

**609.561 ARSON IN THE FIRST DEGREE.**

Subdivision 1. **First degree; dwelling.** Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building that is used as a dwelling at the time the act is committed, whether the inhabitant is present therein at the time of the act or not, or any building appurtenant to or connected with a dwelling whether the property of the actor or of another, commits arson in the first degree and may be sentenced to imprisonment for not more than 20 years or to a fine of not more than \$20,000, or both.

Subd. 2. **First degree; other buildings.** Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building not included in subdivision 1, whether the property of the actor or another commits arson in the first degree and may be sentenced to imprisonment for not more than 20 years or to a fine of not more than \$35,000, or both if:

(a) another person who is not a participant in the crime is present in the building at the time and the defendant knows that; or

(b) the circumstances are such as to render the presence of such a person therein a reasonable possibility.

Subd. 3. **First degree; flammable material.** (a) Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building not included in subdivision 1, whether the property of the actor or another, commits arson in the first degree if a flammable material is used to start or accelerate the fire. A person who violates this paragraph may be sentenced to imprisonment for not more than 20 years or a fine of not more than \$20,000, or both.

(b) As used in this subdivision:

(1) "combustible liquid" means a liquid having a flash point at or above 100 degrees Fahrenheit;

(2) "flammable gas" means any material which is a gas at 68 degrees Fahrenheit or less and 14.7 psi of pressure and which: (i) is ignitable when in a mixture of 13 percent or less by volume with air at atmospheric pressure; or (ii) has a flammable range with air at atmospheric pressure of at least 12 percent, regardless of the lower flammable limit;

(3) "flammable liquid" means any liquid having a flash point below 100 degrees Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 degrees Fahrenheit, but does not include intoxicating liquor as defined in section 340A.101;

(4) "flammable material" means a flammable or combustible liquid, a flammable gas, or a flammable solid; and

(5) "flammable solid" means any of the following three types of materials:

(i) wetted explosives;

(ii) self-reactive materials that are liable to undergo heat-producing decomposition; or

(iii) readily combustible solids that may cause a fire through friction or that have a rapid burning rate as determined by specific flammability tests.

**History:** 1976 c 124 s 4; 1984 c 628 art 3 s 11; 1986 c 444; 1994 c 636 art 2 s 42; 1995 c 186 s 100; 1999 c 176 s 1