

1 **14-1701. Arson; with purpose of destroying or damaging property; essential**
2 **elements.**

3 For you to find the defendant guilty of arson [as charged in Count _____]¹,
4 the state must prove to your satisfaction beyond a reasonable doubt each of the following
5 elements of the crime:

6 1. The defendant intentionally or maliciously [started a fire] [or] [caused an
7 explosion]²;

8 2. The defendant did so with the intent to destroy or damage
9 _____ (*identify property*), which belonged to another; ~~[and which had a~~
10 ~~[market]³ value of over \$_____]~~

11 3. The defendant caused over \$_____³ in damage to the property; and

12 ~~[3:]~~4. This happened in New Mexico on or about the _____ day of
13 _____, _____.

14

15 USE NOTES

16 1. Insert the count number if more than one count is charged.

17 2. Use applicable bracketed phrase.

18 3. ~~[Unless the property has no market value, this bracketed word should be~~
19 ~~used and UJI 14-1707 also given.]~~ If the charge is a second degree felony (over \$20,000),
20 use "\$20,000" in the blank. If the charge is a third degree felony (over \$2,500), use
21 "\$2,500" in the blank. If the charge is a fourth degree felony (over \$500), use "\$500" in

1 the blank. If the charge is a misdemeanor (over \$250), use “\$250” in the blank.

2 [As amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010; as
3 amended by Supreme Court Order No. 20-8300-004, effective for all cases pending or filed
4 on or after December 31, 2020.]

5 **Committee commentary.** — See NMSA 1978, § 30-17-5[~~NMSA 1978~~]. The
6 prior statute, N.M. Laws 1963, ch. 303, § 17-5, which made criminal the “intentional
7 damaging by any explosive substance or setting fire to” certain structures, was held
8 unconstitutional in *State v. Dennis*, 1969-NMCA-036, 80 N.M. 262, 454 P.2d 276 [~~Ct.~~
9 ~~App. 1969~~]. Since both the New Mexico statute prior to 1963 (N.M. Laws 1927, ch. 61, §
10 1) and common-law arson required a willful and malicious state of mind, the [~~court~~] Court
11 concluded that the [~~legislature~~] Legislature intended to eliminate that element. The [~~court~~]
12 Court held that to eliminate this mental element was not a reasonable exercise of the police
13 power by the [~~legislature~~] Legislature since the statute then made criminal what could be a
14 burning for innocent and beneficial purposes.

15 [As amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010; as
16 amended for stylistic compliance by Supreme Court Order No. 20-8300-004, effective for
17 all cases pending or filed on or after December 31, 2020.]