

214.20 HABITUAL BREAKING OR ENTERING.

NOTE WELL: If necessary, refer to N.C.P.I.–Crim. 214.32 Felonious Breaking or Entering. Felonious Larceny—Pursuant to a Breaking or Entering or Where the Property is Worth More than \$1,000.

NOTE WELL: The jury shall not be told that the defendant has been charged with Habitual Breaking or Entering until the defendant is found guilty of the underlying felony of Breaking or Entering.

NOTE WELL: See Gen. Stat. § 15A-928 for provisions regarding indictment, bifurcated trial, verdict, and judgment.

NOTE WELL: If more than one prior conviction is submitted, then a specialized verdict sheet should be presented to the jury and the jury must indicate which felonies the jury unanimously found.

The defendant has been charged with habitual breaking or entering.¹ A person is guilty of habitual breaking or entering if the person has previously been convicted of or has pled guilty to one or more felony offenses of breaking or entering.^{2 3}

For you to find the defendant guilty of this offense, the state must prove beyond a reasonable doubt that:

On (name date), the defendant in (name court) [was convicted of] [pled guilty to] the offense of (name felony breaking or entering offense), that was committed on (name date).⁴

If you find from the evidence beyond a reasonable doubt that:

On (name date), the defendant in (name court) [was convicted of] [pled guilty to] the offense of (name felony breaking or entering offense), that was committed on (name date)⁵ it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, then it would be your duty to return a verdict of not guilty.

1 N.C. Gen. Stat. § 14-7.28 (a). For a person to be charged with the status offense of habitual breaking or entering, the person must be charged separately for the felony offense of breaking or entering and for the habitual breaking or entering status offense.

2 N.C. Gen. Stat. § 14-7.26. This offense does not apply to a second felony offense of breaking or entering unless it is committed after the plea of guilty to or conviction of the first felony offense of breaking or entering. For purposes of this offense, felony offenses of breaking or entering committed before the person is 18 years of age shall not constitute more than one felony of breaking or entering. Furthermore, any felony to which a pardon has been extended shall not constitute a felony offense of breaking or entering.

3 N.C. Gen. Stat. § 14-7.25(1) defines "breaking and entering" as any of the following offenses: First Degree Burglary (G.S. 14-51); Second Degree Burglary (G.S. 14-51), Breaking Out of Dwelling House Burglary (G.S. 14-53); Breaking or Entering Buildings Generally (G.S. 14-54(a)); Breaking or Entering with Intent to Terrorize or Injure an Occupant of the Building (G.S. 14-54(a1)); Breaking or Entering a Building that is a Place of Religious Worship (G.S. 14-54.1); Any repealed or superseded offense substantially equivalent to any of the offenses in sub-subdivision a., b., c., d., or e., of this subdivision; Any offense committed in another jurisdiction substantially similar to any of the offenses in sub-subdivision a., b., c., d., or e., of this subdivision.

4 If more than one prior conviction is alleged, instruct the jury using third paragraph and add as many new paragraphs as are necessary to instruct the jury on the number of prior offenses alleged.

5 If more than one prior conviction is alleged, instruct the jury using third paragraph and add as many new paragraphs as are necessary to instruct the jury on the number of prior offenses alleged.