

Senate File 2147 - Introduced

SENATE FILE 2147

BY COMMITTEE ON REBUILD IOWA

(SUCCESSOR TO SSB 3077)

A BILL FOR

1 An Act providing for the doubling of criminal fines and civil
2 penalties in disaster areas, providing penalties, and
3 including effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 902.15 Criminal offenses committed
2 in federal and state disaster areas.

3 1. When the president of the United States declares a major
4 disaster exists in this state, or the governor proclaims a
5 state of disaster emergency exists pursuant to section 29C.6,
6 the minimum fine pursuant to section 902.9 or the minimum
7 civil penalty pursuant to section 907.14 shall double for
8 the following felony criminal offenses committed against or
9 involving disaster-affected property in a disaster area if the
10 offender knew or reasonably should have known the property was
11 disaster-affected:

12 a. Robbery in violation of section 711.3.

13 b. Extortion in violation of section 711.4, subsection 7.

14 c. Arson in violation of section 712.3.

15 d. Explosive or incendiary material or device offenses in
16 violation of section 712.6, subsection 1.

17 e. Burglary-related offenses in violation of section 713.4,
18 713.5, 713.6, or 713.6A, subsection 1.

19 f. Theft offenses in violation of section 714.2, subsection
20 1 or 2.

21 g. Criminal mischief offenses in violation of section 716.3
22 or 716.4.

23 2. For purposes of this section, property shall be
24 considered disaster-affected if the property sustained more
25 than de minimis structural damage in the disaster. Factors
26 to be considered in determining whether the offender knew or
27 reasonably should have known the property was disaster-affected
28 include but are not limited to the following: the visibility
29 of the structural damage; the repair work, if any, performed
30 or in the process of being performed on the affected property;
31 and whether any notice was posted on the affected property
32 indicating that certain crimes committed on such property are
33 subject to the doubling of fines and penalties. An owner
34 of disaster-affected property may, but is not required to,
35 post a notice on the property indicating the property was

1 disaster-affected and that certain crimes committed on the
2 property are subject to the doubling of fines and penalties.

3 3. The doubling of fines and penalties pursuant to this
4 section shall apply to criminal offenses committed during the
5 disaster declaration or proclamation and for three years after
6 the date the disaster or disaster emergency ends.

7 Sec. 2. NEW SECTION. 903.7 **Criminal offenses committed in**
8 **federal and state disaster areas.**

9 1. When the president of the United States declares a major
10 disaster exists in this state, or the governor proclaims a
11 state of disaster emergency exists pursuant to section 29C.6,
12 the minimum fine under section 903.1 or the minimum civil
13 penalty pursuant under section 907.14 shall double for the
14 following misdemeanor criminal offenses committed against or
15 involving disaster-affected property in a disaster area if the
16 offender knew or reasonably should have known the property was
17 disaster-affected:

18 a. Arson in violation of section 712.4.

19 b. Reckless use of fire or explosives in violation of
20 section 712.5.

21 c. Explosive or incendiary material or device offenses in
22 violation of section 712.6, subsection 2 or 3.

23 d. Burglary-related offenses in violation of section 713.6A,
24 subsection 2, or section 713.6B or 713.7.

25 e. Theft offenses in violation of section 714.2, subsection
26 3, 4, or 5.

27 f. Criminal mischief offenses in violation of section 716.5
28 or 716.6.

29 2. For purposes of this section, property shall be
30 considered disaster-affected if the property sustained more
31 than de minimis structural damage in the disaster. Factors
32 to be considered in determining whether the offender knew or
33 reasonably should have known the property was disaster-affected
34 include but are not limited to the following: the visibility
35 of the structural damage; the repair work, if any, performed

1 or in the process of being performed on the affected property;
2 and whether any notice was posted on the affected property
3 indicating that certain crimes committed on such property are
4 subject to the doubling of fines and penalties. An owner
5 of disaster-affected property may, but is not required to,
6 post a notice on the property indicating the property was
7 disaster-affected and that certain crimes committed on the
8 property are subject to the doubling of fines and penalties.

9 3. The doubling of fines and penalties pursuant to this
10 section shall apply to criminal offenses committed during the
11 disaster declaration or proclamation and for three years after
12 the date the disaster or disaster emergency ends.

13 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
14 immediate importance, takes effect upon enactment.

15

EXPLANATION

16 This bill provides for the doubling of criminal fines and
17 penalties in disaster areas.

18 Under the bill, if the president of the United States
19 declares a major disaster exists in this state, or the
20 governor proclaims a state of disaster emergency exists,
21 the minimum fine or civil penalty shall double for certain
22 criminal offenses committed in the disaster area, if the
23 offender knew or reasonably should have known the property was
24 disaster-affected.

25 The bill requires disaster-affected property to sustain
26 more than de minimis structural damage in the disaster for
27 the doubling of fines and penalties to apply. Under the
28 bill, the factors to be considered in determining whether the
29 offender knew or reasonably should have known the property
30 was disaster-affected include but are not limited to the
31 following: the visibility of the structural damage; the repair
32 work, if any, performed or in the process of being performed
33 on the affected property; and whether any notice was posted on
34 the affected property indicating that certain crimes committed
35 on such property are subject to the doubling of fines and

1 penalties.

2 Under the bill, the owner of disaster-affected property
3 may, but is not required to, post a notice on the property
4 indicating the property was disaster-affected and that certain
5 crimes committed on the property are subject to the doubling
6 of fines and penalties.

7 The doubling of fines and penalties applies to criminal
8 offenses committed during the disaster declaration or
9 proclamation and for three years after the date the disaster or
10 disaster emergency ends.

11 The bill doubles the minimum fine under Code section 902.9 or
12 the civil penalty under Code section 907.14 for the following
13 felony offenses: Code sections 711.3 (robbery in the second
14 degree), 711.4 (extortion), 712.3 (arson), 712.6 (explosive
15 or incendiary materials offenses), 713.4 (attempted burglary
16 in the first degree), 713.5 (burglary in the second degree),
17 713.6 (attempted burglary in the second degree), 713.6A(1)
18 (burglary in the third degree), 714.2(1) (theft in the first
19 degree), 714.2(2) (theft in the second degree), 716.3 (criminal
20 mischief in the first degree), and 716.4 (criminal mischief in
21 the second degree).

22 The bill also doubles the minimum fine pursuant to
23 Code section 903.1 or the civil penalty for the following
24 misdemeanor offenses: Code sections 712.4 (arson), 712.5
25 (reckless use of fire or explosives), 712.6 (explosive or
26 incendiary materials offenses), 713.6A(2) (burglary in the
27 third degree), 713.6B (attempted burglary in the third degree),
28 713.7 (possession of burglar's tools), 714.2(3) (theft in the
29 third degree), 714.2(4) (theft in the fourth degree), 714.2(5)
30 (theft in the fifth degree), 716.5 (criminal mischief in the
31 third degree), and 716.6 (criminal mischief in the fourth and
32 fifth degrees).

33 The bill takes effect upon enactment.