

14-1410. Breaking and entering; essential elements.

For you to find the defendant guilty of breaking and entering [as charged in Count _____]¹, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant entered _____ (*identify lands, vehicle, or structure*) without permission; [the least intrusion constitutes an entry;]²
2. The entry was obtained by [fraud]³ [deception] [the breaking of _____⁴] [the dismantling of _____⁴]⁵;
3. The defendant knew the entry was without permission⁶;
4. This happened in New Mexico on or about the _____ day of _____, _____.

USE NOTES

1. Insert the count number if more than one count is charged.
2. Use bracketed phrase if entry is in issue.
3. If the jury requests a definition of “fraud,” a dictionary definition of this term should be given.
4. Insert the property or device which was broken or dismantled in order to secure entry of the lands, vehicle, or structure. Example: “[by the breaking of a window].”
5. Use the applicable alternative.
6. See Committee commentary.

[Adopted, effective April 27, 1983; as amended by Supreme Court Order No. 22-8300-037, effective for all cases pending or filed on or after December 31, 2022.]