

BREAKING INTO COIN- OR CURRENCY-OPERATED MACHINES. FELONY.
G.S. 14-56.1, G.S. 14-56.3.¹

NOTE WELL: Use this instruction only if the defendant denies a previous conviction under G.S. 14-56.1 or 14-56.3 or remains silent. If he admits the previous conviction, use N.C.P.I.--Crim. 214.55. (And see 15A-928.)

The defendant has been charged with felonious forcible breaking into a [coin] [currency] -operated machine.

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

First, that the defendant broke into a [coin] [currency] -operated machine. (*Describe machine*) is a [coin] [currency] -operated machine.

Second, that the defendant did so forcibly. (*Describe how breaking occurred*) would be a forcible breaking.²

Third, that no authorized person consented to this forcible breaking.

Fourth, that at the time the defendant broke into the machine, he intended to steal money or property from it; that is,

¹Except for minor differences in language, G.S. 14-56.1 and G.S. 14-56.3 appear to define the same offense in reference to forcibly opening coin- or currency-operated machines. If an indictment charges an offense under G.S. 14-56.3, modify this instruction accordingly.

²If the breaking is disputed, state what would and what would not be a forcible breaking.

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G.S. 14-56.1, G.S. 14-56.3. (Continued.)

he intended to deprive the rightful owner permanently of possession of the money or property.

And Fifth, that the defendant has previously been convicted of [breaking into] [forcibly opening] [opening by unauthorized use of a key or other instrument] a [coin] [currency] -operated machine.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant forcibly broke into a [coin] [currency] -operated machine without authority, intending at that time to steal money or property contained therein, and that the defendant has previously been convicted of [breaking into] [forcibly opening] [opening by unauthorized use of a key or other instrument], it would be your duty to return a verdict of guilty of felonious breaking into a [coin] [currency] -operated machine. If you do not so find or have a reasonable doubt as to one or more of these things, you would not return a verdict of guilty of felonious forcible breaking into a [coin] [currency] -operated machine but you must determine whether the defendant is guilty of misdemeanor forcible breaking into a [coin] [currency] -operated machine. The misdemeanor differs from the felony only in that the State need not prove that the defendant had been previously convicted of [breaking into] [forcibly entering] [opening by unauthorized use of a key or other instrument] a [coin] [currency] -operated machine.

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G.S. 14-56.1, G.S. 14-56.3. (Continued.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant forcibly broke into a [coin] [currency] -operated machine, without authority, intending at that time to steal money or property contained therein, it would be your duty to return a verdict of guilty of misdemeanor breaking into a [coin] [currency] -operated machine. 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.

