

Ala. Code 1975, § 13A-8-21

BRINGING PROPERTY OBTAINED BY FALSE PRETENSE INTO STATE

The defendant is charged with bringing property obtained by false pretense into the state.

A person commits the crime of bringing property obtained by false pretense into the state if he/she brings or causes to be brought into this state any money or other personal property obtained from another by any false pretense with intent to defraud, and the value **[Insert language from TOP instructions]**.

To convict, the State must prove beyond a reasonable doubt each of the following elements of bringing stolen property into the state:

- (1) The defendant brought or caused to be brought into the state any money or other personal property, **[Insert description of property]**;
- (2) The money or other personal property was obtained from another by a false pretense, **[Insert description of the false pretense]**;
- (3) The money or other personal property **[Insert language from TOP instructions]** in value; **(AND)**
- (4) The defendant acted with intent to defraud.

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)]

To act *fraudulently* is to act with the intent, knowledge or expectation that he/she will deceive. [13A-8-140]

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)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of bringing property obtained by false pretense into the state, then you shall find the defendant guilty of bringing property obtained by false pretense into the state.

If you find that the State has failed to prove any one or more of the elements of the offense of bringing property obtained by false pretense into the state, then you cannot find the defendant guilty of bringing property obtained by false pretense into the state.

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

Use Note

The defendant on conviction shall be punished as if he/she had stolen the property. [13A-8-21] Therefore, the jury must find the value of the property. Use the Theft of Property instructions for appropriate language.

[Approved 05-17-24]