

N.C.P.I.—Crim 247.10A
FELONIOUS CRUELTY TO (AN) ANIMAL(S). FELONY.
REPLACEMENT JUNE 2017
N.C. Gen. Stat. § 14-360(b)

247.10A FELONIOUS CRUELTY TO (AN) ANIMAL(S). FELONY.

NOTE WELL: Use N.C.P.I.—Crim 247.10 for Non-Felonious Cruelty to (An) Animal(s).

NOTE WELL: N.C. Gen. Stat. § 14-360(c)(1)-(4) provides for activities to which the prohibitions of this section do not apply.

The defendant has been charged with felonious cruelty to (an) animal(s).

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

First, that the defendant

[(a) [tortured]¹ [mutilated] [maimed] [cruelly beat] [disfigured] [poisoned] [killed]] (*name type of animal(s)*)

[(b) [caused] [procured] to be [tortured] [mutilated] [maimed] [cruelly beat] [disfigured] [poisoned] [killed]] (*name type of animal(s)*).

Second, that the defendant acted intentionally,² that is, knowingly (and without justification or excuse³.)

And Third, that the defendant acted maliciously⁴. To act maliciously means to act intentionally and with [malice] [bad motive]. As used herein, to act with [malice] [bad motive] is to possess a sense of personal ill will that [activated] [incited] the defendant to [perform the act] [undertake the conduct] that resulted in harm to the animal(s).⁵ It also means, the condition of mind which prompts a person to intentionally inflict serious harm to an animal, which proximately results in injury to an animal (without justification or excuse). You may consider this along with all other facts and circumstances in determining whether the defendant's act was unlawful and whether it was done with [malice] [bad motive]. If an act be lawful - one

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that the party has a legal right to do - the fact that he may be actuated by an improper motive does not render it unlawful.⁶

NOTE WELL: If the defendant presents evidence of justification or excuse, e.g., self-defense, defense of other, etc., then the instruction should be amended to add these defenses. If added, these defenses must be included to the mandate.

(When the defendant asserts that the action was justified or excused, the defendant is, in effect, denying the existence of those facts, which the state must prove beyond a reasonable doubt in order to convict the defendant. The burden is on the state to prove those essential facts and in so doing disprove the defendant's assertion of justification or excuse. The State must satisfy you beyond a reasonable doubt that the act toward the animal was not justified or excused before you may return a verdict of guilty.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant, intentionally and maliciously (and without justification or excuse)

[(a) [tortured] [mutilated] [maimed] [cruelly beat] [disfigured]
[poisoned] [killed]]

[(b) [caused] [procured] to be [tortured] [mutilated] [maimed]
[cruelly beat] [disfigured] [poisoned] [killed]]

(*name type of animal(s)*), 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 N.C. Gen. Stat. § 14-360 provides that "the words 'torture', 'torment', and 'cruelly' include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death."

² See N.C.P.I.—Crim 120.10.

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3 If the defendant presents evidence of justification or excuse, e.g., self-defense, defense of other, etc., then the instruction should be amended to add these defenses. Special care should be used to add these defenses in the mandate.

4 N.C. Gen. Stat. § 14-360 provides that “the word ‘maliciously’ means an act committed intentionally and with malice or bad motive.”

5 N.C. Gen. Stat. § 1D-5(5).

6 *Bell v. Danzer*, 187 N.C. 224, 121 S.E. 448, 451 (1924).

7 If self defense or other defenses are added, they must be added to the mandate.

