

222.40 SETTING FIRE TO [GRASSLAND] [BRUSHLAND] [WOODLAND]  
PROPERTY OF ANOTHER. MISDEMEANOR.<sup>1</sup>

*NOTE WELL: For a first offense, the defendant would be guilty of a Class 2 misdemeanor. For a second or any subsequent offense, the defendant would be guilty of a Class 1 misdemeanor. See G.S. 15A-928. If intent to damage the property of another is shown, then the defendant shall be punished as a Class I felon and N.C.P.I.—Crim. 222.41 should be used.*

The defendant has been charged with intentionally setting fire to [grassland] [brushland] [woodland] of another.

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

First, that the defendant intentionally set fire to (*describe property*).

Second, that the property was [grassland] [brushland] [woodland]<sup>2</sup>

(And) Third, that this property was the property of another.

((And) Fourth, that on (*name date*) the defendant, in (*name court*) [was convicted of] [pled guilty to] the felony of setting fire to [grassland] [brushland] [woodland] property of another, that was committed on (*name date*) in violation of the law of the [State of North Carolina] [State of (*name other state*)] [United States].<sup>3</sup>)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally set fire to (*describe property*), which was [grassland] [brushland] [woodland], and that this was the property of another, (and that on (*name date*) the defendant, in (*name court*) [was convicted of] [pled guilty to] the felony of setting fire to [grassland] [brushland] [woodland] property of another, that was committed on (*name date*) in violation of the law of the [State of North Carolina] [State of (*name other state*)] [United States]) it would be your duty to return a

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REPLACEMENT APRIL 2003  
N.C. Gen. Stat. § 14-136  
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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.

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1. The statute makes it a Class I felony if the defendant intended to damage property of another.

2. G.S. 14-136 defines "woodland" to include "all forest areas, both timber and cutover land, and all second-growth on areas that have at one time been cultivated." The statute does not define "grassland" or "brushland."

3. See G.S. 15A-928 if this alternative element applies.