

4728

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. LEIBELL -- read twice and ordered printed, and when
printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to arson in the sixth degree

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY,
DO ENACT AS FOLLOWS:

1 Section 1. Legislative intent. This legislation is designed to protect
2 the citizens of the state of New York by ensuring that individuals who
3 commit reckless or careless acts that cause or contribute to fires or
4 explosions are charged with an appropriate arson-related offense. Experience
5 and history illustrate that the commission of reckless or careless
6 acts that cause or contribute to fires or explosions is indicative
7 of a propensity or intention to start or cause fires (i.e. commit
8 arson). Typically, when an individual commits such reckless acts and is
9 charged with a lower level arson offense, the plea negotiations result
10 in a conviction for the non-arson related offense of reckless endanger-
11 ment. This practice endangers the citizens of New York state since it
12 allows individuals who may have a propensity to commit arson to avoid an
13 arson-related charge. This legislation rectifies this problem. Additionally,
14 this legislation furthers the goals of the arson in the fifth
15 degree legislation recently enacted and promotes the societal norms of
16 personal responsibility and accountability.

17 S 2. Section 150.01 of the penal law is renumbered section 150.03 and
18 a new section 150.01 is added to read as follows:
19 S 150.01 ARSON IN THE SIXTH DEGREE.

20 1. A PERSON IS GUILTY OF ARSON IN THE SIXTH DEGREE WHEN HE OR SHE
21 CAUSES (OR CONTRIBUTES TO) AN INJURY TO AN INDIVIDUAL AND/OR DAMAGE TO A
22 BUILDING, MOTOR VEHICLE OR OTHER PERSONAL PROPERTY BY RECKLESSLY OR
23 CARELESSLY STARTING A FIRE OR CAUSING AN EXPLOSION.

24 2. IT SHALL NOT BE AN AFFIRMATIVE DEFENSE TO ANY PROSECUTION UNDER
25 THIS SECTION THAT NO PERSON OTHER THAN THE DEFENDANT HAD A POSSESSORY OR

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 PROPRIETARY INTEREST IN THE BUILDING, MOTOR VEHICLE OR OTHER PERSONAL
2 PROPERTY.

3 3. AN INDIVIDUAL WHO VIOLATES THIS SECTION AFTER HAVING BEEN CONVICTED
4 TWO OR MORE TIMES OF A VIOLATION OF THIS SECTION WITHIN THE PRECEDING
5 TWO YEARS IS GUILTY OF ARSON IN THE FIFTH DEGREE UNDER SECTION 150.03 OF
6 THIS ARTICLE.

7 ARSON IN THE SIXTH DEGREE IS A CLASS B MISDEMEANOR.

8 S 3. This act shall take effect on the first of November next succeed-
9 ing the date on which it shall have become a law.