

N.C.P.I.—Crim. 214.46

BREAKING OR ENTERING INTO MOTOR VEHICLE [OWNED] [OPERATED] BY [LAW ENFORCEMENT AGENCY] [NORTH CAROLINA NATIONAL GUARD] [BRANCH OF THE ARMED FORCES OF THE UNITED STATES] WITH THE INTENT TO COMMIT A FELONY OR LARCENY THEREIN. FELONY.

GENERAL CRIMINAL VOLUME

REPLACEMENT MAY 2024

N.C. Gen. Stat. § 14-56(a2)(1)(a), (b), (c)

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NOTE WELL: 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. See N.C.G.S. § 14-56(b).

NOTE WELL: This instruction would be used where the motor vehicle was owned or operated by any law enforcement agency, the North Carolina National Guard, or any Branch of the Armed Forces of the United States regardless of the value of the goods involved.

NOTE WELL: For breaking or entering into a motor vehicle not owned by any law enforcement agency, the North Carolina National Guard, or any Branch of the Armed Forces of the United States and larceny of goods, see N.C.P.I—Crim 214.40. For breaking or entering into a motor vehicle and 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], see N.C.P.I—Crim. 214.40B.

The defendant has been charged with breaking or entering into a motor vehicle [owned] [operated] by [any law enforcement agency] [the North Carolina National Guard] [any Branch of the Armed Forces of the United States] with the intent to commit a felony or larceny therein.²

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

First, that there was

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[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 vehicle⁴ which was [broken into] [entered]
[broken into or entered].

Third, that the motor vehicle was [owned] [operated] by [any law
enforcement agency] [the North Carolina National Guard] [any branch of the
Armed Forces of the United States].

Fourth, that the defendant [knew] [reasonably should have known] that
the motor vehicle was [owned] [operated] by [any law enforcement agency]
[the North Carolina National Guard] [any branch of the Armed Forces of the
United States].

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

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

And Seventh, that at the time of the [breaking] [entering] [breaking or
entering], the defendant intended⁵ to commit [larceny] [the felony of (name
felony)] therein. ([Define the felony and enumerate its elements using the
Pattern Jury Instruction for that felony]).⁶ [Larceny is the taking and carrying

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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 or a felony 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] a motor vehicle [owned] [operated] by [any law enforcement agency] [the North Carolina National Guard] [any branch of the Armed Forces of the United States] which contained [goods] [wares] [freight] [other thing of value (describe other thing of value)], that defendant [knew] [reasonably should have known] that the motor vehicle was [owned] [operated] by [any law enforcement agency] [the North Carolina National Guard] [any branch of the Armed Forces of the United States], and intended at that time to commit [larceny] [the felony of (*name felony*)] therein, 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.⁷

1. Effective December 1, 2021. S.L. 2021-167 amended N.C.G.S. § 14-56 to increase the penalties for breaking or entering into certain law enforcement vehicles.

2. Railroad cars, aircraft, boats or other watercraft, and trailers as well as motor vehicles which are owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States are included under this statute.

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).

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4. 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 any felony or larceny therein.

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

6. Failure to define the crime may constitute reversible error. *State v. Elliott*, 21 N.C. App. 555 (1974).

7. 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 [owned] [operated] by [law enforcement agency] [North Carolina National Guard] [Branch of the Armed Forces of the United States], but would consider whether the defendant is guilty of”