



# Coffee Break Training - Fire Investigation Series

## Fire/Arson and Explosion Investigation Curriculum: Arson Reporting Immunity Legislation

No. FI-2013-13 September 23, 2013

**Learning Objective:** The student shall be able to explain the importance of arson reporting immunity legislation in the investigation and prosecution of arson cases.

There is often a large amount of information collected by an insurance company during the course of a fire and arson investigation that can be invaluable to public sector fire investigators. Therefore, to be successful, cooperation and coordination between public and private sector investigators during a fire/arson investigation is crucial. However, historically, insurance companies have been reluctant to share information and cooperate with law enforcement investigations due to the risk of claims of defamation, bad faith, malicious prosecution or harassment. In response to these concerns, all 50 states and the District of Columbia passed some form of arson reporting immunity legislation that insulates an insurer and its employees and agents from civil liability for information disclosures to law enforcement officials.

Since the passage of these laws, the ability of fire and law enforcement agencies to obtain and successfully use information from insurance claim files to solve and prosecute cases has dramatically increased.

Each state's arson reporting and immunity laws indicate the general form by which authorized agencies may statutorily request relevant information from insurers to help support their arson investigations. These requests are specifically required to be made in writing in 33 states. The other 17 states do not specify the manner in which the request must be made. In most states, authorized agencies are required to maintain the confidentiality of all policy-related information they request and receive from insurers. Only three states (Mississippi, Utah and Vermont) provide no specific reference to confidentiality requirements within their arson reporting and immunity laws. Three other states (Indiana, Kentucky and Alaska) do not specify confidentiality requirements, but do provide that the information may be shared with other authorized agencies involved in the related arson investigation. In Oregon, all such information is considered public record except investigatory testimony, information or evidence.

In addition to authorized agency requests for insured fire loss information, another mandate in nearly every state's arson reporting and immunity laws is that insurers notify authorized agencies anytime they suspect arson may have played a part in an insured property loss. The laws in all but three states (Mississippi, Nevada and Wisconsin) specifically require this particular reporting requirement.

More than half of the states (28) have established statutory penalties for failing to comply with mandatory arson reporting law requirements. Such violations are generally categorized as misdemeanor offenses. Specific fines for noncompliance were set forth by 13 of these state laws. A few of these states established alternative penalties either instead of or in addition to specific monetary fines. In a majority of states (31), insurers themselves are allowed to request receipt of all relevant arson-related information in the possession of authorized agencies. Most state arson reporting laws also specify that the various agencies authorized and defined by statute are required to testify at arson-related civil or criminal proceedings.

Arson reporting immunity laws are another example of a valuable tool available to fire investigators in the fight against arson and insurance fraud. The insurance company can also provide valuable investigative expertise and resources to fire service and law enforcement agencies to assist in the timely arrest, prosecution and conviction of arsonists.

A detailed summary of state-by-state arson reporting immunity laws can be found at <http://www.arsoncontrol.org/legal/laws.htm>.



Arson reporting immunity laws can provide investigators with access to valuable investigative data to successfully solve arson cases and prosecute arsonists.