

214.31B FIRST-DEGREE TRESPASS. FELONY.

*NOTE WELL: This instruction is effective for offenses committed on or after December 1, 2016.*

*NOTE WELL: By N.C. Gen. Stat. § 14-159.14 first and second degree trespass have been designated lesser-included offenses of breaking or entering a building under N.C. Gen. Stat. § 14-54 (see N.C.P.I.—Crim. 214.30 and N.C.P.I.—Crim. 214.34) and lesser-included offenses of felonious breaking or entering a vehicle or boat under N.C. Gen. Stat. § 14-56 (see N.C.P.I.—Crim. 214.40).*

The defendant has been charged with felonious first-degree trespass.

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

First, that the defendant [entered] [remained] on [premises of another so [enclosed] [secured] as to demonstrate clearly an intent to keep out intruders] [a building of another person].

Second, that the defendant [entered] [remained] without authorization.

And Third, that the offense occurred

[(a) on real property<sup>1</sup> where the defendant had reentered after having previously been removed pursuant to the execution of a [valid order] [writ for possession]]

[(b) under color of title<sup>2</sup> where the defendant had knowingly [created] [provided] materially false evidence of an [ownership] [possessory] interest]

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [entered] [remained] [on the

premises of another and that the premises were so [enclosed] [secured] as to demonstrate an intent to keep out intruders] [in a building of another], that the entry was without authorization, and that the offense occurred

[(a) on real property where the defendant had reentered after having previously been removed pursuant to the execution of a [valid order] [writ for possession]]

[(b) under color of title where the defendant had knowingly [created] [provided] materially false evidence of an [ownership] [possessory] interest]

it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to any of these things, it would be your duty to return a verdict of not guilty.

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1 'Real property,' 'real estate,' and 'land' mean not only the land itself, but also buildings, structures, improvements, and permanent fixtures on the land, and all rights and privileges belonging or in any way appertaining to the property. These terms also mean a manufactured home as defined in G.S. 143-143.9(6) if it is a residential structure; has the moving hitch, wheels, and axles removed; and is placed upon a permanent foundation on land owned by the owner of the manufactured home. A manufactured home as defined in G.S. 143-143.9(6) that does not meet all of these conditions is considered tangible personal property. See N.C. Gen. Stat. § 105-273(13).

2 "Color of title" is a phrase used in real estate to refer to title that may have the appearance of good and valid title to property, but in actuality, there is either no title or a vital defect in the title that makes it ineffective. Thus, holding under color of title fails to establish ownership in land.