

N.C.P.I.—Criminal 208.90A
 DISCHARGING A BARRELED WEAPON INTO OCCUPIED PROPERTY. FELONY. G.S. 14-34.1
 General Criminal Volume
 Replacement June 2011

The defendant has been charged with discharging a barreled weapon¹ into occupied property.²

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

First, that the defendant willfully or wantonly discharged a barreled weapon into any [building] [structure] [vehicle] [aircraft] [watercraft] [(describe other conveyance)] [device] [equipment] [erection] [enclosure]³ (without justification or excuse).⁴ An act is willful or wanton when it is done intentionally with knowledge or a reasonable ground to believe that it will endanger the rights or safety of others. A barreled weapon is a weapon capable of discharging shot, bullets, pellets, or other missiles at a muzzle velocity of at least 600 feet per second. (A (describe weapon) is a barreled weapon.)

Second, that the [building] [structure] [vehicle] [aircraft] [watercraft] [(describe other conveyance)] [device] [equipment] [erection] [enclosure] was occupied by one or more persons at the time that the barreled weapon was discharged.

And Third, that the defendant [knew] [had reasonable grounds to believe] that the [building] [structure] [vehicle] [aircraft] [watercraft] [(describe other conveyance)] [device] [equipment] [erection] [enclosure] was occupied by one or more persons.

¹ Where the charge involves use of a firearm under the statute, use N.C.P.I.—Crim. 208.90.

² For purposes of this statute, property is described as any building, structure, vehicle, aircraft, watercraft, or other conveyance, device, equipment, erection or enclosure.

³ G.S. 14-34.1 forbids attempting to discharge a barreled weapon into occupied property as well as the actual discharge.

If only an "attempt" is charged and the judge believes that it is a type covered by the statute, the instruction may be modified accordingly. If an instruction explaining "attempt" is required, see N.C.P.I.—Crim. 201.10.

⁴ The parenthetical phrase should be used only where there is evidence of justification or excuse, such as self-defense.

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If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant willfully or wantonly discharged a barreled weapon into a(n) [building] [structure] [vehicle] [aircraft] [watercraft] [*(describe other conveyance)*] [device] [equipment] [erection] [enclosure] (without justification or excuse), while it was occupied by one or more persons, and that the defendant [knew] [had reasonable grounds to believe] that it was occupied by one or more persons, 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.