

FELONIOUS RECEIVING STOLEN GOODS--PURSUANT TO A BREAKING OR ENTERING. FELONY. G.S. 14-71, -72.

The defendant has been charged with feloniously receiving stolen goods.

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

First, that the property was stolen by someone other than the defendant.

Second, that this property was stolen [during a burglary] [following a breaking or entering].<sup>1</sup> [Burglary is the breaking and entering of the [dwelling house] [sleeping apartment] of another without his consent in the nighttime with the intent to commit a felony.] [Breaking or entering is the breaking into or entering into another's building without his consent.]

Third, that the defendant [received] [concealed] the property.<sup>2</sup>

Fourth, that the defendant [received] [concealed] this property with a dishonest purpose. (*State what purpose was, e.g., permanently depriving the owner of his property*) is a dishonest purpose.

And Fifth, that the defendant at the time he [received]

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<sup>1</sup>If the offense charged is larceny pursuant to a violation of G.S. 14-53 or 14-57, modify the wording at this point as appropriate.

<sup>2</sup>In the event that there is some dispute as to "receiving," the jury should be told what will constitute receiving or concealing goods.

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[concealed] this property knew<sup>3</sup> or had reasonable grounds to believe that it was stolen [during a burglary] [following a breaking or entering].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant, with a dishonest purpose, [received] (or) [concealed] property which he knew or had reasonable grounds to believe someone else had stolen [during a burglary] [following a breaking or entering], it would be your duty to return a verdict of guilty of feloniously receiving stolen goods. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of feloniously receiving stolen goods<sup>4</sup> but must determine whether the defendant is guilty of non-feloniously receiving stolen goods. Non-feloniously receiving stolen goods differs from feloniously receiving stolen goods in that it is not necessary for the State to prove beyond a reasonable doubt that the property was stolen [during a burglary] [following a breaking or entering].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant, with a dishonest purpose, [received] (or) [concealed] property which he knew or

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<sup>3</sup>This knowledge may be actual, or it may be implied when the circumstances are sufficient to lead the party charged to believe the property was stolen. S. v. Parker, 316 N.C. 295, 303 (1986).

<sup>4</sup>If lesser included instructions are not to be given, the last phrase should be: ". . . it would be your duty to return a verdict of not guilty."

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had reasonable grounds to believe someone else had stolen, it  
would be your duty to return a verdict of guilty of non-  
feloniously receiving stolen goods. 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.

