

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.

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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.