the intent to defraud the insurer" with "intended to defraud the insurer."

House Bill 4808 amends the Code of Criminal Procedure (MCL 777.16c) to correct inaccuracies in the sentencing guidelines pertaining to crimes involving arson. The descriptions for violations of Section 79 of the Michigan Penal Code, which pertain to arranging, placing, devising, or distributing flammable or explosive materials with the intent to commit arson or to aid and abet the commission of arson, would be revised to use the phrase "preparing to burn," which would more accurately match the conduct prohibited in the corresponding statutes.

Lastly, the bill would repeal Sections 80 and 496 of the Michigan Penal Code. Section 80 pertains to arson of mines and Section 496 to setting fire to a hotel or place of public abode. Both crimes were included in other arson crime categories in the 2012 legislation and are now redundant.

## **FISCAL IMPACT:**

The bills would have no fiscal implications for state or local units of government.

## **BRIEF DISCUSSION ON THE BILLS:**

A multi-bill package of legislation was enacted in 2012 to restructure the arson statutes and increase penalties (Public Acts 531-534, enrolled House Bills 5692-5695). Apparently, the new public acts contain some inaccuracies that need to be corrected. For example, House Bill 4907 would remove redundant language and clarify that, when computing the fine for damages to personal property in certain crimes of arson, the value of destroyed property would be included in the tally in addition to the value of property damaged. (However, the provision applying to computing a fine for property damage less than \$200 or to recklessly or negligently setting fire to a hotel or motel was not amended and so the fine remains computed on the value of property damaged.)

House Bill 4908 would repeal two provisions that had been rolled into other provisions within the Michigan Penal Code by the 2012 legislation and so are no longer needed as stand-alone provisions. Arson in a mine (Section 80) was rolled into the crime of first-degree arson, and carelessly, recklessly, or negligently setting fire to a hotel or motel so as to endanger others (Section 496) was added to Section 79.

Some concern was expressed that by removing the word "intentionally" in subsection (1) of Section 78 as House Bill 4907 would do, a prosecutor would not have to prove the element of intent for the misdemeanor crimes of willfully and maliciously burning, damaging, or destroying property valued at less than \$1,000 by fire or explosives. Others believe that the element of "intent" is included in any willful or malicious action and therefore the deleted term is redundant.

## **POSITIONS:**

A representative of the Wayne County Prosecutor's Office testified in support of the bills. (10-2-13)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.