

ARTICLE 8
ARSON REPORTING IMMUNITY

Section

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41-8-1. Short title.

This act [41-8-1 to 41-8-6 NMSA 1978] may be cited as the "Arson Reporting Immunity Act".

History: Laws 1979, ch. 117, § 1.

41-8-2. Definitions.

As used in the Arson Reporting Immunity Act [41-8-1 to 41-8-6 NMSA 1978]:

A. "authorized agencies" means the:

- (1) state fire marshal or his designate when authorized or charged with the investigation of the fire or explosion at the place where the fire or explosion actually took place;
- (2) district attorney responsible for prosecution in the county where the fire occurred;
- (3) attorney general when involved in the investigation or responsible for the prosecution of an alleged arson or prosecution of an arson;
- (4) county and municipal fire departments authorized or charged with the investigation of fires at the place where the fire actually occurred;
- (5) governor's organized crime prevention commission;
- (6) county sheriffs' departments and municipal police departments authorized or charged with the investigation of fires at the place where the fire actually occurred; and
- (7) New Mexico state police;

B. "authorized agencies" for the purposes of Subsection A of Section 41-8-3 NMSA 1978 also means:

- (1) the federal bureau of investigation;
- (2) the United States attorney's office when authorized or charged with investigation or prosecution of the fire in question; and
- (3) the United States treasury department bureau of alcohol, tobacco and firearms;

C. "relevant" means information having any tendency to make the existence of any fact that is of

consequence to the investigation or determination of the issue more probable than it would be without the evidence;

D. "deemed important" means material deemed important if, within the sole discretion of the authorized agency, such material is requested by that authorized agency;

E. "action" as used in this statute, includes nonaction or the failure to take action;

F. "immune" means that neither a civil action nor a criminal prosecution may arise from any action taken pursuant to Section 41-8-3 or 41-8-4 NMSA 1978 where actual malice on the part of the insurance company or authorized agency against the insured is not present; and

G. "insurance company" includes the New Mexico FAIR plan [59A-29-2 to 59A-29-9 NMSA 1978].

History: Laws 1979, ch. 117, § 2; 1987, ch. 276, § 1.

41-8-3. Disclosure and information.

A. Any authorized agency may, in writing, require the insurance company at interest to release to the requesting agency any or all relevant information or evidence deemed important to the authorized agency which the company may have in its possession, relating to the fire loss in question. Relevant information includes but is not limited to:

(1) pertinent insurance policy information relevant to a fire loss under investigation and any application for such policy;

(2) policy premium payment records which are available;

(3) history of previous claims made by the insured; or

(4) material relating to the investigation of the loss, including statements of any person, proof of loss and any other evidence relevant to the investigation.

B. When an insurance company has reason to believe that a fire loss in which it has an interest may be of other than accidental cause, the company shall, in writing, notify an authorized agency and provide it with any or all material developed from the company's inquiry into the fire loss.

When an insurance company provides any one of the authorized agencies with notice of a fire loss, it shall be sufficient notice for the purpose of the Arson Reporting Immunity Act [41-8-1 to 41-8-6 NMSA 1978]. Nothing in this subsection shall abrogate or impair the rights or powers created under Subsection A of this section.

C. The authorized agency provided with information pursuant to Subsection A or B of this section and in furtherance of its own purposes, may release or provide such information to any of the other authorized agencies.

D. Any insurance company providing information to an authorized agency or agencies pursuant to Subsection A or B of this section shall have the right to request relevant information and receive, within a reasonable time, the information requested.

E. Any insurance company or person acting on its behalf or authorized agency who releases information, whether oral or written, pursuant to Subsection A, B or C of this section shall be immune from any liability arising out of a civil action or penalty resulting from a criminal prosecution.

History: Laws 1979, ch. 117, § 3.

41-8-4. Evidence.

Any authorized agency or insurance company described in Section 2 or 3 [41-8-2 or 41-8-3 NMSA 1978] of the Arson Reporting Immunity Act who receives any information furnished pursuant to that act, shall hold the information in confidence except as provided for in Subsection C of Section 3 [41-8-3 NMSA 1978] of that act or until such time as its release is required pursuant to a criminal or civil proceeding.

History: Laws 1979, ch. 117, § 4.

41-8-5. Enforcement.

Any person who fails to hold in confidence information required to be held in confidence by Subsection A of Section 4 [41-8-4 NMSA 1978] of the Arson Reporting Immunity Act, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed one thousand dollars (\$1,000).

History: Laws 1979, ch. 117, § 5.

41-8-6. Jurisdiction not affected.

The provisions of the Arson Reporting Immunity Act [41-8-1 to 41-8-6 NMSA 1978] shall not be construed to extend or affect the jurisdiction of any authorized agency specified in that act.

History: Laws 1979, ch. 117, § 6.