

Ala. Code 1975, § 13A-10-11

Impersonating a Peace Officer

The defendant is charged with impersonating a peace officer.

A person commits the crime of impersonating a peace officer if he/she falsely pretends to be a peace officer and does any act in that capacity.

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

- (1) The Defendant falsely pretended to be a peace officer;
- (2) The defendant did an act in that capacity, **[insert description]; (AND)**
- (3) The Defendant acted **[insert appropriate mens rea element – See Use Notes]**.

Peace officer is any public servant vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes. [13-10-1(5)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of impersonating a peace officer, then you shall find the defendant guilty of impersonating a peace officer.

If you find that the State has failed to prove any one or more of the elements of the offense of impersonating a peace officer, then you cannot find the defendant guilty of impersonating a peace officer.

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

Use Notes

The statute does not state a specific mens rea element.

Insert the appropriate mens rea element considering the indictment and the evidence before the court. There are few, if any, strict liability offenses in the Code. See Commentary for 13A-2-3 and 13A-2-4(b). There are four mens rea elements in the Alabama Code: intentionally, knowingly, recklessly and with criminal negligence. See 13A-2-2.

- (1) 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)]
- (2) A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]
- (3) A person acts *recklessly* with respect to a result or to a circumstance when he/she is aware of and consciously disregards a substantial and unjustifiable risk that the risk will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. [13A-2-2(3)]
- (4) A person acts with *criminal negligence* with respect to a result or to a circumstance when he/she fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. A court or jury may consider statutes or ordinances regulating the defendant's conduct as bearing upon the question of criminal negligence. [13A-2-2(4)]

[Approved 8-20-15.]