

214.46 BREAKING OR ENTERING INTO CERTAIN LAW ENFORCEMENT VEHICLES. FELONY.¹

NOTE WELL: 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. See N.C.G.S. § 14-56(b).

The defendant has been charged with breaking or entering into a law enforcement vehicle. For you to find the defendant guilty of this offense, the State must prove six things beyond a reasonable doubt:

First, that there was [a breaking² by the defendant. (*State how breaking allegedly occurred*)] [an entry by the defendant. (*State how entry allegedly occurred*)] [either a breaking or an entry by the defendant. (*State how breaking allegedly occurred*)] [either a breaking or an entry by the defendant. (*State how entry allegedly occurred*)] would be a breaking. (*State how entry allegedly occurred*) would be an entry.]

Second, the State must prove that it was a law enforcement vehicle³ that was [broken into] [entered] [broken into or entered]. A law enforcement vehicle is a motor vehicle, railroad car, trailer, aircraft, or boat or other watercraft, owned or operated by a law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States.

Third, that the defendant knew or reasonably should have known that the [railroad car] [motor vehicle] [trailer] [aircraft] [boat or other watercraft] was owned or operated by [a law enforcement agency] [the North Carolina National Guard] [*(name branch of the United States Armed Forces)*].

Fourth, that there was something of value in the law enforcement vehicle.

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

And Sixth, that at the time of the [breaking] [entering] [breaking or entering], the defendant intended⁴ to commit larceny⁵ 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 law enforcement 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 consent of the owner [broke into] [and] [or] [entered] another's law enforcement vehicle which contained something of value, intending at that time to commit larceny therein, and the defendant knew or reasonably should have known that the [railroad car] [motor vehicle] [trailer] [aircraft] [boat or other watercraft] was owned or operated by [a law enforcement agency] [the North Carolina National Guard] [(*name branch of the United States Armed Forces*)], 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.⁶

1. Effective December 1, 2021. S.L. 2021-167 amended N.C.G.S. § 14-56 to increase the penalties for breaking or entering into certain law enforcement vehicles.

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

3. Railroad cars, aircrafts, boats or other watercrafts, and trailers as well as motor vehicles which are owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States are included under this statute.

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

5. 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).

6. Felony breaking or entering into a motor vehicle is a lesser-included offense. N.C.G.S. § 14-56(a). See N.C.P.I.—Crim. 214.40.