

N.C.P.I.—Criminal 214.35
POSSESSION WITHOUT LAWFUL EXCUSE OF AN IMPLEMENT OF HOUSEBREAKING
FELONY. G.S. 14-55
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The defendant has been charged with possession, without lawful excuse, of (an) implement(s) of housebreaking.

For you to find the defendant guilty of this offense, the State must prove two things beyond a reasonable doubt:

First, that the defendant was in possession¹ of (an) implement(s) of housebreaking. [A [picklock] [key] [bit] is such an implement.²] [(*Name implement*)³ is an implement of housebreaking if you find from the evidence, beyond a reasonable doubt that it is made and designed for the purpose of housebreaking, or it is commonly carried and used by housebreakers, or is reasonably adapted for such use.]

And Second, that there was no lawful excuse for the defendant's possession. The State must prove beyond a reasonable doubt that the defendant intended to use the implement(s) to break into a house or building, or did use [it] [them] for that purpose. (If you find from the evidence that there was an explanation for the defendant's possession other than such use or intent to use, then it would be your duty to return a verdict of not guilty. Possession for use in the defendant's trade or business would be such an explanation.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant was in possession without lawful excuse of (an) implement(s) of housebreaking, 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, it would be your duty to return a verdict of not guilty.

¹ The meaning of "possession" is explained in N.C.P.I.—Crim. 104.41.

² G.S. 14-55 specifically enumerates picklock, key, and bit.

³ Use this sentence for implements other than picklocks, keys, or bits. See *State v. Owens*, 695 S.E.2d 823(N.C.App. Jul 06, 2010). See also *S. v. Bagley*, 300 N.C. 736 (1980).

