

N.C.P.I.-Crim. 208.90A
DISCHARGING A BARRELED WEAPON INTO OCCUPIED PROPERTY.
FELONY.
GENERAL CRIMINAL VOLUME
JUNE 2011
N.C. Gen. Stat. § 14-34.1

208.90A DISCHARGING A BARRELED WEAPON INTO OCCUPIED
PROPERTY. FELONY.

The defendant has been charged with discharging a barreled weapon¹ into occupied property.²

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

First, that the defendant willfully or wantonly discharged a barreled weapon into any [building] [structure] [vehicle] [aircraft] [watercraft] [(*describe other conveyance*)] [device] [equipment] [erection] [enclosure]³ (without justification or excuse).⁴ An act is willful or wanton when it is done intentionally with knowledge or a reasonable ground to believe that it will endanger the rights or safety of others. A barreled weapon is a weapon capable of discharging shot, bullets, pellets, or other missiles at a muzzle velocity of at least 600 feet per second. (A (*describe weapon*) is a barreled weapon.)

Second, that the [building] [structure] [vehicle] [aircraft] [watercraft] [(*describe other conveyance*)] [device] [equipment] [erection] [enclosure] was occupied by one or more persons at the time that the barreled weapon was discharged.

And Third, that the defendant [knew] [had reasonable grounds to believe] that the [building] [structure] [vehicle] [aircraft] [watercraft] [(*describe other conveyance*)] [device] [equipment] [erection] [enclosure] was occupied by one or more persons.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant willfully or wantonly discharged a

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barreled weapon into a(n) [building] [structure] [vehicle] [aircraft] [watercraft] [(*describe other conveyance*)] [device] [equipment] [erection] [enclosure] (without justification or excuse), while it was occupied by one or more persons, and that the defendant [knew] [had reasonable grounds to believe] that it was occupied by one or more persons, 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.

1. Where the charge involves use of a firearm under the statute, *use* N.C.P.I.-Crim. 208.90.

2. For purposes of this statute, property is described as any building, structure, vehicle, aircraft, watercraft, or other conveyance, device, equipment, erection or enclosure.

3. N.C. Gen. Stat. § 14-34.1 forbids attempting to discharge a barreled weapon into occupied property as well as the actual discharge.

If only an "attempt" is charged and the judge believes that it is a type covered by the statute, the instruction may be modified accordingly. If an instruction explaining "attempt" is required, see N.C.P.I.-Crim. 201.10.

4. The parenthetical phrase should be used only where there is evidence of justification or excuse, such as self-defense.