

**Ala. Code 1975, § 13A-8-18(a)(3)**  
**RECEIVING STOLEN PROPERTY SECOND DEGREE**  
**(Firearm)**

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

A person commits the crime of receiving stolen property in the second degree if he/she intentionally receives, retains or disposes of stolen property that is a firearm, rifle, or shotgun, regardless of its 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 second degree:

- (1) The defendant received, retained or disposed of a stolen a firearm, rifle, or shotgun, **[Insert description of property]**;
- (2) The defendant knew that it had been stolen or had reasonable grounds to believe it had been stolen;
- (3) The property was not received, retained or disposed of with intent to restore it to the owner; **(AND)**
- (4) The defendant acted with intent.

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

**Read as appropriate** A *firearm* is a weapon from which a shot is discharged by gunpowder. [13A-8-1(5)]

*Value* is not an element of the crime. [13A-8-18(a)(3)]

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 second degree, then you shall find the defendant guilty of receiving stolen property in the second 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 second degree, then you cannot find the defendant guilty of receiving stolen property in the second degree.

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

**[Approved 05-17-24]**