

N.C.P.I.-Crim. 204.15  
FACTORS THAT ENHANCE SENTENCE - [WEARING] [POSSESSING] A  
BULLET-PROOF VEST DURING THE COMMISSION OF A FELONY.  
GENERAL CRIMINAL VOLUME  
REPLACEMENT JUNE 2017  
N.C. Gen. Stat. § 15A-1340.16C  
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204.15 FACTORS THAT ENHANCE SENTENCE - [WEARING] [POSSESSING]  
A BULLET-PROOF VEST DURING THE COMMISSION OF A FELONY. N.C.  
Gen. Stat. § 15A-1340.16C.<sup>1</sup>

*NOTE WELL: This instruction should be used where a defendant has been convicted of a felony and there is evidence that the defendant wore or had in the defendant's immediate possession a bullet-proof vest during the commission of the felony. This enhancement is not appropriate and this instruction should not be used where the evidence that the person possessed a bullet-proof vest is needed to prove an element of the underlying felony charged. See N.C. Gen. Stat. § 15A-1340.16C(e). This instruction is also inappropriate to law enforcement officers unless the State proves the two things set out in N.C. Gen. Stat. § 15A-1340.16C(b1).*

*See N.C. Gen. Stat. § 15A-928 for provisions regarding indictment, bifurcated trial, verdict, and judgment.*

In the event you have found the defendant guilty of (*name felony*), you must then consider and answer the following question:

Did the defendant [wear] [have in defendant's immediate possession] a bullet-proof vest at the time the defendant committed (*name felony*)?

On this question, the burden of proof is on the State to prove beyond a reasonable doubt that the defendant [wore] [had in the defendant's immediate possession] a bullet-proof vest at the time the defendant committed (*name felony*).

*NOTE WELL: If there is evidence presented to support both, that the defendant wore and had in the defendant's immediate possession a bullet-proof vest at the time the defendant committed the felony, the Pattern Jury Instruction Criminal Subcommittee suggests the better practice is to submit both*

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*questions to the jury and instruct on both.*

*See State v. Robinson, 795 S.E.2d 136 (N.C. Ct. App.  
2016).*

If you find from the evidence beyond a reasonable doubt that the defendant [wore] [had in the defendant's immediate possession] a bullet-proof vest at the time the defendant committed (*name felony*), it would be your duty to answer this question "yes."

If you do not so find, or have a reasonable doubt, it would be your duty to answer this question "no."<sup>2</sup>

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1 N.C. Gen. Stat. § 15A-1340.16(a) provides that a defendant who is convicted of a felony and who is found to have worn or possessed a bullet-proof vest during the commission of the felony is guilty of a felony that is one class higher than the underlying felony for which the person is convicted.

2 If this instruction is used, the following should be added to the verdict sheet: "If you have found the defendant guilty of (*name felony*), do you find that the defendant [wore] [had in his immediate possession] a bullet-proof vest at the time the defendant committed (*name felony*)? Answer: \_\_\_\_\_."