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House Bill 4907 (Substitute S-1 as reported)
House Bill 4908 (Substitute S-1 as reported)
Sponsor: Representative John Walsh
House Committee: Criminal Justice
Senate Committee: Judiciary

CONTENT

House Bill 4907 (S-1) 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 those 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.

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 refer to the property damaged or destroyed.

Section 79 of the 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. 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 (S-1) would repeal sections of the Michigan Penal Code that prohibit setting fire to mines and setting fire to a hotel or place of public abode, and would amend the Code of Criminal Procedure to revise the felony description in the sentencing guidelines for violations of Section 79 of the Penal Code.

In the sentencing guidelines, the 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.

Under Section 80 of the Penal Code, 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 would repeal Section 80 and delete the sentencing guidelines designation for that violation (a Class D property felony with a statutory maximum sentence of imprisonment for life).

Section 496 of the Penal Code makes it a misdemeanor to carelessly, recklessly, or negligently set fire to any hotel, rooming house, lodging house, or any place of public abode, or to the furnishings in any such place. The bill would repeal Section 496.

Both bills would take effect 90 days after their enactment.

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.

Date Completed: 1-30-14

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.