



HOUSE BILL No. 5157

December 2, 1999, Introduced by Reps. Julian, Richner, Ehardt, Law, Mortimer, DeHart, Rick Johnson, Howell, Toy, Bradstreet, Van Woerkom and Vear and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 73 and 77 (MCL 750.73 and 750.77), section 77 as amended by 1998 PA 312.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 73. (1) ~~Burning of other real property--Any~~ A person
2 who ~~wilfully~~ WILLFULLY or maliciously burns ~~any~~ A building or
3 other real property, or the contents ~~thereof~~ OF A BUILDING OR
4 OTHER REAL PROPERTY, other than ~~those specified~~ PROPERTY
5 DESCRIBED in ~~the next preceding~~ section 72, ~~of this chapter,~~
6 ~~the property of himself or another, shall be~~ IS guilty of a
7 felony ~~, punishable by imprisonment in the state prison~~ for
8 not more than 10 years OR A FINE OF NOT MORE THAN \$5,000.00, OR
9 BOTH.

1 (2) A PERSON WHO WILLFULLY OR MALICIOUSLY BURNS A CHURCH,
2 SYNAGOGUE, MOSQUE, TEMPLE, OR OTHER HOUSE OF WORSHIP OR THE
3 CONTENTS OF A CHURCH, SYNAGOGUE, MOSQUE, TEMPLE, OR OTHER HOUSE
4 OF WORSHIP IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
5 NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN \$10,000.00, OR
6 BOTH.

7 Sec. 77. (1) A person who uses, arranges, places, devises,
8 or distributes an inflammable, combustible, or explosive materi-
9 al, liquid, or substance or any device in or near a building or
10 property described in section 72, 73(1), 74, or 75 with intent to
11 willfully and maliciously set fire to or burn the building or
12 property or who aids, counsels, induces, persuades, or procures
13 another to do so is guilty of a crime as follows:

14 (a) If the property intended to be burned is personal or
15 real property, or both, with a combined value less than \$200.00,
16 the person is guilty of a misdemeanor punishable by imprisonment
17 for not more than 93 days or a fine of not more than \$500.00 or 3
18 times the combined value of the property intended to be burned,
19 whichever is greater, or both imprisonment and a fine.

20 (b) If any of the following apply, the person is guilty of a
21 misdemeanor punishable by imprisonment for not more than 1 year
22 or a fine of not more than \$2,000.00 or 3 times the combined
23 value of the property intended to be burned, whichever is great-
24 er, or both imprisonment and a fine:

25 (i) The property intended to be burned is personal or real
26 property, or both, with a combined value of \$200.00 or more but
27 less than \$1,000.00.

1 (ii) The person violates subdivision (a) and has 1 or more
2 prior convictions for committing or attempting to commit an
3 offense under this section or a local ordinance substantially
4 corresponding to this section.

5 (c) If any of the following apply, the person is guilty of a
6 felony punishable by imprisonment for not more than 5 years or a
7 fine of not more than \$10,000.00 or 3 times the combined value of
8 the property intended to be burned, whichever is greater, or both
9 imprisonment and a fine:

10 (i) The property intended to be burned is personal or real
11 property, or both, with a combined value of \$1,000.00 or more but
12 less than \$20,000.00.

13 (ii) The person violates subdivision (b)(i) and has 1 or
14 more prior convictions for violating or attempting to violate
15 this section. For purposes of this subparagraph, however, a
16 prior conviction does not include a conviction for a violation or
17 attempted violation of subdivision (a) or (b)(ii).

18 (d) If any of the following apply, the person is guilty of a
19 felony punishable by imprisonment for not more than 10 years or a
20 fine of not more than \$15,000.00 or 3 times the combined value of
21 the property intended to be burned, whichever is greater, or both
22 imprisonment and a fine:

23 (i) The property is personal or real property, or both, with
24 a combined value of \$20,000.00 or more.

25 (ii) The person violates subdivision (c)(i) and has 2 or
26 more prior convictions for committing or attempting to commit an
27 offense under this section. For purposes of this subparagraph,

1 however, a prior conviction does not include a conviction for
2 committing or attempting to commit an offense for a violation or
3 attempted violation of subdivision (a) or (b)(ii).

4 (2) A PERSON WHO USES, ARRANGES, PLACES, DEVISES, OR DIS-
5 TRIBUTES AN INFLAMMABLE, COMBUSTIBLE, OR EXPLOSIVE MATERIAL,
6 LIQUID, OR SUBSTANCE OR DEVICE IN OR NEAR A CHURCH, SYNAGOGUE,
7 MOSQUE, TEMPLE, OR OTHER HOUSE OF WORSHIP WITH THE INTENT TO
8 WILLFULLY AND MALICIOUSLY SET FIRE TO OR BURN THAT CHURCH, SYNA-
9 GOGUE, MOSQUE, TEMPLE, OR OTHER HOUSE OF WORSHIP SHALL BE PUN-
10 IShed BY TWICE THE PENALTY OTHERWISE PROVIDED FOR UNDER SUBSEC-
11 TION (1).

12 (3) ~~(2)~~ The combined value of property intended to be
13 burned in separate incidents pursuant to a scheme or course of
14 conduct within any 12-month period may be aggregated to determine
15 the total value of property intended to be burned.

16 (4) ~~(3)~~ If the prosecuting attorney intends to seek an
17 enhanced sentence based upon the defendant having 1 or more prior
18 convictions, the prosecuting attorney shall include on the com-
19 plaint and information a statement listing the prior conviction
20 or convictions. The existence of the defendant's prior convic-
21 tion or convictions shall be determined by the court, without a
22 jury, at sentencing or at a separate hearing for that purpose
23 before sentencing. The existence of a prior conviction may be
24 established by any evidence relevant for that purpose, including,
25 but not limited to, 1 or more of the following:

26 (a) The total value of property intended to be burned.

1 (b) A transcript of a prior trial, plea-taking, or
2 sentencing.

3 (c) Information contained in a presentence report.

4 (d) The defendant's statement.

5 (3) ~~(4)~~ If the sentence for a conviction under this sec-
6 tion is enhanced by 1 or more prior convictions, those prior con-
7 victions shall not be used to further enhance the sentence for
8 the conviction pursuant to section 10, 11, or 12 of chapter IX of
9 the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11,
10 and 769.12.