

**SUBCHAPTER IV. OFFENSES AGAINST THE HABITATION AND OTHER BUILDINGS.**

Article 14.

Burglary and Other Housebreakings.

**§ 14-51. First and second degree burglary.**

There shall be two degrees in the crime of burglary as defined at the common law. If the crime be committed in a dwelling house, or in a room used as a sleeping apartment in any building, and any person is in the actual occupation of any part of said dwelling house or sleeping apartment at the time of the commission of such crime, it shall be burglary in the first degree. If such crime be committed in a dwelling house or sleeping apartment not actually occupied by anyone at the time of the commission of the crime, or if it be committed in any house within the curtilage of a dwelling house or in any building not a dwelling house, but in which is a room used as a sleeping apartment and not actually occupied as such at the time of the commission of the crime, it shall be burglary in the second degree. For the purposes of defining the crime of burglary, larceny shall be deemed a felony without regard to the value of the property in question. (1889, c. 434, s. 1; Rev., s. 3331; C.S., s. 4232; 1969, c. 543, s. 1.)

**§ 14-51.1:** Repealed by Session Laws 2011-268, s. 2, effective December 1, 2011.

**§ 14-51.2. Home, workplace, and motor vehicle protection; presumption of fear of death or serious bodily harm.**

(a) The following definitions apply in this section:

- (1) Home. – A building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.
- (2) Law enforcement officer. – Any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, probation officer, post-release supervision officer, or parole officer.
- (3) Motor vehicle. – As defined in G.S. 20-4.01(23).
- (4) Workplace. – A building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.

(b) The lawful occupant of a home, motor vehicle, or workplace is presumed to have held a reasonable fear of imminent death or serious bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or serious bodily harm to another if both of the following apply:

- (1) The person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a home, motor vehicle, or workplace, or if that person had removed or was attempting to remove another against that person's will from the home, motor vehicle, or workplace.

- (2) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.
- (c) The presumption set forth in subsection (b) of this section shall be rebuttable and does not apply in any of the following circumstances:
  - (1) The person against whom the defensive force is used has the right to be in or is a lawful resident of the home, motor vehicle, or workplace, such as an owner or lessee, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person.
  - (2) The person sought to be removed from the home, motor vehicle, or workplace is a child or grandchild or is otherwise in the lawful custody or under the lawful guardianship of the person against whom the defensive force is used.
  - (3) The person who uses defensive force is engaged in, attempting to escape from, or using the home, motor vehicle, or workplace to further any criminal offense that involves the use or threat of physical force or violence against any individual.
  - (4) The person against whom the defensive force is used is a law enforcement officer or bail bondsman who enters or attempts to enter a home, motor vehicle, or workplace in the lawful performance of his or her official duties, and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.
  - (5) The person against whom the defensive force is used (i) has discontinued all efforts to unlawfully and forcefully enter the home, motor vehicle, or workplace and (ii) has exited the home, motor vehicle, or workplace.
- (d) A person who unlawfully and by force enters or attempts to enter a person's home, motor vehicle, or workplace is presumed to be doing so with the intent to commit an unlawful act involving force or violence.
- (e) A person who uses force as permitted by this section is justified in using such force and is immune from civil or criminal liability for the use of such force, unless the person against whom force was used is a law enforcement officer or bail bondsman who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.
- (f) A lawful occupant within his or her home, motor vehicle, or workplace does not have a duty to retreat from an intruder in the circumstances described in this section.
- (g) This section is not intended to repeal or limit any other defense that may exist under the common law. (2011-268, s. 1.)

**§ 14-51.3. Use of force in defense of person; relief from criminal or civil liability.**

- (a) A person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that the conduct is necessary to defend

himself or herself or another against the other's imminent use of unlawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat in any place he or she has the lawful right to be if either of the following applies:

- (1) He or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another.
- (2) Under the circumstances permitted pursuant to G.S. 14-51.2.

(b) A person who uses force as permitted by this section is justified in using such force and is immune from civil or criminal liability for the use of such force, unless the person against whom force was used is a law enforcement officer or bail bondsman who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties. (2011-268, s. 1.)

