

**CRIMINAL MISCHIEF – BREAKING OR DIGGING UP
GAS PIPES OR MAINS, ETC.
N.J.S.A. 2C:17-3b(8)**

Count ____ of the indictment charges defendant with committing the offense of criminal mischief by (insert allegation of the indictment). In pertinent part, the indictment alleges that

(Read material part of Count ____ to jury)

Defendant is charged with violating a provision of our law that provides that a person is guilty of criminal mischief if he/she purposely or knowingly breaks, digs up, obstructs or otherwise tampers with any pipes or mains for conducting gas, oil or water, or any works erected for supplying buildings with gas, oil or water, or any appurtenances or appendages therewith connected, or injures, cuts, breaks down, destroys or otherwise tampers with any electric light wires, poles or appurtenances, or any telephone, telecommunications, cable television or telegraph wires, lines, cables or appurtenances.

In order to convict defendant of this offense, you must find that the State has proved beyond a reasonable doubt each of the following three elements:

1. That (name/description of damaged property) is:

[CHARGE AS APPROPRIATE]

- a. a pipe or main for conducting gas, oil or water;
- b. works erected for supplying gas, oil or water to any building or any appurtenance or appendage therewith connected;
- c. electric light wires, poles or appurtenances; or
- d. telephone, telecommunications, cable television or telegraph wires, lines, cables or appurtenances.

2. That defendant:

[CHARGE AS APPROPRIATE]

- a. broke/dug up/obstructed/or otherwise tampered with:
 - i. a pipe or main for conducting gas, oil or water,
 - or**
 - ii. works erected for supplying buildings with gas, oil or water [or any appurtenance or appendage therewith connected].

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OR

b. injured/cut/broke down/destroyed/or otherwise tampered with:

i. an electric light wire/pole/appurtenance,

or

ii. a telephone/telecommunication/cable television/telegraph wire/
line/cable/appurtenance.

3. That defendant acted purposely or knowingly.

The first element that the State must prove beyond a reasonable doubt is that **(name/description of property damaged)** is a **[pipe or main for conducting gas, oil or water] [works erected for supplying buildings with gas, oil or water or any appurtenance or appendage therewith connected]** OR is **[an electric light wire/pole/appurtenance] [a telephone/telecommunication/cable television/telegraph wire/line/cable/appurtenance]**. The term appurtenance means something that belongs or is annexed to a more substantial structure (e.g., a porch attached to a house).¹ The term appendage means an accessory or subordinate part of something else (e.g., the arm on a body).²

The second element that the State must prove beyond a reasonable doubt is that defendant **[CHARGE AS APPROPRIATE]**:

a. broke/dug up/obstructed/otherwise tampered with **(insert name/description of property damaged)**.

OR

b. injured/cut/broke down/destroyed/otherwise tampered with **(insert name/description of property damaged)**.

The third element that the State must prove beyond a reasonable doubt is that defendant acted purposely or knowingly when he engaged in such conduct. A defendant acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious object to engage in conduct of that nature or to cause such a result. A defendant acts purposely with respect to attendant circumstances if he/she is aware of the existence of

¹ See Black's Law Dictionary (rev. 4th ed.).

² See Black's Law Dictionary (rev. 4th ed.).

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such circumstances or believes or hopes that they exist.³ In other words, for you to find that defendant acted purposely, you must be satisfied beyond a reasonable doubt that defendant's purpose or conscious object was to:

[CHARGE AS APPROPRIATE]

(1) break/dig up/obstruct/otherwise tamper with:

a. a pipe or main for conducting gas/oil/water

or

b. works erected for supplying buildings with gas/oil/water or any appurtenance/appendage therewith connected.

OR

(2) injure/cut/break down/destroy/otherwise tamper with:

a. an electric light wire/pole/appurtenance

or

b. a telephone/telecommunications/cable television/telegraph wire/ line/
cable appurtenance,

when he/she engaged in the conduct alleged.

A defendant acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if he/she is aware that his/her conduct is of that nature, or that such circumstances exist, or he/she is aware of a high probability of their existence. A defendant acts knowingly with respect to a result of his/her conduct if defendant is aware that it is practically certain that his/her conduct will cause such a result.⁴ In other words, for you to find that defendant acted knowingly, you must be satisfied beyond a reasonable doubt that defendant knew what he/she was doing, and that defendant was aware that the nature of his/her conduct and the attendant circumstances were such as to make it practically certain that his/her conduct would:

[CHARGE AS APPROPRIATE]

(1) break/dig up/obstruct/otherwise tamper with:

a. a pipe or main for conducting gas/oil/water

³ See N.J.S.A. 2C:2-2b(1).

⁴ See N.J.S.A. 2C:2-2b(2).

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or

- b. works erected for supplying buildings with gas/oil/water or any appurtenance/appendage therewith connected.

OR

- (2) injure/cut/break down/destroy/otherwise tamper with
 - a. an electric light wire/pole/appurtenance

or

- b. a telephone/telecommunications/cable television/telegraph wire/line/
cable appurtenance,

when he/she engaged in the conduct alleged.

You should understand that purpose or knowledge is a condition of the mind. It cannot be seen. It can only be determined by inferences from conduct, words or acts. Therefore, it is not necessary for the State to produce witnesses to testify that defendant stated, for example, that he/she acted with purpose or knowledge when he/she did a particular thing. It is within your power to find that proof of purpose or knowledge has been furnished beyond a reasonable doubt by inference which may arise from the nature of the acts and the surrounding circumstances. The place where the acts occurred and all that was done or said by defendant preceding, connected with, and immediately succeeding the events in question are among the circumstances to be considered.

If you find that the State has failed to prove beyond a reasonable doubt any element of the offense, you must find defendant not guilty. On the other hand, if you find that the State has proven beyond a reasonable doubt every element of criminal mischief, you must find defendant guilty of that offense.