

MALICIOUS USE OF EXPLOSIVE OR INCENDIARY DEVICE--PROPERTY DAMAGE.  
FELONY. G.S. 14-49(b).

The defendant has been charged with maliciously [damaging] [attempting to damage] the property of another by the use of an explosive or incendiary device.

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

First, that the defendant [damaged] [attempted to damage] another's [real] [personal] property.

Second, that the defendant did this with an explosive or incendiary device. (*Name device*) is an explosive or incendiary device.<sup>1</sup>

Third, that the defendant acted willfully; that is, intentionally and without justification or excuse.

And Fourth, that the defendant acted maliciously. Malice means not only hatred, ill will, or spite as it is ordinarily understood--to be sure, that is malice--but it also means that condition of mind which prompts a person to intentionally inflict damage without just cause, excuse, or justification.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant willfully and maliciously [damaged] [attempted to damage] another's [real] [personal] property with an explosive or incendiary device, it

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<sup>1</sup>Where the explosive or incendiary character of the device cannot be determined as a matter of law, this sentence should not be given. See G.S. 14-50.1 for definition of explosive or incendiary device or material.

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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.