

WANTON AND WILLFUL BURNING OF A [BOAT] [BARGE] [FERRY] [FLOAT].
G.S. § 14-63. FELONY.

The defendant has been charged with wantonly and willfully [setting fire to] [burning] [causing the burning of]¹ a [boat] [barge] [ferry] [float].

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

First, that the defendant intentionally [set fire to]² [burned] [caused the burning of] (*describe property, e.g., The Busted Flush*). (*Describe property, e.g., The Busted Flush*) is a [boat] [barge] [ferry] [float].

Second, that the defendant did so wantonly and willfully, that is, deliberately and without justification or excuse, with the knowledge or reasonable grounds to believe that his act would endanger the rights or safety of others.³

¹G.S. § 14-63 also makes it an offense to "aid, counsel or procure" the burning of these types of property. If the defendant is prosecuted under this statute for "aiding" the burning of these types of property, use the elements of N.C.P.I.--Crim. 202.20 or 202.20A (Aiding and Abetting) and incorporate this instruction as indicated therein. If the defendant is prosecuted under this statute for "counseling" or "procuring" the burning of property, use the elements of N.C.P.I.--Crim. 202.30 (Accessory Before the Fact) and incorporate this instruction.

²It is possible for a person to "set fire to" property without burning it. S. v. Hall, 93 N.C. 573 (1885). If there is some question as to whether the defendant "set fire to" the property, the jury may be told that "a person sets fire to property whenever he causes fire to come into contact with the property, even though the property may not in fact be burned, or is merely scorched or discolored by heat." If there is some question as to whether the defendant "burned" the property, the jury may be told that "a partial burning or the slightest charring is sufficient, but a mere scorching or discoloration by heat does not constitute a burning."

³See S. v. Brackett, 306 N.C. 138 (1982) for a discussion of the terms wanton and willful as used in this statute. The words have substantially the same meaning.

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And Third, that the defendant did so [without the consent of the owner of the (*describe property*)] [for a fraudulent purpose. (*Describe purpose*) is a fraudulent purpose.⁴]

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant [set fire to] [burned] [caused the burning of] (*describe or name property, e.g., the Busted Flush*), and that the defendant did so wantonly and willfully, [without the consent of the owner of (*describe or name property, e.g., the Busted Flush*)] [for the purpose of (*describe fraudulent purpose*)], 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.

⁴Use this bracketed phrase only when the boat, barge, ferry, or float was burned with the consent of the owner.