

Ala. Code 1975, § 13A-8-17
RECEIVING STOLEN PROPERTY FIRST DEGREE
(Value Exceeds
\$2500)

The defendant is charged with receiving stolen property in the first degree.

A person commits the crime of receiving stolen property in the first degree if he/she intentionally receives, retains or disposes of stolen property which exceeds \$2,500 in value, knowing that it has been stolen or having reasonable grounds to believe it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

To convict, the State must prove beyond a reasonable doubt each of the following elements of receiving stolen property in the first degree:

- (1) The defendant received, retained or disposed of stolen property, **[Insert description of property];**
- (2) The property exceeded \$2,500 in value;
- (3) The defendant knew that it had been stolen or had reasonable grounds to believe it had been stolen;
- (4) The property was not received, retained or disposed of with intent to restore it to the owner; **(AND)**
- (5) The defendant acted with intent.

Stolen is to be obtained by theft, theft by appropriating lost property, robbery, or extortion. [13A-8-1(13)]

Property is any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents, although the rights represented hereby have no physical location), contract right, chose-in-action, interest in a claim to wealth, credit, or any other article or thing of value of any kind. [13A-8-1(11)]

[Read as appropriate] Commodities of a public utility nature, such as gas, electricity, steam, and water, constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment shall be deemed a rendition of a service rather than a sale or delivery of property. [13A-8-1(11)]

Value is the market value of the property at the time and place of the criminal act. [13A-8-1(15)]

[Read as appropriate] Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities shall be evaluated as follows:

a. The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied.

b. The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

When the value of property cannot be ascertained pursuant to the standards set forth above, its value shall be deemed to be an amount not exceeding five hundred dollars (\$500). [13A-8-1(15)]

[Read as appropriate] Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense; provided, that only one conviction may be had and only one sentence enforced for all thefts included in such aggregate. [13A-8-1(15)]

An *owner* is a person, other than the defendant, who has possession of or any other interest in the property involved, even though that interest or possession is unlawful, and without whose consent the defendant has no authority to exert control over the property. [13A-8-1(9)]

[Read as appropriate] A secured party, as defined in Section 7-9A-102(a)(72), is not an owner in relation to a defendant who is a debtor,

as defined in Section 7-9A-102(a)(28), in respect of property in which the secured party has a security interest, as defined in Section 7-1-201(37).
[13A-8-1(9)]

[Read as appropriate] It shall be prima facie evidence that the defendant had the requisite knowledge or belief necessary for the commission of the offense if: **[Read as appropriate]**

- (1) The defendant was found in possession or control of stolen property on two separate occasions within a year prior to the alleged commission of the instant offense;
- (2) The defendant possessed goods or property which had been recently stolen;

(OR)

- (3) The defendant regularly bought, sold, used or handled in the course of business property of the sort received, and acquired the property without making reasonable inquiry whether the person selling or delivering the property to him had a legal right to do so.

[13A-8-16(b)]

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 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] The fact that the person who stole the property has not been convicted, apprehended or identified is not a defense to a charge of receiving stolen property. [13A-8-16(c)]

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

If you find that the State has failed to prove any one or more of the elements of the offense of receiving stolen property in the first degree, then you cannot find the defendant guilty of receiving stolen property in the first degree.

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

[Approved 05-17-24]