

# STATE OF NEW YORK

3927

2019-2020 Regular Sessions

## IN SENATE

February 21, 2019

Introduced by Sens. SEWARD, AKSHAR, ANTONACCI, RANZENHOFER, TEDISCO --  
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 the causation of a fire or  
explosion during the course of committing or attempting to commit a  
controlled substance felony

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Section 150.05 of the penal law, as amended by chapter 225  
2 of the laws of 1979, is amended to read as follows:

3 § 150.05 Arson in the fourth degree.

4 1. A person is guilty of arson in the fourth degree when he:  
5 (a) recklessly damages a building or motor vehicle by intentionally  
6 starting a fire or causing an explosion[-]; or

7 (b) damages a building or motor vehicle by fire or by explosion in the  
8 course of the commission or attempted commission of a felony as defined  
9 in article two hundred twenty of this chapter.

10 2. In any prosecution under this section, it is an affirmative defense  
11 that no person other than the defendant had a possessory or proprietary  
12 interest in the building or motor vehicle.

13 Arson in the fourth degree is a class E felony.

14 § 2. Section 150.10 of the penal law, as amended by chapter 225 of the  
15 laws of 1979, is amended to read as follows:

16 § 150.10 Arson in the third degree.

17 1. A person is guilty of arson in the third degree when he:

18 (a) intentionally damages a building or motor vehicle by starting a  
19 fire or causing an explosion[-]; or

20 (b) recklessly damages a building or motor vehicle by fire or by  
21 explosion in the course of the commission or attempted commission of a  
22 felony as defined in article two hundred twenty of this chapter.

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

LBD09560-01-9

1     2. In any prosecution under this section, it is an affirmative defense  
2     that (a) no person other than the defendant had a possessory or proprie-  
3     tary interest in the building or motor vehicle, or if other persons had  
4     such interests, all of them consented to the defendant's conduct, and  
5     (b) the defendant's sole intent was to destroy or damage the building or  
6     motor vehicle for a lawful and proper purpose, and (c) the defendant had  
7     no reasonable ground to believe that his conduct might endanger the life  
8     or safety of another person or damage another building or motor vehicle.  
9     Arson in the third degree is a class C felony.  
10    § 3. This act shall take effect immediately.