

**Ala. Code 1975, § 13A-7-8**

**Possession of Burglar's Tools**

The defendant is charged with possession of burglar's tools.

A person commits the crime of possession of burglar's tools if he/she (1) possesses any explosive, tool, instrument or other article adapted, designed or commonly used for committing or facilitating the commission of an offense involving forcible entry into premises or theft by a physical taking; and (2) intends to use the thing possessed in the commission of an offense involving forcible entry into premises or theft by a physical taking.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant possessed an explosive, tool, instrument or other article adapted, designed or commonly used for committing or facilitating the commission of an offense involving forcible entry into premises or theft by a physical taking, **[describe item]; (AND)**
- (2) The defendant intended to use the thing possessed in the commission of an offense involving forcible entry into premises or theft by a physical taking.

**[Read as appropriate]:** *Explosive* is any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such portions, quantities or packing that an ignition by fire, by friction, by concussion, by detonator or by chemical action of any part of the compound or mixture may cause a sudden generation of highly heated gasses that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. [13A-7-40(2)]

*Premises* includes any building and any real property. [13A-7-1(5)]

A *building* is any structure which may be entered and utilized by persons for business, public use, lodging or the storage of goods, and includes any vehicle, aircraft or watercraft used for the lodging of persons or carrying on business therein. [13A-7-1(1)]

**[Read as appropriate]:** A *building* includes any railroad box car or other rail equipment or trailer or tractor trailer or combination thereof. [13A-7-1(1)]

**[Read as appropriate]:** Where a *building* consists of two or more units separately occupied or secure, each shall be deemed both a separate building and a part of the main building. [13A-7-1(1)]

**[Read as appropriate]:** A *license or privilege to enter or remain* in a building which is partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. [13A-7-1(3)]

A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of possession of burglar's tools, then you shall find the defendant guilty of possession of burglar's tools.

If you find that the State has failed to prove any one or more of the elements of possession of burglar's tools, then you cannot find the defendant guilty of possession of burglar's tools.

**[If lesser-included offenses are included, the Court should instruct on those offenses at this point.]**

[Approved 04-15-16.]