

214.40 BREAKING OR ENTERING INTO MOTOR VEHICLE. FELONY.

NOTE WELL: G.S. 14-56 was amended, effective December 1, 2015. For offenses committed after December 1, 2015, it is not a violation of this statute when a person breaks or enters a motor vehicle, boat, etc., to provide assistance to a person inside needing first aid or emergency health care treatment.

The defendant has been charged with breaking or entering into a motor vehicle.¹

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

First, that there was

[a breaking² by the defendant. (*State how breaking allegedly occurred*) would be a breaking.

[an entry by the defendant. (*State how entry allegedly occurred*) would be an entry.

[either a breaking or an entry by the defendant. (*State how breaking allegedly occurred*) would be a breaking. (*State how entry allegedly occurred*) would be an entry.]

Second, the State must prove that it was a motor vehicle which was [broken into] [entered] [broken into or entered].

Third, that there was something of value in the motor vehicle.

Fourth, that the owner did not consent to the [breaking] [entering] [breaking or entering].

And Fifth, that at the time of the [breaking] [entering] [breaking or entering], the defendant intended³ to commit larceny⁴ therein. Larceny is the taking and carrying away of the personal property of another without that person's consent with the intent to deprive that person of its possession

permanently. (If you find that the defendant was found in the motor vehicle and that the defendant had no lawful purpose for being there, you are permitted but not required to infer from this that the defendant entered with the intent to commit larceny therein.)

If you find from the evidence beyond a reasonable doubt, that on or about the alleged date, the defendant without the consent of the owner [broke into] [and] [or] [entered] another's motor vehicle which contained something of value, intending at that time to commit larceny therein, 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. Railroad cars, aircraft, boats or other watercraft, and trailers as well as motor vehicles are included under this statute.

2. A breaking need not be actual but may be by threat of force, by some trick or fraudulent representation.

3. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.

4. Defendant may be charged with intent to commit a felony other than larceny. If so, substitute that felony for larceny and define the felony. Failure to define the crime may constitute reversible error. *State v. Elliott*, 21 N.C. App. 555 (1974).