

N.C.P.I.-Crim. 216.37

FELONIOUS LARCENY—LARCENY OF MOTOR VEHICLE PARTS WHERE THE COST OF REPAIRING THE MOTOR VEHICLE IS \$1,000 OR MORE OR A CATALYTIC CONVERTER. FELONY.

GENERAL CRIMINAL VOLUME

REPLACEMENT JUNE 2022

N.C. Gen. Stat. § 14-72.8(a)

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The defendant has been charged with felonious larceny of [(a) motor vehicle part(s) costing \$1,000 or more to repair the motor vehicle] [which is a catalytic converter]¹.

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

First, that the defendant took (a) motor vehicle part(s) belonging to (*name alleged victim*).²

Second, that the defendant carried away³ the motor vehicle part(s).

Third, that (*name alleged victim*) did not consent to the taking and carrying away of the motor vehicle part(s).

Fourth, that at the time of the taking, the defendant intended to deprive (*name alleged victim*) of the use of the part(s) permanently.⁴

Fifth, that the defendant knew the defendant was not entitled to take the motor vehicle part(s).

And Sixth, that the [cost of repairing the motor vehicle was \$1000 or more]⁵ [motor vehicle part was a catalytic converter].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant took and carried away another's motor vehicle part(s) without another's consent, knowing that the defendant was not entitled to take the part(s) and intending at that time to deprive (*name alleged victim*) of the use of the part(s) permanently, and that the [cost of repairing the motor vehicle was \$1,000 or more]⁶ [vehicle part was a catalytic converter], it would be your duty to return a verdict of guilty. If you do not so find or if you have a reasonable doubt

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as to one or more of these things, it would be your duty to return a verdict of not guilty.

¹. Effective December 1, 2021, S.L. 2021-154 amended N.C.G.S. § 14-72.8(a) to include larceny of a catalytic converter. A person in possession of a catalytic converter that has been removed from a motor vehicle is presumed to have obtained the catalytic converter under circumstances constituting a violation of N.C.G.S. § 14-72.8(a) unless the person falls into the categories listed in N.C.G.S. § 14-72.8(b).

². If there is evidence of conduct which would constitute "taking," but there is also evidence that the defendant's conduct fell short of what would constitute "taking," add the following to this element:

"(Describe conduct which would constitute a taking) would be a taking." See S. v. Carswell, 296 N.C. 101 (1978).

³. In the event that there is some dispute as to asportation, the jury should be told that the slightest movement is sufficient.

⁴. In the event that there is some dispute as to permanent deprivation, the jury should be told that a temporary deprivation will not suffice. *But cf. S. v. Smith, 268 N.C. 167 (1966).*

⁵. The cost of repairing the motor vehicle means the cost of the replacement part and any additional costs necessary to install the replacement part in the motor vehicle. (N.C. Gen. Stat. § 14-72.8(c)).

⁶. If the cost is less than \$1,000 and the motor vehicle part is not a catalytic converter, misdemeanor larceny may be instructed upon (N.C.P.I.—Crim. 216.05).