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SENATE BILL DRS15305-MH-131

Short Title: Arson Law Revisions.

(Public)

Sponsors: Senators Britt and Daniel (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND THE INVESTIGATORY POWERS OF THE OFFICE OF THE STATE
3 FIRE MARSHAL WITH RESPECT TO CERTAIN FIRE INVESTIGATIONS, TO
4 INCREASE THE PUNISHMENT FOR THE BURNING OF COMMERCIAL
5 STRUCTURES, AND TO AMEND THE OFFENSE OF ARSON OR OTHER
6 UNLAWFUL BURNINGS THAT RESULT IN INJURY TO A FIREFIGHTER, LAW
7 ENFORCEMENT OFFICER, FIRE INVESTIGATOR, OR EMERGENCY MEDICAL
8 TECHNICIAN.

9 The General Assembly of North Carolina enacts:

10
11 **PART I. AMEND FIRE INVESTIGATION STATUTES AND REQUIRE DISCLOSURE**
12 **OF CERTAIN INSURANCE COMPANY FIRE INVESTIGATION INFORMATION TO**
13 **OFFICE OF THE STATE FIRE MARSHAL.**

14 **SECTION 1.(a)** Article 79 of Chapter 58 of the General Statutes reads as rewritten:

15 "Article 79.

16 "Investigation of Fires and Inspection of Premises.

17 **"§ 58-79-1. Fires investigated; reports; records.**

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

34 The officer making the investigation of fires shall forthwith notify the ~~Director of the State~~
35 Bureau of Investigation, Commissioner of Insurance, and must within one week of the occurrence
36 of the fire furnish to the ~~Director of the State Bureau of Investigation~~ Commissioner of Insurance



1 a written statement of all facts relating to the cause and origin of the fire, the kind, value and
2 ownership of the property destroyed, and such other information as is called for by the forms
3 provided by the ~~Director of the State Bureau of Investigation~~Commissioner of Insurance
4 Departments capable of submitting the required information by the utilization of computers and
5 related equipment, ~~by means of an approved format of standard punch cards, magnetic tapes or~~
6 ~~or by~~ an approved telecommunications system, may do so in lieu of the submission of the written
7 statement as provided for in this section. The Director of the State Bureau of Investigation and
8 the Commissioner of Insurance through the Office of the State Fire Marshal shall keep ~~in his~~
9 ~~office~~ a record of all reports submitted pursuant to this section. These reports shall at all times be
10 open to public inspection.

11 "**§ 58-79-5. Commissioner of Insurance through the Office of the State Fire Marshal and**
12 **the Director of the State Bureau of Investigation to make examination; arrests**
13 **and prosecution.**

14 It is the duty of the Commissioner of Insurance through the Office of the State Fire Marshal
15 and the Director of the State Bureau of Investigation to examine, or cause examination to be
16 made, into the cause, circumstances, and origin of all fires occurring within the State to which
17 his attention has been called in accordance with the provisions of G.S. 58-79-1, or by interested
18 parties, by which property is accidentally or unlawfully burned, destroyed, or damaged,
19 whenever in his judgment the evidence is sufficient, and to specially examine and decide whether
20 the fire was the result of carelessness or the act of an incendiary. The Office of the State Fire
21 Marshal and the Director of the State Bureau of Investigation shall, in person, by deputy or
22 otherwise, fully investigate all circumstances surrounding such fire, and, when in his opinion
23 such proceedings are necessary, take or cause to be taken the testimony on oath of all persons
24 supposed to be cognizant of any facts or to have means of knowledge in relation to the matters
25 as to which an examination is herein required to be made, and shall cause the same to be reduced
26 in writing. If the Office of the State Fire Marshal or the Director of the State Bureau of
27 Investigation or any deputy appointed to conduct such investigations, is of the opinion that there
28 is evidence to charge any person or persons with the crime of arson, or other willful burning, or
29 fraud in connection with the crime of arson or other willful burning, he may arrest with warrant
30 or cause such person or persons to be arrested, charged with such offense, and prosecuted, and
31 shall furnish to the district attorney of the district all such evidence, together with the names of
32 witnesses and all other information obtained by him, including a copy of all pertinent and material
33 testimony taken in the case.

