

## **CHAPTER 12.1-21 DAMAGING PROPERTY OR PUBLIC SERVICES**

### **12.1-21-01. Arson.**

A person is guilty of arson, a class B felony, if he starts or maintains a fire or causes an explosion with intent to destroy an entire or any part of a building or inhabited structure of another or a vital public facility, or if he starts or maintains a fire or causes an explosion with intent to destroy or damage his own real or personal property for the purpose of collecting insurance for the loss.

### **12.1-21-02. Endangering by fire or explosion.**

1. A person is guilty of an offense if he intentionally starts or maintains a fire or causes an explosion and thereby recklessly:
  - a. Places another person in danger of death or bodily injury;
  - b. Places an entire or any part of a building or inhabited structure of another or a vital public facility in danger of destruction; or
  - c. Causes damage to property of another constituting pecuniary loss in excess of two thousand dollars.
2. The offense is a class B felony if the actor places another person in danger of death under circumstances manifesting an extreme indifference to the value of human life. Otherwise it is a class C felony.

### **12.1-21-03. Failure to control or report a dangerous fire.**

A person who knows that a fire which was started or maintained, albeit lawfully, by him or with his assent is endangering life or a substantial amount of property of another is guilty of a class A misdemeanor if he willfully fails either to take reasonable measures to put out or control the fire when he can do so without substantial risk to himself or to give a prompt fire alarm.

#### **12.1-21-03.1. Negligent act resulting in fire - Penalty.**

It is unlawful for any person to negligently cause a fire to be started in any part of any hotel, motel, roominghouse, lodginghouse, or other place of public abode so as to endanger life or property in any way or to any extent.

1. The state fire marshal shall print and distribute copies of this section to all hotels, motels, roominghouses, lodginghouses, and other places of public abode in this state and such copies shall be conspicuously displayed in each room of every hotel, motel, roominghouse, lodginghouse, and other place of public abode in this state.
2. Violation of this section is a class B misdemeanor.

### **12.1-21-04. Release of destructive forces.**

1. A person is guilty of a class B felony if he intentionally causes a catastrophe by any means and is guilty of a class C felony if he does so willfully.
2. A person is guilty of a class C felony if he willfully creates a risk of catastrophe, although no fire, explosion, or other destruction results.
3. A person who knowingly does an act which causes or which he knows is likely to cause a catastrophe, or assents to the doing of such act, is guilty of a class C felony if he willfully fails to take reasonable measures to prevent the catastrophe.
4. Catastrophe means serious bodily injury to ten or more people or substantial damage to ten or more separate habitations or structures or property loss in excess of five hundred thousand dollars.

### **12.1-21-05. Criminal mischief.**

1. A person is guilty of an offense if that person:
  - a. Willfully tampers with tangible property of another so as to endanger person or property; or
  - b. Willfully damages tangible property of another.

2. The offense is:
  - a. A class B felony if the actor intentionally causes pecuniary loss in excess of ten thousand dollars.
  - b. A class C felony if the actor intentionally causes pecuniary loss in excess of two thousand dollars but not in excess of ten thousand dollars or damages tangible property of another by means of an explosive or a destructive device.
  - c. A class A misdemeanor if the actor recklessly causes pecuniary loss in excess of two thousand dollars or if the actor intentionally causes pecuniary loss of from one hundred dollars through two thousand dollars.Otherwise the offense is a class B misdemeanor.

