

N.C.P.I.—Crim 204.17
FACTORS THAT ENHANCE SENTENCE—WEARING [MASK] [DEVICE]
[CLOTHING] TO CONCEAL IDENTITY DURING THE COMMISSION OF THE
OFFENSE. MISDEMEANOR; FELONY.
GENERAL CRIMINAL VOLUME
DECEMBER 2024
N.C. Gen. Stat. § 15A-1340.16G

204.17. FACTORS THAT ENHANCE SENTENCE—WEARING [MASK] [DEVICE]
[CLOTHING] TO CONCEAL IDENTITY DURING THE COMMISSION OF THE
OFFENSE. MISDEMEANOR; FELONY.¹

NOTE WELL: This instruction should be used where a defendant has been convicted of a misdemeanor or felony and there is evidence that the defendant wore a mask, device, or other clothing to conceal or attempt to conceal the defendant's identity at the time of the offense. This enhancement is not appropriate and this instruction should not be used where the evidence that the defendant wore a mask, device, or other clothing to conceal or attempt to conceal the defendant's identity is needed to prove an element of the underlying offense charged. See N.C. Gen. Stat. § 15A-1340.16G(d).

See N.C. Gen. Stat. § 15A-928 for provisions regarding indictment, bifurcated trial, verdict, and judgment.

In the event you have found the defendant guilty of (*name misdemeanor or felony*), you must then consider and answer the following question:

Did the defendant wear [a mask] [a device] [clothing] to [conceal] [attempt to conceal] the defendant's identity at the time the defendant committed (*name misdemeanor or felony*)?

On this question, the burden of proof is on the State to prove beyond a reasonable doubt that the defendant wore [a mask] [a device] [clothing] to [conceal] [attempt to conceal] the defendant's identity at the time the defendant committed (*name misdemeanor or felony*).

If you find from the evidence beyond a reasonable doubt that the defendant wore [a mask] [a device] [clothing] to [conceal] [attempt to conceal] the defendant's identity at the time the defendant committed (*name misdemeanor or felony*), it would be your duty to answer this question "yes."

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If you do not so find, or have a reasonable doubt, it would be your duty
to answer this question "no."²

1. N.C. Gen. Stat. § 15A-1340.16G(a) provides that a defendant who is convicted of a misdemeanor or felony and who is found to have worn a mask, device, or other clothing to conceal or attempt to conceal the defendant's identity at the time of the offense is guilty of a misdemeanor or felony that is one class higher than the underlying misdemeanor or felony for which the person is convicted.

2. If this instruction is used, the following should be added to the verdict sheet: "If you have found the defendant guilty of (name misdemeanor or felony), do you find that the defendant wore [a mask] [a device] [clothing] to [conceal] [attempt to conceal] the defendant's identity at the time the defendant committed (name misdemeanor or felony)? Answer: _____."