#### **§ 14-51.4. Justification for defensive force not available.**

The justification described in G.S. 14-51.2 and G.S. 14-51.3 is not available to a person who used defensive force and who:

- (1) Was attempting to commit, committing, or escaping after the commission of a felony.
- (2) Initially provokes the use of force against himself or herself. However, the person who initially provokes the use of force against himself or herself will be justified in using defensive force if either of the following occur:
  - a. The force used by the person who was provoked is so serious that the person using defensive force reasonably believes that he or she was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force which is likely to cause death or serious bodily harm to the person who was provoked was the only way to escape the danger.
  - b. The person who used defensive force withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that he or she desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. (2011-268, s. 1.)

#### **§ 14-52. Punishment for burglary.**

Burglary in the first degree shall be punishable as a Class D felony, and burglary in the second degree shall be punishable as a Class G felony. (1870-1, c. 222; Code, s. 994; 1889, c. 434, s. 2; Rev., s. 3330; C.S., s. 4233; 1941, c. 215, s. 1; 1949, c. 299, s. 2; 1973, c. 1201, s. 3; 1977, c. 871, s. 2; 1979, c. 672; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1151; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 14-53. Breaking out of dwelling house burglary.**

If any person shall enter the dwelling house of another with intent to commit any felony or larceny therein, or being in such dwelling house, shall commit any felony or larceny therein, and shall, in either case, break out of such dwelling house in the nighttime, such person shall be punished as a Class D felon. (12 Anne, c. 7, s. 3; R.C., c. 34, s. 8; Code, s. 995; Rev., s. 3332; C.S., s. 4234; 1969, c. 543, s. 2; 1979, c. 760, s. 5; 1979, 2<sup>nd</sup> Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

**§ 14-54. Breaking or entering buildings generally.**

(a) Any person who breaks or enters any building with intent to commit any felony or larceny therein shall be punished as a Class H felon.

(a1) Any person who breaks or enters any building with intent to terrorize or injure an occupant of the building is guilty of a Class H felony.

(b) Any person who wrongfully breaks or enters any building is guilty of a Class 1 misdemeanor.

(c) As used in this section, "building" shall be construed to include any dwelling, dwelling house, uninhabited house, building under construction, building within the curtilage of a dwelling house, and any other structure designed to house or secure within it any activity or property. (1874-5, c. 166; 1879, c. 323; Code, s. 996; Rev., s. 3333; C.S., s. 4235; 1955, c. 1015; 1969, c. 543, s. 3; 1979, c. 760, s. 5; 1979, 2<sup>nd</sup> Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 26; 1994, Ex. Sess., c. 24, s. 14(c); 2013-95, s. 1.)

**§ 14-54.1. Breaking or entering a building that is a place of religious worship.**

(a) Any person who wrongfully breaks or enters any building that is a place of religious worship with intent to commit any felony or larceny therein is guilty of a Class G felony.

(b) As used in this section, a "building that is a place of religious worship" shall be construed to include any church, chapel, meetinghouse, synagogue, temple, longhouse, or mosque, or other building that is regularly used, and clearly identifiable, as a place for religious worship. (2005-235, s. 1.)

**§ 14-55. Preparation to commit burglary or other housebreakings.**

If any person shall be found armed with any dangerous or offensive weapon, with the intent to break or enter a dwelling, or other building whatsoever, and to commit any felony or larceny therein; or shall be found having in his possession, without lawful excuse, any picklock, key, bit, or other implement of housebreaking; or shall be found in any such building, with intent to commit any felony or larceny therein, such person shall be punished as a Class I felon. (Code, s. 997; Rev., s. 3334; 1907, c. 822; C.S., s. 4236; 1969, c. 543, s. 4; 1979, c. 760, s. 5; 1979, 2<sup>nd</sup> Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1152; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.**

(a) If any person, with intent to commit any felony or larceny therein, breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, containing any goods, wares, freight, or other thing of value, or, after having committed any felony or larceny therein, breaks out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind containing any goods, wares, freight, or other thing of value, that person is guilty of a Class I felony. It is prima facie evidence that a person entered in violation of this section if he is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft.

(b) It shall not be a violation of this section for any person to break or enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind to provide assistance to a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind if one or more of the following circumstances exist:

- (1) The person acts in good faith to access the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment or because the person inside is, or is in imminent danger of becoming unconscious, ill, or injured.
- (2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical, other health care, or other assistance for the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind.
- (3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person. (1907, c. 468; C.S., s. 4237; 1969, c. 543, s. 5; 1979, c. 437; c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 10; 1981, c. 63, s. 1; c. 179, s. 14; 2015-286, s. 3.3(a).)

