

Ala. Code 1975, § 13A-8-36(c)

Damage or Destruction of Property
(Danger to Health & Safety)

The Defendant is charged with damage or destruction of property causing imminent danger to the health and safety of the public.

A person commits the crime of damage or destruction of property causing imminent danger to the health and safety of the public if he/she, with the intent to damage property and having no right to do so or any reasonable ground to believe he/she has a right to do so, damages or destroys any of the following, and the damage or destruction causes imminent danger to the health and safety of the public, a metal owner's employees, first responders, law enforcement officers, or utility workers, or causes an interruption in communications services or electric utility services: **[Read as appropriate]**

- (1) Telecommunications, cable communications, or electric power transmission pedestal or pole owned or operated by a telecommunications, cable, or electric power company or cooperative, or electric power supplier, or railroad;
- (2) Telecommunications, cable communications, or electric power grounding or any other equipment or materials used in the delivery of electricity, wire, fiber insulator, power supply transformer, ground wire, or other apparatus, equipment, or fixture used in the transmission of telecommunications, cable communications, or electric power owned or operated by a telecommunications, cable, or electric power company, or cooperative, or electric power supplier, or railroad;
- (3) Equipment used in the transmission of wireless communications or related to wireless communications;
- (4) Equipment used at any facility of over the air broadcast companies;
- (5) Railroad materials and lading, including, but not limited to, any rail telecommunications; cable communications; power and signal equipment and wires; road/rail crossing signals, equipment, and wires; metal property lading being transported by a railroad; and any railroad track and other operating materials, including switch component, spike, angle bar, tie plate or bolt of the type used in constructing railroads;
- (6) Electric power line, gas line, water line, wire or fiber insulators, electric motors or other apparatus, heating and cooling systems, and environmental control systems that are connected to farm shops, on-farm grain drying and storage complexes, animal production facilities, irrigation systems,

greenhouse facilities, or other agricultural, forestry, or food-related activities, equipment, structures, systems, or vehicles;

- (7) Any electric power line, gas line, water line, wire or fiber insulators, fencing, gates, security structures, electric motors or other apparatus, metering instruments, communications antenna, environmental control systems, and processing plants that are connected to oil, natural gas, coalbed methane, shale gas, or other petroleum producing properties, equipment, structures, systems, or vehicles;
- (8) Any metal property from a school, place of worship, or a secondary metals recycler's premises;
- (9) A copper, aluminum, or aluminum-copper condensing or evaporating coil, including its tubing or rods, from a heating or air conditioning unit, excluding scrap from window air conditioning units and automobile condenser coils, unless any one of the following criteria are satisfied:
 - (a) The condenser coils are being sold by a licensed contractor, HVAC contractor, plumber, or electrician and a current and valid license with number is provided at the time of sale and copied or scanned by the secondary metals recycler at the time of sale; **(OR)**
 - (b) The condenser coils are being sold by a person with verifiable documentation, such as a receipt or work order, indicating that the condenser coils are the result of a replacement of an air conditioner unit or condenser coils performed by a licensed contractor;
- (10) Utility access covers, manhole covers, or storm drain covers, unless the seller is a company that deals in the manufacture or sale of the aforementioned products; **(AND/OR)**
- (11) Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized or any other metal historic markers or monuments or the attached support or post to either, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

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

- (1) The Defendant damaged or destroyed the following: **[Read as appropriate]**
 - (a) Telecommunications, cable communications, or electric power transmission pedestal or pole owned or operated by a

telecommunications, cable, or electric power company or cooperative, or electric power supplier, or railroad;

