



ENACTMENT NEWS

House Bill 185 **Arson – unoccupied structures** Effective March, 2017

On December 19, 2016, Governor Kasich signed HB 185 into law. It modifies the offense of arson with regard to unoccupied structures, and creates a new affirmative defense. It takes effect in March, 2017.

Existing law generally prohibits causing, or creating a substantial risk of, physical harm to any property without the owner's consent. R.C. 2909.03 (A). Lack of the owner's consent, therefore, is an element of the offense of arson.

H.B. 185 modifies the law so that the lack of the owner's consent is not an element of the offense when the property is not an occupied structure. Instead, it is an affirmative defense to an arson charge if the defendant acted with the consent of the owner of the unoccupied structure.

Unchanged by the bill, current law defines "occupied structure" as any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent, or other structure, vehicle, or shelter, or any portion thereof, to which any of the following applies:

- It is maintained as a permanent residence or temporary dwelling, even though it is temporarily unoccupied and whether or not any person is actually present;
- At the time of the arson, it is occupied as the permanent or temporary habitation of any person, whether or not any person is actually present;
- At the time, it is specially adapted for the overnight accommodation of any person, whether or not any person is actually present;
- At the time, any person is present or likely to be present in it.