

Ala. Code 1975, § 13A-7-41

Arson in the First Degree

The defendant is charged with arson in the first degree.

A person commits arson in the first degree if he/she intentionally damages a building by starting or maintaining a fire, or causing an explosion, when another person is present in the building at the time, and he/she knows that fact or the circumstances render the presence of another person in the building a reasonable possibility.

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

- (1) The defendant damaged a building by either:
 - a. starting or maintaining a fire; **OR**
 - b. causing an explosion;
- (2) The defendant did so intentionally;
- (3) Another person was present in the building at the time; **(AND)**
- (4)
 - a. The defendant knew of the other person's presence; **OR**
 - b. The circumstances were such as to render the presence of another person in the building a reasonable possibility.

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

A person acts *knowingly* with respect to conduct or to a circumstance when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

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, railway car, aircraft or watercraft used for the lodging of persons or for carrying on business therein. [13A-7-40(1)]

[Read if appropriate]: Where a *building* consists of two or more units separately secured or occupied, each unit shall not be deemed a separate building. [13A-7-40(1)]

[Read if appropriate]: An *explosion* is a rapid, sudden and violent expansion of air or release of energy with resultant pressures that are capable of producing destructive effects on contiguous objects or of destroying life or limb. Explosion includes, but is not limited to, a sudden and rapid combustion, causing violent expansion of the air, or the

sudden bursting or breaking up or in pieces from an internal or other force. It is not limited to cases caused by combustion of fire, but it may result from decomposition or chemical action. [13A-7-40(3)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of arson in the first degree, then you shall find the defendant guilty of arson in the first degree.

If you find that the State has failed to prove any one or more of the elements of arson in the first degree beyond a reasonable doubt, then you cannot find the defendant guilty of arson in the first degree.

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

[Approved 04-07-15.]