

2013 ORS § 164.325¹

Arson in the first degree

- (1) A person commits the crime of arson in the first degree if:
- (a) By starting a fire or causing an explosion, the person intentionally damages:
 - (A) Protected property of another;
 - (B) Any property, whether the property of the person or the property of another person, and such act recklessly places another person in danger of physical injury or protected property of another in danger of damage;
or
 - (C) Any property, whether the property of the person or the property of another person, and recklessly causes serious physical injury to a firefighter or peace officer acting in the line of duty relating to the fire; **or**
 - (b) By knowingly engaging in the manufacture of methamphetamine, the person causes fire or causes an explosion that damages property described in paragraph (a) of this subsection.
- (2) Arson in the first degree is a Class A felony. [1971 c.743 §144; 1991 c.946 §1; 2005 c.706 §4]

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Notes of Decisions

State failed to corroborate confession of attempted arson with evidence showing that on day following attempted arson house in question burned, and while evidence of second days burning would tend to prove that defendant engaged in continuing course of conduct it did not provide independent corroborative evidence of attempted arson of previous day. *State v. Swearngin*, 32 Or App 349, 573 P2d 362 (1978)

Arson in second degree may be lesser included offense under indictment for arson in first degree of another's protected property. *State v. Gibson*, 42 Or App 575, 600 P2d 962 (1979), Sup Ct review denied

Where fires were started in commercial establishment half hour prior to time

employees customarily arrived, defendant was entitled to instruction on lesser included offense of arson in second degree. *State v. Gibson*, 42 Or App 575, 600 P2d 962 (1979), Sup Ct review denied

Since legislature did not intend that defendant who set fire to number of items with objective of damaging single protected structure should be subjected to multiple convictions and sentences, conviction of three counts of violation of this section and imposition of three consecutive terms was improper and the case was remanded to enter judgment for conviction of one count and resentencing. *State v. King*, 42 Or App 721, 601 P2d 845 (1979)

As element of proof under this section, state must prove property had value as defined by ORS 164.005 (Definitions) and neither symbolic value or value in use is sufficient; therefore, burning rag could not support conviction of first degree arson. *State v. Whitley*, 295 Or 455, 666 P2d 1340 (1983)

Since property owner is sole victim of act damaging property, multiple counts based on single act exposing multiple entities to risk of physical injury or other secondary consequences merge. *State v. Luers*, 211 Or App 34, 153 P3d 688 (2007), modified 213 Or App 389, 160 P3d 1013 (2007)

Correction

The citation to *State v. Washington* in the permanent edition should be 5 Or App 347.

Completed Citations

State v. Washington, 5 Or App 347, 483 P2d 465 (1971), Sup Ct review denied

Chapter 164

Law Review Citations

51 OLR 427-637 (1972)

Related Statutes³

- 131.602
Prohibited conduct for purposes of instrumentalities of crime
- 137.635
Determinate sentences required for certain felony convictions
- 137.700

Offenses requiring imposition of mandatory minimum sentences

- 137.707
Adult prosecution of 15-, 16- or 17-year-old offenders
- 137.712
Exceptions to ORS 137.700 and 137.707
- 144.079
Determination of total term of certain consecutive sentences of imprisonment
- 144.085
Active parole and post-prison supervision
- 161.067
Determining punishable offenses for violation of multiple statutory provisions, multiple victims or repeated violations
- 161.332
Definitions
- 163.115
Murder
- 315.164
Agriculture workforce housing projects
- 315.356
Other grants as offset to cost of energy conservation facility
- 342.143
Issuance of licenses and registrations
- 443.004
Criminal records check required for employees and volunteers providing direct care
- 671.610
Grounds for sanctions against licensee

¹ Legislative Counsel Committee, *CHAPTER 164—Offenses Against Property*, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors164.html (2013) (last accessed Apr. 27, 2014).

² Legislative Counsel Committee, *Annotations to the Oregon Revised Statutes, Cumulative Supplement - 2013, Chapter 164*, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ano164.html (2013) (last accessed Apr. 27, 2014).

³ OregonLaws.org assembles these lists by analyzing references between Sections. Each listed item refers

back to the current Section in its own text. The result reveals relationships in the code that may not have otherwise been apparent.

Currency Information

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