- (b) Telecommunications, cable communications, or electric power grounding or any other equipment or materials used in the delivery of electricity, wire, fiber insulator, power supply transformer, ground wire, or other apparatus, equipment, or fixture used in the transmission of telecommunications, cable communications, or electric power owned or operated by a telecommunications, cable, or electric power company, or cooperative, or electric power supplier, or railroad;
- (c) Equipment used in the transmission of wireless communications or related to wireless communications;
- (d) Equipment used at any facility of over the air broadcast companies;
- (e) Railroad materials and lading, including, but not limited to, any rail telecommunications; cable communications; power and signal equipment and wires; road/rail crossing signals, equipment, and wires; metal property lading being transported by a railroad; and any railroad track and other operating materials, including switch component, spike, angle bar, tie plate or bolt of the type used in constructing railroads;
- (f) Electric power line, gas line, water line, wire or fiber insulators, electric motors or other apparatus, heating and cooling systems, and environmental control systems that are connected to farm shops, on-farm grain drying and storage complexes, animal production facilities, irrigation systems, greenhouse facilities, or other agricultural, forestry, or food-related activities, equipment, structures, systems, or vehicles;
- (g) Any electric power line, gas line, water line, wire or fiber insulators, fencing, gates, security structures, electric motors or other apparatus, metering instruments, communications antenna, environmental control systems, and processing plants that are connected to oil, natural gas, coalbed methane, shale gas, or other petroleum producing properties, equipment, structures, systems, or vehicles;
- (h) Any metal property from a school, place of worship, or a secondary metals recycler's premises;
- (i) A copper, aluminum, or aluminum-copper condensing or evaporating coil, including its tubing or rods, from a heating or air conditioning unit, excluding scrap from window air conditioning units and automobile condenser coils, unless any one of the following criteria are satisfied:

- i. The condenser coils are being sold by a licensed contractor, HVAC contractor, plumber, or electrician and a current and valid license with number is provided at the time of sale and copied or scanned by the secondary metals recycler at the time of sale; **(OR)**
 - ii. The condenser coils are being sold by a person with verifiable documentation, such as a receipt or work order, indicating that the condenser coils are the result of a replacement of an air conditioner unit or condenser coils performed by a licensed contractor;
- (j) Utility access covers, manhole covers, or storm drain covers, unless the seller is a company that deals in the manufacture or sale of the aforementioned products; **(AND/OR)**
 - (k) Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized or any other metal historic markers or monuments or the attached support or post to either, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.
- (2) The damage or destruction caused imminent danger to the health and safety of the public, a metal owner's employees, first responders, law enforcement officers, or utility workers, or caused an interruption in communications services or electric utility services; **(AND)**
 - (3) The Defendant did so with the intent to damage property and having no right to do so or any reasonable ground to believe he/she had a right to do so.

[Read as appropriate] A *secondary metals recycler* is any person, whether licensed or not licensed, who is engaged, from a fixed location or otherwise, in the business of paying compensation for ferrous or nonferrous metals, whether or not engaged in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value. **[Read as appropriate]:** The term does not include a pawnbroker licensed pursuant to Chapter 19A of Title 5, or a licensed automotive dismantler and parts recycler as defined in Section 40-12-410, unless the entities engage in the business of paying compensation for ferrous or nonferrous metals. [13A-8-30(9)]

[Read as appropriate] *Ferrous metals* are metals containing significant quantities of iron or steel, excluding motor vehicles purchased in accordance with Section 32-8-87. **[Read as appropriate: Section 32-8-87].** [13A-8-30(1)]

[Read as appropriate] *Nonferrous metals* are metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum other than aluminum cans, bronze, lead, zinc, nickel, stainless steel, and alloys thereof, including stainless steel beer kegs. [13A-8-30(4)]

[Read as appropriate] A *person* is an individual, partnership, corporation, joint venture, trust, association, or any other legal entity. [13A-8-30(5)]

Imminent danger means the existence of any condition that could hinder or disrupt the normal operation of equipment, systems, or services provided for the health and safety of the public, metal owner's employees, first responders, law enforcement officers, or utility workers or cause an interruption in communication services or electric utility services. [13A-8-36(c)]

[Read as appropriate] A *law enforcement officer* is a duly constituted and certified peace officer of the State of Alabama or of any county or municipality within the state. [13A-8-30(2)]

A person acts *intentionally* with respect to a result or to conduct when his/her purpose is to cause that result or engage in that conduct. [13A-2-2(1)]

If you find that the State has proved beyond a reasonable doubt each of the elements of the offense of damage or destruction of property causing imminent danger to the health and safety of the public, then you shall find the Defendant guilty of damage or destruction of property.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of damage or destruction of property causing imminent danger to the health and safety of the public, then you cannot find the defendant guilty of damage or destruction of property causing imminent danger to the health and safety of the public.

[Approved 3-23-15.]