#### **§ 14-56.1. Breaking into or forcibly opening coin-or currency-operated machines.**

Any person who forcibly breaks into, or by the unauthorized use of a key or other instrument opens, any coin-or currency-operated machine with intent to steal any property or moneys therein shall be guilty of a Class 1 misdemeanor, but if such person has previously been convicted of violating this section, such person shall be punished as a Class I felon. The term "coin-or currency-operated machine" shall mean any coin-or currency-operated vending machine, pay telephone, telephone coin or currency receptacle, or other coin-or currency-activated machine or device.

There shall be posted on the machines referred to in G.S. 14-56.1 a decal stating that it is a crime to break into vending machines, and that a second offense is a felony. The absence of such a decal is not a defense to a prosecution for the crime described in this section. (1963, c. 814, s. 1; 1977, c. 723, ss. 1, 3; 1979, c. 760, s. 5; c. 767, s. 1; 1993, c. 539, ss. 27, 1153; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 14-56.2. Damaging or destroying coin-or currency-operated machines.**

Any person who shall willfully and maliciously damage or destroy any coin-or currency-operated machine shall be guilty of a Class 1 misdemeanor. The term "coin-or

currency-operated machine" shall be defined as set out in G.S. 14-56.1. (1963, c. 814, s. 2; 1977, c. 723, s. 2; 1993, c. 539, s. 28; 1994, Ex. Sess., c. 24, s. 14(c).)

### **§ 14-56.3. Breaking into paper currency machines.**

Any person, who with intent to steal any moneys therein forcibly breaks into any vending or dispensing machine or device which is operated or activated by the use, deposit or insertion of United States paper currency, shall be guilty of a Class 1 misdemeanor, but if such person has previously been convicted of violating this section, such person shall be punished as a Class I felon.

There shall be posted on the machines referred to in this section a decal stating that it is a crime to break into paper currency machines. The absence of such a decal is not a defense to a prosecution for the crime described in this section. (1977, c. 853, ss. 1, 2; 1979, c. 760, s. 5; c. 767, s. 2; 1993, c. 539, ss. 29, 1154; 1994, Ex. Sess., c. 24, s. 14(c).)

### **§ 14-56.4. Preparation to commit breaking or entering into motor vehicles.**

(a) For purposes of this section:

- (1) "Manipulative key" means a key, device or instrument, other than a key that is designed to operate a specific lock, that can be variably positioned and manipulated in a vehicle keyway to operate a lock or cylinder or multiple locks or cylinders, including a wiggle key, jiggle key, or rocket key.
- (2) "Master key" means a key that operates all the keyed locks or cylinders in a similar type or group of locks.

(b) It is unlawful for any person to possess any motor vehicle master key, manipulative key, or other motor vehicle lock-picking device or hot wiring device, with the intent to commit any felony, larceny, or unauthorized use of a motor propelled conveyance.

(c) It is unlawful for a person to willfully buy, sell, or transfer a motor vehicle master key, manipulative key or device, key-cutting device, lock pick or lock-picking device, or hot wiring device, designed to open or capable of opening the door or trunk of any motor vehicle or of starting the engine of a motor vehicle for use in any manner prohibited by this section.

(d) Violation of this section is a Class 1 misdemeanor. A second or subsequent violation of this section is a Class I felony.

(e) This section shall not apply to any person who is a dealer of new or used motor vehicles, a car rental agent, a locksmith, an employee of a towing service, an employee of an automotive repair business, a person who is lawfully repossessing a vehicle, or a state, county, or municipal law enforcement officer, when that person is acting within the scope of the person's official duties or employment. This section shall not apply to a business which has a key-cutting device located and used on the premises for the purpose of making replacement keys for the owner or person who is in lawful custody of a vehicle. (2005-352, s. 1.)

### **§ 14-57. Burglary with explosives.**

Any person who, with intent to commit any felony or larceny therein, breaks and enters, either by day or by night, any building, whether inhabited or not, and opens or attempts to open any vault, safe, or other secure place by use of nitroglycerine, dynamite, gunpowder, or any other explosive, or acetylene torch, shall be deemed guilty of burglary with explosives. Any person convicted

under this section shall be punished as a Class D felon. (1921, c. 5; C.S., s. 4237(a); 1969, c. 543, s. 6; 1979, c. 760, s. 5; 1993, c. 539, s. 1155; 1994, Ex. Sess., c. 24, s. 14(c).)