

N.C.P.I.—Crim. 214.40B

BREAKING OR ENTERING OF A MOTOR VEHICLE AND LARCENY OF GOODS WITH VALUE EXCEEDING [\$1,500 BUT NO MORE THAN \$20,000] [\$20,000 BUT NO MORE THAN \$50,000] [\$50,000 BUT NO MORE THAN \$100,000] [\$100,000]. FELONY.

GENERAL CRIMINAL VOLUME

MAY 2024

N.C. Gen. Stat. § 14-56(a2)(1)-(4)

214.40B BREAKING OR ENTERING OF A MOTOR VEHICLE AND LARCENY OF GOODS WITH VALUE EXCEEDING [\$1,500 BUT NO MORE THAN \$20,000] [\$20,000 BUT NO MORE THAN \$50,000] [\$50,000 BUT NO MORE THAN \$100,000] [\$100,000]. FELONY.¹

NOTE WELL: G.S. 14-56 was amended, effective December 1, 2015. For offenses committed after December 1, 2015, it is not a violation of this statute when a person breaks or enters a motor vehicle, boat, etc., to provide assistance to a person inside needing first aid or emergency health care treatment.

NOTE WELL: For any offense not covered under N.C. Gen. Stat. § 14-56(a2)(1)-(4), for example, breaking and entering of a motor vehicle and larceny of goods valued under \$1,500, see N.C.P.I.—Crim 214.40.

NOTE WELL: Defendant may be charged with intent to commit a felony other than larceny. For breaking or entering into a motor vehicle with the intent to commit a felony other than larceny, see N.C.P.I.—Crim 214.40A.

NOTE WELL: For offenses involving motor vehicles owned or operated by any law enforcement agency, the North Carolina National Guard or any branch of the Armed Forces of the United States, use N.C.P.I.—Crim 214.46.

The defendant has been charged with breaking or entering of a motor vehicle and larceny of goods with value exceeding [\$1,500 but no more than \$20,000] [\$20,000 but no more than \$50,000] [\$50,000 but no more than \$100,000] [\$100,000].²

For you to find the defendant guilty of breaking or entering of a motor vehicle, the State must prove five things beyond a reasonable doubt:

First, that there was

N.C.P.I.—Crim. 214.40B

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GENERAL CRIMINAL VOLUME

MAY 2024

N.C. Gen. Stat. § 14-56(a2)(1)-(4)

[a breaking³ by the defendant. (*State how breaking allegedly occurred*) would be a breaking.]

[an entry by the defendant. (*State how entry allegedly occurred*) would be an entry.]

[either a breaking or an entry by the defendant. (*State how breaking allegedly occurred*) would be a breaking. (*State how entry allegedly occurred*) would be an entry.]

Second, that it was a motor vehicle which was [broken into] [entered] [broken into or entered].

Third, that there [[was] [were]] [goods] [wares] [freight] [other thing of value (describe other thing of value)] in the motor vehicle.

Fourth, that the owner did not consent to the [breaking] [entering] [breaking or entering].

And Fifth, that at the time of the [breaking] [entering] [breaking or entering], the defendant intended⁴ to commit larceny therein. Larceny is the taking and carrying away of the personal property of another without that person's consent with the intent to deprive that person of its possession permanently. (If you find that the defendant was found in the motor vehicle and that the defendant had no lawful purpose for being there, you are permitted but not required to infer from this that the defendant entered with the intent to commit larceny therein.)

If you find from the evidence beyond a reasonable doubt, that on or about the alleged date, the defendant without the consent of the owner [broke into] [entered] [broke into or entered] another's motor vehicle which

N.C.P.I.—Crim. 214.40B

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GENERAL CRIMINAL VOLUME

MAY 2024

N.C. Gen. Stat. § 14-56(a2)(1)-(4)

contained [goods] [wares] [freight] [other thing of value (describe other thing of value)], intending at that time to commit larceny therein, it would be your duty to return a verdict of guilty of breaking or entering of a motor vehicle. 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.

For you to find the defendant guilty of larceny, the State must prove six things beyond a reasonable doubt:

First, that the defendant took [goods] [wares] [freight] [other thing of value (describe other thing of value)] belonging to another person.⁵

Second, that the defendant carried away the [goods] [wares] [freight] [other thing of value (describe other thing of value)].⁶

Third, that the alleged victim did not consent to the taking and carrying away of the [goods] [wares] [freight] [other thing of value (describe other thing of value)].

Fourth, that at the time of the taking, the defendant intended to deprive the alleged victim of [its] [their] use permanently.⁷

Fifth, that the defendant knew the defendant was not entitled to take the [goods] [wares] [freight] [other thing of value (describe other thing of value)].⁸

And Sixth, that the [goods] [wares] [freight] [other thing of value (describe other thing of value)] had a value exceeding [\$1,500 but no more than \$20,000] [\$20,000 but no more than \$50,000] [\$50,000 but no more than \$100,000] [\$100,000], aggregated over a 90-day period.

N.C.P.I.—Crim. 214.40B

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GENERAL CRIMINAL VOLUME

MAY 2024

N.C. Gen. Stat. § 14-56(a2)(1)-(4)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant took and carried away another person's [goods] [wares] [freight] [other thing of value (describe other thing of value)] without their consent knowing that they were not entitled to take it and intending at that time to deprive that person of [its] [their] use permanently, and that the property had a value exceeding [\$1,500 but no more than \$20,000] [\$20,000 but no more than \$50,000] [\$50,000 but no more than \$100,000] [\$100,000], aggregated over a 90-day period, it would be your duty to return a verdict of guilty of larceny of goods with a value exceeding [\$1,500 but no more than \$20,000] [\$20,000 but no more than \$50,000] [\$50,000 but no more than \$100,000] [\$100,000]. If you do not so find or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty on the larceny count.⁹

1. Railroad cars, aircraft, boats or other watercraft, and trailers as well as motor vehicles are included under this statute. N.C. Gen. Stat. § 14-56.

2. This offense also includes breaking out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind containing goods, wares, freight, or other thing of value after having committed larceny therein. N.C. Gen. Stat. § 14-56.

3. A breaking need not be actual but may be by threat of force, by some trick or fraudulent representation. *State v. Jolly*, 297 N.C. 121, 254 S.E.2d 1 (1979).

4. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.

5. If the property was severed from the possession of the owner and under the control of the defendant for any period of time, even if only for an instant, this would constitute a taking. *S. V. Carswell*, 296 N.C. 101 (1978).

6. In the event that there is some dispute as to asportation, the jury should be told that the slightest movement is sufficient. *S. V. Carswell*, 296 N.C. 101 (1978).

7. In the event of that there is some dispute as to permanent deprivation, the jury should be told that an intent to temporarily deprive will not suffice. *State v. Watts*, 25 N.C. App. 194, 212 S.E.2d 557 (1975); *but cf.* *State v. Smith*, 268 N.C. 167 (1966).

8. In the event that the defendant relies on claim of right, the jury should be told that if the defendant honestly believed that he was entitled to take the property, he cannot be guilty of larceny. *State v. Fisher*, 70 N.C. 78 (1874).

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9. If there is evidence to support the submission of a lesser included offense, this last phrase would be amended as follows "If you do not so find or have a reasonable doubt as to one or more of these things, you would not return a verdict of guilty of breaking or entering of a motor vehicle and larceny of goods with value exceeding [\$1,500 but no more than \$20,000] [\$20,000 but no more than \$50,000] [\$50,000 but no more than \$100,000] [\$100,000], but would consider whether the defendant is guilty of"