

Ala. Code 1975, § 13A-8-10.7
FIFTH WHEEL TAMPERING

The defendant is charged with fifth wheel tampering.

A person commits the crime of fifth wheel tampering if, with the intent to commit cargo theft, he/she:

[Read as appropriate]

(a) Modifies, alters, or attempts to alter a fifth wheel or the antitheft locking device attached; **(OR)**

(b) Sells, possesses, offers to sell, moves, or causes to be moved on the highways of this state a modified or altered fifth wheel.

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

(1) The defendant:

[Read as appropriate]

(a) Modified, altered, or attempted to alter a fifth wheel or the antitheft locking device attached, **[Insert description of act];**

(OR)

(b) Sold, possessed, offered to sell, moved, or caused to be moved on the highways of this state a modified or altered fifth wheel, **[Insert description of act];**

(AND)

(2) The defendant did so with the intent to commit cargo theft.

A *fifth wheel* is the coupling between a trailer and a vehicle used for towing. [13A-8-1(3)]

[Insert instruction for cargo theft]

A person acts with *intent* to deprive another of his/her property when he/she acts with the purpose of causing that result. [13A-2-2(1)]

[Read as appropriate] It is a defense to a prosecution for this offense that the defendant honestly believed that he/she had a claim to the property or services involved which he/she was entitled to assert in the manner which forms the basis of the charge against him/her. [13A-8-12(a)]

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

If you find that the State has failed to prove any one or more of the elements of the offense of fifth wheel tampering, then you cannot find the defendant guilty of fifth wheel tampering.

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

Use Note

The burden of injecting the above-stated defense to this offense is on the defendant, but this does not shift the burden of proof. [13A-8-12(b)] The jury should not be instructed that the defendant carries this burden.

[Approved 05-17-24]