

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1586

By: Shurden

AS INTRODUCED

An Act relating to arson; amending 21 O.S. 2001, Sections 1401, 1402, 1403, 1404, and 1405, which relate to arson in the first, second, third, and fourth degrees and endangering human life during commission of arson; increasing penalties; applying seizure and forfeiture actions to certain crimes; adding restitution to penalty for certain crimes; including certain structures in arson second degree; adding certain property to arson third degree; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1401, is amended to read as follows:

Section 1401. A. Any person who willfully and maliciously sets fire to or burns, or by the use of any explosive device, accelerant, ignition device, heat-producing device or substance or while manufacturing or attempting to manufacture a controlled dangerous substance in violation of subsection G of Section 2-401 of Title 63 of the Oklahoma Statutes, destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels or procures the burning or destruction of any building or structure or contents thereof, inhabited or occupied by one or more persons, whether the property of that person or another, or who willfully and maliciously sets fire to or burns, or by the use of any explosive device, accelerant, ignition device, heat-producing device or substance or while manufacturing or attempting to manufacture a controlled dangerous substance in violation of subsection G of Section 2-401 of Title 63 of the Oklahoma Statutes, causes a person to be burned, or aids,

counsels or procures the burning of a person, shall be guilty of arson in the first degree, which is a felony, and upon conviction thereof shall be punished by a fine not to exceed ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifty Thousand Dollars (\$50,000.00), or ~~be confined to the State Penitentiary~~ by imprisonment in the custody of the Department of Corrections for a term of not more than thirty-five (35) years, or by both such fine and imprisonment.

B. In addition to any penalty imposed pursuant to the provisions of this section, the seizure and forfeiture provisions of Section 1738 of this title shall apply and the court shall require restitution for the crime.

SECTION 2. AMENDATORY 21 O.S. 2001, Section 1402, is amended to read as follows:

Section 1402. A. Any person who willfully and maliciously sets fire to or burns or by the use of any explosive device or substance or while manufacturing or attempting to manufacture a controlled dangerous substance in violation of subsection G of Section 2-401 of Title 63 of the Oklahoma Statutes destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels or procures the burning or destruction of any uninhabited or unoccupied building or structure or contents thereof, or any barn, stable or other structure occupied by any equine or bovine animal, whether the property of himself or another, shall be guilty of arson in the second degree, which is a felony, and upon conviction thereof shall be punished by a fine not to exceed ~~Twenty Thousand Dollars (\$20,000.00)~~ Thirty-five Thousand Dollars (\$35,000.00), or ~~be confined in the State Penitentiary~~ by imprisonment in the custody of the Department of Corrections for a term of not more than twenty-five (25) years, or by both such fine and imprisonment.

B. In addition to any penalty imposed pursuant to the provisions of this section, the seizure and forfeiture provisions of

Section 1738 of this title shall apply and the court shall require restitution for the crime.

SECTION 3. AMENDATORY 21 O.S. 2001, Section 1403, is amended to read as follows:

Section 1403. A. Any person who willfully and maliciously sets fire to or burns or by the use of any explosive device or substance destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels or procures the burning of any property whatsoever, including automobiles, trucks, trailers, tractors, motorcycles, boats, standing farm crops, hay, pasture lands, forest lands, or any other property not herein specifically named, such property being worth not less than Fifty Dollars (\$50.00), whether the property of himself or another, shall be guilty of arson in the third degree, and upon conviction thereof shall be punished by a fine not to exceed ~~Ten Thousand Dollars (\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00), or ~~be confined in the State Penitentiary~~ by imprisonment in the custody of the Department of Corrections for a term of not more than fifteen (15) years, or by both such fine and imprisonment.

B. Any person who willfully and maliciously, and with intent to injure or defraud the insurer, sets fire to or burns or by use of any explosive device or substance destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels, or procures the burning or destruction of any building, property, or other chattels, whether the property of himself or another, which shall at the time be insured against loss or damage by fire or explosion, shall be guilty of arson in the third degree, and upon conviction thereof shall be punished by a fine not to exceed ~~Ten Thousand Dollars (\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00), or ~~be confined in the State Penitentiary~~ by imprisonment in the custody of the Department of Corrections for a term of not more than fifteen (15) years, or by both such fine and imprisonment.

C. Arson in the third degree is a felony.

D. In addition to any penalty imposed pursuant to the provisions of this section, the seizure and forfeiture provisions of Section 1738 of this title shall apply and the court shall require restitution for the crime.

SECTION 4. AMENDATORY 21 O.S. 2001, Section 1404, is amended to read as follows:

Section 1404. A. Any person who willfully and maliciously attempts to set fire to or burn or attempts by use of any explosive device or substance to destroy in whole or in part, or causes to be burned or destroyed, or attempts to counsel or procure the burning or destruction of any building or property mentioned in Sections 1401, 1402 or 1403 of this title shall be guilty of arson in the fourth degree, and upon conviction thereof shall be punished by a fine not to exceed ~~Five Thousand Dollars (\$5,000.00)~~ Ten Thousand Dollars (\$10,000.00), or ~~be confined in the State Penitentiary by imprisonment in the custody of the Department of Corrections for a term of not more than ten (10) years,~~ or by both such fine and imprisonment.

B. The placing or distributing of any flammable, explosive or combustible material or substance or any device in any building or property mentioned in Sections 1401, 1402 or 1403 of this title, in an arrangement or preparation with intent to eventually willfully and maliciously set fire to or burn or to procure the setting fire to or burning of same, shall for the purposes of this section constitute an attempt to burn such building or property, and shall be guilty of arson in the fourth degree, and upon conviction thereof shall be punished by a fine not to exceed ~~Five Thousand Dollars (\$5,000.00)~~ Ten Thousand Dollars (\$10,000.00), or ~~be confined in the State Penitentiary by imprisonment in the custody of the Department of Corrections for a term of not more than ten (10) years,~~ or by both such fine and imprisonment.

C. Arson in the fourth degree is a felony.

D. In addition to any penalty imposed pursuant to the provisions of this section, the seizure and forfeiture provisions of Section 1738 of this title shall apply and the court shall require restitution for the crime.

SECTION 5. AMENDATORY 21 O.S. 2001, Section 1405, is amended to read as follows:

Section 1405. A. Any person violating any of the provisions of Sections 1401, 1402, 1403 or 1404 of this title who during such violation endangers any human life, including all emergency service personnel, shall be guilty of a felony and upon conviction shall be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term of not less than three (3) years nor more than ten (10) years, or by a fine not to exceed ~~Ten Thousand Dollars (\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment. If personal injury results, the person shall be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term of not less than seven (7) years.

B. In addition to any penalty imposed pursuant to the provisions of this section, the seizure and forfeiture provisions of Section 1738 of this title shall apply and the court shall require restitution for the crime.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.