



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 185*

131st General Assembly
(As Reported by H. Judiciary)

Reps. Koehler, Grossman, Becker, Amstutz, Buchy, Rezabek

BILL SUMMARY

- Expands the offense of arson by prohibiting damage by fire or explosion to an unoccupied structure without requiring proof that the owner did not consent.
- Creates an affirmative defense that the owner consented to the damage.

CONTENT AND OPERATION

Arson

The bill expands the offense of arson by prohibiting certain acts with respect to unoccupied structures and eliminating the requirement that the prosecution prove the lack of the property owner's consent in those instances.

Lack of owner's consent

Under current law, there are three situations in which the lack of the owner's consent to damaging the property is an element of the offense:¹

- When the offender causes or creates a substantial risk of physical harm to the property of another;
- When the offender causes or creates a substantial risk of physical harm to the property of another through the offer or the acceptance of an agreement for hire or other consideration, with the purpose to defraud;

* This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

¹ R.C. 2909.03(A)(1), (4), and (5).

- When the offender causes or creates a substantial risk of physical harm to a park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by another person, the state, or a political subdivision.

The bill retains the existing prohibitions, but it also creates a new prohibition in the offense of arson in those three situations if the property involved is an unoccupied structure. In the new prohibition, the lack of the owner's consent is not an element of the offense.²

Consent as an affirmative defense

Under the bill, a person who is charged with arson that damages an unoccupied structure may assert as an affirmative defense that the person acted with the consent of the owner or, in the case of park or wild land, the consent of the person, state, or political subdivision that owns or controls the land.³

Penalties

Under the bill, knowingly causing or creating a substantial risk of physical harm to an unoccupied structure of another by means of fire or explosion is either a first degree misdemeanor or, if the value of the property or the amount of physical harm involved is \$1,000 or more, a fourth degree felony. If the act is done through the offer or acceptance of an agreement for hire or for other consideration, the offense is a third degree felony. Knowingly causing or creating a substantial risk of physical harm, by means of fire or explosion, to an unoccupied structure that is in or on a park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods or similar real property is a fourth degree felony.⁴

HISTORY

ACTION	DATE
Introduced	05-05-15
Reported, H. Judiciary	---

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² R.C. 2909.03(B).

³ R.C. 2909.03(C).

⁴ R.C. 2909.03(D).

