

UNLAWFUL TAKING OF MEANS OF CONVEYANCE - MOTOR VEHICLE
OPERATOR OR ANOTHER EXERCISING CONTROL
(N.J.S.A. 2C:20-10b and -10c)

Defendant, in Count _____ of the Indictment, is charged with the crime of unlawful taking of a means of conveyance.

(Read Indictment)

The pertinent portion of the statute defendant is charged with violating provides:

A person commits a crime . . . if, with purpose to withhold temporarily from the owner, he takes, operates or exercises control over a motor vehicle without the consent of the owner or other person authorized to give consent.¹

In order for defendant to be found guilty of this offense, the State must prove each of the following elements beyond a reasonable doubt:

1. Defendant took, operated or exercised control over a motor vehicle.
2. Defendant acted with the purpose of withholding the vehicle temporarily from the owner.
3. Defendant acted without the consent of the owner or other person authorized to give consent.

The first element that the State must prove beyond a reasonable doubt is that defendant took, operated or exercised control over a motor vehicle. "Motor vehicle" includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks or motorized bicycles.²

The second element that the State must prove beyond a reasonable doubt is that defendant acted with the purpose of withholding the vehicle temporarily from the owner. A person 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 person acts purposely with respect to attendant circumstance if he/she is aware of the existence of such circumstances or he/she believes or hopes that they exist. One can be deemed to be acting purposely if he/she acts with design, with a purpose, with a particular object or if he/she means

¹ N.J.S.A. 2C:20-10b.

² N.J.S.A. 2C:1-14n and N.J.S.A. 39:1-1.

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to do what he/she does. In other words, the State must prove beyond a reasonable doubt that when defendant took, operated or exercised control over the vehicle his/her conscious object was to withhold same temporarily from the owner.

The third element that the State must prove beyond a reasonable doubt is that defendant took, operated or exercised control over the vehicle without the consent of the owner or some other person authorized to give consent.

[If applicable because there is evidence supporting it, the following defense must be charged]

In this case you must also consider whether the defendant reasonably believed that the owner or any other person authorized to give consent would have consented to the defendant's operation of the vehicle had he/she known of it.

In order for you to find the defendant guilty, the State must prove beyond a reasonable doubt that either the defendant did not believe that the owner or another person authorized to give consent would have consented to defendant's operation of the vehicle had (he/she) known of it, or that if defendant had that belief, it was not reasonable.

If you find that the State has failed to prove beyond a reasonable doubt any element of the crime, [or has failed to disprove beyond a reasonable doubt defendant's lack of reasonable belief that he/she would have had the consent of the owner or another person authorized to give consent to his/her operation of the vehicle had that person known of it,] then your verdict must be not guilty of unlawful taking of a means of conveyance.

If you find that the State has proved beyond a reasonable doubt each element of the crime [and has proved beyond a reasonable doubt defendant's lack of reasonable belief that he/she would have had the consent of the owner or another person authorized to give consent to his/her operation of the vehicle had that person known of it,] then you must find defendant guilty of the crime of unlawful taking of a means of conveyance.

[The following language should be added if appropriate³ for the evidence

³ It may be inappropriate to charge this language if unlawful taking of a means of conveyance has been submitted to the jury as a lesser included offense, rather than as a crime charged in the indictment.

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introduced in the case]

If you find that the State has proven beyond a reasonable doubt that defendant committed the crime of unlawful taking of a means of conveyance, you must then also consider whether the defendant is guilty of the crime of unlawful taking of a means of conveyance and operating it a manner that creates a risk of injury to any person or damage to property.

A section of our statutes provides that a person commits this crime if, he/she:

operates the motor vehicle in a manner that creates a risk of injury to any person or a risk of damage to property.⁴

The State must prove beyond a reasonable doubt that defendant's operation of the motor vehicle was in a manner that created a risk of either injury to any person or damage to property.

"Injury" means physical pain, illness or any impairment of physical condition.

To summarize, if you find that the State has failed to prove beyond a reasonable doubt any element of the crime of unlawful taking of a means of conveyance, then you must find the defendant not guilty of the crime of unlawful taking of a means of conveyance.

If you find that the State has proven beyond a reasonable doubt that the defendant committed the crime of unlawful taking of a means of conveyance as I have defined that crime to you, but you have a reasonable doubt as to whether the State has proven that the defendant operated the motor vehicle in a manner that created a risk of injury to any person or of damage to property, then you must find defendant guilty only of unlawful taking of a means of conveyance.

If you find beyond a reasonable doubt that the defendant both committed the crime of unlawful taking of a means of conveyance, and operated the motor vehicle in a manner that created a risk of either injury to any person or of damage to property, then you must find the defendant guilty of unlawful taking of a means of conveyance creating a risk of injury to any person or damage to property.

⁴ N.J.S.A. 2C:20-10c.