

N.C.P.I.-Crim. 208.90G
DISCHARGING A BARRELED WEAPON INTO OCCUPIED PROPERTY
INFLICTING SERIOUS BODILY INJURY. FELONY.
GENERAL CRIMINAL VOLUME
JUNE 2011
N.C. Gen. Stat. § 14-34.1(c)

208.90G DISCHARGING A BARRELED WEAPON INTO OCCUPIED
PROPERTY INFLICTING SERIOUS BODILY INJURY. FELONY.

The defendant has been charged with discharging a barreled
weapon¹ into occupied property² inflicting serious bodily injury.

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

First, that the defendant willfully or wantonly discharged a barreled
weapon into a(n) [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 the act would endanger the rights or safety or 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.

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.

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.

And Fourth, that the defendant's action resulted in serious bodily
injury to the victim. Serious bodily injury is defined as bodily injury that

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creates or causes [a substantial risk of death] [serious permanent disfigurement] [coma] [a permanent or protracted condition that causes extreme pain] [permanent or protracted loss or impairment of the functions of any bodily member or organ] [prolonged hospitalization].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant willfully or wantonly and intentionally discharged a barreled weapon into a(n) [building] [structure] [vehicle] [aircraft] [watercraft] [(*describe other conveyance*)] [device] [equipment] [erection] [enclosure] (without justification or excuse),⁵ while it was occupied by one or more persons, that defendant knew it was occupied by one or more persons (or had reasonable grounds to believe that it was occupied by one or more persons), and that the defendant inflicted serious bodily injury to the victim(s), 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.⁶

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

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. N.C. Gen. Stat. § 14-34.1 forbids attempting to discharge a firearm 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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5. The parenthetical phrase should be used only where there is evidence of justification or excuse, such as self-defense.

6. If there is to be instruction on lesser included offenses, the last phrase should be: "...you will not return a verdict of guilty of discharging a barreled weapon into occupied property inflicting serious bodily injury."