

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0038

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to BUFFALO-----Arson.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 22-33 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Any person who starts a fire or causes an explosion with the specific intent to destroy any
6 occupied structure of another is guilty of first degree arson. First degree arson is a Class 2
7 felony.

8 Section 2. That chapter 22-33 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any person who starts a fire or causes an explosion with the specific intent to:

11 (1) Destroy any unoccupied structure of another; or

12 (2) Destroy or damage any property, whether his or her own or another's, to collect
13 insurance for such loss;

14 is guilty of second degree arson. Second degree arson is a Class 4 felony.

15 Section 3. That chapter 22-33 be amended by adding thereto a NEW SECTION to read as
16 follows:



1 Any person who intentionally starts a fire or causes an explosion, whether on his or her own
2 property or another's, and thereby recklessly:

3 (1) Places another person in danger of death or serious bodily injury; or

4 (2) Places a building or occupied structure of another in danger of damage or destruction;

5 is guilty of reckless burning or exploding. Reckless burning or exploding is a Class 4 felony.

6 Section 4. That chapter 22-33 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 Any person who knows that a fire is endangering life or a substantial amount of property of
9 another and fails to take reasonable measures to put out or control the fire, if such person can
10 do so without substantial risk to himself or herself, or to give a prompt fire alarm, if:

11 (1) Such person knows that he or she is under an official, contractual, or other legal duty
12 to prevent or combat the fire; or

13 (2) The fire was started, albeit lawfully, by or with the assent of himself or herself, or on
14 property in his or her custody or control;

15 is guilty of failure to control or report a dangerous fire. Failure to control or report a dangerous
16 fire is a Class 1 misdemeanor.

17 Section 5. That chapter 22-33 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 For the purposes of chapter 22-33, the term, occupied structure, means any structure,
20 vehicle, or place adapted for overnight accommodation of persons, or for carrying on business
21 therein, whether or not a person is actually present. Property is that of another, for the purposes
22 of this section, if anyone other than the actor has a possessory or proprietary interest in the
23 property. If a building or structure is divided into separately occupied units, any unit not
24 occupied by the actor is an occupied structure of another.

1 Section 6. That § 22-33-1 be repealed.

2 ~~—22-33-1. Any person who intentionally sets fire to or burns or causes to be burned any~~
3 ~~occupied structure, knowing the same to be occupied at the time, is guilty of arson in the first~~
4 ~~degree. Arson in the first degree is a Class 1 felony.~~

5 Section 7. That § 22-33-2 be repealed.

6 ~~—22-33-2. Any person who intentionally sets fire to or burns or causes to be burned any~~
7 ~~occupied structure under circumstances which would not amount to arson in the first degree is~~
8 ~~guilty of arson in the second degree. Arson in the second degree is a Class 2 felony.~~

9 Section 8. That § 22-33-3 be repealed.

10 ~~—22-33-3. Any person who intentionally and without all of the owners' consent, sets fire to~~
11 ~~or burns or causes to be burned any unoccupied structure, or any other real or personal property~~
12 ~~not contained in or containing an occupied structure, of a value in excess of twenty-five dollars~~
13 ~~is guilty of arson in the third degree. Arson in the third degree is a Class 4 felony.~~

14 Section 9. That § 22-33-4 be repealed.

15 ~~—22-33-4. Any person who with intent to injure or defraud an insurer sets fire to or burns or~~
16 ~~causes to be burned any real or personal property of any kind, whether the property of himself~~
17 ~~or of another, which property is insured against fire, is guilty of a Class 4 felony.~~

18 Section 10. That § 22-33-9 be repealed.

19 ~~—22-33-9. The owner of any property includes all persons who have a legal or equitable~~
20 ~~interest in the property.~~

21 Section 11. That § 22-33-10 be repealed.

22 ~~—22-33-10. Any person who intentionally and without authorization of the person in charge~~
23 ~~of a place of confinement, sets fire to, burns, or causes to be burned any material, object, or~~
24 ~~substance within a structure knowing there is lawfully confined therein any person, is guilty of~~

1 a Class 4 felony.