**12.1-21-06. Tampering with or damaging a critical infrastructure facility or a public service - Penalty.**

1. An individual may not cause a substantial interruption or impairment of a critical infrastructure facility or a public service by:
  - a. Tampering with or damaging the tangible property of another;
  - b. Incapacitating an operator of a critical infrastructure facility or a public service;
  - c. Damaging, destroying, vandalizing, defacing, or tampering with equipment in a critical infrastructure facility;
  - d. Damaging, destroying, vandalizing, defacing, impeding, inhibiting, or tampering with the operations of a critical infrastructure facility; or
  - e. Interfering, inhibiting, impeding, or preventing the construction or repair of a critical infrastructure facility.
2. A violation of this section is a class C felony if the actor engages in the conduct intentionally and a class A misdemeanor if the actor engages in the conduct knowingly or recklessly. Otherwise it is a class B misdemeanor.
3. This section does not apply to an employee or contractor acting within the scope of the employee's or contractor's employment. As used in this subsection, "employee or contractor" means any person hired or under contract to provide services to a critical infrastructure facility or public service.
4. An organization that has pled guilty or been convicted of a violation under section 12.1-06-04 for conspiring with an individual who has pled guilty or been convicted under subsection 1 must be assessed a fine equivalent to the penalty authorized by subsection 2 for each individual who has pled guilty or been convicted under subsection 1, not to exceed one hundred thousand dollars.
5. This section may not be construed to prevent or prohibit lawful assembly and peaceful and orderly petition for the redress of grievances, including a labor dispute between an employer and its employee.
6. As used in this section, "critical infrastructure facility" includes:
  - a. A petroleum or alumina refinery;
  - b. An electrical power generating facility, substation, switching station, electrical control center, or electric power line and associated equipment infrastructure;
  - c. A chemical, polymer, or rubber manufacturing facility;
  - d. A drinking water source, water transmission line, water treatment plant, water distribution system, ground water monitoring well, waste water treatment plant, or waste water collection system;
  - e. A natural gas compressor station;
  - f. A liquid natural gas terminal or storage facility;
  - g. Wireline telecommunications and internet infrastructure, including central offices, fiber optic lines, cable lines, and all additional equipment associated with the provision of broadband or telecommunication services;
  - h. Wireless telecommunications infrastructure, including a cell tower, telephone pole or line, including a fiber optic line;
  - i. A port, railroad switching yard, railroad track, trucking terminal, or other freight transportation facility;

- j. A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or a natural gas liquid;
- k. A transmission facility used by a federally licensed radio or television station;
- l. A steel-making facility using an electric arc furnace to make steel;
- m. A facility identified and regulated by the United States department of homeland security chemical facility anti-terrorism standards program;
- n. A dam regulated by the state or federal government;
- o. A natural gas transmission or distribution utility facility, including a pipeline interconnection, a city gate or town border station, a metering station, below or aboveground piping, a regulator station, and a natural gas storage facility;
- p. A crude oil or refined product storage and distribution facility, including a valve site, pipeline interconnection, pump station, metering station, below or aboveground pipeline or piping, and a truck loading or offloading facility;
- q. Any below or aboveground portion of an oil, gas, hazardous liquid, or chemical pipeline, tank, railroad facility, or other storage facility;
- r. An oil and gas production site; and
- s. A site or location designated or approved for the construction of a facility described in this subsection.

**12.1-21-06.1. Interference with telephone during emergency call.**

A person is guilty of an offense if that person removes, damages, or obstructs any telephone or telephone line or any part or apparatus on the line, or severs any wire connected to the line, so as to interfere with an emergency telephone call. The offense is a class C felony if it was done intentionally. The offense is a class A misdemeanor if it was done knowingly or recklessly.

**12.1-21-07. Consent as a defense.**

Whenever in this chapter it is an element of the offense that the property is of another, it is a defense to a prosecution under those sections that the other has consented to the actor's conduct with respect to the property.

**12.1-21-08. Definitions.**

In this chapter:

1. "Inhabited structure" means a structure or vehicle:
  - a. Where any person lives or carries on business or other calling;
  - b. Where people assemble for purposes of business, government, education, religion, entertainment, or public transportation; or
  - c. Which is used for overnight accommodation of persons.

Any structure or vehicle is deemed to be "inhabited" regardless of whether a person is actually present. If a building or structure is divided into separately inhabited units, any unit which is property of another constitutes an inhabited structure of another.
2. Property is that "of another" if anyone other than the actor has a possessory or proprietary interest therein.
3. "Vital public facility" includes a facility maintained for use as a bridge (whether over land or water), dam, tunnel, wharf, communications installation, or power station.

**12.1-21-09. Tampering with, disabling, or falsely sounding a fire alarm - Tampering with or disabling fire suppression equipment.**

1. A person may not tamper with, disable, or falsely sound an alarm signifying a fire in a hotel, motel, roominghouse, lodginghouse, or other place of public abode or in any other public place so as to endanger person or property. A person does not violate this subsection if that person sounds an alarm and has a reasonable belief there is a fire endangering person or property.

2. A person may not tamper with or disable fire suppression equipment in a hotel, motel, roominghouse, lodginghouse, or other place of abode or in any other public place so as to endanger person or property.
3. A violation of this section is a class B misdemeanor.