

SENATE BILL NO. 113—SENATOR KIECKHEFER

FEBRUARY 11, 2021

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to arson. (BDR 15-587)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; defining the term “maliciously” for the purposes of the crime of arson; making various changes to the public offense of the destruction of timber, forest, crops, grass, vegetation or certain property by fire caused by gross negligence; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that a person who willfully and maliciously sets fire to or  
2 burns or causes to be burned, or aids, counsels or procures the burning of certain  
3 property is guilty of arson. (NRS 205.010-205.025) The Nevada Supreme Court  
4 held in *State v. Second Jud. Dist. Court* that arson is a specific-intent crime, which  
5 requires the State to prove that a defendant intended to cause harm, because the  
6 term “maliciously” means an evil intent under Nevada law. (136 Nev. Adv. Op. 23,  
7 462 P.3d 671 (2020)) **Section 1** of this bill defines the term “maliciously” for the  
8 purposes of the crime of arson as a wish to vex, annoy or injure another person, or  
9 an intent to do a wrongful act.

10 Existing law provides that a person who, with gross negligence, lights or sets a  
11 fire in certain areas and thereby causes the destruction of any timber, forest, crops,  
12 grass, vegetation or property not his or her own, is guilty of a public offense and  
13 shall be punished: (1) where the value of the loss is \$5,000 or more or where the  
14 damage results in impairment of public communication, transportation or police  
15 and fire protection, for a category C felony; (2) where the value of the loss is \$250  
16 or more but less than \$5,000, for a gross misdemeanor; (3) where the value of the  
17 loss is \$25 or more but less than \$250, for a misdemeanor; and (4) where the value  
18 of the loss is less than \$25, by a fine of not more than \$500. (NRS 193.155,  
19 475.040) **Section 2** of this bill revises the elements of the public offense of the  
20 destruction of any timber, forest, crops, grass, vegetation or property not his or her  
21 own to include the destruction of a structure. **Section 2** also revises the penalties for



22 committing such a public offense to now be punishable as: (1) where the value of  
 23 the loss is \$25,000 or more, a category B felony by imprisonment in the state prison  
 24 for a minimum term of not less than 1 year and a maximum term of not more than 6  
 25 years, and by a fine of not more than \$5,000; (2) where the value of the loss is  
 26 \$5,000 or more but less than \$25,000 or where the damage resulted in impairment  
 27 of public communication, transportation or police and fire protection, a category C  
 28 felony; (3) where the value of the loss is \$1,200 or more but less than \$5,000, a  
 29 category D felony; and (4) where the value of the loss is \$1,200 or less, a  
 30 misdemeanor.

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

1 **Section 1.** Chapter 205 of NRS is hereby amended by adding  
 2 thereto a new section to read as follows:

3 *As used in NRS 205.005 to 205.025, inclusive, unless the*  
 4 *context otherwise requires, "maliciously" means a wish to vex,*  
 5 *annoy or injure another person, or an intent to do a wrongful act.*

6 **Sec. 2.** NRS 475.040 is hereby amended to read as follows:

7 475.040 Every person who, with gross negligence, lights a fire  
 8 for any purpose along the road through any woodland, or upon the  
 9 same, or at any other place in the open, and thereby, or by any other  
 10 means, sets fire to any growing timber or forest, shrubbery, crops,  
 11 grass or vegetation, and thereby causes the destruction of any  
 12 timber, forest, crops, grass, vegetation, *structure* or property not his  
 13 or her own, is guilty of a public offense ~~[- as prescribed in NRS~~  
 14 ~~193.155, proportionate to the value of the loss resulting therefrom,~~  
 15 ~~in addition to being liable to the owner of such property for the full~~  
 16 ~~value thereof in a civil action.] and shall be punished as follows:~~

17 1. *Where the value of the loss is \$25,000 or more, for a*  
 18 *category B felony by imprisonment in the state prison for a*  
 19 *minimum term of not less than 1 year and a maximum term of not*  
 20 *more than 6 years, and may be further punished by a fine of not*  
 21 *more than \$5,000.*

22 2. *Where the value of the loss is \$5,000 or more but less than*  
 23 *\$25,000 or where the damage resulted in impairment of public*  
 24 *communication, transportation or police and fire protection, for a*  
 25 *category C felony as provided in NRS 193.130.*

26 3. *Where the value of the loss is \$1,200 or more but less than*  
 27 *\$5,000, for a category D felony as provided in NRS 193.130.*

28 4. *Where the value of the loss is less than \$1,200, for a*  
 29 *misdemeanor.*