34 "**§ 58-79-10. Powers of Commissioner of Insurance through the Office of the State Fire**
35 **Marshal and Director of the State Bureau of Investigation in investigations.**

36 The Commissioner of Insurance through the Office of the State Fire Marshal and the Director
37 of the State Bureau of Investigation, or his deputy appointed to conduct such examination, has
38 the powers of a trial justice for the purpose of summoning and compelling the attendance of
39 witnesses to testify in relation to any matter which is by provisions of this Article a subject of
40 inquiry and investigation, and may administer oaths and affirmations to persons appearing as
41 witnesses before them. False swearing in any such matter or proceeding is perjury and shall be
42 punished as such. The Office of the State Fire Marshal and the Director of the State Bureau of
43 Investigation or ~~his deputy~~has their deputies have authority at all times of the day or night, in
44 performance of the duties imposed by the provisions of this Article, to enter upon and examine
45 any building or premises where any fire has occurred, and other buildings and premises adjoining
46 or near the same. All investigations held by or under the direction of the Office of the State Fire
47 Marshal or the Director of the State Bureau of Investigation or ~~his deputy~~their deputies may, in
48 their discretion, be private, and persons other than those required to be present by the provisions
49 of this Article may be excluded from the place where the investigation is held, and witnesses may
50 be kept apart from each other and not allowed to communicate with each other until they have
51 been examined.

1 **"§ 58-79-15. Failure to comply with summons or subpoena.**

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

7 ...
8 **"§ 58-79-40. Insurance company to furnish information.**

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

- 15 (1) Any insurance policy relevant to a fire loss under investigation and any
16 application for such a policy;
17 (2) Policy premium payment records;
18 (3) History of previous claims made by the insured for fire loss;
19 (4) Material relating to the investigation of the loss, including statements of any
20 person, proof of loss, and any other relevant evidence.

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

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

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

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

38"

39 **SECTION 1.(b)** This section becomes effective October 1, 2019.

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41 **PART II. BURNING OF COMMERCIAL STRUCTURES**

42 **SECTION 2.(a)** G.S. 14-60 is repealed.

43 **SECTION 2.(b)** G.S. 14-61 reads as rewritten:

44 **"§ 14-61. Burning of certain bridges and buildings.**

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

51 **SECTION 2.(c)** G.S. 14-62 reads as rewritten:

1 **"§ 14-62. Burning of certain buildings.**

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

9 **SECTION 2.(d)** G.S. 14-62.1 reads as rewritten:

10 **"§ 14-62.1. Burning of building or structure in process of construction.**

11 ¶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 building or structure in the process of construction
14 for use or intended to be used as a dwelling house or in carrying on any trade or manufacture, or
15 otherwise, whether the same or any of them respectively shall then be in the possession of the
16 offender, or in the possession of any other person, ~~he~~the person shall be punished as a Class H
17 felon."

18 **SECTION 2.(e)** G.S. 14-62.2 reads as rewritten:

19 **"§ 14-62.2. Burning of churches and certain other religious buildings.**

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

24 **SECTION 2.(f)** G.S. 14-64 reads as rewritten:

25 **"§ 14-64. Burning of ginhouses and tobacco houses.**

26 ¶Unless the conduct is covered under some other provision of law providing greater
27 punishment, if any person shall wantonly and willfully set fire to or burn or cause to be burned,
28 or aid, counsel or procure the burning of, any ginhouse or tobacco house, or any part thereof,
29 ~~he~~the person shall be punished as a Class H felon."

30 **SECTION 2.(g)** Article 15 of Chapter 14 of the General Statutes is amended by
31 adding a new section to read:

32 **"§ 14-62.3. Burning of commercial structure.**

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

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

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

45
46 **PART III. ARSON OR OTHER UNLAWFUL BURNING THAT RESULTS IN INJURY**
47 **TO A FIREFIGHTER, LAW ENFORCEMENT OFFICER, FIRE INVESTIGATOR, OR**
48 **EMERGENCY MEDICAL TECHNICIAN**

49 **SECTION 3.** G.S. 14-69.3 reads as rewritten:

1 "§ 14-69.3. Arson or other unlawful burning that results in ~~serious bodily~~ injury to a
2 firefighter, law enforcement officer, fire investigator, or emergency medical
3 technician.

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

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

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

11 (b) Offense Involving Serious Injury. – A person is guilty of a Class ~~EF~~ felony if the
12 person commits a felony under Article 15 of Chapter 14 of the General Statutes and a firefighter,
13 law enforcement officer, fire investigator, or emergency medical technician suffers serious ~~bodily~~
14 injury while discharging or attempting to discharge official duties on the property, or proximate
15 to the property, that is the subject of the firefighter's, law enforcement officer's, fire investigator's,
16 or emergency medical technician's discharge or attempt to discharge his or her respective duties.

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

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.